ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Determination of Attainment by the Attainment Date and Clean Data Determination for the Logan, UT-ID 2006 24-Hour PM$_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a determination of attainment by the attainment date and a clean data determination (CDD) for the 2006 24-hour fine particulate matter (PM$_{2.5}$) Logan, Utah (UT)-Idaho (ID) nonattainment area. These determinations are based upon quality-assured, quality-controlled and certified ambient air monitoring data for the period 2015–2017, available in the EPA’s Air Quality System (AQS) database, showing that the area has attained the 2006 24-hour PM$_{2.5}$ National Ambient Air Quality Standards (NAAQS). Based on the final determination that the Logan, UT-ID nonattainment area is currently attaining the 24-hour PM$_{2.5}$ NAAQS, the EPA is also issuing the final determination that the obligation for Utah and Idaho to make submissions to meet certain Clean Air Act (CAA or the Act) requirements related to attainment of the NAAQS for this area is not applicable for as long as the area continues to attain the NAAQS. Additionally, the sanctions and Federal Implementation Plan (FIP) clocks triggered by the partial disapproval of the contingency measure element for the Idaho portion of the Logan, UT-ID PM$_{2.5}$ State Implementation Plan (SIP) will be suspended.

DATES: This final rule is effective on October 19, 2018.

ADDRESSES: The EPA has established docket for this action under Docket ID No. EPA–R08–OAR–2018–0309 and/or Docket ID No. EPA–R10–OAR–2018–0316. All documents in the docket are listed on the https://www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through http://www.regulations.gov, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air Program, EPA, Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80220–1129, (303) 312–6602, ostigaard.crystal@epa.gov, or Matthew Jentgen, Air Planning Unit, Office of Air and Waste (OAW–150), EPA, Region 10, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; (206) 553–0340; jentgen.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we”, “us” or “our” is used, it is intended to refer to the EPA.

I. Background

On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour PM$_{2.5}$ NAAQS, lowering the primary and secondary standards from the 1997 standard of 65 micrograms per cubic meter (µg/m$^3$) to 35 µg/m$^3$. On November 13, 2009 (74 FR 56888), the EPA designated several areas as nonattainment for the 24-hour PM$_{2.5}$ NAAQS of 35 µg/m$^3$, including the Logan, Utah UT-ID nonattainment area.

On July 17, 2018 (83 FR 33886), the EPA proposed to determine, based on the most recent 3 years (2015–2017) of valid data,$^1$ that the Logan, UT-ID nonattainment area has attained the 2006 primary and secondary 24-hour PM$_{2.5}$ NAAQS by the December 31, 2017 attainment date. In addition, based on the CDD, the EPA also proposed to determine that the obligation to submit any remaining attainment-related SIP revisions arising from classification of the Logan, UT-ID area as a Moderate nonattainment area under subpart 4 of part D (of title I of the Act) for the 2006 24-hour PM$_{2.5}$ NAAQS is not applicable so long as the area continues to attain the 2006 24-hour PM$_{2.5}$ NAAQS. Additional detail can be found in the July 17, 2018 (83 FR 33886) proposed action.

II. Response to Comments

The EPA received eight public comments on the proposed action. Three of the comments related to forestry practices and wildfire management, primarily in California. One comment related to child labor practices in South America. One comment related to homelessness in California. Another comment discussed

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$^1$ Meeting the requirements of 40 CFR part 50, appendix N, and part 58.
water quality issues in Venezuela. Finally, one comment raised issues concerning lead-based paint. None of these seven comments recommended that the EPA take a different action than the EPA proposed on July 17, 2018 (83 FR 33886). The eighth comment was received from the Idaho Conservation League (ICL) and raised issues relevant to this action, which are addressed below. After reviewing the comments received, the EPA has determined that the comments, with the exception of the ICL comment, fail outside the scope of our proposed action or fail to identify any material issue necessitating a response.

The ICL comment raises concerns regarding monitoring data trends at the Franklin, ID and, to a lesser extent, the Smithfield, UT sites. The comment states that the 3-year average (2015–2017) at the Franklin, ID monitoring site was 30 μg/m³; however, the 98th percentile rose each year (18.8, 33.3, and 38.3 μg/m³, respectively). The commenter briefly mentions the Smithfield, UT monitor and how the 98th percentiles for the three years (2015–2017) rose too, but to a lesser extent. The comment also asserts that if the 2016 monitoring data at the Franklin, ID site yields a 98th percentile measurement of greater than 33.4 μg/m³; however, the 98th percentile mass concentrations generally are required to produce a valid design value. The regulations do not require that there be a downward trend over the course of the three years used to calculate the design value. Rather, according to part 50, appendix N, section 4.5, the design value is an average of the three years of valid annual PM2.5 98th percentile mass concentrations. Thus, the process the EPA uses to calculate a design value accounts for the fluctuations in 98th percentiles at the Logan, UT and Smithfield, UT monitoring sites. Following the requirements of 40 CFR 50.13 and part 50, appendix N, the EPA determined that the design values at both the Smithfield, UT and Franklin, ID monitors are below 35 μg/m³, thus the proposed determination of attainment by the attainment date and the proposed CDD are appropriate.

Also, the 3-year design values are lower for the time period used for this attainment determination compared to the time period when the area was designated nonattainment. The Logan, UT design value used for designations was 36 μg/m³ (2006–2008). The first period when both the Logan, UT and Franklin, ID monitors had valid design values was in 2008–2010, when the Logan, UT monitor recorded a PM2.5 24-hour concentration of 43 μg/m³ and the Franklin, ID monitor was 46 μg/m³. In comparison, the most recent design value (2015–2017) is 33 μg/m³ for the Logan, UT monitor and 30 μg/m³ for the Franklin, ID monitor, which shows attainment. Moreover, since being designated as a Moderate nonattainment area in 2009, Utah and Idaho have adopted and implemented reasonably available control measures (RACM), including reasonably available control technologies (RACT), on sources of direct PM2.5 and PM2.5 precursors. Based on the overall trend towards attainment since the area was designated as nonattainment in 2009, as well as the implementation of RACM on sources in the nonattainment area, it is unlikely the area will re-violate the 24-hour PM2.5 NAAQS. Furthermore, as described in detail in our proposal notice, should the area subsequently violate the 24-hour PM2.5 NAAQS, in accordance with 40 CFR 51.1015(a)(2), the EPA would rescind the CDD, and Utah and Idaho would be obligated to submit a SIP revision to address any deficiencies. Therefore, the EPA is finalizing our action as proposed.

III. Final Action

Pursuant to CAA section 188(b)(2), the EPA is finalizing a determination, based on the most recent 3 years (2015–2017) of valid data, that the Logan, UT-ID nonattainment area has attained the 2006 primary and secondary 24-hour PM2.5 NAAQS by the December 31, 2017 attainment date. In addition, the EPA is finalizing a determination that the obligation to submit any remaining attainment-related SIP revisions arising from classification of the Logan, UT-ID area as a Moderate nonattainment area under subpart 4 of part D (of title I of the Act) for the 2006 24-hour PM2.5 NAAQS are not applicable under the Clean Data Policy for so long as the area continues to attain the 2006 24-hour PM2.5 NAAQS. See 40 CFR 51.1015(a). In particular, the obligation for Utah and Idaho to submit attainment demonstrations, projected emissions inventories, RACM (including RACT), reasonable further progress (RFP) plans, motor vehicle emissions budgets (MVEB), quantitative milestones, and contingency measures, for the Logan, UT-ID area are suspended until such time as: (1) The area is redesignated to attainment, after which such requirements are permanently discharged; or (2) the EPA determines that the area has re-violated the PM2.5 NAAQS, at which time the state shall submit such attainment plan elements for the Moderate nonattainment area by a future date to be determined by the EPA and announced through publication in the Federal Register at the time the EPA determines the area is violating the PM2.5 NAAQS.

As discussed in the 2015 PM2.5 SIP Requirements Rule, the nonattainment base emissions inventory required by section 172(c)(3) is not suspended by this determination because the base inventory is a requirement independent of planning for an area’s attainment. See 81 FR 58009 at 58027 and 58312 at 58340; 80 FR 15441–2. Additionally, Nonattainment New Source Review

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2November 13, 2009 (74 FR 58688).
redesignation of the Logan, UT-ID Moderate PM
the State of Idaho for the Logan, UT-ID
continues to attain the PM
inventories, RACM (including RACT),
demonstrations, projected emissions
a suspension of the requirements for
determination of attainment will result
otherwise provided by the agency for
30 days after publication ''as
553(d)(3), which allows an effective date
actions may become effective less than
authorized under both 5 U.S.C.
effective date for these actions is
Federal Register
these determinations to become
Logan, UT-ID nonattainment area.
redesignation to attainment for the
met the CAA requirements for
this area until such time as the EPA
remains Moderate nonattainment for
designation status in 40 CFR part 81
met the other CAA requirements for
requirements beyond those imposed by
and thus would not impose additional
suspends certain federal requirements,
effective date of this rule under 5 U.S.C.
sufficient reason to allow an expedited
deferred by the partial disapproval of
contingency measure element of the
Logan, UT-ID PM2.5 SIP are suspended.
This final action does not constitute a
redesignation of the Logan, UT-ID
nonattainment area to attainment for the
2006 24-hour PM2.5 NAAQS under CAA
section 107(d)(3) because we have not yet approved a maintenance plan for
Logan, UT-ID as meeting the
requirements of section 175A of the
CAA or determined that the area has met the other CAA requirements for
redesignation. The classification and
designation status in 40 CFR part 81
remains Moderate nonattainment for
this area until such time as the EPA
determines that Utah and Idaho have met the CAA requirements for
redesignation to attainment for the
Logan, UT-ID nonattainment area.
In accordance with 5 U.S.C. 553(d),
the EPA finds there is good cause for
these determinations to become
effective immediately upon publication
in the Federal Register. The expedited
effective date for these actions is
authorized under both 5 U.S.C.
553(d)(1), which provides that rule
actions may become effective less than
30 days after publication if the rule
“grants or recognizes an exemption or
relieves a restriction,” and 5 U.S.C.
553(d)(3), which allows an effective date
less than 30 days after publication “as
otherwise provided by the agency for
good cause found and published with
the rule.” As noted above, this
determination of attainment will result
in a suspension of the requirements for
Idaho and Utah to submit attainment
demonstrations, projected emissions
inventories, RACM (including RACT),
RFP plans, MVEB, quantitative
milestones, and contingency measures,
so long as the Logan, UT-ID area
continues to attain the PM2.5 NAAQS.
Furthermore, the sanctions and FIP
clocks triggered by the partial
disapproval of the contingency measure
element of the Idaho portion of the
Logan, UT-ID PM2.5 SIP are suspended.
The suspension of these requirements and the suspension of sanctions is
sufficient reason to allow an expedited
effective date of this rule under 5 U.S.C.
553(d)(1). In addition, the suspension of
the obligations of Idaho and Utah to
make submissions for these
requirements provides good cause to
make this rule effective on the date of
publication of this action in the Federal
Register, pursuant to 5 U.S.C. 553(d)(3).
The purpose of the 30-day waiting
period prescribed in 5 U.S.C. 553(d) is
to give affected parties a reasonable time
to adjust their behavior and prepare
before the final rule takes effect. Where,
as here, the final rule suspends
requirements rather than imposes
obligations, affected parties, such as
Idaho and Utah, do not need time to
adjust and prepare before the rule takes
effect.
IV. Statutory and Executive Order
Reviews
This action finalizes a determination of
attainment based on air quality and
suspending certain federal requirements,
and thus would not impose additional
requirements beyond those imposed by
state law. For this reason, this final
action:
• Is not a “significant regulatory action” subject to review by the Office
of Management and Budget under Executive Orders 12866 (58 FR 51735,
October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
• Is not expected to be an Executive Order 13771 (82 FR 9339, February 2,
2017) regulatory action because this action is not significant under Executive
Order 12866;
• Does not impose an information

collection burden under the provisions of the Paperwork Reduction Act (44
U.S.C. 3501 et seq.);
• Is certified as not having a significant economic impact on a
substantial number of small entities under the Regulatory Flexibility Act (5
U.S.C. 601 et seq.);
• Does not contain any unfunded
mandate or significantly or uniquely
affect small governments, as described in the Unfunded Mandates Reform Act of
1995 (Pub. L. 104–4);
• Does not have federalism
implications as specified in Executive Order 13132 (66 FR 43255, August 10,
1999);
• Is not an economically significant regulatory action based on health or
safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
• Is not a significant regulatory action subject to Executive Order 13211 (66 FR
26355, May 22, 2001);
• Is not subject to requirements of Section 12(d) of the National
application of those requirements would be inconsistent with the CAA; and
• Does not provide the EPA with the
discretionary authority to address, as
appropriate, disproportionate human
health or environmental effects, using
practicable and legally permissible
methods, under Executive Order 12298
(59 FR 7629, February 16, 1994).
In addition, the SIP is not approved
to apply on any Indian reservation land
or in any other area where the EPA or
an Indian tribe has demonstrated that a
tribe has jurisdiction. In those areas
of Indian country, the rule does not have
tribal implications and will not impose
substantial direct costs on tribal
governments or preempt tribal law as
specified by Executive Order 13175 (65
FR 67249, November 9, 2000).
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. The EPA will
submit a report containing this action 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 CAA,
petitions for judicial review of this
action must be filed in the United States
Court of Appeals for the appropriate
circuit by December 18, 2018. Filing a
petition for reconsideration by the
Administrator of this final rule does not
affect the finality of this action 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 27, 2018.

Douglas H. Benevento,
Regional Administrator, Region 8.

Dated: September 27, 2018.

Chris Hladick,
Regional Administrator, Region 10.

[FR Doc. 2018–22284 Filed 10–18–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180


Prothioconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of prothioconazole in or on rapeseed subgroup 20A. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 19, 2018. Objections and requests for hearings must be received on or before December 18, 2018, and any Confidential Business Information (CBI) or other information you consider to be CBI or restricted by statute.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0531, is available at http://www.regulations.gov or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at http://www.epa.gov/dockets.

FOR FURTHER INFORMATION CONTACT:
Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA’s tolerance regulations at 40 CFR part 180 through the Government Publishing Office’s e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&pg=toc_04&n=ecfrBrowse_Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0531 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 18, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket.

Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0531, by one of the following methods:

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- Hand Delivery: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at http://www.epa.gov/dockets/contacts.html.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at http://www.epa.gov/dockets.

II. Summary of Petitioned-For Tolerance

In the Federal Register of February 27, 2018 (83 FR 8408) (FR–9972–17), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F8596) by Bayer CropScience, LP2, T.W. Alexander Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.926 be amended by establishing tolerances for residues of the fungicide prothioconazole, 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-1,2-dihydro-3H–1,2,4-triazole-3-thione, and its desthi metabolite in or on rapeseed subgroup, Crop subgroup 20A at 0.15 parts per million (ppm). That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, http://www.regulations.gov. Comments were received on the notice of filing. EPA’s response to those comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA is establishing the tolerance requested by the petitioner as Rapeseed subgroup 20A, to be consistent with the commodity terminology commonly used by the Agency.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(j) of FFDCA allows EPA to establish a tolerance (the