§ 52.975 Redesignations and maintenance plans: ozone.

* * * * *

(e) Approval—The Louisiana Department of Environmental Quality submitted a redesignation request and maintenance plan for Calcasieu Parish on December 20, 1995. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act. The redesignation meets the Federal requirements of section 182(a)(1) of the Act as a revision to the Louisiana ozone State Implementation Plan for Calcasieu Parish. The EPA therefore approved the request for redesignation to attainment with respect to ozone for Calcasieu Parish on June 2, 1997.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.319, the ozone table is amended by revising the entry for Calcasieu Parish under ''Lake Charles Area'' to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date	Type
* * *	*	* *		*
Lake Charles Area Calcasieu Parish	June 2, 1997	Attainment		
* * *	*	* *		*

[1] This date is November 15, 1990, unless otherwise note.

* * * * *

[FR Doc. 97–11159 Filed 5–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[ME3–1–5258a; A–1–FRL–5815–2]

Approval and Promulgation of Redesignation; Maine; Redesignation of Millinocket to Attainment for Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a redesignation request submitted by the State of Maine. This request will redesignate Millinocket, ME from nonattainment to attainment for sulfur dioxide (SO_2). This action is being taken in accordance with the Clean Air Act.

DATES: This action will become effective July 1, 1997, unless notice is received by June 2, 1997 that adverse or critical comments will be submitted. 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 Ecosystems Protection, 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 Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333;

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, (617) 565–3568.

SUPPLEMENTARY INFORMATION: On April 30, 1984, the Maine Department of Environmental Protection (DEP) submitted a request to redesignate the area of Millinocket, ME from nonattainment to attainment for SO_2. The area was designated nonattainment in 1978 based on several monitored exceedences of the 24-hour National Ambient Air Quality Standard (NAAQS) for SO_2.

Section 107(d)(3)(D) of the Clean Air Act of 1990 (CAA) allows the Governor of a state to request the redesignation of an area designated nonattainment to attainment.

Section 107(d)(3)(E) of the CAA lists the requirements which must be met before EPA can redesignate an area to attainment.

Background

In 1978, Millinocket was declared nonattainment for SO_2. The only significant source of SO_2 in the area is a paper mill, operated at the time by the Great Northern Paper Company. The mill is currently operated by Bowater, Inc. In 1980, a sulfur dioxide attainment plan for Millinocket was submitted and approved by EPA (45 FR 81941).

After this plan was approved, the area maintained compliance with the NAAQS for 12 consecutive quarters, and on December 29, 1983, the Governor of the State of Maine submitted a request to redesignate the area to attainment. EPA determined that the original request was incomplete since the monitored data alone was not sufficient to declare the area attainment. Maine DEP resubmitted the request accompanied by a modeling study on April 30, 1984. EPA then determined that the request was complete on June 19, 1984.

EPA was unable to process the redesignation request, however, because of a pending challenge to the use of ''merged'' stacks to comply with the ambient standards. *See NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988), cert. denied 109 S.Ct. 219 (1988). As part of the attainment plan, Great Northern had built a single merged stack for three exhaust streams. Litigants in *NRDC* v. *Thomas* had challenged whether it was proper to consider such a configuration in a modeling study. EPA has determined that these air streams were merged for sound economic and engineering reasons prior to 1985, and that sulfur emissions did not increase as a result of the merged stack. Therefore, EPA has determined that the merged stack is not a dispersion technique and may be included in the modelling. *See* 40 CFR 51.100(hh)(2)(ii)(C) and *NRDC* v. *Thomas*, 838 F.2d at 1255. The publicly available docket supporting this action

includes a technical support document which describes the basis for this determination in more detail.

Monitors in the Millinocket area have shown that since the original plan was implemented, the area has never violated the SO_2 standard during the last 16 years.

Section 107(d)(3)(E) requires the state to submit a maintenance plan as described in Section 175A. Maine has agreed to a maintenance plan which will protect the air quality in the Millinocket area. The plan includes contingency measures to be taken if future violations of the NAAQS occur. EPA requires the contingency measures for SO_2 maintenance plans to include a program to identify sources of violations of the SO_2 NAAQS and to undertake aggressive enforcement activity to address any SIP violations. 57 FR 13498, #13547 (April 16, 1992). The Bowater mill is the only large sulfur source in Millinocket likely to be responsible for sulfur NAAQS exceedences, and Maine has an ample enforcement program to assure that it complies with the SIP. The plan is part of the publicly available docket supporting this action.

EPA's review of this material indicates that Millinocket should be redesignated to attainment for SO_2.

Summary of This Action

This action will redesignate Millinocket, ME from nonattainment for SO_2 to attainment for SO_2. By doing this, the entire Air Quality Control Region 109 will be in attainment for SO_2.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 1, 1997 unless adverse or critical comments are received by June 2, 1997.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously 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. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 1, 1997.

Final Action

EPA is approving Maine's request to redesignate Millinocket to attainment for SO_2.

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 review under Executive Order 12866.

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.

The SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (Act) do not create any new requirements by simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Sections 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 the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) 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 July 1, 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 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 20, 1997.

John P. 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 for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Maine

2. Section 81.320 is amended by revising the table for SO_2 to read as follows:

§ 81.320 Maine.

* * * * *

SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standard
AQCR 110				X
AQCR 107				X
AQCR 109				X
AQCR 108-Madawaska			X	
Rest of region				X
AQCR 111				X

* * * * *

[FR Doc. 97–11483 Filed 5–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300481; FRL–5713–6]

RIN 2070–AB78

Clomazone; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of the herbicide clomazone in or on the food commodity watermelons in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of clomazone on watermelons in Delaware, Virginia, and Maryland. This regulation establishes maximum permissible levels for residues of clomazone on watermelons pursuant to section 408(l)(6) of the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. This tolerance will expire and is revoked on May 30, 1998.

DATES: This regulation becomes effective May 2, 1997. Objections and requests for hearings must be received by July 1, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300481], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300481], should be 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 a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: 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 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–300481]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Virginia Dietrich, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA (703) 308–8347, e-mail: dietrich.virginia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for residues of the herbicide clomazone (2-(2-Chlorophenyl) methyl-4,4-dimethyl-3-isoxazolidinone) in or on watermelons at 0.1 ppm. This tolerance will expire and be revoked by EPA on May 30, 1998. After May 30, 1998, EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited