equal to 177 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 10.4 kilopascals and stored-liquid annual average true vapor pressure greater than or equal to 8.3 kilopascals and annual average HAP liquid concentration greater than 4 percent by weight total organic HAP; a storage vessel at a new source that has a design storage capacity greater than or equal to 151 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 3.4 kilopascals and annual average HAP liquid concentration greater than 2 percent by weight total organic HAP; or a storage vessel at a new source that has a design storage capacity greater than or equal to 76 cubic meters and less than 151 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 77 kilopascals and annual average HAP liquid concentration greater than 2 percent by weight total organic HAP.

* * * * *

3. Section 63.646 is amended by revising paragraph (b)(2) to read as follows:

§ 63.646 Storage vessel provisions.

* * * * *

(b) * * *

(2) When an owner or operator and the Administrator do not agree on whether the annual average weight percent organic HAP in the stored liquid is above or below 4 percent for a storage vessel at an existing source or above or below 2 percent for a storage vessel at a new source, Method 18 of 40 CFR part 60, appendix A shall be used.

* * * * *

[FR Doc. 97–4326 Filed 2–20–97; 8:45 am]

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40 CFR Part 70

[AD–FRL–5689–6]

Clean Air Act Final Interim Approval of Operating Permits Program; Delegation of Section 112 Standards; State of Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating source category-limited interim approval of the Operating Permits Program submitted by the State of Maine for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. EPA is also proposing elsewhere in this Federal Register to add a sixth interim approval issue which would require Maine to remove some of the activities listed as insignificant in the State's rules. See the proposed rulemaking on Maine's Title V program.

EFFECTIVE DATE: March 24, 1997.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 565–4298.

SUPPLEMENTARY INFORMATION:

I. Background

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the Act'')), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by the end of an interim program, it must establish and implement a Federal program.

On September 19, 1996, EPA proposed interim approval of the operating permits program for the State of Maine. See 61 FR 49289. The EPA received comments from the Town of Jay on the proposal. In this document EPA is taking final action to promulgate interim approval of the operating permits program for the State of Maine. In addition, EPA is also proposing in this Federal Register to add a sixth interim approval issue in response to the comment from the Town of Jay and information submitted by other parties concerned about Jay's comment.

II. Response to Comments

The comments received on EPA's September 19, 1996 proposal to grant interim approval to the Maine Program and EPA's response to those comments are as follows:

Comment: The Town of Jay believes that EPA should require the State of Maine to remove six activities from the State's list of insignificant activities. The six activities are: (1) Paper forming; (2) vacuum system exhaust; (3) liquor clarifier and storage tanks and associated pumping, piping, and handling; (4) stock cleaning and pressurized pulp washing; (5) broke beaters, repulpers, pulp and repulping tanks, stock chests and bulk pulp handling; and (6) sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems.

Response: Based on the Town's comment and other information EPA has received concerning this issue, EPA is proposing in this Federal Register to require the State of Maine to remove the six activities listed above from its list of insignificant activities. Please refer to the proposed action elsewhere in this Federal Register for a discussion of this issue.

III. Final Action

The EPA is promulgating source category-limited interim approval of the operating permits program submitted by the State of Maine on October 23, 1995. The State must make the changes specified in the proposed rulemaking, under II.B., Proposed Action, in order to be granted full approval. See 61 FR 49292–49293 (September 19, 1996) for a complete discussion of those conditions. In brief they are: (1) Failure to allow for Section 502(b)(10) changes; (2) failure to require processing ''Part 70 Minor Change'' within 90 days; (3) allowing a change at a facility, defined as ''Part 70 Minor Revision,'' that could increase emissions up to 4 tons per year of a regulated pollutant or 8 tons per year for all regulated pollutants to be processed without EPA or affected state review; (4) allowing a facility, under limited circumstances, to continue to emit up to the previous licensed level for up to 24 months after the license is amended; and (5) allowing an activity that emits between 1 and 4 tons of hazardous air pollutants to be classified as insignificant.

The scope of the State of Maine's Part 70 program approved in this document applies to all Part 70 sources (as defined in the approved program) within the State of Maine, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.,* 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as

Indians.'' See section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993). EPA is taking no position in this notice on the question whether any Indian Tribe located in Maine has jurisdiction over sources of air pollution.

