

(b) for Total Reduced Sulfur Emissions for Kraft Mills. Specifically, EPA is approving Tennessee's submittal as meeting the gaseous emissions requirements for TRS emissions for Kraft Mills.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on August 12, 1996, unless, by July 12, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 12, 1996.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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) of the Act, 42 U.S.C. 7607 (b)(2).]

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental

factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 11 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 165 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action will impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfuric oxides.

Dated: May 28, 1996.

A. Stanley Meiburg,
Acting Regional Administrator.

Part 62, of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7413 and 7601.

Subpart RR—Tennessee

2. Subpart RR is amended by adding an undesignated heading and a new § 62.10625 to read as follows:

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.10625 Identification of plan.

On June 25, 1993, the State submitted revisions to the Tennessee State Implementation Plan (SIP). These were revisions to the process gaseous emission standards. These revisions incorporate changes to Rule 1200-3-7-.07, subparagraphs (4)(a) and (4)(b) of the Tennessee SIP which bring this into conformance with the requirements of 40 CFR part 62, subpart I.

[FR Doc. 96-14908 Filed 6-11-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[ID14-6994a; FRL-5515-1]

Description of Areas for Air Quality Planning Purposes; State of Idaho; Correction to Boundary of the Power-Bannock Counties Particulate Matter Nonattainment Area to Exclude the Inkom Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule, correction.

SUMMARY: This action corrects EPA's announcement of the boundary of the Power-Bannock Counties PM-10 nonattainment area (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers) in the State of Idaho. The boundary of the Power-Bannock Counties PM-10 nonattainment area is being corrected to exclude that portion east of the Inkom Gap, a geographic feature separating the Inkom area from the rest of the

nonattainment area. New analysis of air quality data existing at the time of the original area designation indicates that the Inkom area, at the time of and prior to designation, had never violated the National Ambient Air Quality Standard (NAAQS) for PM-10. Additional current information also indicates that the Inkom area has not and is not predicted to violate the PM-10 standard into the foreseeable future. This action will remove the City of Inkom and the surrounding area from the nonattainment area. With this correction, the Part D new source review requirements of the Clean Air Act will no longer apply to sources in the Inkom area. Instead, new or modified major sources of particulate matter would be subject to the Prevention of Significant Deterioration (PSD) requirements.

DATES: This action will be effective on August 12, 1996 unless adverse or critical comments are received by July 12, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to Steven K. Body, Office of Air Quality, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101. Copies of the documents relevant to this action are available for public inspection during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, (206) 553-0782, or by mail at the Region 10 address above.

SUPPLEMENTARY INFORMATION:

I. Background

A. In General

Section 107(d)(4)(B) of the Clean Air Act sets out the general process by which areas were to be designated nonattainment for PM-10 upon enactment of the 1990 Clean Air Act Amendments (the "Act" or "CAA"). The procedure that is relevant for the Power-Bannock Counties PM-10 nonattainment area is stated in section 107(d)(4)(B)(i) of the Act, which provides that each area that had been identified by EPA as a PM-10 Group I area prior to the 1990 Clean Air Act Amendments (these were areas that, at the time the particulate matter indicator was changed from TSP to PM-10, were estimated to have a high probability of exceeding the PM-10 NAAQS) be designated nonattainment for PM-10 by operation of law upon enactment of the 1990 Amendments. While EPA believes that, in general, the language of this section would appear to preclude any exercise of EPA discretion to modify

these initial nonattainment area designations, EPA also believes that section 107(d)(4)(B)(i)'s explicit reliance on the Agency's prior Group I determinations provides the basis for an exception to the general rule. By requiring that all Group I areas be among the initial areas designated nonattainment upon enactment of the 1990 CAAA, Congress relied on EPA's expertise and judgment in determining, based on an analysis of relevant air quality information, those areas for which a PM-10 nonattainment status was merited. EPA does not believe that Congress intended initial PM-10 areas to be designated nonattainment based on a clearly erroneous Group I determination. Thus, one exception to the non-initial designation modification principle is where, prior to enactment of the 1990 Amendments, EPA mistakenly construed then-existing air quality data and, as a consequence, incorrectly identified an area as being among the Group I areas that were subsequently reference in section 107(d)(4)(B)(i) of the Act. See 56 FR 37654, 37656 (August 8, 1991).

