

amendments to New Hampshire Code of Administrative Rules Env-A 3300 *Municipal Waste Combustion* in response to amended emission guidelines for Large MWCs (40 CFR Part 60, Subpart Cb) published on May 10, 2006 and emission limits for Small MWCs enacted by the New Hampshire General Court in 2005 and codified at New Hampshire Revised Statutes Annotated 125-C:10-a.

(ii) [Reserved]

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[FR Doc. 2014-20803 Filed 9-2-14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R09-OAR-2014-0266; FRL-9916-11-Region 9]

Designation of Areas for Air Quality Planning Purposes; State of Arizona; Pinal County and Gila County; Pb

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In accordance with section 107(d) of the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is redesignating the Hayden area, which encompasses portions of southern Gila and eastern Pinal counties, Arizona, from “unclassifiable” to “nonattainment” for the 2008 national ambient air quality standards (“NAAQS” or “standards”) for lead (Pb). EPA’s redesignation of the Hayden area is based on recorded violations of the Pb standards at the Arizona Department of Environmental Quality’s (ADEQ’s) Globe Highway monitoring site, located near the towns of Hayden and Winkleman, Arizona, and additional relevant air quality information. The effect of this action will be to redesignate the Hayden area to nonattainment for the Pb standards and thereby to impose certain planning requirements on the State of Arizona to reduce Pb concentrations within the Hayden area, including, but not limited to, the requirement to submit, within 18 months of redesignation, a revision to the Arizona state implementation plan (SIP) that provides for attainment of the Pb standards as expeditiously as practicable, but no later than five years after the effective date of this redesignation.

DATES: This rule is effective on October 3, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID

No. EPA-R09-OAR-2014-0266.

Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3964, vagenas.ginger@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

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- II. Response to Comments on the Proposed Rule
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I. Background and Summary of EPA’s Proposed Action

EPA revised the primary (health-based) Pb NAAQS on October 15, 2008, lowering it from the 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) level set in 1978 to a level of 0.15 $\mu\text{g}/\text{m}^3$. The secondary (welfare-based) standard was revised to be identical in all respects to the primary standard. See 73 FR 66964, November 12, 2008. An area violates the revised standards if any arithmetic 3-month mean (hereafter referred to as “average”) concentration measured within the preceding three years is greater than 0.15 $\mu\text{g}/\text{m}^3$. EPA also expanded the Pb monitoring network by requiring new monitors to be sited near sources emitting one ton or more of Pb per year by January 1, 2010 and in certain non-source oriented locations by January 1, 2011. In a separate, later action, we revised the Pb monitoring regulations to require monitors to be sited near non-airport sources emitting 0.5 tons or more of Pb per year. See 75 FR 81126, December 27, 2010.

Section 107(d) of the Clean Air Act (CAA or “Act”) establishes a process for making initial area designations when a NAAQS is revised. In general, states are required to submit designation recommendations to EPA within one

year of promulgation of a new or revised standard and EPA is required to complete initial designations within two years of promulgation. However, if EPA has insufficient information to promulgate designations, it can extend the period for initial designations for up to one year.

On November 8, 2011, EPA completed its initial designations for the revised Pb standards.¹ Most of Arizona was designated unclassifiable/attainment for the Pb NAAQS. We designated the Hayden area, with the boundaries Arizona recommended,² as unclassifiable because there were available monitoring data recorded at ADEQ’s Globe Highway monitoring site indicating a significant likelihood that the area was violating the 2008 Pb NAAQS, but the available information was insufficient at that time to make a nonattainment designation.³ In our letter to Governor Brewer notifying her of our action, EPA explained that, should we subsequently determine that the Pb standards were being violated, we would initiate the process to redesignate the Hayden area to nonattainment.⁴

The CAA grants EPA the authority to change the designation of, or “redesignate,” areas in light of changes in circumstances. More specifically EPA has the authority under CAA section 107(d)(3) to redesignate areas (or portions thereof) on the basis of air quality data, planning and control considerations, or any other air quality-related considerations. In June 2013 we determined that quality assured, certified monitoring data collected in 2012 at the ADEQ Globe Highway monitor showed the area was violating the Pb NAAQS.⁵ Accordingly, on June 12, 2013, we notified Arizona that available Pb monitoring data indicated that the air quality designation for the Hayden area should be revised to nonattainment.

Governor Brewer responded on September 25, 2013, with a

¹ See 76 FR 72097, November 22, 2011.

