

regulation 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and record keeping requirements.

Dated: April 24, 2001.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 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 *et seq.*

Subpart NN—Pennsylvania

§ 52.2026 [Amended]

2. In § 52.2026, paragraph (f) is removed and reserved.

[FR Doc. 01-10984 Filed 5-2-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TN 240-1-200103a; FRL-6974-6]

Clean Air Act Approval and Promulgation of the Redesignation of Shelby County, Tennessee, to Attainment for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the request to redesignate Shelby County, Tennessee, from nonattainment to attainment for the lead primary national ambient air quality standard (NAAQS). The request was submitted on February 15, 2001, by the Memphis and Shelby County Health Department (MSCHD) through the Tennessee Department of Environment and Conservation (TDEC).

DATES: This direct final rule is effective July 2, 2001 without further notice, unless EPA receives adverse comment by June 4, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Kimberly Bingham at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

- Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

- Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1531.

- Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105.

FOR FURTHER INFORMATION CONTACT:

Kimberly Bingham, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The telephone number is (404)562-9038. Ms. Bingham can also be reached via electronic mail at bingham.kimberly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 107(d)(5) of the Clean Air Act (CAA) provides for areas to be designated as attainment, nonattainment, or unclassifiable with respect to the lead NAAQS. Governors are required to submit recommended designations for areas within their states. When an area is designated nonattainment, the state must prepare and submit a SIP that meets the requirements of sections 110(a)(2) and 172(c) of the CAA demonstrating how the area will be brought into attainment. The EPA designated the portion of Memphis in Shelby County, Tennessee, around the Refined Metals, Inc., secondary lead smelter as a lead nonattainment area on January 6, 1992. This nonattainment designation was based on lead NAAQS violations recorded by monitors near the Refined Metals Corporation facility in 1990 and 1991.

During the second quarter of 1998, another violation of the lead NAAQS occurred in the Shelby County nonattainment area. Subsequently, the MSCHD issued a notice of violation giving Refined Metals, Inc., options to surrender all of its permits or pay a fine and conduct extensive remodeling of the facility. Refined Metals, Inc., chose to surrender all of its permits and shutdown permanently on December 22,

1998. Since the facility permanently closed, there has not been any violation of the lead NAAQS. On February 15, 2001, MSCHD through the State of Tennessee submitted a request to redesignate the Shelby County area to attainment for lead.

II. Analysis of the Redesignation Request

Section 107(d)(3)(E) of the CAA, as amended in 1990, sets forth the requirements that must be met for a nonattainment area to be redesignated to attainment. It states that an area can be redesignated to attainment if the following conditions are met.

1. The EPA has determined that the lead NAAQS has been attained.

2. The State has met all applicable requirements for the area under section 110 and part D, and the implementation plan has been fully approved by EPA under section 110(k).

3. The EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions.

4. The EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A.

The following is a description of how each requirement has been achieved.

1. Attainment of the Lead NAAQS

To demonstrate that the Shelby County area is in attainment with the lead NAAQS, MSCHD submitted air quality data from the third quarter of 1998 through 2000. There has not been any violation of the lead standard since Refined Metals, Inc. shutdown on December 22, 1998. This amount of monitoring data (more than eight consecutive quarters at the present time) without a violation of the lead standard is adequate to demonstrate attainment of the lead NAAQS. Modeling may also be required to redesignate an area to attainment. The EPA believes that because there are no lead sources in the area since Refined Metals, Inc., shut down, a modeling analysis is not needed.

2. The State Has Met All Applicable Requirements for the Area Under Section 110 and Part D, and the Implementation Plan Has Been Fully Approved by EPA Under Section 110(k).

To be redesignated to attainment, section 107(d)(3)(E) requires that an area must have met all applicable requirements of sections 110(k), 110(a)(2), and part D of the CAA. The EPA has determined that the lead SIP for the Shelby County area that was approved on September 20, 2000, meets

the requirements of sections 110(k), 110(a)(2), and part D of the CAA. For a more detailed description of how these requirements were met see the document published on September 20, 2000, in the **Federal Register**, (65 FR 56794).

3. *Permanent and Enforceable Improvement in Air Quality*

Since the Refined Metals facility, the sole source of lead emissions in the Shelby County nonattainment area surrendered its permits and ceased operations, there are no permitted process emissions from the facility or in the nonattainment area. The Refined Metals facility has been completely decontaminated and demolished. Any future request to operate a secondary lead smelter on this site or in Shelby County will have to be approved by MSCHD and will be subject to prevention of significant deterioration (PSD) permit requirements. The PSD requirements ensure that a new facility will not cause any adverse effects to the air quality in an attainment area. Consequently, EPA has determined that the emission reductions in the Shelby County area are permanent and enforceable.

