

Dated: July 16, 1996.

A. Stanley Meiburg,
Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraphs (a) and (e) to the entry for Tennessee to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Tennessee

(a) Tennessee Department of Environment and Conservation: submitted on November 10, 1994, and supplemented on December 5, 1994, August 8, 1995, January 17, 1996, January 30, 1996, February 13, 1996, April 9, 1996, June 4, 1996, June 12, 1996, July 3, 1996, and July 15, 1996; interim approval effective on August 28, 1996; interim approval expires August 31, 1998.

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(e) Memphis-Shelby County Health Department: submitted on June 26, 1995, and supplemented on August 22, 1995, August 23, 1995, August 24, 1995, January 29, 1996, February 7, 1996, February 14, 1996, March 5, 1996, and April 10, 1996; interim approval effective on August 28, 1996; interim approval expires August 31, 1998.

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[FR Doc. 96-19091 Filed 7-26-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[AZR91-0003; FRL-5543-6]

Clean Air Act Reclassification; Arizona-Phoenix Area; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this document EPA is making a final finding that the Phoenix nonattainment area (Maricopa County, Arizona) has not attained the carbon monoxide (CO) national ambient air quality standards (NAAQS) by the applicable attainment date in the Clean Air Act (CAA) for moderate CO nonattainment areas, December 31, 1995. This finding is based on EPA's

review of CO ambient air quality data. As a result of this finding, the Phoenix area is reclassified as a serious CO nonattainment area by operation of law. The intended effect of the reclassification is to allow the State 18 months from the effective date of this action to submit a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practical but no later than December 31, 2000, the CAA attainment date for serious areas.

EFFECTIVE DATE: This action is effective on August 28, 1996.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Mobile Sources Section, A-2-1, Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1248.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation, Classification and Reclassification

The Clean Air Act Amendments of 1990 (CAA) were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each carbon monoxide (CO) area designated nonattainment prior to enactment of the 1990 Amendments, such as the Phoenix Area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either "moderate" or "serious" depending on the severity of the area's air quality problem. The Maricopa Area was classified as moderate. 40 CFR 81.303. Moderate CO nonattainment areas were required to attain the CO national ambient air quality standards (NAAQS) as expeditiously as practicable but no later than December 31, 1995.

EPA has the responsibility, pursuant to sections 179(c) and 186(b)(2) of the CAA, of determining, within six months of the applicable attainment date, whether the Phoenix area has attained the CO NAAQS. Under section 186(b)(2)(A), if EPA finds that the area has not attained the CO NAAQS, it is reclassified as serious by operation of law. Pursuant to section 186(b)(2)(B) of the Act, EPA must publish a document in the Federal Register identifying areas which failed to attain the standard and therefore must be reclassified as serious by operation of law. EPA makes attainment determinations for CO

nonattainment areas based upon whether an area has two years (or eight consecutive quarters) of clean air quality data.

EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard in the Phoenix area in 1994 and 1995, this document addresses only the air quality status of the area with respect to the 8-hour standard.

The reader should consult EPA's Notice of Proposed Rulemaking (NPRM) for this action for a more detailed discussion of the applicable CAA requirements, and EPA guidance on those requirements and on the method of calculating CO NAAQS violations for reclassification purposes. See 61 FR 21415 (May 10, 1996).

B. Effect of Reclassification

CO nonattainment areas reclassified as serious are required to submit, within 18 months of the area's reclassification, SIP revisions providing for attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. In addition, the State must submit a SIP revision that includes: (1) a forecast of vehicle miles travelled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (2) adopted contingency measures; and (3) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Finally, upon the effective date of this reclassification, contingency measures in the moderate area plan for the Phoenix area must be implemented.

C. Proposed Finding of Failure to Attain

On May 10, 1996 EPA proposed to find that the Phoenix area had failed to attain the CO NAAQS by the applicable attainment date. 61 FR 21415. This proposed finding was based on CO monitoring data collected by Maricopa County Environmental Services Department during the years 1994 and 1995. These data demonstrate violations of the CO NAAQS in both years. For the specific data considered by EPA in making this proposed finding, see 61 FR 21415.

II. Response To Comments on Proposed Finding

During the public comment period on EPA's proposed finding, the Agency received a comment only from the Arizona Department of Environmental Quality (ADEQ). ADEQ expressed its

concern that CAA section 107(d)(4)(A)(iv) and (v) could be construed to mean that the Phoenix CO nonattainment area (which currently includes only the urbanized area of Maricopa County) would be expanded to include all of the Phoenix metropolitan statistical area (MSA) (the entire County) upon reclassification to serious and stated that it supports EPA's interpretation that this requirement applies only to the initial designation and classification of an area to nonattainment.

CAA section 107(d)(4)(A)(iv) states that, if a carbon monoxide nonattainment area located in a MSA is classified as serious, the boundaries of such area are revised by operation of law to include the entire MSA. A CO area is classified at the time it is designated as nonattainment either (1) by operation of law on the date of enactment of the 1990 Clean Air Act Amendments, or (2) after enactment if the area was designated attainment or unclassifiable but later experiences NAAQS violations. See section 186(a)(1) and (b)(1). Therefore, section 107(d)(4)(A)(iv) applies only in these two situations and does not apply to the reclassification of an already existing nonattainment area that is based on a failure to attain. As a result, the boundaries of the Phoenix CO nonattainment area are unaffected by the area's reclassification to serious.¹

III. Today's Final Action

EPA is today taking final action to find that the Phoenix area did not attain the CO NAAQS by December 31, 1995, the CAA attainment date for moderate CO nonattainment areas. As a result of this finding, the Phoenix area is reclassified by operation of law as a serious CO nonattainment area as of the effective date of this document.