² See 40 CFR 81.303 for a legal description of the boundary of the Hayden area.

³ Because of the form of the 2008 Pb NAAQS, one 3-month average ambient air concentration over 0.15 $\mu\text{g}/\text{m}^3$ is enough to cause a violation of the Pb NAAQS. ADEQ’s Globe Highway monitor registered four violations in 2011; however, at the time of designation the data had not been quality assured and certified and therefore we did not rely on them as the basis for a nonattainment designation.

⁴ Letter from Lisa P. Jackson, Administrator, U.S. EPA, to Janice K. Brewer, Governor of Arizona, dated November 8, 2011.

⁵ The ADEQ Globe Highway monitor recorded three violations of the Pb NAAQS in 2012. Three-month rolling average values violated the Pb standards for February–April, March–May, and April–June 2012.

recommendation that EPA not redesignate the area to nonattainment. Governor Brewer based her recommendation on ADEQ's belief that recently installed pollution controls on the anode furnaces at the ASARCO copper smelter, which is the source of Pb emissions in the Hayden area, had reduced Pb emissions.⁶

Under section 107(d)(3) of the CAA, EPA may modify states' recommendations as it deems necessary. After reviewing the Governor's September 25, 2013 recommendation, the supporting information submitted by the State, and additional relevant, available information, EPA concluded that it would be appropriate to redesignate the Hayden area to nonattainment for the 2008 Pb NAAQS.

EPA notified the Governor of its intention to modify her recommendation in a letter dated April 21, 2014.⁷

On May 2, 2014, EPA issued our proposal to redesignate the Hayden area to nonattainment for the Pb NAAQS. Our proposal was based on the monitoring data from the ADEQ Globe Highway monitor recorded between January 2010 and December 2012. We also evaluated preliminary monitoring data collected in 2013⁸ from the ADEQ Globe Highway monitor and preliminary data from the network of monitors operated by ASARCO⁹ that were installed and began collecting data in July and August of 2013. As shown in Table 1, ADEQ's Globe Highway monitor recorded three violations of the

Pb NAAQS in 2012.¹⁰ Two of the ASARCO monitors (the Parking Lot monitor and the Hillcrest Avenue monitor) measured values over the Pb standards in 2013. EPA evaluated the use of this set of secondary data by considering trends, gradients, and the magnitude of measured concentrations relative to the Pb standards. EPA concluded that strong trends and gradients are apparent in the preliminary data, and that preliminary data collected by two of the ASARCO monitors after the air pollution controls were installed on the anode furnaces suggest violations of the Pb standards occurred in the Hayden area in 2013. These data, along with newer data (available to date), are presented below.¹¹

TABLE 1—2012, 2013, AND 2014 Pb DESIGN VALUES (DVs, µg/m³), ADEQ'S GLOBE HIGHWAY MONITOR (AQS ID 04-007-1002) AND PRELIMINARY DATA FROM ASARCO'S HILLCREST AND PARKING LOT MONITORS

3-month period	ADEQ's globe hwy monitor			ASARCO's Hillcrest monitor (preliminary)		ASARCO's parking lot monitor (preliminary)	
	2012	2013	2014 (preliminary)	2013	2014	2013	2014
Nov-Dec-Jan	0.07	0.04	0.02	.....	0.29	.....	1.18
Dec-Jan-Feb	0.14	0.04	0.04	.....	0.22	.....	0.79
Jan-Feb-Mar	0.15	0.09	0.07	.....	0.19	.....	0.40
Feb-Mar-Apr	0.20	0.11	**	.....	0.13	.....	0.25
Mar-Apr-May	0.16	0.11	.....	.....	.....	.....	.....
Apr-May-Jun	0.20	0.12	.....	.....	.....	.....	.....
May-Jun-Jul	0.15	0.11	.....	.....	.....	.....	.....
Jun-Jul-Aug	0.14	0.11	.....	.....	.....	.....	.....
Jul-Aug-Sep	0.12	0.06	.....	0.12	.....	.....	.....
Aug-Sep-Oct	0.11	0.06	.....	0.13	.....	0.39	.....
Sept-Oct-Nov	0.09	0.04	.....	0.19	.....	0.65	.....
Oct-Nov-Dec	0.06	0.03	.....	0.23	.....	1.04	.....

* ADEQ data pulled from AQS on July 3, 2014. ADEQ's 2013 data were certified by the State on May 30, 2014.

** Not available.

For our proposal, we also reviewed and where appropriate updated our 2010 analysis of relevant factors related to establishing an appropriate nonattainment area boundary. We concluded that the existing boundary for the Hayden area should be retained.

In light of the violations of the Pb standards recorded in 2012 at ADEQ's Globe Highway monitor, and in consideration of other relevant air quality data indicating that elevated levels of Pb continue to occur within the Hayden area, EPA concluded that the SIP planning and control requirements

that are triggered by redesignation of an area to nonattainment for the Pb NAAQS would be the most appropriate means to ensure that this air quality problem is remedied.

For more detailed background information concerning the 2008 Pb NAAQS and the initial designation process for the 2008 Pb NAAQS in general and the Hayden area in particular, and for an in-depth discussion of the rationale for our proposal, please see our May 2, 2014 proposed rule and the accompanying

technical support document, which is included in the docket for this action.

II. Response to Comments on the Proposed Rule

EPA's May 2, 2014 proposed rule provided a 30-day public comment period. During this period, we received one comment letter from ASARCO, which opposes the redesignation. A summary of ASARCO's comments along with EPA's responses to the comments are provided below.

Comment 1: ASARCO asserted that the installation of new pollution control

⁶ Governor Brewer recommended that the Hayden area not be redesignated to nonattainment "because there have been no lead [Pb] standard violations since June 2012, when the ASARCO Hayden Copper Smelter completed the addition of controls to reduce lead emissions." See Letter from Janice K. Brewer, Governor of Arizona, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region 9, dated September 25, 2013.

⁷ Letter from Jared Blumenfeld, Regional Administrator, U.S. EPA Region 9, to Janice Brewer, Governor of Arizona, dated April 21, 2014.

⁸ Because 2013 data had not been certified as being completely submitted and accurate at the time of our proposal, we treated it as supplemental information.

⁹ The ASARCO monitors were established for multiple purposes, including comparison to the NAAQS.

¹⁰ ADEQ's Globe Highway monitor did not record a violation of the Pb NAAQS in 2013, but in order to be in attainment of the 2008 Pb NAAQS, an area cannot measure any violations for three consecutive calendar years.

¹¹ The newer data show that values over the Pb standards continue to be measured at the two ASARCO monitors. However, EPA would still redesignate the area to nonattainment even in the absence of the 2014 data.

equipment (hoods that collect and route the anode furnaces' off-gas to a baghouse for particulate capture), which was completed in July of 2012, has substantially reduced ambient lead concentrations, noting that there have not been any exceedances of the Pb NAAQS at the Globe Highway monitor since July 2012.

Response: EPA commends the installation of pollution control equipment on the anode furnaces at the ASARCO facility and understands that the equipment may have resulted in a reduction of ambient Pb concentrations, as measured at the Globe Highway monitor. However, based on the form of the Pb NAAQS (i.e., three consecutive calendar years without a violation are required before an area can be considered to be attaining the standard), the monitor continues to violate the Pb NAAQS based on the monitoring data recorded prior to July 2012. In addition, the more extensive monitoring network recently installed by ASARCO suggests that the Globe Highway site is not capturing maximum ambient concentrations of Pb in the area, and that the area may be experiencing ongoing violations of the Pb NAAQS.

Comment 2: ASARCO pointed out that it is in the process of engineering a converter retrofit project and making other process improvements that will improve sulfur dioxide (SO₂) and particulate control in order to comply with the 1-hour SO₂ NAAQS attainment deadline. ASARCO asserted that these projects will reduce process fugitive emissions and further reduce ambient concentrations of Pb in the Hayden area.

Response: EPA cannot determine based on the information before us whether ASARCO's converter retrofit project, which is designed to address violations of the SO₂ NAAQS, will reduce fugitive emissions of Pb and result in an improvement in air quality with respect to Pb. ASARCO did not provide any support in its comment letter for its conclusory assertion that fugitive emissions of Pb would be reduced or attempt to quantify potential air quality benefits. Furthermore, in its converter retrofit project permit application,¹² ASARCO estimated that Pb emissions would increase by 0.49 tons per year, after taking into account reductions realized by contemporaneous

projects.¹³ Additional analysis, such as will be required under a Pb nonattainment designation and planning effort, will provide greater certainty regarding the impact of the current efforts on ambient concentrations of Pb and will help clarify what additional areas at the facility are contributing to the ambient concentration of Pb and whether any additional controls are needed.