4. *Maintenance Plan*

Section 175(A) of the CAA requires states that submit a redesignation request for a nonattainment area under section 107(d) to include a maintenance plan to ensure that the attainment of NAAQS for any pollutant is maintained. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the approval of a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating attainment for the ten years following the initial ten year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard that occurs after redesignation. The contingency provisions are to include a requirement that the state will implement all measures for controlling the air pollutant of concern that were contained in the SIP prior to redesignation.

The MSCHD submitted a maintenance plan to ensure that the lead NAAQS is maintained. The maintenance plan for the Shelby County area, contains the part C PSD program, a monitoring network to verify continued attainment, and a contingency plan.

A. Part C PSD Program

As previously mentioned earlier in this document, the MSCHD has a fully approved PSD program. Owners of all new major sources seeking to relocate in the Shelby County area must demonstrate that the proposed new emissions from those sources will be in compliance with the lead NAAQS.

B. Monitoring Network

To ensure that the lead NAAQS is maintained, the MSCHD will continue to operate two lead monitors located in the Shelby County area. If future review of the monitoring site operation results in a recommendation to alter the current monitoring network, MSCHD must obtain EPA approval of the recommendation.

C. Contingency Plan

With respect to the requirement of section 175(A) that the contingency provisions of a maintenance plan include all control measures previously contained in the SIP, EPA believes that the requirement is satisfied in that the State is carrying forward contingency measures previously approved in the lead SIP for Shelby County. In addition, the EPA does not believe any additional contingency measures are needed. Contingency measures would serve no useful purpose in light of the permanent closure and dismantling of the Refined Metals facility and the revocation of its permit. Moreover, any attempt to reopen a facility on the same site would trigger MSCHD's PSD permitting requirements.

The EPA is approving the redesignation request and maintenance plan because it satisfies the requirements of section 175(A) of the CAA requirements.

III. Final Action

EPA is approving the request to redesignate Shelby County to a lead attainment area and the maintenance plan submitted on February 15, 2001, by the MSCHD through the State of Tennessee. The EPA is publishing this rule without a prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should the Agency receive adverse comments. This rule will be effective July 2, 2001 without further notice unless the Agency receives adverse comments by June 4, 2001.

If the EPA receives such comments, then EPA will publish a document

withdrawing the final rule and informing the public that the rule will not take effect. 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. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 2, 2001 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have a substantial direct effect on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

Business Regulatory Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 July 2, 2001. 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 will 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

Environmental protection, Air pollution control, Lead, Intergovernmental relation, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 18, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart RR—Tennessee

2. Section 52.2220(c) is amended by revising the entries for Section 1200-3-22-.03 to read as follows:

§ 52.52220 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	Adoption date	EPA approval date	Federal Register Notice
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Section 1200-3-22-.03	Maintenance Plan for Shelby County, Tennessee	02/14/01	July 2, 2001	66 FR 22127
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PART 81—[AMENDED]

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

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

Subpart C—Section 107 Attainment Status Designations

2. In § 81.343, the attainment status table for lead is amended by revising the

designation type and date entry for Shelby County (part).

§ 81.343 Tennessee.

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TENNESSEE-LEAD

Designated area	Designation		Classification	
	Date	Type	Date	Type
Shelby County (part): Area encompassed by a circle with a 3/4 mile radius with center being the intersection of Castex and Mallory Avenue, Memphis, TN.	July 2, 2001	Attainment
*	*	*	*	*

[FR Doc. 01-11090 Filed 5-2-01; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-301119; FRL-6778-9]

RIN 2070-AB78

Sucroglycerides; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of sucroglycerides when used as an inert ingredient in or on growing crops or when applied to raw agricultural commodities after harvest. Rhodia Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of sucroglycerides.

DATES: This regulation is effective May 3, 2001. Objections and requests for hearings, identified by docket control number OPP-301119, must be received by EPA on or before July 2, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301119 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone

number: 703-305-6304; and e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly

to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301119. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of July 7, 1998 (63 FR 36681) (FRL-5795-6), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104-170) announcing the filing of a pesticide petition (PP) 6E4714 by Rhodia Inc., CN 7500, Cranbury, NJ 08512-7500. This notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c), be amended by establishing an exemption from the requirement of a tolerance for residues of sucroglycerides.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe."