

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

SIERRA CLUB, CENTER FOR )  
BIOLOGICAL DIVERSITY, and )  
GREENACTION FOR HEALTH AND )  
ENVIRONMENTAL JUSTICE, )  
 )  
Petitioners, ) PETITION FOR REVIEW  
 )  
v. ) and  
 )  
UNITED STATES ENVIRONMENTAL ) CORPORATE DISCLOSURE  
PROTECTION AGENCY, LISA P. ) STATEMENT  
JACKSON, in her official capacity as )  
Administrator, U.S. Environmental )  
Protection Agency, and GINA )  
MCCARTHY, in her official capacity as )  
Assistant Administrator, Office of Air and )  
Radiation, U.S. Environmental Protection )  
Agency, )  
 )  
Respondents. )  
 )  
\_\_\_\_\_ )

Petition for Review

Pursuant to section 307(b)(1) of the federal Clean Air Act, 42 U.S.C.  
§ 7607(b)(1), and Rule 15(a), Federal Rules of Appellate Procedure, Sierra Club,  
Center for Biological Diversity, and Greenaction for Health and Environmental  
Justice (“Petitioners”) hereby petition this Court for review of the final action  
entitled “Approval of Clean Air Act Prevention of Significant Deterioration Permit  
Issued to Avenal Power Center, LLC to Construct the Avenal Energy Project,”

promulgated by Respondents and published in the Federal Register on September 9, 2011 at 76 Fed. Reg. 55799 (Attachment A).

Petitioners' Corporate Disclosure Statement

Pursuant to Federal Rule of Appellate Procedure 26.1, Petitioners Sierra Club, Center for Biological Diversity, and Greenaction for Health and Environmental Justice certify that they have no parent companies and that no publicly held corporations own 10 percent or more of the Petitioners.

Respectfully submitted this 3rd day of November, 2011.

/s/ George M. Torgun  
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Attorneys for Petitioners Sierra Club, Center  
for Biological Diversity, and Greenaction  
for Health and Environmental Justice

## CERTIFICATE OF SERVICE

I am a citizen of the United States of America and a resident of the County of Alameda; I am over the age of 18 years and not a party to the within entitled action; my business address is 426 17<sup>th</sup> Street, 5<sup>th</sup> Floor, Oakland, California 94612.

I hereby certify that on November 3, 2011, I caused to be served one true copy of the **PETITION FOR REVIEW and CORPORATE DISCLOSURE STATEMENT** via certified mail on the following persons:

Eric H. Holder, Jr.  
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I certify under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2011 in Oakland, California.

/s/ George M. Torgun  
GEORGE M. TORGUN

# ATTACHMENT A

**POSTAL SERVICE****39 CFR Part 20****Outbound International Mailings of Lithium Batteries****AGENCY:** Postal Service™.**ACTION:** Final rule; withdrawal.

**SUMMARY:** The Postal Service is withdrawing a final rule that would incorporate new maximum limits for the outbound mailing of lithium batteries to international, or APO, FPO or DPO locations. The Postal Service also withdraws the corresponding *Code of Federal Regulations* revision to reflect these new limits.

**DATES:** The final rule published on August 25, 2011 (76 FR 53056–56057), is withdrawn effective September 9, 2011.

**FOR FURTHER INFORMATION CONTACT:** Rick Klutts at 813–877–0372.

**SUPPLEMENTARY INFORMATION:** In a final rule with comment period published in the *Federal Register* on August 25, 2011, the Postal Service provided new maximum limits for mailpieces containing equipment with lithium metal or lithium-ion batteries that were to be effective October 3, 2011. These revisions were consistent with recent amendments to the Universal Postal Union (UPU) Convention and regulations as announced in International Bureau Circulars 114 and 115, dated June 14, 2011, that affected UPU Convention Articles 15 and 16, Article RL 131 of the letter post regulations, and Article RC 120 of the parcel post regulations.

