

Original amendment submission date	Date of final publication	Citation/description
June 22, 1992	October 22, 1997	62 IAC 1816.116(a)(2)(C); 1817.116(a)(2)(C); Non-augmentation Policy Statement.

§ 913.16 [Amended]

3. Section 913.16 is amended by removing and reserving paragraph (o).

[FR Doc. 97-27982 Filed 10-21-97; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 157-0055a; FRL-5912-7]

Withdrawal of Direct Final Rule for Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule for the approval of a revision to the California State Implementation Plan. EPA published the direct final rule on August 25, 1997 at 62 FR 44909, approving revisions to a rule from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). As stated in that **Federal Register** document, if adverse or critical comments were received by September 24, 1997, the effective date would be delayed and notice would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action on this or a future revision of this rule in the near future. EPA will not institute a second comment period on this document.

DATES: The direct final rule published at 62 FR 44909 is withdrawn as of October 22, 1997.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1199.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the August 25, 1997 **Federal Register**, and in the short informational

document located in the proposed rule section of the August 25, 1997 **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 9, 1997.

Felicia Marcus,

Regional Administrator.

Subpart F of part 52, Chapter I, Title 40 of the Code of Federal Regulations if amended as follows:

PART 52—[AMENDED]**Subpart F—California**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

§ 52.220 [Amended]

2. Section 52.220 is amended by removing paragraph (c)(224)(i)(D).

[FR Doc. 97-27978 Filed 10-21-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[FRL-5911-8]

Final Determination To Extend Deadline for Promulgation of Action on Section 126 Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is extending by an additional one month the deadline for taking final action on petitions that eight States have submitted to require EPA to make findings that sources upwind of those States contribute significantly to nonattainment problems in those States. Under the Clean Air Act (CAA or Act), EPA is authorized to grant this time extension if EPA determines that the extension is necessary, among other things, to meet the purposes of the Act's rulemaking requirements. By this document, EPA is making that determination. The eight States that

have submitted the petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.

EFFECTIVE DATE: This action is effective as of October 14, 1997.

FOR FURTHER INFORMATION CONTACT:

Howard J. Hoffman, Office of General Counsel, MC-2344, 401 M St. SW, Washington, DC 20460, (202) 260-5892.

SUPPLEMENTARY INFORMATION:**I. Background**

Today's action is procedural, and is set in the context of a series of actions EPA is taking to address the problem of the transport of tropospheric ozone and its precursors—especially oxides of nitrogen (NO_x)—across the eastern region of the United States.

The most recent step EPA has taken to address regional ozone transport was the signing of a proposed rulemaking that the State implementation plans (SIPs) of 22 States and the District of Columbia, all in the eastern half of the United States, must be revised under CAA sections 110(k)(5) and 110(a)(1) to include provisions reducing NO_x emissions because those emissions contribute significantly to ozone nonattainment or maintenance problems in downwind states. EPA Administrator Carol M. Browner signed this proposed rulemaking—referred to in this notice as the NO_x SIP call—on October 10, 1997. The proposal is designed to assure that SIPs meet the requirements of CAA section 110(a)(2)(D), which mandates that SIPs contain adequate provisions prohibiting emissions that significantly contribute to downwind nonattainment problems. This proposal is based on information indicating that emissions from those 23 jurisdictions have an adverse impact on downwind areas with respect to both of the ozone National Ambient Air Quality Standards (NAAQS)—the long-standing one-hour standard and the eight-hour standard that was promulgated by notice dated July 18, 1997 (62 FR 38856). EPA's proposals were based generally on recommendations and technical analyses from the Ozone Transport Assessment Group (OTAG), which was an organization comprising EPA, states,

industry, and citizens groups that was formed to focus on interstate ozone transport.