As discussed below, EPA believes that such a clear identification error occurred in the case of the Power-Bannock Counties PM-10 nonattainment area. That is, EPA believes that it acted in error in including the Inkom area as part of the Power-Bannock Counties PM-10 nonattainment area. Accordingly, under the authority of section 110(k)(6) of the Act, and based on the State's request, EPA is revising the boundary of the Power-Bannock Counties PM-10 nonattainment area to exclude the Inkom area. Although this boundary correction action is not subject to the legal requirements for public notice and comment, EPA is providing the public with an opportunity to comment on this action in order to foster public participation and avoid further error.

B. Designation of the Area as Nonattainment

Prior to promulgation of the PM-10 NAAQS on July, 1, 1987 (52 FR 24672), total suspended particulate (TSP) was the indicator for particulate matter. In the Pocatello vicinity, the TSP nonattainment area consisted of the 12 square mile industrial area approximately 10 miles west of downtown Pocatello. See 49 FR 11177 (March 26, 1984). Two major stationary sources of particulate matter, FMC Corporation's elemental phosphorus facility and J.R. Simplot Company's phosphate fertilizer facility, are located in the industrial complex. This TSP

nonattainment area did not include the City of Pocatello.

After promulgation of the PM-10 standard, EPA published a list of "PM-10 Group I areas," areas with a strong likelihood of violating the PM-10 NAAQS and requiring substantial revisions to their existing state implementation plans. See 52 FR 29383 (August 7, 1987). The August 7, 1987, document listed "Pocatello" as a Group I "area of concern" and identified that area as including both Power and Bannock Counties. 52 FR 29385. In October 1990, EPA issued a document clarifying the description of certain Group I areas of concern. 55 FR 45799 (October 31, 1990). This document described the area of concern as the "City of Pocatello" in Power and Bannock Counties and further explained that: "When cities or towns are shown, the area of concern is defined by the municipal boundary limits as of the date of this notice." 55 FR 45801 n. 2. The City of Pocatello, however, lies only in Bannock County. In addition, the City of Pocatello does not include either the FMC facility or the J.R. Simplot facility in the industrial complex. Considering the original TSP nonattainment area boundary, it would seem apparent that any potential PM-10 nonattainment site for this area would have included the industrial complex, including the two major stationary sources located there. However, the erroneous boundary description for this area on the PM-10 Group I areas list remained, as explained above, and became the boundary description for the PM-10 area that was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Given the above inconsistencies, it seems evident that the current boundaries of the Pocatello PM-10 nonattainment area were and are incorrect.

The 1990 Clean Air Act Amendments became effective November 15, 1990. As discussed above, section 107(d)(4)(B)(i) required that all Group I areas be designated nonattainment for PM-10 by operation of law upon enactment of the 1990 Amendments. In March 1991, EPA published a Federal Register document announcing all the areas, including all the Group I areas, designated under the amended Act as PM-10 nonattainment areas. 56 FR 11101 (March 15, 1991). The document identified the "City of Pocatello" in Power and Bannock Counties as such an area, and provided the public an opportunity to comment. As the document indicated, EPA's solicitation of public comment on the nonattainment area boundaries did not stem from any legal obligation, because neither the initial designations nor the

initial classifications for PM-10 were subject to the requirements for notice-and-comment rulemaking under either the Administrative Procedures Act (5 U.S.C. 553-657) or section 307(d) of the Clean Air Act. See generally 56 FR 11103; see also 56 FR 36755 & n. 2. Rather, as a matter of policy, EPA requested public comment on the document in order to facilitate public participation and avoid errors.

In response to EPA's March 1991 Federal Register document, the Idaho Department of Environmental Quality (IDEQ) submitted comments to EPA indicating what portion of the Pocatello area in Power and Bannock Counties IDEQ believed should be designated nonattainment for PM-10. The area described by IDEQ was approximately 260 square miles of lands in Power and Bannock counties that included lands under State jurisdiction and both trust and fee lands within the Fort Hall Indian Reservation. The area also included the two major stationary sources in the industrial complex, the Cities of Chubbuck and Pocatello and certain areas east of Inkom Gap. The area east of Inkom Gap includes the City of Inkom, a small community approximately 15 miles southeast of downtown Pocatello, and a cement plant operated by Ash Grove Cement Company, which is a major stationary source of PM-10 (see discussion later in this document regarding the emissions impact of this facility).

In August 1991, EPA used its authority under section 110(k)(6) of the Act to make corrections in nonattainment area designations and descriptions for several Group I areas based on information submitted by commenters on the March 1991 document. 56 FR 37656 (August 8, 1991). EPA included in that document corrections and clarifications to the boundary description of the Pocatello nonattainment area consistent with IDEQ's request. In correcting the Power-Bannock Counties listing, EPA noted that the prior boundary description for this nonattainment area as "the City of Pocatello" was clearly erroneous since Pocatello lies only in Bannock County, and that EPA and the State had originally intended that certain areas surrounding the City of Pocatello in both Power and Bannock Counties be included in the nonattainment area. 56 FR 37658, 37664. In formally codifying the final designations, classifications, and boundaries of areas in the country with respect to PM-10 (and other NAAQS) in November 1991, EPA further refined the description of the Power-Bannock Counties PM-10 nonattainment area by clearly specifying

those lands in the nonattainment area which are within the exterior boundary of the Fort Hall Indian Reservation and those lands in the nonattainment area that are State lands. 56 FR 56694, 56749 (November 6, 1991). However, neither the August nor the November 1991 documents addressed the question of whether the portion of the nonattainment area east of the Inkom Gap was properly included in the boundary description.

II. This Action

A. Correction of the Boundary of the Nonattainment Area

On May 23, 1995, IDEQ submitted to EPA additional analysis of data that were available at the time of enactment of the 1990 Clean Air Act Amendments in support of a request to once again correct the Power-Bannock Counties PM-10 nonattainment area boundary. The State's submittal asked EPA to exclude that portion east of the Inkom Gap and to simultaneously redesignate the Inkom area to attainment. Based on the data information, EPA believes that the State has demonstrated that inclusion of the Inkom area in the Power-Bannock Counties PM-10 nonattainment area prior to the 1990 Amendments to the Clean Air Act was in error.

IDEQ's additional analysis is based upon monitored TSP data from two locations in Inkom during the 1970s and 1980s. IDEQ operated a sampler at the U.S. Post Office during 1972 and again from 1974 through 1986. In 1986, IDEQ moved the sampler to a well pump station owned by the City of Inkom located on Highway 30, approximately one mile north of the Post Office. Monitoring continued at this location until it was discontinued on December 1, 1988. The State's additional analysis of the TSP data collected by IDEQ during the 1970s and 1980s converting TSP data to PM-10 data using a general ratio of PM-10 to TSP demonstrates that the Inkom area has not experienced a violation of the PM-10 NAAQS since 1981, well before promulgation of the PM-10 NAAQS on July 1, 1987. The data submitted by IDEQ also shows a substantial improvement in air quality in the Inkom area after 1982. In addition, IDEQ submitted emission reduction information (which included both historical actual emission estimates and allowable emission rates for the Ash Grove Cement facility) for the Inkom area that demonstrates that the PM-10 NAAQS has been protected since 1988, when monitoring in the area ceased, because of reduced emissions. For a further discussion of the air quality data

and the emission reductions that have been achieved in the area, please refer to the IDEQ submittal in the docket.

