

9. In table 6 in the appendix of subpart CC of this part, revise the entries for "63.6(e)," "63.8(c)(3)," and "63.10(d)(5)(ii)" to read as follows:

TABLE 6.—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC<sup>a</sup>

Reference	Applies to subpart CC	Comment
§ 63.6(e)	Yes	Does not apply to Group 2 emission points. <sup>b</sup> The startup, shutdown, and malfunction plan specified in § 63.6(e)(3) is not required for wastewater operations that are not subject to subpart G of this part. Except that actions taken during a startup, shutdown, or malfunction that are not consistent with the startup, shutdown, and malfunction plan do not need to be reported within 2 and 7 days of commencing and completing the action, respectively, but must be included in the next periodic report.
§ 63.8(c)(3)	Yes	Except that verification of operational status shall, at a minimum, include completion of the manufacturer's written specifications or recommendations for installation, operation, and calibration of the system or other written procedures that provide adequate assurance that the equipment would monitor accurately.
§ 63.10(d)(5)(ii)	Yes	Except that actions taken during a startup, shutdown, or malfunction that are not consistent with the startup, shutdown, and malfunction plan do not need to be reported within 2 and 7 days of commencing and completing the action, respectively, but must be included in the next periodic report.

<sup>a</sup> Wherever subpart A specifies "postmark" dates submittals may be sent by methods other than the U.S. Mail (e.g., by fax or courier). Submittals shall be sent by specified dates, but a postmark is not required.

<sup>b</sup> The plan, and any records or reports of startup, shutdown, and malfunction do not apply to Group 2 emission points.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[KY 99-1-9820a; FRL-6142-7]

**Designation of Areas for Air Quality Planning Purposes—Kentucky: Redesignation of the Muhlenberg County Sulfur Dioxide Secondary Nonattainment Area to Attainment**

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

**ACTION:** Direct final rule.

**SUMMARY:** On November 21, 1997, the Commonwealth of Kentucky submitted, through the Natural Resources and Environmental Protection Cabinet (the Cabinet), a request for redesignation of Muhlenberg County, Kentucky, to attainment for the secondary sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS). The secondary nonattainment designation for SO<sub>2</sub> was based on the fact that the Tennessee Valley Authority (TVA) Paradise Steam Plant was out of compliance with its allowable emission limit. The Cabinet submitted air dispersion modeling which demonstrates that the secondary

(NAAQS) for SO<sub>2</sub> are now being maintained. The EPA is approving the request for redesignation.

**DATES:** This direct final rule is effective on October 19, 1998 without further notice, unless EPA receives adverse comment by September 17, 1998. If EPA receives adverse comment, we 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:** Written comments should be addressed to: Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

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

Mr. John E. Hornback, Director, Division of Air Quality, Department for Environmental Protection, Natural Resources and Environmental

Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

**FOR FURTHER INFORMATION CONTACT:** Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303. The telephone number is 404-562-9036.

**SUPPLEMENTARY INFORMATION:** In a **Federal Register** document published March 3, 1978, (see 43 FR 8962) Muhlenberg County was originally designated nonattainment for the primary and secondary SO<sub>2</sub> NAAQS. The nonattainment designation was due to noncompliance of the TVA Paradise Plant and the Kentucky Utilities' Green River Plant. In a June 24, 1983, **Federal Register** (see 48 FR 28988) EPA approved a redesignation request for Muhlenberg County from nonattainment to attainment for the SO<sub>2</sub> primary NAAQS. The redesignation request for attainment of the primary standard was approved based on the fact that the Kentucky Utilities' Green River Plant had already achieved final compliance with its modeled SO<sub>2</sub> emission limit of 3.5 lbs/MMBTU in 1980 and that the TVA Paradise Plant had achieved compliance with its modeled SO<sub>2</sub> emission limit of 5.2 lbs/MMBTU. Both of these emission limitations were determined by modeling to be adequate

to attain and protect the primary SO<sub>2</sub> NAAQS. Additionally, in the same June 24, 1983, **Federal Register** indicated that a modeled SO<sub>2</sub> emission limitation of 3.1 lbs/MMBTU was required for TVA Paradise Plant in order for the area to achieve and maintain the SO<sub>2</sub> secondary NAAQS. The TVA Paradise Steam Plant has and continues to comply with the more stringent SO<sub>2</sub> emission limitation which is the basis for the request for secondary redesignation. The Commonwealth of Kentucky has met all of the Clean Air Act Amendments of 1990 (CAA) requirements for redesignation pursuant to Section 107(d)(3)(E).

**Section 107(d)(3)(E)(I) The Administrator Has Determined That the Area Has Attained the NAAQS**

The Cabinet submitted air quality data showing that Muhlenberg County has attained the SO<sub>2</sub> secondary NAAQS since 1982. During that period there were no exceedances, and hence, no violations of the SO<sub>2</sub> NAAQS.

**Section 107(d)(3)(E)(ii) The Administrator Has Fully Approved the Applicable Implementation Plan for the Area Under Section 110(k)**

The Kentucky SIP is fully approved and meets all requirements under section 110(k) which are applicable to Muhlenberg County. In a **Federal Register** published on June 24, 1983, (see 48 FR 28988) it is stated that an emission limit of 3.1 lbs/MMBTU for the TVA Paradise Plant is required in order for Muhlenberg County to attain the SO<sub>2</sub> secondary NAAQS. The TVA Paradise Plant was required to meet an emission limitation of 5.2 lbs/MMBTU until December 1, 1983, at which time the plant must meet the 3.1 lbs/MMBTU limit. The 3.1 lbs/MMBTU limit is presently part of Kentucky's approved SIP and is currently enforceable by EPA (see 45 FR 72153).

