(iii) * * *

(A) * * *

(*1*) One or more of the whole oat foods from paragraphs (c)(2)(ii)(A)(*1*), (c)(2)(ii)(A)(*2*), and (c)(2)(ii)(A)(*3*) of this section, and the whole oat foods shall contain at least 0.75 gram (g) of soluble fiber per reference amount customarily consumed of the food product; or

(2) The food containing the oatrim from paragraph (c)(2)(ii)(A)(*4*) of this section shall contain at least 0.75 g of beta-glucan soluble fiber per reference amount customarily consumed of the food product; or

* * * * *

Dated: September 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–25067 Filed 9–27–02; 4:39 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 02F–0042]

Secondary Direct Food Additives Permitted in Food for Human Consumption

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a mixture of peroxyacetic acid, octanoic acid, acetic acid, hydrogen peroxide, peroxyoctanoic acid, and 1-hydroxyethylidene-1,1-diphosphonic acid as an antimicrobial agent on meat carcasses, parts, trim, and organs. This action is in response to a petition filed by Ecolab, Inc.

DATES: This rule is effective October 2, 2002. Submit written or electronic objections and requests for a hearing by November 1, 2002.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic objections to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3071.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 11, 2002 (67 FR 6265), FDA announced that a food additive petition (FAP 2A4731) had been filed by Ecolab Inc., Ecolab Center, 370 N. Wabasha St., St. Paul, MN 55102, proposing to amend the food additive regulations in Part 173 *Secondary Direct Food Additives Permitted in Food for Human Consumption* (21 CFR part 173) to provide for the safe use of a mixture of peroxyacetic acid, octanoic acid, acetic acid, hydrogen peroxide, peroxyoctanoic acid, and 1-hydroxyethylidene-1,1-diphosphonic acid as an antimicrobial agent on meat parts, trim, and organs.

The agency has previously approved the use of the subject mixture on red meat carcasses (§ 173.370(b)(1)) in response to an earlier petition submitted by Ecolab, Inc. In the evaluation that led to that regulation, the agency considered ''red meat'' to include the species cattle, swine, sheep, goats, and equine. The United States Department of Agriculture's Food Safety and Inspection Service (FSIS) uses the term ''meat'' to refer to these species (9 CFR 301.2). Thus, FDA is removing the term ''red'' as a descriptor for ''meat carcasses'' in § 173.370(b)(1) to make its terminology consistent with FSIS.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe and the additive will achieve its intended technical effect as an antimicrobial agent on meat carcasses, parts, trim, and organs.

Therefore, FDA is approving the use of a mixture of peroxyacetic acid, octanoic acid, acetic acid, hydrogen peroxide, peroxyoctanoic acid, and 1-hydroxyethylidene-1, 1-diphosphonic acid as an antimicrobial agent on meat carcasses, parts, trim, and organs. Accordingly, § 173.370 is amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (*see* **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which the objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.370 is amended by revising paragraph (b)(1) to read as follows:

§ 173.370 Peroxyacids.

* * * * *

(b)(1) The additive is used as an antimicrobial agent on meat carcasses, parts, trim, and organs in accordance with current industry practice where the maximum concentration of peroxyacids is 220 parts per million (ppm) as peroxyacetic acid, and the maximum concentration of hydrogen peroxide is 75 ppm.

* * * * *

Dated: September 18, 2002.

L. Robert Lake,

Director, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 02–25078 Filed 10–1–02; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–084–FON; FRL–7387–9]

Finding of Failure To Submit State Implementation Plan Revisions for Ozone (1-Hour Standard), California—San Joaquin Valley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to find that California failed to submit state implementation plan (SIP) revisions required under the Clean Air Act (CAA or Act) for the severe San Joaquin Valley Ozone Nonattainment Area (the San Joaquin Valley or the Valley). The required revisions are an attainment demonstration, a reasonable further progress demonstration, a reasonably available control technology (RACT) rule for lime kilns, an inventory and contingency measures. California was required to submit these revisions by May 31, 2002.

This action triggers the 18-month clock for mandatory application of sanctions and 2-year clock for a Federal implementation plan (FIP) under the Act. This action is consistent with the CAA mechanism for assuring SIP submissions.