Section 110(k)(6) of the Act authorizes EPA, upon a determination that EPA's action in approving, disapproving or promulgating any State Implementation Plan or plan revision (or any part thereof) was in error, to revise the action as appropriate in the same manner as the approval, disapproval, or promulgation. In making such a correction, EPA must provide such determination and the basis for it to the State and the public. By this document, EPA is notifying the State of Idaho, the Shoshone-Bannock Tribes, and the public that EPA is correcting the boundary of the Power-Bannock Counties PM-10 nonattainment area to exclude the area east of Inkom Gap, thus excluding the City of Inkom and Ash Grove Cement's facility. The basis for this boundary correction is that the State of Idaho, which requested in 1991 that the Inkom area be included in the Power-Bannock County PM-10 nonattainment area, has now submitted valid data information to EPA showing that its 1991 request was in error and asking EPA to correct the boundary description. Had the State of Idaho presented this information either before the clarification of the Group I listing of October 31, 1990, or before the August 8, 1991, clarification of the PM-10 nonattainment area boundary, EPA would have excluded the Inkom area from the Power-Bannock Counties PM-10 nonattainment area.

Accordingly, as of the effective date of this action, the North-South boundary along the eastern edge of the Power-Bannock Counties PM-10 nonattainment area will be defined as the line between the West 1/2 and East 1/2 of:

Sections 10, 15, 22, 27, 34 of T6S, R35E, Sections 3, 10, 15, 22, 27, 34 of T7S, R35E, and Section 3 of T8S, R35E

Although neither the Administrative Procedures Act nor the Clean Air Act legally obligate EPA to provide the public an opportunity to comment on this correction, EPA is inviting the State, the Shoshone-Bannock Tribes, and the public to comment on this action to foster public participation and avoid error. EPA will consider any written comments on this action that are received by July 12, 1996. This correction will become effective on August 12, 1996. This will provide sufficient time for EPA to make any adjustments to this correction that are appropriate in light of the comments.

In making this boundary correction, EPA notes that IDEQ has also provided information showing that significant emission reductions have been achieved at the Ash Grove Cement facility since 1990 and that Ash Grove Cement is now operating under a 1995 IDEQ-issued and federally enforceable operating permit that establishes emission limits that will protect the NAAQS into the future. IDEQ has also provided information showing that emissions from sources in the Inkom area are not expected to contribute to violations of the PM-10 NAAQS in other portions of the Power-Bannock Counties PM-10 nonattainment area because the Inkom Gap, a constriction in the Portneuf River Valley formed by a mountain ridge rising 1500 feet above the valley floor on either side of the river, effectively provides a natural barrier between the airsheds of Inkom and Pocatello and prevents transport of emissions between them. Finally, IDEQ has committed to monitor air quality at two locations in the Inkom area and to monitor meteorology at one location in the Inkom area. Air quality monitoring has already begun in a residential area near the elementary school in Inkom and a second air quality monitor, located at the site of the expected maximum impact of Ash Grove Cement's facility, began operation on October 12, 1995.

In correcting the boundary of the Power-Bannock PM-10 nonattainment area to exclude the Inkom area, EPA has relied on the data available prior to August 1991, when EPA announced the boundary description, along with subsequent analysis of those data. The information submitted by IDEQ regarding emission reductions and emission limitations since that time and IDEQ's commitments to monitor air quality in the Inkom area in the future were not regarded by EPA as a basis for the correction. However, this information and the State's commitments do provide additional assurance that the NAAQS will be protected in the Inkom area into the future. EPA would be reluctant to revise through correction the description of a nonattainment area based on information available before EPA's initial erroneous boundary description if data collected since the initial erroneous boundary description indicated that the area was not in attainment of, or would be expected to soon violate, the NAAQS.

