

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 81**

[FRL-5809-5]

Clean Air Act Promulgation of Extension of Attainment Date for the Portland, Maine Moderate Ozone Nonattainment Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is extending the attainment date for the Portland, Maine moderate ozone nonattainment area from November 15, 1996 to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. Accordingly, EPA is updating the table in 40 CFR part 81 concerning attainment dates for the State of Maine.

DATES: This extension becomes effective June 2, 1997 unless before May 16, 1997 adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA 02203; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA 02203, (617) 565-3578.

SUPPLEMENTARY INFORMATION:**Request for Attainment Date Extension for the Portland Area**

On November 1, 1996, the State of Maine requested a one-year attainment date extension for the Portland

moderate ozone nonattainment area. This area, which consists of York, Cumberland and Sagadahoc counties, is currently designated a moderate ozone nonattainment area. The statutory ozone attainment date, as prescribed by section 181(a) of the Clean Air Act as amended in 1990 ("the Act"), was November 15, 1996.

CAA Requirements and EPA Actions Concerning Designation and Classification

Section 107(d)(4) of the Act required the States and EPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) required that ozone nonattainment areas be classified as marginal, moderate, serious, severe, or extreme, depending on their air quality.

In a series of **Federal Register** documents, EPA completed this process by designating and classifying all areas of the country for ozone. See, e.g., 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992); 59 FR 18967 (April 21, 1994).

Areas designated nonattainment for ozone are required to meet attainment dates specified under the Act. The Portland ozone nonattainment area was designated nonattainment and classified moderate for ozone pursuant to 56 FR 58694 (Nov. 6, 1991). By this classification, its attainment date became November 15, 1996. A discussion of the attainment dates is found in 57 FR 13498 (April 16, 1992) (the General Preamble).

CAA Requirements and EPA Actions Concerning Meeting the Attainment Date

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether ozone nonattainment areas attained the NAAQS. For ozone, EPA determines attainment status on the basis of the expected number of exceedances of the NAAQS over the three-year period up to, and including, the attainment date. See General Preamble, 57 FR 13506. In the case of ozone moderate nonattainment areas, the three-year period is 1994-1996. CAA section 181(b)(2)(A) further states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified upwards.

However, CAA section 181(a)(5) provides an exemption from these bump

up requirements. Under this exemption, EPA may grant up to two one-year extensions of the attainment date under specified conditions:

Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the "Extension Year") the date specified in table 1 of paragraph (1) of this subsection if—

(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

EPA interprets this provision to authorize the granting of a one-year extension under the following minimum conditions: (1) The State requests a one-year extension, (2) all requirements and commitments in the EPA-approved SIP for the area have been complied with, and (3) the area has no more than one measured exceedance of the NAAQS during the year that includes the attainment date (or the subsequent year, if a second one-year extension is requested).

EPA has determined that the requirements for a one-year extension of the attainment date have been fulfilled as follows:

(1) Maine has formally submitted the attainment date extension request.

(2) Maine is currently implementing the EPA-approved SIP.

(3) Maine has certified that the area has monitored no exceedances during 1996.

Therefore, EPA approves Maine's attainment date extension request for the Portland ozone nonattainment area. As a result, the chart in 40 CFR 81.320 entitled "Maine—Ozone" is being modified to reflect EPA's approval of Maine's attainment date extension request for the Portland area. Further details are available in the Technical Support Document for this action.

EPA Action

EPA is approving the attainment date extension for the Portland moderate ozone nonattainment area from November 15, 1996 to November 15, 1997 without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register**

publication, EPA is proposing to approve this part 81 action should adverse or critical comments be filed. This action will be effective June 2, 1997 unless, by May 16, 1997, adverse or critical comments are received.

If EPA receives such comments, 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 then be addressed in a subsequent final rule based on this action serving as a proposed rule. 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 on June 2, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation.

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. 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.

Extension of an area's attainment date under the CAA does not impose any new requirements on small entities.

Extension of an attainment date is an action that affects a geographical area and does not impose any regulatory requirements on sources. EPA certifies that the approval of the attainment date extension will not affect a substantial number of small entities.

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

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Regulatory Flexibility Act as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of

Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. 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 June 16, 1997. 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 to grant Maine an extension to attain the ozone NAAQS in the Portland ozone nonattainment area as defined in 40 CFR 81.320 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 81

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

Dated: April 3, 1997.

John DeVillars,

Regional Administrator, Region I.

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

PART 81—[AMENDED]

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

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

2. In § 81.320 the ozone table is amended by revising the entry for Portland area to read as follows:

§ 81.320 Maine.

* * * * *

MAINE—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
Portland Area:				
Cumberland County		Nonattainment		Moderate. ²
Sagadahoc County		Nonattainment		Moderate. ²

MAINE—OZONE—Continued

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
York County	Nonattainment	Moderate. ²
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¹ This date is November 15, 1990, unless otherwise noted.

² Attainment date extended to November 15, 1997.

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 [FR Doc. 97-9862 Filed 4-15-97; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185, and 186

[OPP-300473; FRL-5600-2]

RIN 2070-AB78

Clopyralid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the herbicide clopyralid (3,6-dichloro-2-pyridine-carboxylic acid) in or on the raw agricultural commodities corn, field, fodder; corn, field, forage; corn, field, grain; and corn, field, milling fractions. It also removes time-limited tolerances for residues of clopyralid on the same commodities that expired on December 31, 1996. DowElanco requested these tolerances 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 becomes effective April 16, 1997. Written objections must be received on or before June 16, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300473; PP 8F3622, OH 5597], may 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 should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of

Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically to the OPP by sending electronic mail (e-mail) to: opp-docket@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 in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP-300473; PP 8F3622, OH5597]. 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. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM) 23, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On April 25, 1994 EPA established time-limited tolerances under sections 408 and 409 of the Federal Food Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d) and 348, for residues of clopyralid on corn, field, fodder; corn, field, forage; corn, field, grain; and corn, field, milling fractions (59 FR 19639)(FRL-4775-4). These tolerances expired on December 31, 1996. DowElanco, on September 27, 1996, requested that the time-limited tolerances for residues of the herbicide clopyralid in the field corn commodities under the regulations mentioned above

be made permanent tolerances based on residue data that they had submitted as required to change the tolerances from time-limited to permanent tolerances. DowElanco also submitted a summary of its petition as required under the Federal Food, Drug and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170).

A notice announcing the filing of DowElanco's petition was published in the **Federal Register**, (61 FR 65221-65223, December 11, 1996)(FRL-5574-4). The proposed analytical method for determining residues is gas chromatography with electrolytic conductivity detection. The method for enforcement is available from the FDA; it is pending publication in the Pesticide Analytical Manual II.

The basis for the conditional time-limited tolerances that expired December 31, 1996 was given in the **Federal Register** notice of Final Rule (59 FR 19339). The required residue chemistry data have been received, reviewed and found adequate by EPA to support the proposed tolerances. Based on the review of the residue chemistry data, EPA finds the tolerances established by this Final Rule adequately supported.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were found acceptable by EPA in support of these tolerances.

I. Toxicological Profile

1. A rat oral lethal dose (LD₅₀) of 4,300 milligrams/kilogram (mg/kg) of body weight.
2. A 13-week mouse feeding study with a no-observed-effect level (NOEL) of 750 mg/kg/day.
3. Two 180-day dog feeding studies with NOEL > 50 mg/kg/day.
4. A rabbit teratology study with a developmental and a maternal NOEL > 250 mg/kg/day, highest dose tested (HDT).
5. A rat teratology study with a developmental NOEL of > 250 mg/kg/