

plan revision is submitted to EPA and found to be complete.

(b) \* \* \*

(2) Until August 8, 1995, for ozone nonattainment areas where EPA has notified the State, MPO, and DOT of the State's failure to submit a control strategy implementation plan revision required by Clean Air Act sections 182(c)(2)(A) and/or 182(c)(2)(B), failure to submit an attainment demonstration for an intrastate moderate ozone nonattainment area that chose to use the Urban Airshed Model for such demonstration, or failure to submit an attainment demonstration for a multistate moderate ozone nonattainment area, the following shall apply in lieu of the provisions of paragraph (b)(1) of this section:

(i) The conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area for such failure under section 179(b)(1) of the Clean Air Act, unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator; and

(ii) The consequences described in paragraph (b)(1) of this section shall be nullified if such provisions have been applied as a result of a failure described in paragraph (b)(2) of this section, and paragraph (b)(2) of this section shall henceforth apply with respect to any such failure.

\* \* \* \* \*

(c) \* \* \*

(2) Until August 8, 1995, for the ozone nonattainment areas described in paragraph (c)(2)(i) of this section, the following shall apply in lieu of the provisions of paragraph (c)(1) of this section:

(i) The conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area under section 179(b)(1) of the Clean Air Act for the failures described below, unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator, in ozone nonattainment areas where EPA notifies the State, MPO, and DOT that any of the following control strategy implementation plan revisions are incomplete:

(A) The implementation plan revision due November 15, 1994, as required by Clean Air Act sections 182(c)(2)(A) and/or 182(c)(2)(B);

(B) The attainment demonstration required for moderate intrastate ozone nonattainment areas which chose to use the Urban Airshed Model for such demonstration and for multistate moderate ozone nonattainment areas; or

(C) The VOC reasonable further progress demonstration due November 15, 1993, as required by Clean Air Act section 182(b)(1), if EPA notes in its incompleteness finding as described in paragraph (c)(1)(iii) of this section that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act section 110(a)(2)(A); and

(ii) The consequences described in paragraph (c)(1) of this section shall be nullified if such provisions have been applied as a result of a failure described in paragraph (c)(2)(i) of this section, and paragraph (c)(2) of this section shall henceforth apply with respect to any such failure.

\* \* \* \* \*

(d) \* \* \*

(4) Until August 8, 1995, for areas otherwise subject to paragraph (d)(3) of this section, the conformity lapse imposed by the final sentence of paragraph (d)(3) of this section shall not apply. The conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the Clean Air Act, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

\* \* \* \* \*

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BILLING CODE 6560-50-P

#### 40 CFR Parts 52 and 81

[OH06-2-6229, OH01-2-6230, OH32-2-6231; FRL-5151-1]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

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

**ACTION:** Final rule.

**SUMMARY:** USEPA is approving a redesignation request and maintenance plan for Preble, Columbiana, and Jefferson County, Ohio as a revision to Ohio's State Implementation Plan (SIP) for ozone.

The revision is based on a request from the State of Ohio to redesignate these areas, and approve their maintenance plans, and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

**EFFECTIVE DATE:** This final rule becomes effective on March 10, 1995.

**ADDRESSES:** Copies of the requested redesignation, maintenance plan, and other materials relating to this rulemaking are available for public inspection during normal business hours at the following addresses: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604; and Jerry Kurtzweg (ANR-443), United States Environmental Protection Agency, 401 M Street, S.W. Washington, D.C. 20460. (It is recommended that you telephone William Jones at (312) 886-6058, before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** William Jones, Regulation Development Section, Air Enforcement Branch (AE-17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6058.

**SUPPLEMENTARY INFORMATION:** Under Section 107(d) of the pre-amended Clean Air Act (CAA), the United States Environmental Protection Agency (USEPA) promulgated the ozone attainment status for each area of every State. For the State of Ohio, Preble, Columbiana, and Jefferson Counties were designated as nonattainment areas for ozone. See 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. No. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Pursuant to Section 107(d)(1)(C)(i) of the amended CAA, Preble, Jefferson, and Columbiana Counties retained their designations of nonattainment for ozone by operation of law. See 56 FR 56694 (November 6, 1991). At the same time, Preble and Jefferson Counties were classified as transitional areas; and Columbiana County was classified as an incomplete data area.