**Section 107(d)(3)(E)(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**

The TVA Paradise Plant and the Kentucky Utilities' Green River Plant are the only two significant sources of SO<sub>2</sub> in Muhlenberg County. New emission standards were established for the Green River and TVA Paradise plants. The Green River Plant achieved compliance with its new 3.5 lbs/

MMBTU emission limit for SO<sub>2</sub> in 1980 and the TVA Paradise Plant achieved compliance with its new 3.1 lbs/MMBTU for SO<sub>2</sub> in 1983 (see 48 FR 28988).

**Section 107(d)(3)(E)(iv) The Administrator Has Fully Approved a Maintenance Plan for the Area as Meeting the Requirements of Section 175A**

Muhlenberg County is currently classified as secondary nonattainment for the SO<sub>2</sub> NAAQS and maintenance plans are not required for secondary nonattainment areas. Thus, Kentucky did not submit a maintenance plan.

**Section 107(d)(3)(E)(v) The State Containing Such Area Has Met All Requirements Applicable to the Area Under Section 110 and Part D**

Kentucky has complied with all requirements of section 110 of the CAA part D. Additionally, a Prevention of Significant Deterioration (PSD) program exists in Kentucky and applies to Muhlenberg County. By administering the requirements of PSD in Muhlenberg County, any new or modified source must address the potential impacts of SO<sub>2</sub> emissions in that area. This would include modeling to assess the potential ambient impact in the vicinity of the TVA Paradise Steam Plant. These requirements will protect the SO<sub>2</sub> NAAQS in the Muhlenberg County area. Therefore, Kentucky has complied with all requirements of section 110 and part D of the CAA and has satisfied all requirements of section 107(d)(3)(E).

**Final Action**

In this action, EPA is approving the request to redesignate Muhlenberg County, Kentucky, to attainment for the secondary SO<sub>2</sub> NAAQS.

The SO<sub>2</sub> SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the SO<sub>2</sub> NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the SO<sub>2</sub> emission limitations and restrictions contained in the approved SO<sub>2</sub> SIP. Changes to SO<sub>2</sub> SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation (section 173(b) of the CAA) and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the CAA.

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 published elsewhere 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 October 19, 1998 unless, by September 17, 1998, adverse or critical comments are received, or the areas fail to continue in attainment status until the final notice approving such redesignation is effective.

If the EPA receives such comments or the areas fail to continue in attainment status until the final document approving such redesignation is effective, 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 the companion 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 October 19, 1998.

Nothing in this action should be construed as making any determination or expressing any position regarding Kentucky's audit privilege and penalty immunity law KRS 224.01-040 or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Kentucky's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, section 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

**Administrative Requirements**

*A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive

Order 12866, entitled Regulatory Planning and Review.

**B. Executive Order 13045**

The final rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks, because it is not an "economically significant" action under Executive Order 12866.

**C. Regulatory Flexibility Act**

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.

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 Regional Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

**D. Unfunded Mandates**

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 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

**E. Disclaimer Language Approving SIP Revisions in Audit Law States**

Nothing in this action should be construed as making any determination or expressing any position regarding Kentucky's audit privilege and penalty immunity law KRS 224.01-040, or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Kentucky's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

**F. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**G. Petitions for Judicial Review**

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 October 19, 1998. 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 in 40 CFR Part 81**

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

Dated: August 3, 1998.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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.

**Subpart C—Section 107 Attainment Status Designations**

2. In section 81.318, the "Kentucky-SO<sub>2</sub>" table is amended by revising the entries for "Muhlenberg County" to read "Better than national standards."

**§ 81.318 Kentucky**

\* \* \* \* \*

KENTUCKY-SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Muhlenberg County .....	*	*	*	X
	*	*	*	*

\* \* \* \* \*

[FR Doc. 98-22054 Filed 8-17-98; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 136****Guidelines Establishing Test Procedures for the Analysis of Pollutants***CFR Correction*

In Title 40 of the Code of Federal Regulations, parts 136 to 149, revised as of July 1, 1997, page 17, § 136.3, Table 1C, entry 53, "2,3" is corrected to read "2,4".

BILLING CODE 1505-01-D

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-300700; FRL 6023-8]

RIN 2070-AB78

**Triasulfuron; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of triasulfuron [3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-(2-(2-chloroethoxy)phenylsulfonyl)urea] in or on cattle, kidney; goat, kidney; grass, forage; grass, hay; horse, kidney; and sheep, kidney. Novartis Crop Protection, Inc., requested this tolerance under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170).

**DATES:** This regulation is effective August 18, 1998. Objections and requests for hearings must be received by EPA on or before October 19, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300700], 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, OPP (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 control number, [OPP-300700], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: oppdocket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300700]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-305-5697; e-mail: tompkins.jim@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of May 29, 1998 (63 FR 29401), (FRL 5791-2) EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP 3F4225) for tolerance by Novartis Crop Protection Inc., P.O. Box 18300, Greensboro, North Carolina 27419-8300. This notice included a summary of the petition prepared by Novartis Crop Protection Inc., the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.459 be amended by establishing a permanent tolerance for residues of the herbicide triasulfuron in or on cattle, kidney at 0.5 parts per million (ppm); goat, kidney at 0.5 ppm; grass, forage at 7.0 ppm; grass, hay at 2.0 ppm; horse, kidney at 0.5 ppm, and sheep, kidney at 0.5 ppm.

**I. Risk Assessment and Statutory Findings**

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

**A. Toxicity**

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than