In contrast, today's action is based on a separate set of statutory tools designed to remedy interstate pollution transport that are found in CAA section 126. Section 126(b) authorizes States or political subdivisions to petition EPA for a finding that major stationary sources in upwind states emit in violation of the prohibition of section 110(a)(2)(D), by contributing significantly to nonattainment problems in downwind States.

Beginning on August 14, 1997, EPA received eight petitions under section 126 from eight states. These eight states (and the dates that EPA received the petitions), are:

Connecticut (August 15, 1997)
 Maine (August 15, 1997)
 Massachusetts (August 14, 1997)
 New Hampshire (August 15, 1997)
 New York (August 15, 1997)
 Pennsylvania (August 15, 1997)
 Rhode Island (August 14, 1997)
 Vermont (August 15, 1997)

Taken together, the petitions ask EPA to find that major sources of NO_x emissions in States in the eastern half of the United States, from (and including) Louisiana in the southwest, Minnesota in the northwest, and Georgia in the southeast, contribute significantly to nonattainment in areas further to the east and north.

Under section 126(b), for each petition, EPA must make the requested finding, or deny the petition, within 60 days of receipt of the petition. Under section 126(c), with respect to any existing sources for which EPA makes the requested finding, those sources must cease operations within three months of the finding, except that those sources may continue to operate if they comply with emissions limitations and compliance schedules that EPA may provide to bring about compliance with the applicable requirements.

Section 126(b) provides that EPA must allow a public hearing for the submitted petitions. In addition, EPA's action under section 126 is subject to the procedural requirements of CAA section 307(d). See section 307(d)(1)(N). One of these requirements is notice-and-comment rulemaking, under section 307(d)(3).

In addition, section 307(d)(10) provides for a time extension, under certain circumstances, for rulemaking subject to section 307(d). Specifically, section 307(d)(10) provides:

Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six

months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection.

Section 307(d)(10) applies, by its terms, to section 126 rulemakings because the 60-day time limit under section 126(b) necessarily limits the period after proposal to less than six months.

In accordance with section 307(d)(10), EPA is today determining that the 60-day period afforded by section 126(b) is not adequate to allow the public and the agency adequate opportunity to carry out the purposes of the section 307(d) procedures for developing an adequate proposal on whether the sources identified in the section 126 petitions contribute significantly to nonattainment problems downwind, and, further, to allow public input into the promulgation of any controls to mitigate or eliminate those contributions. The determination of whether upwind emissions contribute significantly to downwind nonattainment areas is highly complex. The NO_x SIP call, which proposes a somewhat comparable determination, relied on extensive computer modeling of air quality emissions and the ambient impacts therefrom in the large geographic region of the eastern half of the United States. This modeling was developed over a two-year period. It reflected the input of EPA, the 37 states east of the Rockies as well as numerous industry and citizen groups, all of whom participated in the OTAG. Moreover, EPA is allowing a 120-day comment period on the NO_x SIP call proposal, and expects to take final action on the NO_x SIP call in September, 1998, some 11 months after the date of proposal.

In acting on the section 126 petitions, EPA must make determinations that, generally, are at least as complex as those required for the NO_x SIP call, and EPA must do so for sources throughout the eastern half of the United States. Moreover, if EPA determines that the petitions should be granted, EPA must promulgate appropriate controls for the affected sources.

EPA is in the process of determining what would be an appropriate schedule for action on the section 126 petitions, in light of the complexity of the required determinations and the usefulness of coordinating generally with the procedural path for the NO_x SIP call. It is imperative that this schedule (i) afford EPA adequate time to prepare a notice that clearly elucidates the issues so as to facilitate public

comment, as well as (ii) afford the public adequate time to comment. EPA is currently in the process of discussing an appropriate schedule with the section 126 petitioners and other interested parties.

Accordingly, extending the date for action on the section 126 petitions for another one month is necessary to determine the appropriate overall schedule for action, as well as to continue to develop the technical analysis needed to develop a proposal.