This interim approval extends until March 22, 1999. During this interim approval period, the State of Maine is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in the State of Maine. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If the State of Maine fails to submit a complete corrective program for full approval by September 21, 1998, EPA will start an 18-month clock for mandatory sanctions. If the State of Maine then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the State of Maine has corrected the deficiency by submitting a complete corrective program. If, six months after application of the first sanction, the State of Maine still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves the State of Maine's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State of Maine has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. If, six months after EPA applies the first sanction, the State of Maine has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the State of Maine has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the State of Maine program by the expiration of this interim approval, since the expiration would occur after November 15, 1995, EPA would be required to promulgate, administer and enforce a Federal permits program for the State of Maine upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to Part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. As discussed in the September 19, 1996 proposal to approve Maine's authority to take delegation of section 112 standards, Maine submitted a supplemental letter dated June 24, 1996 addressing the 112(l)(5) requirements for area/minor sources. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations applies to sources covered by the Part 70 program as well as area/minor sources.

IV. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final interim approval, including comments received by the State of Maine and reviewed by EPA on the proposal, are contained in the docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. 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 April 22, 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).)

C. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

D. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

E. 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Additionally, it will not cost $100 million to operate or comply with this program.

F. 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).

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: February 5, 1997.

John P. DeVillars,

Regional Administrator, Region I.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for Part 70 continues to read as follows:

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

2. Appendix A to Part 70 is amended by adding the entry for Maine in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Maine

(a) Department of Environmental Protection: submitted on October 23, 1995; source category-limited interim approval effective on March 24, 1997; source category-limited interim approval expires March 22, 1999.

(b) [Reserved]

* * * * *

[FR Doc. 97–4327 Filed 2–20–97; 8:45 am]

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40 CFR Part 180

[OPP–300449; FRL–5583–4]

RIN 2070-AB78

Benoxacor; Time-Limited Tolerances for Residues

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of 4-(dichloroacetyl)-3,4-dihydro-3-methyl-2*H*-1,4-benzoxazine (benoxacor) when used as an inert ingredient (safener) in pesticide formulations containing metolachlor in or on raw agricultural commodities for which tolerances have been established for metolachlor. This regulation is being issued in response to a petition for the establishment of a tolerance for residues of benoxacor requested by Ciba-Geigy Corp.

EFFECTIVE DATE: This regulation becomes effective February 14, 1997 and expires on February 14, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300449], 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-300449], must also 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 22202.

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 control number [OPP-300449]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed on-line at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Kerry B. Leifer, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Sixth Floor, Crystal Station #1, 2800 Crystal Drive Jefferson Davis Hwy., Arlington, VA, (703)-308-8811, e-mail: leifer.kerry @epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, at the request of Ciba, Crop Protection, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), is establishing tolerances for residues of the inert ingredient (safener) 4-(dichloroacetyl)-3,4-dihydro-3-methyl-2*H*-1,4-benzoxazine (benoxacor) at 0.01 part per million (ppm) in or on raw agricultural commodities for which tolerances have been established for metolachlor. These tolerances will expire on February 14, 1998. A notice of filing of a tolerance petition, including the petitioner's summary of the information, data and arguments in support of their petition was published in the Federal Register on November 5, 1996 (61 FR 56954).

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

I. Background and Statutory Authority

A time-limited tolerance was established for benoxacor when used as an inert ingredient (safener) in pesticide formulations containing metolachlor in or on raw agricultural commodities for which tolerances have been established for metolachlor and published in the Federal Register on June 30, 1992 (57 FR 29031). The time-limited tolerance expired on December 1, 1996. This time-limited tolerance was established to allow for the submission and Agency review of chronic toxicity/oncogenicity data on benoxacor. The requisite chronic toxicity/oncogenicity studies in the rat and mouse were submitted by the petitioner; however, the Agency's review of the data is not yet complete. In order to allow the for the continued use of benoxacor as a safener in formulations of metolachlor while the EPA continues its review of the submitted oncogenicity data, the petitioner has requested that the time-limited tolerance be extended until such time as the Agency is able to make a definitive determination as to the safety of the tolerance.

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) was signed into law August 3, 1996. FQPA amends both the 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.

New section 408(b)(2)(A)(i) 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) 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 other exposures for which there is reliable information.'' This includes exposure