IV. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule

that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

The Agency has determined that the finding of failure to attain finalized today would result in none of the effects identified in section 3(f). Under section 186(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in-and-of-themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

V. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 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 businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As discussed in section IV of this document, findings of failure to attain and reclassification of nonattainment areas under section 186(b)(2) of the CAA do not in-and-of-themselves create any new requirements. Therefore, I certify that today's final action does not have a significant impact on small entities.

VI. Unfunded Mandates

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 assess whether various actions undertaken in association with proposed or final regulations 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.

EPA believes, as discussed above, that the finding of failure to attain and reclassification of the Maricopa Area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

VII. Small Business Regulatory Enforcement Fairness Act (SBREFA)

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Carbon monoxide.

Dated: July 12, 1996.

Felicia Marcus,

Regional Administrator.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.303 is amended by revising the table for Arizona—Carbon Monoxide to read as follows:

§ 81.303 Arizona.

* * * * *

¹ Even if the boundary expansion provision of section 107(d)(4)(A)(iv) were deemed to apply to reclassified areas, EPA believes that the State would likely qualify under section 107(d)(4)(A)(iv) and (v) for an exclusion from that requirement. Section 107(d)(4)(A)(v) allows exclusion of areas in the MSA from the nonattainment area where the

Administrator finds that sources in the those areas do not contribute significantly to violations of the NAAQS. Cars represent the most significant contributor to CO violations in metropolitan Phoenix. Data, however, indicate that only a very small fraction of cars operating within the metropolitan area are registered in Maricopa County

but outside the current nonattainment boundaries. Thus, EPA believes the State is likely to be able to readily show that sources outside the current boundaries do not contribute significantly to the area's CO violations.

ARIZONA—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date	Type	Date	Type
<p>Phoenix Area: Maricopa County (part)</p> <p>Phoenix nonattainment area boundary:</p> <ol style="list-style-type: none"> 1. Commencing at a point which is the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of Township 2 South, said point is the southeastern corner of the Maricopa Association of Governments Urban Planning Area, which is the point of beginning; 2. thence, proceed northerly along the eastern line of Range 7 East which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statute Section 11-109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and showed on the U.S. Forest Service 1969 Planimetric Maps; 3. thence, westerly along the northern line of Township 1 North to approximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Userly Mountain Semi-Regional Park; 4. thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Userly Mountain Semi-Regional Park; 5. thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Section 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East; 6. thence, northerly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel; 7. thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902; 8. thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation; 9. thence, southwestly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East. 10. thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of McDowell Mountain Regional Park; 11. thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park; 12. thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest; 	11/15/90	Nonattainment	Aug. 28, 1996 ...	Serious.

ARIZONA—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
13. thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of Tonto National Forest;				
14. thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest;				
15. thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statute Section 11-109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant);				
16. thence, southwesterly and southerly along the Maricopa-Yavapai County line to a point which is described by Arizona Revised Statute Section 11-109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek;				
17. thence, southerly along the center line of Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964;				
18. thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of Beardsley Canal where it intersects with the center line of Indian School Road;				
19. thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail;				
20. thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West.				
21. thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				
22. thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				
23. thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park;				
24. thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation;				
25. thence, easterly along the southern boundary of the Gila River Indian Reservation which is the southern line of Sections 13, 14, 15, 16, 17, and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statutes Section 11-109 and 11-113, which is the eastern line of Range 1 East;				
26. thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River;				
27. thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South; and				

ARIZONA—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
28. thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the eastern line Range 7 East.				
Tucson Area:				
Pima County (part)	11/15/90	Nonattainment	11/15/90	Not classified.
Township and Ranges as follows: T11–12S, R12–14E; T13–15S, R11–16E; and T16S, R12–16E Gila and Salt River Baseline and Meridian excluding portions of the Saguaro National Monument and the Coronado National Forest.				
Rest of State	11/15/90	Nonclassifiable/ Attainment	
Apache County				
Cochise County				
Coconino County				
Gila County				
Graham County				
Greenlee County				
La Paz County				
Maricopa County (part)				
Area outside Phoenix Area:				
Mohave County				
Navajo County				
Pima County (part)				
Area outside Tucson Area:				
Pinal County				
Santa Cruz County				
Yavapai County				
Yuma County				

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 [FR Doc. 96–19194 Filed 7–26–96; 8:45 am]
 BILLING CODE 6560–50–P

40 CFR Part 180
[PP 9F3766/R2254; FRL–5385–3]
RIN 2070–AB78
Norflurazon; Pesticide Tolerance
AGENCY: Environmental Protection Agency (EPA).
ACTION: Final Rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone) and its desmethyl metabolite (4-chloro-5-(amino)-2-alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone) in or on the following raw agricultural commodities (RACs): alfalfa, forage, alfalfa, hay, alfalfa, seed; and in or on meat by products (except liver) of cattle, goats, hogs, horses, and sheep and in or on liver of cattle, goats, hogs, horses and sheep resulting from the use of norflurazon in the culture of alfalfa. This regulation to establish a maximum permissible level for the residues of norflurazon was requested in a petition submitted by Sandoz Agro, Inc. of 1300 East Touhy Avenue Des Plaines, Illinois 60018–3300.
EFFECTIVE DATE: July 29, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 9F3766/R2254], 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 docket 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 36277M, Pittsburgh, PA 15251. Information not marked confidential may be disclosed publicly by EPA without prior notice. 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 as ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 9F3766/R2254]. 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 in the SUPPLEMENTARY INFORMATION section of this document.
FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (23) Registration Division (7505C), Office of Pesticide Programs, Environment Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 305-6224, e-mail: miller.joanne@epamail.epa.gov.
SUPPLEMENTARY INFORMATION: EPA issued a notice of filing, published in the Federal Register of June 29, 1989 (54 FR 27423), which announced that