MAINE—OZONE—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
York County		Nonattainment		Moderate.[2]
* * * *	*	*	*	

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

* * * * *

[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 l996 (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, 0H 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, 0H5597]. 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, l994 EPA established time-limited tolerances under sections 408 and 409 of the Federal Food Drug, and Cosmetic Act (FFDCA), 2l 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, l996. DowElanco, on September 27, l996, 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 l996 (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, l996)(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, l996 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 (LD_{50}) 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/

day (HDT) and a maternal toxicity NOEL of 75 mg/kg/day.

6. A two-generation rat reproduction study with a reproductive NOEL of > 1,500 mg/kg/day and a systemic NOEL of 500 mg/kg/day.

7. A 1–year dog feeding study with a NOEL of 100 mg/kg/day.

8. A 2–year rat chronic feeding/oncogenicity study with a NOEL of 50 mg/kg/day with no oncogenic potential observed under the conditions of the study at doses up to and including 150 mg/kg/day (HDT). A significant decrease in mean body weights of females occurred at 150 mg/kg/day.

9. A repeat 2–year rat chronic feeding/oncogenicity study with a systemic NOEL of 15 mg/kg/day and with no oncogenic potential observed under conditions of the study up to 1,500 mg/kg/day (HDT). Hyperplasia and thickening of the limiting ridge of the stomach occurred at 150 mg/kg/day.

10. Three 2–year mouse oncogenicity studies with no oncogenic potential observed under the conditions of the study up to and including 2,000 mg/kg/day (HDT) and a systemic NOEL of 500 mg/kg/day.

11. A dominant lethal assay, negative.

12. *In vivo* rat cytogenic study, negative.

13. *In vitro* Salmonella and Saccharomyces assay, negative.

14. An *in vivo* mouse host-mediated assay, negative.

15. An unscheduled DNA synthesis assay in rats, negative.

16. In an animal metabolism study At doses of 5 mg/kg (oral), radiolabeled clopyralid was excreted within 24 hours in all dosed rats. Fecal elimination was minor. Detectable levels of residual radio-activity were observed in the carcass and stomach at 72 hours post-dose. Analysis of urine and fecal extracts showed no apparent metabolism of clopyralid.

II. Aggregate Exposures

1. *From food and feed uses.* The primary source for human exposure to clopyralid will be from ingestion of both raw and processed agricultural commodities as proposed in the December 11, 1996 Notice for Filing cited above. Based on exposure from existing permanent tolerances listed in 40 CFR 180.431(a) of the Code of Federal Regulations and the subject proposed tolerances in field corn raw agricultural commodities, the Theoretical Maximum Residue Contributions (TMRC) for the U.S. (48 States) adult population is 0.008214 mg/kg body weight/day; for non-nursing infants, 0.015400; for children 1 to 6 years old, 0.018454. These estimates are based on the assumption that 100% of the field corn commodities are derived from field corn cultured with the aid of the herbicide clopyralid.

2. *From potable water.* In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

There is presently no EPA Lifetime Health Advisory level for clopyralid and its degradates as drinking water contaminates. EPA does not have drinking water monitoring data available to perform a quantitative drinking water risk assessment. Available environmental fate data, conservative screening tools, GENEEC and Leaching Index have been used to estimate environmental concentrations of clopyralid in surface water and the leaching potential of clopyralid. The results of these screens indicate that clopyralid is moderately persistent, highly mobile in a soil and water environment, and may impact ground water and surface water.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for consumption of contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause clopyralid to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with clopyralid in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary uses.* There is only one non-dietary use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended. The use is for residential weed control in turf.

i. *Short-term or intermediate-term.* A part of the hazard assessment process, the Agency reviews the available toxicological database to determine the endpoints of concern. For clopyralid, the Agency does not have a concern for a short-term or intermediate-term residential risk assessment because the available data does not indicate any evidence of significant toxicity by the dermal and inhalation routes. Therefore, a short-term or intermediate-term residential risk assessment was not required.

ii. *Chronic.* As part of the hazard assessment process an endpoint of concern was determined for the chronic occupational or residential assessment. However, during the exposure assessment process, the exposures that would result from the use of clopyralid were determined to be of an intermittent nature. The frequency and duration of these exposures do not exhibit a chronic exposure pattern. The exposure does not occur often enough to be considered a chronic exposure; i.e, a continuous exposure that occurs for at least several months. Therefore, it was not deemed appropriate to aggregate exposure from the residential use with exposure from food and drinking water.

iii. *Acute.* As part of the hazard assessment process, the Agency reviews the available toxicological database to determine the endpoints of concern. For clopyralid, the Agency does not have a concern for an acute dietary assessment because the available data do not indicate any evidence of significant toxicity from a 1 day or single event exposure by the oral route. Therefore, an acute dietary risk assessment was not required.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk

assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether clopralid has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, clopyralid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that clopyralid has a common mechanism of toxicity with other substances.