EFFECTIVE DATE: This action was effective as of September 18, 2002.

FOR FURTHER INFORMATION CONTACT: Doris Lo, U. S. Environmental Protection Agency, Region 9, Air Division (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 972–3959; *lo.doris@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The San Joaquin Valley Ozone Nonattainment Area includes the following counties in California's central valley: San Joaquin, part of Kern,[1] Fresno, Kings, Madera, Merced, Stanislaus and Tulare.

When the CAA was amended in 1990, each area of the Country that was designated nonattainment for the 1-hour ozone standard, including the San Joaquin Valley, was classified by operation of law as ''marginal,'' ''moderate,'' ''serious,'' ''severe'' or ''extreme'' depending on the severity of the area's air quality problem. CAA sections 107(d)(1)(C) and 181(a). Each of these CAA classifications has different requirements, with the most stringent requirements for ''extreme'' areas. Based on its air quality during the 1987–1989 period, the San Joaquin Valley nonattainment area was initially classified as serious with an attainment date of no later than November 15, 1999. *See* 56 FR 56694 (November 6, 1991) and CAA section 181(a)(1).

On June 19, 2000, EPA proposed to find that the San Joaquin Valley had failed to attain the 1-hour ozone national ambient air quality standards (NAAQS) by the serious area attainment date of November 15, 1999. 65 FR 37926. A final finding of failure to attain was published on October 23, 2001 (66 FR 56476) and the Valley was thus reclassified by operation of law as a severe ozone nonattainment area (effective December 10, 2001). Along with the severe classification, the Valley became subject to new planning requirements under section 182(d) of the CAA. Under section 182(d), severe area plans must meet the requirements for serious area plans in addition to those for severe areas. Moreover, the severe area plan revisions for the area must also meet the more general nonattainment provisions of section 172(c). In its final reclassification action, EPA set May 31, 2002 as the due date for submittal of plan revisions addressing these requirements. 66 FR 56481.

On June 18 and August 6, 2002, California submitted plan revisions addressing several of the severe area requirements for the San Joaquin Valley (revised title V operating permit and new source review programs to address the new lower 25 ton per year major source cutoff for volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) and the offset ratio of 1.3:1; rule requiring fees for major sources should the area fail to attain by 2005; and RACT rules for most sources subject to the lower major source applicability threshold). Furthermore, on September 6, 2002, California submitted San Joaquin Valley Air Pollution Control District commitments to adopt new and revised control measures.

II. Final Action

A. Finding of Failure To Submit Required SIP Revisions

While California's submittals address several of the severe area requirements for the San Joaquin Valley and help ensure progress towards clean air, there are still requirements which have not been addressed. Specifically, the State has not submitted a demonstration of attainment of the ozone NAAQS by no later than 2005 (sections 181(a) and 182(c)(2)(A)), a demonstration (known as reasonable further progress or rate of progress) of creditable emission reductions of ozone precursors of at least 3% per year until the attainment year (section 182(c)(2)(B)), a RACT rule for lime kilns addressing the 25 ton per year major source cutoff (section 182(b)(2)(C)), an inventory (section 172(c)(3)) and contingency measures (section 172(c)(9)). Thus, EPA is today making a finding of failure to submit SIP revisions addressing these CAA required elements.

If California does not submit the required plan revisions within 18 months of the effective date of today's rulemaking, pursuant to CAA section 179(a) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b) will be applied in the affected area. If the State has still not made a complete submittal 6 months after the offset sanction is imposed, then the highway funding sanction will apply in the affected area, in accordance with 40 CFR 52.31.[2] The 18-month clock will

[1] *See* 66 FR 56476 (November 8, 2001)(boundary change for the San Joaquin Valley establishing the eastern portion of Kern County as its own nonattainment area).

[2] In a 1994 rulemaking, EPA established the Agency's selection of the sequence of these two sanctions: The offset sanction under section 179(b)(2) shall apply at 18 months, followed 6 months later by the highway sanction under section 179(b)(1) of the Act. EPA does not choose to deviate