The withdrawal of the revisions is necessary because of a notice to the UPU from the International Civil Aviation Organization (ICAO) on August 19, 2011, requesting that the UPU delay implementation of the aforementioned amendment until the UPU revisions could be reviewed by the ICAO Dangerous Goods Panel, and if approved, incorporated into *The Technical Instructions for the Safe Transport of Dangerous Goods by Air* manual. Therefore, the UPU has informed its member countries that the date of newly adopted UPU amendments for lithium batteries will be the subject of further notice based on the decision of the panel and any changes to the ICAO *Technical Instructions*.

Accordingly, the Postal Service withdraws its final rule published on August 25, 2011. The Postal Service also withdraws the revision to 39 CFR 20.1 whereby a new section 135.6 was added to the *Mailing Standards of the United*

*States Postal Service*, International Mail Manual (IMM®) to describe the new maximum limits for the outbound mailing of lithium batteries to international, or APO, FPO or DPO locations. The parallel changes that were to be made to other USPS publications are also withdrawn.

**Stanley F. Mires,***Chief Counsel, Legislative.*

[FR Doc. 2011–23054 Filed 9–8–11; 8:45 am]

**BILLING CODE 7710–12–P****ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[FRL–9460–3]****Approval of Clean Air Act Prevention of Significant Deterioration Permit Issued to Avenal Power Center, LLC To Construct the Avenal Energy Project****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final Action.

**SUMMARY:** This document announces that EPA has issued a final permit decision granting the Clean Air Act Prevention of Significant Deterioration (PSD) permit application submitted by Avenal Power Center, LLC to authorize construction of the Avenal Energy Project.

**DATES:** The EPA's PSD permit for the Avenal Energy Project became effective and final agency action on August 18, 2011, when administrative review procedures were exhausted. Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of September 9, 2011.

**ADDRESSES:** The documents relevant to the above-referenced action are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne St., San Francisco, CA 94105. To arrange for viewing of these documents, call Shirley Rivera at (415) 972–3966.

**FOR FURTHER INFORMATION CONTACT:** Shirley Rivera, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne St., San Francisco, CA 94105. The EPA Environmental Appeals Board (EAB) decision described below is available at the following Web site: <http://www.epa.gov/eab/>.

**SUPPLEMENTARY INFORMATION:** The EPA issued a PSD permit on May 27, 2011, to Avenal Power Center, LLC for the Avenal Energy Project, granting approval to construct a new 600-megawatt natural gas-fired combined-cycle power plant in Kings County, California. The EPA issued an administrative amendment to the permit on June 21, 2011, to correct typographical errors. The EPA's Environmental Appeals Board (EAB) received four petitions for review of the permit from the following entities within 30 days of the EPA's service of notice of the issuance of the permit: (1) El Pueblo Para El Aire y Agua Limpio; (2) Greenaction for Health & Environmental Justice; (3) Sierra Club and Center for Biological Diversity; and (4) Mr. Rob Simpson. The EAB denied review of these petitions on August 18, 2011. All conditions of the Avenal Power Center, LLC permit for the Avenal Energy Project, as amended on June 21, 2011, are final and effective. Pursuant to 40 CFR 124.19(f)(1), final agency action by EPA has occurred because of the exhaustion of the agency review procedures before the EAB. The EPA Administrator has delegated authority to the EAB to issue final decisions in PSD permit appeals filed under 40 CFR part 124. 40 CFR 124.2(a).

Dated: August 31, 2011.

**Gina McCarthy,***Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 2011–22834 Filed 9–8–11; 8:45 am]

**BILLING CODE 6560–50–P****ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180****[EPA–HQ–OPP–2011–0639; FRL–8886–8]****Mandipropamid; Pesticide Tolerances for Emergency Exemptions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of mandipropamid in or on basil, fresh and basil, dried. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on basil. This regulation establishes a maximum permissible level for residues of mandipropamid in or on these commodities. The time-limited tolerances expire on December 31, 2012.