III. Determination of Safety for U.S. Population and Non-nursing Infants

A. The U.S. Population

Based on a NOEL of 50.80 mg/kg bwt/day from a 2–year, rat feeding study with a decreased mean body weight gain effect, and using an uncertainty factor of 100 to account for the interspecies extrapolation and intraspecies variability, the Agency has determined a Reference Dose (RfD) of 0.5 mg/kg bwt/day for this assessment of chronic risk. As indicated above, there is no endpoint of concern identified with acute and short- or intermediate-term exposures. Based on the available toxicity data and the available exposure data identified above, the proposed and existing tolerances will utilize 2% of the RfD for the U.S. population. As indicated above, whatever bounding figure EPA chooses for drinking water exposure, the exposure estimate for clopyralid would not exceed the RfD.

B. Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety) are often referred to as uncertainty (safety) factors. EPA believes that reliable data support using the standard margin of exposure (usually 100x for combined inter- and intra-species variability)) and not the additional tenfold margin of exposure when EPA has a complete database under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard margin of exposure.

Based on current data requirements, the data base relative to pre- and post-natal toxicity is complete. Risk to infants and children was determined by use of two developmental toxicity studies and a two-generation reproduction study. Both developmental studies had developmental NOELs of > 250 mg/kg/day, the highest dose tested. These studies also demonstrated that there was no developmental (prenatal) toxicity, at dosages at or below dosages that resulted in maternal toxicity. The maternal NOEL was > 250 mg/kg/day in the rabbit study and 75 mg/kg/day in the rat study. The developmental NOELs are fivefold higher in both the rat and rabbit than the NOEL used for establishing the RfD. Based on current data requirements, the data base relative to pre- and post-natal toxicity is complete. There were no treatment-related effects on any reproductive parameter in the adults or their offspring. The NOEL for reproductive effects was 1,500 mg/kg bwt/day, and there was no effect on reproductive parameters at > 1,500 mg/kg/day nor was there an adverse effect on the morphology, growth or viability of the offspring. The NOEL of the study was 30 times greater than the NOEL of 50.0 mg/kg/day used for establishing the RfD. These data taken together suggest minimal concern for developmental or reproductive toxicity and do not indicate any increased pre- or post-natal sensitivity. Therefore, EPA concludes that an additional uncertainty factor is not necessary to protect the safety of infants and children and that the RfD at 0.5 mg/kg/day is appropriate for assessing aggregate risk to infants and children.

The percent of the RfD that will be utilized by the aggregate exposure from all tolerances to clopyralid will range from 3% for non-nursing infants, up to 3.6% for children (1 to 6 years of age). Therefore, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure. As indicated above, whatever bounding figure EPA chooses for drinking water exposure, the exposure estimate for clopyralid would not exceed the RfD. Non-dietary exposures were discussed above under ''Non-Dietary Exposure.''

IV. Other Considerations

1. *Endocrine effects.* There was no reported endocrine effect in any of the toxicological studies reviewed in the toxicological profile of this final rule.

2. *Metabolism in plants and animals.* The metabolism of clopyralid in plants and animals is adequately understood for the purposes of these tolerances. There are no metabolites of toxicological significance in plants. The residue of concern in plants and animals is the parent compound, clopyralid. In animal metabolism studies with C14 labeled clopyralid, the residues found were clopyralid and its glycine conjugate.

3. *Analytical method.* There is a practical analytical method for detecting and measuring levels of clopyralid in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The analytical method for determining residues is gas chromatography with electrolytic conductivity detection, described in a method submitted by DowElanco.

The quantitative limit of the method is 0.05 micrograms/gram in field corn fodder and forage and grain. EPA has provided information on this method to FDA. Because of the long lead time from establishing these tolerances to publication, the enforcement

methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from: Calvin Furlow, Public Response Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number; Rm. 1130A, CM #2, l921 Jefferson Davis Highway, Arlington, VA 22202, (703)–305–5937.

4. *International tolerances.* There are no Codex Alimentarius Commission (Codex) Maximum Residue Levels (MRLs) for clopyralid.

V. Summary of Findings

The analysis for clopyralid using tolerance level residues shows that the proposed use in the culture of field corn will not cause exposure to exceed the levels at which the Agency believes there is an appreciable risk. All population subgroups examined by EPA are exposed to clopyralid residues at levels below 100 percent of the RfD for chronic effects.

Based on the information cited above, the Agency has determined that the establishment of these tolerances will be safe therefore, the tolerances are established as set forth below.

In addition to the tolerances being amended, since for purposes of establishing tolerances FQPA has eliminated all distinctions between raw and processed food, EPA is combining the tolerances that now appear in §§ 185.1100 and 186.1100 with the tolerances in § 180.431 and is eliminating §§ 185.1100 and 186.1100.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (1)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 16, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VII. Public Docket

EPA has established a record for this rulemaking under docket number [OPP–300473] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

VIII. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), this action is not a ''significant regulatory action'' and since this action does not impose any information collection requirements subject to approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, l993, special considerations as required by Executive Order 12898 (59 FR 7629, February 16, l994).

