

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52 and 81**

[EPA-R09-OAR-2010-0336; FRL-9191-1]

**Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM-10; Redesignation of the Coso Junction Planning Area to Attainment; Approval of PM-10 Maintenance Plan for the Coso Junction Planning Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving the State of California's request to redesignate the Coso Junction planning area (CJPA) to attainment for the particulate matter of ten microns or less (PM-10) national ambient air quality standard (NAAQS). EPA is also approving the PM-10 emissions inventory and the maintenance plan for the CJPA, including control measures for Owens Lake, the primary cause of PM-10 nonattainment in the CJPA. Finally, EPA is finding the contribution of motor vehicles to the area's PM-10 problem insignificant; consequently, the State will not have to complete a regional emissions analysis for PM-10 in any future transportation conformity determination for the CJPA.

**DATES:** *Effective Date:* This rule is effective on October 4, 2010.

**ADDRESSES:** You may inspect the supporting information for this action, identified by docket number EPA-R09-OAR-2010-0336, by one of the following methods:

1. Federal eRulemaking portal, <http://www.regulations.gov>, please follow the online instructions; or,
2. Visit our regional office at, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

**FOR FURTHER INFORMATION CONTACT:** Doris Lo, EPA Region IX, (415) 972-3959, [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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**I. Summary of Proposed Action**

On June 24, 2010 (75 FR 36023), based on EPA's review of the "2010 PM-10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area," (the 2010 Plan) submitted by California, air quality monitoring data, and other relevant materials, EPA proposed to approve the State of California's request to redesignate the CJPA to attainment of the PM-10 NAAQS, pursuant to Clean Air Act (CAA) sections 107(d)(3)(E) and 175A. The background for today's actions is discussed in detail in EPA's June 24 proposed rulemaking, and in EPA's determination that the CJPA has attained the PM-10 NAAQS. 75 FR 13710 (March 23, 2010) and 75 FR 27944 (May 19, 2010).

EPA proposed to approve the State's redesignation request, based on EPA's determination that the most recent three years of complete, quality-assured data for the period 2007-2009 showed that the CJPA had attained the PM-10 NAAQS, and on EPA's finding that the area meets all other CAA redesignation requirements under sections 107(d)(3)(E) and 175.

EPA proposed to approve the State's maintenance plan, which includes control measures for Owens Lake implemented through the Great Basin Unified Air Pollution Control District (GBUAPCD) Board Order #080128-01 (Appendix C of the 2010 Plan). EPA's proposal discussed the historical relationship between PM-10 emissions from Owens Lake and violations of the PM-10 NAAQS in the CJPA, the application of control measures on Owens Lake that have resulted in attainment of the PM-10 NAAQS in the CJPA, and the continued controls that are expected to provide for maintenance of the PM-10 NAAQS into the future. We also proposed to approve the emissions inventory submitted with the maintenance plan as meeting the requirements of section 172(c)(3).

Finally, EPA proposed to find that motor vehicle-related PM-10 emissions are insignificant contributors to the area's PM-10 problem. As a result of

this finding, the state would not have to complete a regional emissions analysis for PM-10 in any future transportation conformity determination for the CJPA.

EPA's June 24, 2010 proposal was based on a "parallel processing"<sup>1</sup> request from the State of California. 40 CFR part 51, Appendix V. As expected, the California Air Resources Board (CARB) adopted the 2010 Plan on June 24, 2010 and submitted the 2010 Plan to EPA on July 14, 2010. The July 14, 2010 submittal is identical to the materials CARB submitted for parallel processing on May 28, 2010. Consequently, there is no need to revise our June 24, 2010 proposal and we may proceed with today's final action on the basis of our prior proposal.

**II. The Coso Junction PM-10 Monitoring Site**

In EPA's proposed rule, we noted that the GBUAPCD had determined that the Coso Junction monitoring site had been violating siting criteria since January 2010. 75 FR 36023, 36025. As discussed in the proposed rule, during a site visit on May 27, 2010, the GBUAPCD learned that the monitoring site had not been watered for several years resulting in a lack of vegetation surrounding the site thus exposing friable soils that could impact monitor readings. In addition, the GBUAPCD learned that beginning in January 2010 a contractor for the property owner, the Coso Operating Company, was driving over the unpaved access road adjacent to the monitor on a regular basis, thus causing the deterioration in the condition of the unpaved access road which had previously been covered by gravel. This combination of events near the monitor led the District to conclude that the data collected from January 2010 through May 27, 2010 must be considered invalid for regulatory purposes, and EPA agreed with the District's assessment. Following the site visit, the District and the Coso Operating Company promptly started to work on resolving the problems in order to be able to again collect valid data as soon as possible. The Coso Operating Company thereafter restricted traffic on the unpaved access road to the monitor and moved the contractor's trailer to a location away from the monitor site. The District and the Coso Operating Company also planned to develop a mitigation plan to apply water to the

<sup>1</sup> Parallel processing is used for expediting the review of a plan. Parallel processing allows a State to submit the plan prior to actual adoption by the State and provides an opportunity for the State to consider EPA comments prior to submittal of the final plan for final review and action.