EPA is not, at this time, using the full six months provided under section 307(d)(10) for the extension. EPA reserves the right to apply the remaining five months, or a portion thereof, as an additional extension, if necessary, immediately following the conclusion of the one-month period, or to apply the remaining time to the period following EPA's proposed rulemaking.

II. Final Action

A. Rule

Today, EPA is determining, under CAA section 307(d)(10), that a one-month period is necessary to assure the development of an appropriate schedule for rulemaking on the section 126 petitions, which schedule would allow EPA adequate time to prepare a notice for proposal that will best facilitate public comment, as well as allow the public sufficient time to comment. Accordingly, EPA is granting a one-month extension to the time for rulemaking on the section 126 petitions. Under this extension, the dates for action on the section 126 petitions are:

Connecticut—November 15, 1997
 Maine—November 15, 1997
 Massachusetts—November 14, 1997
 New Hampshire—November 15, 1997
 New York—November 15, 1997
 Pennsylvania—November 15, 1997
 Rhode Island—November 14, 1997
 Vermont—November 15, 1997

B. Notice-and-Comment Under the Administrative Procedures Act (APA)

This document is a final agency action, but may not be subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). EPA believes that because of the limited time provided to make a determination that the deadline for action on the section 126 petitions should be extended, Congress may not have intended such a determination to be subject to notice-and-comment rulemaking. However, to the extent that this determination is subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). Providing notice and

comment would be impracticable because of the limited time provided for making this determination, and would be contrary to the public interest because it would divert agency resources from the critical substantive review of the section 126 petitions.

C. Effective Date Under the APA

Today's action will be effective on October 14, 1997. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if the agency has good cause to mandate an earlier effective date.

Today's action—a deadline extension—must take effect immediately because its purpose is to move back by one month the October 14, 1997 deadlines for several of the section 126 petitions, and the deadlines for the other section 126 petitions that follow shortly thereafter. Moreover, EPA intends to use immediately the one-month extension period to continue to develop an appropriate schedule for ultimate action on the section 126 petitions, and to continue to develop the technical analysis needed to develop the notice of proposed rulemaking. These reasons support an effective date prior to 30 days after the date of publication.

D. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

E. Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate. In addition, before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, EPA must have developed a small government agency plan. EPA has determined that these requirements do not apply to today's action because this rulemaking (i) is not a Federal mandate—rather, it simply extends the date for EPA action on a rulemaking; and (ii) contains no regulatory requirements that might significantly or uniquely affect small governments.

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, EPA must propose a regulatory flexibility analysis assessing the impact on small entities of any rule subject to the notice-and-

comment rulemaking requirements. Because this action is exempt from such requirements, as described above, it is not subject to RFA.

G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. of the APA, 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA submitted, by the date of publication of this rule, a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office. This rule is not a "major rule" as defined by 5 U.S.C. 804(2), as amended.

H. Paperwork Reduction Act

This rule does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

I. Judicial Review

Under CAA section 307(b)(1), a petition to review today's action may be filed in the Court of Appeals for the District of Columbia within 60 days of October 22, 1997.

Dated: October 14, 1997.

Carol M. Browner,
Administrator.

[FR Doc. 97-27977 Filed 10-21-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300560; FRL-5746-6]

RIN 2070-AB78

Spinosad; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for spinosad (Factors A and D) in or on fruiting vegetables (except cucurbits) crop group (8), tomato paste, leafy vegetables (except Brassica vegetables) crop group (4), and Brassica (cole) leafy vegetables crop group (5). This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on fruiting vegetables (except

cucurbits) crop group (8), leafy vegetables (except Brassica vegetables) crop group (4), and Brassica (cole) leafy vegetables crop group (5). This regulation establishes maximum permissible levels for residues of spinosad in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on September 30, 1998.

DATES: This regulation is effective October 22, 1997. Objections and requests for hearings must be received by EPA on or before December 22, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300560], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300560], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300560]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Pat Cimino, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401