B. State's Request to Redesignate the Inkom Area to Attainment

The State has also requested that the Inkom area be redesignated to attainment. EPA declines to grant this

portion of the State's request at this time, because to do so would undermine the planning requirements of section 107(d)(3)(E) of the Act for redesignation of a nonattainment area (or portion thereof) to attainment. EPA may redesignate an area to attainment if:

(i) The Administrator determines that the area has attained the NAAQS;

(ii) The Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the Act;

(iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the Act; and,

(v) The State containing such area has met all the requirements applicable to the area under section 110 and part D of the Act.

The State of Idaho has not provided sufficient information to allow EPA to make these findings for the Inkom area. Therefore, EPA is not granting the State's request to redesignate the Inkom area to attainment. Thus, this correction to the nonattainment area boundary will result in the Inkom area being designated "unclassifiable" for PM-10. This designation is the same designation as most rural areas within the State of Idaho, and is the designation the Inkom area would have had in August 1991 had it not been erroneously included in the Power-Bannock Counties PM-10 nonattainment area.

III. Implications of this Action

Upon the effective date of this rule, the Inkom area, which is currently designated nonattainment for PM-10, will revert to a designation of "unclassifiable" for PM-10. A revised description of the boundary for the Power-Bannock Counties PM-10 nonattainment area is set forth in the table below, which shows the corrections that will be made to the Table in Part 81.

As a result of today's action, new or modified major stationary sources of particulate matter in the Inkom area will be subject to Prevention of Significant Deterioration (PSD) requirements of Part C of the Act rather than the New Source Review requirements of Part D of the Act. In addition, the State no longer needs to include the Inkom area in the planning requirements for the Power-

Bannock Counties PM-10 nonattainment area. However, removing the Inkom area from the Power-Bannock Counties PM-10 nonattainment area does not protect any source in the area from requirements for additional control technology if the source's emissions are determined in the future to contribute to violations of a NAAQS in the Power-Bannock Counties PM-10 nonattainment area or elsewhere and if such control technology is necessary to attain the NAAQS.

As discussed above, based on the information submitted by the State, EPA believes that the NAAQS in the Inkom area has been protected through the present and will also be protected into the foreseeable future. Should one of the State's monitors record a violation of the PM-10 or other particulate matter NAAQS in the future, however, EPA will proceed immediately to redesignate the Inkom area to nonattainment.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of

\$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific

technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 12, 1996 unless, by July 12, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 12, 1996.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by August 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 81

Environmental protection, Designation of areas for air quality planning purposes.

Dated: May 29, 1996.

Carol M. Browner,
U.S. EPA Administrator.

PART 81—[AMENDED]

Chapter I, Title 40 of the code of Federal Regulations is amended as follows:

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

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

2. Section 81.313 is amended by revising the entry for "Bannock and Power Counties" in the "Idaho PM-10 Nonattainment Areas" table to read as follows:

§ 81.313 Idaho
* * * * *

IDAHO—PM-10 NONATTAINMENT AREAS

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * * * *				
Power-Bannock Counties, part of: (Pocatello) State Lands	11/15/90	Nonattainment	11/15/90	Moderate
T.5S, R.34E Sections 25-36; T.5S, R.35E Section 31; T.6S, R.34E Sections 1-36; T.6S, R.35E Sections 5-9, 16-21, 28-33 Plus the West 1/2 of Sections 10, 15, 22, 27, 34 T.7S, R.34E Sections 1-4, 10-14, and 24 T.7S, R.35E Sections 4-9, 16-21, 28-33 Plus the West 1/2 of Sections 3, 10, 15, 22, 27, 34 T.8S, R.35E, Section 4 Plus the West 1/2 of Section 3				
Fort Hall Indian Reservation: T.5S, R.34E Sections 15-23; T.5S, R.33E Sections 13-36 T.6S, R.33E Sections 1-36 T.7S, R.33E Sections 4, 5, 6 T.7S, R.34E Section 8				
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[FR Doc. 96-14455 Filed 6-11-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 180

