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SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” or “our” means EPA.

Regulated Entities

Categories and entities potentially affected by this action include agricultural sources that are major sources subject to title V but are not being permitted by any of the following 35 local air districts in the State of California: Amador County Air Pollution Control District (APCD), Antelope Valley APCD, Bay Area Air Quality Management District (AQMD), Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD.

Direct Final Rule

We are publishing this direct final rule without prior proposal because we view this as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rule section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket

EPA has established an official public docket for this action under Docket ID

No. OAR-2003-0047. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include confidential business information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document. Once in the system, select “search,” then key in the appropriate docket identification number.

World Wide Web (WWW)

After signature, the final rule will be posted on the policy and guidance page for newly proposed or final rules of EPA's Technology Transfer Network (TTN) at <http://www.epa.gov/ttn/oarpg/t5.html>. For more information, call the TTN Help line at (919) 541-5384.

Outline

The contents of the preamble are listed in the following outline:

- I. Background
- II. Revisions to the Fee Payment Requirements
- III. Direct Final Rule
- IV. Administrative Requirements
 - A. Executive Order 12866—Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act

- D. Unfunded Mandates Reform Act
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Congressional Review Act
- K. Judicial Review

I. Background

Title V of the Clean Air Act (Act) requires all State permitting authorities to develop operating permits programs that meet certain Federal criteria codified at 40 CFR part 70. Pursuant to title V, EPA promulgated final regulations at 40 CFR part 71 to establish EPA's program for issuing Federal operating permits to sources located in areas lacking an EPA-approved or adequately administered operating permits program. See 61 FR 34202 (July 1, 1996).

On November 30, 2001, we promulgated final full approval of 34 California districts' title V operating permits programs. See 66 FR 63503 (December 7, 2001).¹ Our final rulemaking was challenged by several environmental and community groups alleging that the full approval was unlawful based, in part, on an exemption in section 42310(e) of the California Health and Safety Code which precluded local districts from requiring title V permits for major agricultural sources. EPA entered into a settlement of this litigation which required, in part, that the Agency propose to partially withdraw approval of the 34 fully approved title V programs in California.

We partially withdrew approval of the title V programs for the 34 local air districts listed above and began administering the part 71 program for the State-exempt agricultural sources (herein also referred to as “agricultural sources”) located in the 34 local air districts on November 14, 2002.² See 67 FR 63551 (October 15, 2002). Consistent with the settlement agreement and our final rule for these 34 districts, State-

¹ Antelope Valley APCD was not included in our final action because its initial interim approval status, granted on December 19, 2000 (65 FR 79314), had not yet expired. On January 21, 2003, however, Antelope Valley's interim approval status expired.

² “State-exempt agricultural source” refers to those stationary agricultural sources in California that are presently exempt from all air permitting requirements under California Health and Safety Code 42310(e).