The Ohio Environmental Protection Agency (OEPA) requested that Preble County be redesignated to attainment in a letter dated May 23, 1986; and that Jefferson and Columbiana Counties be redesignated to attainment in a letter dated July 14, 1986. On December 20, 1993, the United States Environmental Protection Agency (USEPA) proposed to disapprove the requested redesignations. See 58 FR 66334. The public comment period was from December 20, 1993, to January 19, 1994. Only one public comment was received on the proposed rulemaking to disapprove the redesignations. It was a January 18, 1994, letter from the State of Ohio requesting a 90-day extension of

the comment period. On February 18, 1994, the USEPA extended the comment period until April 19, 1994. See 59 FR 8150. The OEPA submitted comments in an April 14, 1994, letter that included maintenance and contingency plans for the counties. The results of OEPA's public hearing and resulting revision to the maintenance and contingency plans are contained in a letter dated August 10, 1994. No other comments were received during the extended comment period.

After reviewing Ohio's April 14, 1994, and August 10, 1994, submittal, USEPA published a direct final rulemaking to approve the redesignation requests on September 21, 1994. See 59 FR 48395. At the same time USEPA published a proposed rulemaking, see 59 FR 48416, to approve the requests, in the event that adverse public comments were received. Adverse comments were received and a notice was published to remove the direct final rulemaking, but not the proposed rulemaking.

#### **I. Summary of Comments and Responses**

USEPA has considered the adverse comments received and has decided to proceed with formal action approving the redesignations. A summary of adverse comments submitted in response to the September 21, 1994 proposed rulemaking (59 FR 48416) and responses to these comments is provided below. All of the adverse comments received were made by Pollution Probe.

*Comment:* There remain a number of important questions and concerns with regard to the long-range transport of ozone and ozone precursors across the U.S.-Canada border. This particular redesignation request by the State of Ohio is one of a number of requests which may cumulatively have a very significant impact on our future air quality. The commentor also questioned whether the Ohio Environmental Protection Agency had evaluated the impact of Oxides of nitrogen (NO<sub>x</sub>)/ Volatile Organic Compound (VOC) emissions from Ohio sources on downwind regions in Canada.

*Response:* In response, the USEPA notes that the governments of the United States and Canada are in the process of developing a joint study of the transboundary ozone phenomena under the U.S.-Canada Clean Air Quality Agreement. It is envisioned that this regional ozone study will provide the scientific information necessary to understand what contributes to ozone levels in the region, as well as, what control measures would contribute to reductions in ozone levels. This new

regional ozone study is a cooperative effort between the U.S. and Canada. Should this or other studies provide a sufficient scientific basis for taking action in the future, the USEPA will decide what is an appropriate course of action. The USEPA may take appropriate action notwithstanding the redesignation of these areas in Ohio. Therefore, the USEPA does not believe that the contentions regarding transboundary impact currently provide a basis for delaying action on these redesignation requests or disapproving the redesignations. This is particularly true since approval of the redesignations is not expected to result in an increase in ozone precursor emissions and is not expected to adversely affect air quality in Canada. In fact, decreases in both VOC and NO<sub>x</sub> emissions from the areas being redesignated are expected over the 10-year maintenance period. See 59 FR 48396-48397. It should also be noted that the redesignation does not allow States to automatically remove control programs which have contributed to an area's attainment of a U.S. National Ambient Air Quality Standard (NAAQS) for any pollutant and that no previously-implemented control strategies are being relaxed as part of these redesignations.

Furthermore, USEPA notes that the extent of any contribution from these areas to monitored ozone levels in Canada cannot be determined with any degree of certainty on the basis of the information presently available to the USEPA. The extent to which emissions from these areas in Ohio, which are between 80 and 150 miles from the Canadian border, contribute to ozone formation in Canada is highly uncertain, particularly since winds flowing into areas in Ontario pass through a number of urbanized areas in both the U.S. and Canada. Ozone concentrations in Canada may be attributable to or fostered by ozone precursor emissions generated within Canadian borders. As a consequence, the USEPA does not believe that the presently available information provides any basis for affecting its decision regarding the redesignation of these areas in Ohio.

