

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 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Sulfur dioxide.

Dated: September 30, 1996.  
David A. Ullrich,  
*Acting Regional Administrator.*

Accordingly, part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 81—[AMENDED]**

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

INDIANA—SO<sub>2</sub>

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

2. Section 81.315 is amended by revising the entry for Porter County in the table entitled "Indiana SO<sub>2</sub>" to read as follows:

**§ 81.315 Indiana.**

\* \* \* \* \*

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Porter County: An area bound on the north by Lake Michigan, on the west by the Lake-Porter County line, on the south by I-80 and 90 and on the east by the LaPorte-Porter County line .....	*	*	X	*
The remainder of Porter County.....	*	*		X

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[FR Doc. 96-30328 Filed 11-27-96; 8:45 am]  
BILLING CODE 6560-50-P

**40 CFR Part 131**

[FRL-5656-7]

**Withdrawal From Federal Regulations of Human Health Water Quality Criteria Applicable to Idaho**

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

**ACTION:** Final rule

**SUMMARY:** In 1992, EPA promulgated federal regulations establishing water quality criteria for toxic pollutants for several states, including Idaho (40 CFR 131.36). Idaho has now adopted, and EPA has approved, human health water quality criteria. In this action, EPA is amending the federal regulations to withdraw all human health criteria applicable to Idaho with the exception of the human health criteria for arsenic. EPA is withdrawing its human health criteria applicable to Idaho without a notice and comment rulemaking because the State's human health criteria (except for arsenic) are identical to the federal criteria. In a separate action elsewhere in this issue of the Federal Register, EPA is proposing to withdraw the federal human health criteria for arsenic and is taking public comment on that proposed action.

**EFFECTIVE DATE:** This amendment is effective November 29, 1996.

**ADDRESSES:** The administrative record for consideration of Idaho's human health criteria is available for public inspection at EPA Region 10, Office of Water, 1200 Sixth Avenue, Seattle, Washington, 98101, during normal business hours of 8:00 a.m. to 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Fred Leutner at EPA Headquarters, Office of Water, 401 M Street, SW, Washington, D.C., 20460 (tel: 202-260-1542) or Lisa Macchio in EPA's Region 10 at 206-553-1834.

**SUPPLEMENTARY INFORMATION:**

Potentially Affected Entities:

Citizens concerned with water quality in Idaho may be interested in this rulemaking. Entities discharging toxic pollutants to waters of the United States in Idaho could be affected by this rulemaking since criteria are used in determining NPDES permit limits. Regulated categories and entities include:

Category	Examples of regulated entities
Industry .....	Industries discharging toxic pollutants to surface waters in Idaho.
Municipalities .....	Publicly-owned treatment works discharging toxic pollutants to surface waters in Idaho.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be

regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 131.36 of title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**Background**

In 1992, EPA promulgated a final rule (known as the National Toxics Rule) to establish numeric water quality criteria for 12 States and 2 Territories (hereafter "States") that had failed to comply fully with section 303(c)(2)(B) of the Clean Water Act ("CWA") (57 FR 60848). The criteria, codified at 40 CFR 131.36, became the applicable water quality standards in those 14 jurisdictions for all purposes and programs under the CWA effective February 5, 1993.

When a State adopts criteria that meet the requirements of the CWA, EPA will withdraw its criteria. If the State's criteria are no less stringent than the federal regulations, EPA has determined that additional comment on the criteria is unnecessary and constitutes good cause for issuing this final rule without notice and comment. For the same reason, EPA has determined that good cause exists to waive the requirement

for a 30-day period before the amendment becomes effective and therefore, the amendment will be immediately effective.

On August 24, 1994, Idaho adopted revisions to its surface water quality standards (Title 1, Chapter 2, section 250 of the Idaho Administrative Code), regarding human health criteria, for all toxic pollutants except arsenic, Idaho adopted by reference EPA's human health criteria. The Office of Water for EPA Region 10 approved the State's human health criteria because they are identical to the federal criteria, and requested that the Agency withdraw the federal criteria applicable to Idaho for which the State now has identical numeric criteria. In a separate action in this issue of the Federal Register, EPA is proposing to withdraw the federal criteria for arsenic applicable to Idaho.

This withdrawal of human health criteria imposes no additional regulatory requirements. Therefore, it has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is not subject to OMB review.

Similarly, this action will not result in the annual expenditure of \$100 million or more for State, local, and tribal governments, in the aggregate, or to the private sector, and is not a Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) (P.L. 104-4), nor does it uniquely affect small governments in any way. As such, the requirements of sections 202, 203 and 205 of Title II of the UMRA do not apply to this action.

The Agency has determined that the rule being issued today is not subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, which generally requires an agency to conduct a regulatory flexibility analysis unless it certifies that the rule will not have a significant economic impact on a substantial number of small entities. By its terms, the RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedures Act (APA) or any other statute.

Today's rule is not subject to notice and comment requirements under the APA or any other statute. As explained in more detail above, EPA is withdrawing its water quality criteria for all toxic pollutants except arsenic for the State of Idaho because the State has adopted its own criteria that are identical to EPA's. In these circumstances, any additional comment on EPA's action in this rulemaking is unnecessary. Consequently, the notice and public procedures provisions of the APA do not apply. 5 U.S.C. 553(b)

Even if the Agency were required to perform a regulatory flexibility analysis, today's rule would not have a significant economic impact on small entities. Any economic impact on small entities is unchanged by today's action because the Idaho criteria are identical to the EPA criteria being withdrawn.

This final rule does not impose any requirement subject to the Paperwork Reduction Act.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added 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 5 U.S.C. 804(2).

List of Subjects in 40 CFR 131

Environmental protection, Water pollution control, Water Quality Standards.

Dated: November 21, 1996.

Carol M. Browner,  
*Administrator.*

For the reasons set out in the preamble title 40, chapter I, part 131 of the Code of Federal Regulations is amended as follows:

#### **PART 131—WATER QUALITY STANDARDS**

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

##### **§ 131.36—[Amended]**

2. Section 131.36(d)(13)(ii) is amended in "01.b" use classification, under the listing of applicable criteria, by replacing "all except #14 and 115" with "#2" for Column D1.

3. Section 131.36(d)(13)(ii) is amended in "02.a," "02.b," and "02.cc" use classification, under the listing of applicable criteria, by replacing "all" with "#2" after "Column D2".

4. Section 131.36(d)(13)(ii) is amended in "03.a" use classification, under the listing of applicable criteria, by replacing "all" with "#2" after "Column D2".

5. Section 131.36(d)(13)(ii) is amended in "03.b" use classification, under the listing of applicable criteria,

by replacing "all" with "#2" after "Column D2".

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#### **40 CFR Part 180**

[OPP-300443; FRL-5574-7]

RIN 2070-AB78

#### **Metolachlor Pesticide Tolerance; Emergency Exemption For Use on Spinach**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for combined residues of the herbicide metolachlor in or on the raw agricultural commodity spinach in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of metolachlor on spinach in Arkansas, Oklahoma, Texas and Virginia. This regulation establishes a maximum permissible level for residues of metolachlor in this food pursuant to section 408(l)(6) of the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. This tolerance will expire and be revoked automatically without further action by EPA on November 15, 1998.

**DATES:** This regulation becomes effective November 29, 1996. This regulation expires and is revoked automatically without further action by EPA on November 15, 1998. Objections and requests for hearings must be received by EPA on January 28, 1997.

**ADDRESSES:** Written objections and hearing requests, identified by the docket number, [OPP-300443], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket number, [OPP-300443], should be 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