Comment 3: ASARCO expressed concerns that the supplemental data EPA considered might not be appropriate for determining ambient air quality because the monitors were designed for other purposes or were not located in ambient air. ASARCO further noted that it had not evaluated the conformance of the supplemental monitoring data with 40 CFR 58.15.

Response: The ASARCO monitors were established for multiple purposes, including comparison to the NAAQS.¹⁴ Further, EPA defines ambient air as "that portion of the atmosphere, external to buildings, to which the general public has access." 40 CFR 50.1(e). The public has access to the areas where the ASARCO monitors are located and those monitors are appropriately considered to be located in ambient air. While data used as the basis for determining whether an area is violating a NAAQS must meet specific requirements contained within 40 CFR Part 58, any available monitoring data may be considered as supplementary information, regardless of monitoring intent or conformance with 40 CFR 58.15 (Annual air monitoring data certification) in order to improve our understanding of what is occurring. The data from the ASARCO monitors are provided as supplementary information and are appropriate for this purpose.

Comment 4: ASARCO observed that Arizona is required to submit a SIP by

¹³ EPA regulations allow sources to do a netting analysis that takes into account emissions changes at a facility within a contemporaneous period in order to determine whether an emissions increase resulting from a project is "significant" and therefore triggers new source review permitting requirements. 40 CFR 52.21(b)(3)(i) defines a "net emissions increase" in part as "the increase in emissions from a particular physical change . . . [and] any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable." In this particular case, ASARCO offset the increase in Pb emissions resulting from the converter aisle retrofit project (2.64 tons per year) with contemporaneous decreases from the anode furnace project (1.7 tpy) and the flash vent improvements (0.45 tons per year) to arrive at a net emissions increase of 0.49 tons per year.

¹⁴ See the Final Phase II Remedial Investigation/ Feasibility Study (RI/FS) Work Plan, Part 1 of 2—Air. ASARCO Hayden Plant Site. March 2012, pages 5-1 and 5-2.

April 2015 that will show how the Hayden area will attain the SO₂ NAAQS, and questioned whether triggering the Pb nonattainment planning process by redesignating the area to nonattainment for the Pb NAAQS would result in any additional emissions reductions or faster reductions in ambient concentrations of Pb. ASARCO urged EPA to consider deferring the redesignation of the Hayden area to nonattainment as long as the Globe Highway monitor does not measure any additional exceedances of the Pb NAAQS and ASARCO and ADEQ make "expeditious progress toward installing controls in the SO₂ NAAQS planning process." ASARCO observed that EPA could exercise its right to redesignate the area if progress toward "implementing the controls reducing lead emissions" were to stop or be delayed, and contended that such an approach would ensure expeditious attainment of the NAAQS while "significantly reducing the burden" on ADEQ, the planning organizations, and EPA.

Response: The Globe Highway monitoring site was chosen to capture the maximum ambient concentration of Pb in the Hayden area, based on the information available at the time.¹⁵ This task was made particularly challenging by the complex meteorology and topography in the area. As previously noted, recently deployed monitors suggest the Globe Highway site may not be experiencing the highest concentrations of ambient Pb in the Hayden area. As a result, EPA disagrees with ASARCO's suggestion that we suspend the redesignation process based on recent improvements in air quality measured at the Globe Highway monitor and only restart it if new violations are recorded at the Globe Highway monitor. Further, while the controls required under the Hayden SO₂ SIP could possibly result in reductions in ambient concentrations of Pb, an SO₂ SIP is not designed for that purpose and will not ensure that the reductions are sufficient to achieve attainment of the Pb NAAQS. Accordingly, EPA does not agree that relying on the SO₂ NAAQS planning process to resolve the Pb problem will ensure expeditious attainment of the Pb standard.

¹⁵ See Attachment A of ADEQ's Quality Assurance Program Plan for the Lead (Pb) Ambient Air Monitoring Network, dated October 2011. Also note that ADEQ is currently in the process of evaluating monitoring locations in order to ensure that it is monitoring at the location expected to capture the maximum concentrations in ambient air, taking into account logistics and the potential for population exposure.

¹² Letter from Eric L. Hiser, Law Offices of Jordan Bischoff & Hiser, P.L.C., Counsel for ASARCO, to Balaji Vaidyanathan, Air Permit Section Manager, ADEQ, Re: Proposed Converter Aisle Retrofit Project; ASARCO LLC—Hayden Operations—Operating Permit No. 1000042, dated September 26, 2012.

Exposure to Pb is a serious health concern. It causes a range of adverse health effects, most notably in children. Exposures to low levels of Pb early in life have been linked to effects on IQ, learning, memory, and behavior.¹⁶ Taking the “wait and see” approach advocated by ASARCO could delay by several years the implementation of controls designed to ensure attainment of the Pb NAAQS.

III. Final Action

For the reasons provided in the proposed rule and TSD and in this final rule, EPA is taking final action pursuant to section 107(d)(3) of the Clean Air Act to redesignate the Hayden area, which encompasses portions of southern Gila and eastern Pinal counties, from “unclassifiable” to “nonattainment” for the 2008 national ambient air quality standards for lead (Pb). This redesignation to nonattainment is based on violations of the 2008 Pb NAAQS recorded at the Globe Highway site and on additional relevant information as described above and in more detail in our proposal.

As a result of this redesignation to nonattainment, the Hayden area is subject to the applicable requirements of part D, title I of the Act (see section 191 of the Act). Within 18 months of the redesignation, the State is required to submit to EPA an implementation plan for the area containing, among other things: (1) Provisions to assure that reasonably available control measures (including reasonably available control technology) are implemented; (2) a demonstration, including modeling, that the plan will provide for attainment of the Pb NAAQS as expeditiously as practicable, but no later than five years after the area’s designation as nonattainment; (3) provisions that result in reasonable further progress toward timely attainment by adherence to an ambitious compliance schedule; (4) contingency measures that are to be implemented if the area fails to achieve and maintain reasonable further progress or fails to attain the NAAQS by the applicable attainment date; and (5) a permit program meeting the requirements of section 173 governing the construction and operation of new and modified major stationary sources of Pb.¹⁷ Lastly, the new Pb

nonattainment area will be subject to EPA’s general conformity regulations (40 CFR part 93, subpart B) upon the effective date of redesignation. See section 176(c) of the Act.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA has determined that today’s redesignation to nonattainment, as well as the establishment of SIP submittal schedules, will result in none of the effects identified in Executive Order 12866, section 3(f). Under section 107(d)(3) of the Act, redesignations to nonattainment are based upon air quality considerations. This redesignation, based upon air quality data showing that the Hayden area is not attaining the Pb standard and upon other air-quality-related considerations, does not, in and of itself, impose any new requirements on any sectors of the economy. Similarly, the establishment of new SIP submittal schedules would merely establish the dates by which SIPs must be submitted, and would not adversely affect entities.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, a redesignation to nonattainment under section 107(d)(3), and the establishment of a SIP submittal schedule for a redesignated area, do not, in and of themselves, directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc. v. FERC*, 773 F.2d 327 (D.C. Cir. 1985) (agency’s certification need only consider the rule’s impact on entities subject to the requirements of the rule). Instead, this rulemaking simply makes a factual determination and establishes a schedule to require the State to submit SIP revisions, and does not directly regulate any entities. Therefore,

pursuant to 5 U.S.C. 605(b), EPA certifies that today’s action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, EPA has concluded that this rule is not likely to result in the promulgation of any Federal mandate that may result in expenditures of \$100 million or more for State, local or tribal governments in the aggregate, or for the private sector, in any one year. It is questionable whether a redesignation would constitute a federal mandate in any case. The obligation for the state to revise its State Implementation Plan that arises out of a redesignation is not legally enforceable and at most is a condition for continued receipt of federal highway funds. Therefore, it does not appear that such an action creates any enforceable duty within the meaning of section 421(5)(a)(i) of UMRA (2 U.S.C. 658(5)(a)(i)), and if it does the duty would appear to fall within the exception for a condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)).

Even if a redesignation were considered a Federal mandate, the anticipated costs resulting from the mandate would not exceed \$100 million to either the private sector or state, local and tribal governments. Redesignation of an area to nonattainment does not, in itself, impose any mandates or costs on the private sector, and thus, there is no private sector mandate within the meaning of section 421(7) of UMRA (2 U.S.C. 658(7)). The only cost resulting from the redesignation itself is the cost to the State of Arizona of developing, adopting, and submitting any necessary SIP revision. Because that cost will not exceed \$100 million, this action (if it is a federal mandate at all) is not subject to the requirements of sections 202 and 205 of UMRA (2 U.S.C. 1532 and 1535). EPA has also determined that this action would not result in regulatory requirements that might significantly or uniquely affect small governments because only the State would take any action as result of today’s rule, and thus the requirements of section 203 (2 U.S.C. 1533) do not apply.