*Comment:* A growing body of evidence shows that the negative impacts to human health and vegetation do occur at or below 82 parts per billion (ppb) ozone. While we recognize that the US NAAQS for ozone is currently .12 parts per million, and that the standard is currently being reviewed, does the air quality monitoring data submitted by the State show ozone concentrations exceeding 80 ppb in the three counties under discussion or in other sections of the State?

*Response:* Yes, in Preble, and Jefferson Counties, and the counties adjacent to Columbiana County concentrations above 80 ppb have been monitored. However, as mentioned by the commentor, the monitoring data for these counties show that the counties are not in violation of the ozone NAAQS. Also, a revision to the NAAQS is currently under consideration by the USEPA. Until any change is made, however, the USEPA is bound to implement the provisions of the Act as they relate to the current standard, including those relating to designation and redesignations.

*Comment:* What were the assumptions and analyses which led to the conclusion that total emissions will decrease in the three Ohio counties under discussion? Overall oxides of nitrogen emissions in the United States are projected to rise after the year 2000, even if mandatory CAA measures for stationary and mobile sources are implemented. We are unfamiliar with the types of emission reduction measures that are likely to be carried out in the United States' regions designated "attainment." Future growth is one important factor which needs consideration. For example, in southeast Michigan, forecasters anticipate that an additional 6 percent growth in population will, with current trends, result in a 40 percent increase in vehicle miles travelled by 2010.

*Response:* The area source emissions were projected to grow at the same rate as the expected population growth. The population growth rate used for Preble County is 0.83386 percent per year from 1990 to 1995 and 0.6279 percent per year from 1995 to 2005. The population growth rate used for Columbiana and Jefferson Counties was about 1 percent per year from 1990 to 2005. The point source emissions growth was projected using Bureau of Economic Analysis (BEA) earnings data by Standard Industrial Classification Code (SIC). This factor varied by SIC but was generally around 1.1 percent per year. The mobile source emissions were projected using the MOBILE5A emissions model to provide emission factors for the vehicle mix in the future, and population data to project the growth in vehicle miles traveled by these vehicles. Large decreases occurred in mobile source emissions in the counties. Due to the Federal Motor Vehicle Emissions Control Program (FMVECP). These decreases resulted in overall VOC emissions reductions in all three counties, and overall NO<sub>x</sub> emission reductions in Preble, and Columbiana counties.

Jefferson county is expected to have a decrease in NO<sub>x</sub> emissions from 1990 to 2005 due to the Acid Rain provisions of the Clean Air Act. This decrease accounted for most of the reductions in NO<sub>x</sub> emissions in Jefferson County. The emissions estimates were based on a 0.5 lb NO<sub>x</sub>/Million Btu emissions limit for the units affected under phase I. This same limit was estimated for units expected to be covered under phase II. The phase I limit is mandated by the Clean Air Act, but a phase II limit had not been specified by either the CAA or USEPA when the redesignation request was prepared so the same limit was used as an estimate.

Upon redesignation to attainment, these areas will be subject to the Prevention of Significant Deterioration provisions of the Clean Air Act that apply to stationary sources of air pollution. These areas are also subject to the provisions in their maintenance plans; so, that if a violation of the NAAQS occurs, the area would have to implement a contingency measure to correct the problem. In addition, these areas are still subject to the controls approved into the SIPs and would still get emission reduction benefits from the FMVECP.

**II. Rulemaking Action**

The redesignation requests are approved as meeting conditions of the CAA in Section 107(d)(3)(E) for redesignation.

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.

This action has been classified as a table 3 action by the Regional Administrator under the processing procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of

Management and Budget has exempted this regulatory action from E.O. 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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 USEPA 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).

Redesignation of an area to attainment under Section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

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 April 10, 1995. 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).)

**List of Subjects**

**40 CFR Part 52**

Air pollution control, Environmental protection, Intergovernmental relations, Ozone.

**40 CFR Part 81**

Air pollution control.

Dated: January 26, 1995.

**Valdas V. Adamkus,**  
*Regional Administrator.*

Chapter 1, 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. 7401-7671q.