Because tolerances established on the basis of a petition under section 408(d) of FFDCA do not require issuance of a proposed rule, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604(a), do not apply. Prior to the recent amendment of the FFDCA, EPA had treated such rulemakings as subject to the RFA; however, the amendments to the FFDCA clarify that no proposal is required for such rulemakings and hence that the RFA is inapplicable. Nonetheless, the Agency has previously assessed whether establishing tolerances or exemptions from tolerance, raising tolerance levels, or expanding exemptions adversely impact small entities and concluded, as a generic matter, that there is no adverse impact. (46 FR 24950) (May 4, l981).

Pursuant to 5 U.S.C. 801(a)(1)(A), 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

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

40 CFR Part 185

Environmental protection, Food additives, Pesticides and pests.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and pests.

Dated: April 4, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. Section 180.431 is amended as follows:

i. In paragraph (a) by revising the introductory text, and adding new entries to the table.

ii. In paragraph (b) by removing the text, and adding a paragraph heading.

iii. In paragraph (c) by the redesignating the text as paragraph (b), by adding a new paragraph heading, and by reserving it.

iv. By adding paragraph (d) with a paragraph heading only and reserving it.

§ 180.431 Clopyralid; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or on the following commodities:

Commodity	Parts per million
* * * *	*
Corn, field, fodder	10.0
Corn, field, forage	3.0
Corn, field, grain	1.0
Corn, field, milling fractions	1.5
* * * *	*

(b) *Section 18 emergency exemptions.* * * *

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

§ 185.1100 [Removed]

b. By removing § 185.1100 *Clopyralid*.

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 342, 348 and 701.

§ 186.1100 [Removed]

b. By removing § 186.1100 *Clopyralid*.

[FR Doc. 97–9372 Filed 4–15–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

46 CFR Part 586

[Docket No. 96–20]

Port Restrictions and Requirements in the United States/Japan Trade

AGENCY: Federal Maritime Commission.

ACTION: Amendment to final rule.

SUMMARY: The Federal Maritime Commission is amending the final rule in this proceeding to provide that fees shall not be assessed on vessels for which fees have been assessed within the preceding seven days, or in the case of vessels calling at ports in Hawaii, within the preceding forty days.

DATES: *Effective Date:* April 14, 1997.

ADDRESSES: Requests for publicly available information or additional filings should be addressed to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: On March 4, 1997, the Commission published a final rule in this proceeding assessing per-voyage fees, effective April 14, on Japanese liner carriers in response to restrictive and unfavorable requirements for the use of Japanese ports (62 FR 9696). On April 4, 1997, Nippon Yusen Kaisha (NYK), one of the three Japanese carriers subject to the imposition of fees, submitted a ''Request for Clarification'' of the final rule to the Commission's General Counsel. In its request, NYK urges that the Commission make certain modifications to the final rule with regard to the assessment of fees. The request will therefore be treated as a petition for amendment of the Final Rule.

NYK's request centers on the application of the final rule as written to two particular NYK trans-Pacific service strings. The final rule, 46 CFR 586.2, states:

> (c) Assessment of fees. A fee of one hundred thousand dollars is assessed each time a designated vessel is entered in any port of the United States from any foreign port or place.

NYK operates a weekly service with the rotation: Japan/Taiwan/Hong Kong/Los Angeles/Portland/Vancouver/Seattle/Japan. Under the final rule, vessels in this string would be subject to a $100,000 fee first when they enter Los Angeles from Hong Kong, then another fee when they arrive at Seattle from Vancouver. NYK suggests that this sort of ''double assessment'' was not envisaged by the Commission when it promulgated the rule. It also states that such double assessments could lead NYK to drop a U.S. port from its rotation.

NYK also offers bi-monthly sailings to Honolulu in the following pattern: Far East/Honolulu/Central America/Honolulu/Far East. Under the rule, NYK would be subject to fees on both the eastbound and the westbound legs of this voyage. NYK indicates that this could cause it to drop one Hawaiian port call from its rotation. NYK points out that the Commission, in levying the fee, adopted an approach designed to ''eliminate the concern that the fee could lead to lines dropping or consolidating port calls in the U.S.'' NYK suggests an amendment to the rule that would be in keeping with this intent, addressing the issues raised by the two above-described service strings. NYK proposed adding the following to paragraph (c):

> provided that no fee is assessed against a designated vessel (1) if that vessel has previously been assessed a fee under this rule within the past ten days, or (2) for a vessel calling in the state of Hawaii, has previously been assessed a fee under this rule within the past forty-five days.

The proposed amendment is in keeping with the Commission's sensitivity to avoiding unnecessary adverse effects to U.S. ports and shippers. The proposed amendment would prevent NYK from being subjected to two fee assessments for one set of west coast port calls based on its unique service structure, heading off the