E. Executive Order 13132, Federalism

Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” This rule

¹⁶ Depending on the level of exposure, lead can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system. For more information regarding the health effects of Pb exposure, see 73 FR 66964, November 12, 2008, or <http://www.epa.gov/airquality/lead/health.html>.

¹⁷ EPA has issued guidance on the statutory requirements applicable to Pb nonattainment areas.

See 57 FR 13498 (April 16, 1992), 58 FR 67752 (December 22, 1993), 73 FR 66964 (November 12, 2008), and the memorandum signed by Scott Mathias, Interim Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, U.S. EPA, entitled “2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS) Implementation Questions and Answers” dated July 8, 2011, and its addendum, signed by Scott Mathias on August 10, 2012.

will not 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, because it merely redesignates an area for Clean Air Act planning purposes and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The area redesignated in today’s action does not include any tribal lands, but is adjacent to the San Carlos Apache Tribe’s reservation. EPA has been communicating with and plans to continue to communicate with representatives of the San Carlos Apache Tribe, as provided in Executive Order 13175. Accordingly, EPA has addressed Executive Order 13175 to the extent that it applies to this action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 (“Protection of Children from Environmental Health Risks”) (62 FR 19885, April 23, 1997), because it is not an economically significant regulatory action based on health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. The EPA believes that the requirements of NTTAA are inapplicable to this action because they would be inconsistent with the Clean Air Act.

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Today’s action redesignates an area to nonattainment for an ambient air quality

standard. It will not have disproportionately high and adverse effects on any communities in the area, including minority and low-income communities.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Lead.

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

Dated: August 20, 2014.

Jared Blumenfeld,
Regional Administrator, Region IX.

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

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

Subpart C—Section 107 Attainment Status Designations

■ 2. In § 81.303, the table entitled “Arizona—2008 Lead NAAQS” is amended by revising the entries for “Hayden, AZ” to read as follows:

§ 81.303 Arizona.
* * * * *

ARIZONA—2008 LEAD NAAQS

Designated area	Designation for the 2008 NAAQS ^a	
	Date ¹	Type
Hayden, AZ: Gila County (part) The portions of Gila County that are bounded by T4S, R15E; T4S, R16E (except those portions in the San Carlos Indian Reservation); T5S, R15E; T5S, R16E (except those portions in the San Carlos Indian Reservation).	10–3–14	Nonattainment.
Pinal County (part) The portions of Pinal County that are bounded by: T4S, R14E; T4S, R16E (except those portions in the San Carlos Indian Reservation); T5S, R14E; T5S, R15E; T6S, R16E (except those portions in the San Carlos Indian Reservation); T6S, R14E; T6S, R15E; T6S, R16E (except those portions in the San Carlos Indian Reservation).	10–3–14	Nonattainment.
* * * * *	* * * * *	* * * * *

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ December 31, 2011 unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[EPA-HQ-OPP-2013-0504; FRL-9915-46]****Trifloxystrobin; Pesticide Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes tolerances for residues of trifloxystrobin in or on pea, dry, seed; pea, field, hay; and pea, field, vines. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 3, 2014. Objections and requests for hearings must be received on or before November 3, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2013-0504, 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: Lois Rossi, 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 Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/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-2013-0504 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 November 3, 2014. 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-2013-0504, 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.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/

DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- *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 October 25, 2013 (78 FR 63938) (FRL-9901-96), 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 3F8180) by Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.555 be amended by establishing tolerances for residues of the fungicide trifloxystrobin, benzenoacetic acid, (E,E)- α -(methoxyimino)-2-[[[1-[3-(trifluoromethyl)phenyl]ethylidene]amino]oxy]methyl]-, methyl ester, and the free form of its acid metabolite CGA-321113, (E,E)-methoxyimino-[2-[1-(3-trifluoromethyl-phenyl)-ethylideneamino]oxy]methyl]-phenyl]acetic acid, calculated as the stoichiometric equivalent of trifloxystrobin, in or on pea, dry, seed at 0.06 parts per million (ppm); pea, field, hay at 15 ppm; pea, field, vines at 4.0 ppm; chickpea, seed at 0.06 ppm; and lentil, seed at 0.06 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>. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has corrected proposed commodity definitions and eliminated certain proposed crop tolerances. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of 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) of FFDCA 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