2. Section 52.1885 is amended by adding a new paragraph (a)(5) to read as follows:

**§ 52.1885 Control strategy: Ozone.**

\* \* \* \* \*

(a) \* \* \*

(5) The maintenance plans for the following counties are approved:

(i) Preble, Columbiana, and Jefferson Counties.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—OHIO**

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

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

2. In § 81.336 the ozone table is amended by revising the entries for Columbiana, Preble, and Jefferson Counties to read as follows:

**§ 81.336 Ohio.**

\* \* \* \* \*

OHIO—OZONE

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * * *				
Columbiana County Area, Columbiana County .....	March 10, 1995 .....	Attainment.		
* * * * *				
Preble County Area, Preble County .....	March 10, 1995 .....	Attainment.		

OHIO—OZONE—Continued

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Steubenville Area, Jefferson County .....	March 10, 1995 .....	Attainment.		
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

\* \* \* \* \*  
 [FR Doc. 95-3072 Filed 2-7-95; 8:45 am]  
 BILLING CODE 6560-50-P

**40 CFR Part 180**

[PP 4F4314/R2104; FRL-4932-4]

RIN 2070-AB78

**1,4-Dimethylnaphthalene; Exemption from the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** EPA establishes an exemption from the requirement for a tolerance for residues of the potato sprout inhibitor 1,4-dimethylnaphthalene from the postharvest application to potatoes. D-I-1-4, Inc., requested this exemption.

**EFFECTIVE DATE:** This regulation becomes effective February 8, 1995.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP 4F4314/R2104], 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 request 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 (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20450. In Person, bring copy of objections and hearing request 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.

**FOR FURTHER INFORMATION CONTACT:** By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305-5540.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the **Federal Register** of March 30, 1994 (59 FR 14854), which announced that D-I-1-4, Inc., 15401 Cartwright Rd., Boise, ID 83703, had submitted pesticide petition (PP) 4F4314 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 an exemption from the requirement of a tolerance for the plant growth regulator 1,4-dimethylnaphthalene for use on potatoes (post-harvest).

There were no comments received in response to this notice of filing. The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance include:

1. A rat acute oral study with an LD<sub>50</sub> of 2,730 milligrams (mg)/kilogram (kg).
2. A rabbit acute dermal study with an LD<sub>50</sub> greater than 2 grams (g)/kg.
3. A rat acute inhalation study with an LD<sub>50</sub> greater than 4.16 mg/Liter (L).
4. A rabbit primary eye irritation study with moderate irritation that dissipated by day 14.
5. A rabbit primary dermal irritation study with moderate irritation that dissipated by day 14.
6. A guinea pig dermal sensitization study with no apparent sensitization.
7. An Ames mutagenicity study that was negative in the presence and absence of metabolic activation homogenate.
8. An in vitro test for unscheduled DNA synthesis in rat liver primary cell culture that was negative.
9. A in vivo micronucleus assay that was negative.
10. No hypersensitivity incidents were reported.

1,4-Dimethylnaphthalene has been classified as a biochemical as defined by 40 CFR 158.65. Biochemical pesticides

are distinguished by their unique nontoxic mode of action, low use volume, target specificity, and natural occurrence. 1,4-Dimethylnaphthalene is naturally occurring in potatoes at levels between 1 and 10 ppm. When conditions are right for sprouting, the potato metabolizes 1,4-dimethylnaphthalene to a low enough level so that sprouting can occur. 1,4-Dimethylnaphthalene is applied to potatoes at a 2.5 ppm level up to 4 applications as a plant growth regulator during the storage season, which generally runs from October to August, to keep 1,4-dimethylnaphthalene at a sufficient concentration in the potato to continue to inhibit sprouting.

The results of the toxicity studies provided, the low-volume use pattern, and the fact that use of the product will not increase levels of 1,4-dimethylnaphthalene above levels normally found in potatoes are sufficient to demonstrate that there are no foreseeable human health hazards likely to arise from the use of the product as a potato sprout inhibitor. Because no enforcement residue level is established by this exemption, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request.

1,4-Dimethylnaphthalene is considered useful for the purposes for which the exemption is sought. Based on the information and data considered, the Agency concludes that the establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from requirement of a tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the