monitor site area and to re-vegetate the area. *Id.*

Since our proposed rule, the GBUAPCD has reported that the new location of the contractor's trailer does not require the contractors to drive past the monitor site, the drive area around the monitor site is now covered with gravel to reduce dust and the turning area pavement was enlarged to prevent kicking up dust at the edges. See July 20, 2010 e-mail from Meredith Kurpius, EPA Region 9, Air Quality Assessment Office, to Doris Lo, EPA Region 9, Air Planning Office, Re: Summary of monitoring issues that should be addressed by the Great Basin District. The GBUAPCD has also reported that the Coso Operating Company has begun watering of the area around the Coso Junction monitor site and that a crust is beginning to form which will allow the District to begin collecting valid data on August 1, 2010. See July 28, 2010 e-mail from Ted Schade, Air Pollution Control Officer, GBUAPCD, to Doris Lo, EPA Region 9, Air Planning Office, with attachments. The Coso Operating Company has submitted to the GBUAPCD a dust control plan (or, as referred to in the proposed rule, a mitigation plan) for the Coso Junction monitor area which includes commitments for application and monitoring of gravel, application of water to form a visual crust, monitoring of the visual crust and reapplication of water as necessary, re-vegetation in the fall season in areas that had previously been vegetated, limiting road access to authorized personnel and providing monthly status reports to GBUAPCD through June 2011. See attachment to July 28, 2010 e-mail from Ted Schade, "Coso PM10 Containment Area Fugitive Dust Plan." Moreover, the Coso Operating Company is required by conditions in a permit to operate issued by GBUAPCD to maintain the Coso Junction monitor site and to collect PM-10 samples using EPA-approved reference or equivalent method samplers. See attachment to July 28, 2010 e-mail from Ted Schade, Permit to Operate, Permit Number 234, conditions 27 and 36. Finally, the GBUAPCD plans to install a Web camera to help monitor activities near the monitor site in the future. See July 28, 2010 e-mail from Ted Schade to Doris Lo. EPA will continue to work with the GBUACPD to ensure that the Coso Junction monitor site issues are fully resolved and that the site is maintained in order for the District to meet its commitment to continue daily PM-10 monitoring at the Coso Junction monitoring site in order to verify continued attainment of the

PM-10 standard in the CJPA. See 75 FR 36023, 36030.

### III. Public Comments and EPA Responses

EPA provided for a 30-day public comment period on our proposed action. This comment period ended on July 26, 2010. We received no comments.

### IV. EPA's Final Action

Based on our review of the 2010 Plan submitted by the State, air quality monitoring data, and other relevant materials, EPA believes the State has satisfied all requirements for redesignation of the CJPA to attainment, pursuant to CAA sections 107(d)(3)(E) and 175A. Consequently, EPA is approving the State's request and is redesignating the CJPA to attainment for the PM-10 NAAQS. EPA is also approving the maintenance plan for the CJPA, which includes as a SIP revision GBUAPCD Board Order #080128-01. EPA is also approving the emissions inventory submitted with the maintenance plan as meeting the requirements of CAA section 172(c)(3). Finally, EPA finds that motor vehicle-related PM-10 emissions are insignificant contributors to the area's PM-10 problem; consequently, a regional emissions analysis will not be required for PM-10 in any future transportation conformity determination for the CJPA, as of the effective date of this final rule.

### V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements

beyond those imposed by State law. For these reasons, these actions:

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the final action does not apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 2, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects**

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 29, 2010.

**Jeff Scott,**

*Acting Regional Administrator, Region 9.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraph (c)(380) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(380) The following plan was submitted on July 14, 2010, by the Governor's Designee.

(i) Incorporation by reference.

(A) Great Basin Unified Air Pollution Control District.

(1) "Board Order #080128-01

Requiring the City of Los Angeles to Undertake Measures to Control PM-10 Emissions from the Dried Bed of Owens Lake," including Attachments A-D, adopted February 1, 2008, and included as Appendix C to the "2010 PM-10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area," adopted May 17, 2010.

(ii) Additional materials.

(A) Great Basin Unified Air Pollution Control District (GBUAPCD).

(1) Non-regulatory portions of "The 2010 PM-10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area" (the 2010 Plan), including Appendices A, B, and D, adopted May 17, 2010.

(2) Letter dated June 10, 2010 from Theodore D. Schade, GBUAPCD, to Deborah Jordan, United States Environmental Protection Agency Region 9, regarding Coso Junction PM-10 Contingency Measures.

(3) GBUAPCD Board Resolution 2010-01, dated May 17, 2010, adopting the 2010 Plan.

(B) California Air Resources Board (CARB).

(1) CARB Resolution 10-25, dated June 24, 2010, adopting the 2010 Plan.

**PART 81—[AMENDED]**

■ 3. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart C—[Amended]**

■ 4. Section 81.305 is amended in the table for "California-PM-10" by revising the entry under Inyo County for the "Coso Junction planning area" to read as follows:

**§ 81.305 California.**

\* \* \* \* \*

**CALIFORNIA—PM-10**

Designated area	Designation		Classification	
	Date	Type	Date	Type
Inyo County Coso Junction planning area ..... That portion of Inyo County contained within Hydrologic Unit #18090205.	October 4, 2010 .....	Attainment.		
* * * * *	*	*	*	*

\* \* \* \* \*  
[FR Doc. 2010-21960 Filed 9-2-10; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[EPA-HQ-OPP-2009-0910; FRL-8842-7]**

**Thiabendazole; Pesticide Tolerances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of thiabendazole, and its metabolites, benzimidazole (free and conjugated), [2-(4-thiazoly) benzimidazole], in or on corn. Syngenta Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective September 3, 2010. Objections and requests for hearings must be received on or before November 2, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2009-0910. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are