[PP 2F4086/R2238; FRL-5368-4]

RIN 2070-AB78

Pesticide Tolerance for 1-[[2-(2,4-Dichlorophenyl)-4-Propyl-1,3-Dioxolan-2-yl]Methyl]-1H-1,2,4-Triazole**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This rule establishes a tolerance for combined residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on the raw agricultural commodities oat grain at 0.1 parts per million (ppm), oat straw at 1.0 ppm, oat forage at 10.0 ppm, and oat hay at 30.0 ppm. The regulation to establish a maximum permissible level for residues of the fungicide was requested in a petition submitted by Ciba-Geigy Corp.

EFFECTIVE DATE: This regulation becomes effective June 12, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 2F4086/R2238], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 2F4086/R2238]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703) 305-6226; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice (FRL-4971-5), published in the Federal Register of November 15, 1995 (60 FR 57420), which announced that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419 had submitted pesticide petition (PP) 2F4086 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish tolerances for combined residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole in or on the raw agricultural commodities oat grain at 0.1 ppm, oat straw at 1.0 ppm, oat forage at 10.0 ppm, and oat hay at 30.0 ppm.

There were no comments received in response to the notice of filing.

The scientific data submitted in the petition and other relevant material have been evaluated. The data considered in support of the tolerance include:

1. Plant and animal metabolism studies.
2. Residue data for crop and livestock commodities.
3. Two enforcement methods and multiresidue method testing data.
4. A 90-day rat feeding study with a no-observable-effect level (NOEL) of 12 mg/kg/day.
5. A 90-day dog feeding study with a NOEL of 1.25 mg/kg/day.
6. A rabbit developmental toxicity study with a maternal NOEL of 100 mg/kg/day and a developmental toxicity NOEL of Greater than 400 mg/kg/day (highest dose tested) (HDT)).

7. A rat teratology study with a maternal NOEL of 30 mg/kg/day and a developmental toxicity NOEL of 30 mg/kg/day.

8. A 2-generation rat reproduction study with a reproductive NOEL of 125 mg/kg/day (HDT) and a developmental toxicity NOEL of 25 mg/kg/day.

9. A 1-year dog feeding study with a NOEL of 1.25 mg/kg/day.

10. A 2-year rat chronic feeding/carcinogenicity study with a NOEL of 5 mg/kg/day with no carcinogenic potential under the conditions of the study up to and including approximately 125 mg/kg/day, the highest dose tested.

11. A 2-year mouse chronic feeding/carcinogenicity study with a NOEL of 15 mg/kg/day and with a statistically significant increase in combined adenomas and carcinomas of the liver in male mice at approximately 375 mg/kg/day, the highest dose tested.

12. Ames test with and without activation, negative.

13. A mouse dominant-lethal assay, negative.

14. Chinese hamster nucleus anomaly, negative.

15. Cell transformation assay, negative.

Ciba-Geigy submitted information which resolved the previously outstanding concerns about the nature of the residue in ruminants, an explanation of recovery calculations, and an explanation of the crop field trial protocol. Data gaps exist concerning dosing in the mouse carcinogenicity study. These data requirements were required under reregistration, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq.

As part of EPA's evaluation of potential human health risks, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole has been the subject of five Peer Reviews and one Scientific Advisory Panel (SAP) meeting.

The fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole was originally evaluated by the Peer Review Committee on January 15, 1987, and classified as a Group C (possible human) carcinogen with a recommendation made for the quantification of estimated potential human risk using a linearized low-dose extrapolation. The method resulted in the establishment of a Q* of 7.9×10^{-2} (mg/kg/day)⁻¹.

The Peer Review Committee's decision was presented to the FIFRA Scientific Advisory Panel on March 2, 1988. The Panel did not concur with the committee's overall assessment of the