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Dated: November 14, 1997.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

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## POSTAL SERVICE

### 39 CFR Part 4

#### Board of Governors Bylaws

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the United States Postal Service has approved an amendment to its bylaws. The amendment adjusts provisions concerning the office of the Chief Postal Inspector in light of statutory amendments enacted by Public Law 100-504.

**EFFECTIVE DATE:** November 20, 1997.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Koerber, (202) 268-4800.

**SUPPLEMENTARY INFORMATION:** The Board of Governors of the Postal Service has amended its bylaw provisions concerning the office of Chief Postal Inspector. Under former provisions of the Inspector General Act, the Chief Postal Inspector served as the Inspector General for the Postal Service. The law specifically required the concurrence of the Governors for a transfer or removal of the Chief Inspector. Public Law 100-504 created an independent Inspector General for the Postal Service, and revised the language governing the Chief Postal Inspector. As now codified in 39 U.S.C. 204, the law currently requires notice to the Governors and Congress but does not expressly require the Governors' concurrence. At its meeting on November 3, 1997, the Board revised sections 4.5 and 4.6 of its bylaws conforming them to the language of the statute. Section 4.6, dealing separately with the Chief Postal Inspector, is removed, and provisions concerning the appointment and removal of the Chief Inspector in line with 39 U.S.C. 204 are transferred to section 4.5.

#### List of Subjects in 39 CFR Part 4

Administrative practice and procedure, Organization and functions (Government agencies), Postal Service.

Accordingly, 39 CFR Part 4 is amended as follows:

## PART 4—OFFICERS (ARTICLE IV)

1. The authority citation for Part 4 is revised to read as follows:

**Authority:** 39 U.S.C. 202-205, 401(2), (10), 402, 1003, 3013.

2-3. Section 4.5 is revised to read as follows:

### § 4.5 Assistant Postmasters General, General Counsel, Judicial Officer, Chief Postal Inspector.

There are within the Postal Service a General Counsel, a Judicial Officer, a Chief Postal Inspector, and such number of officers, described in 39 U.S.C. 204 as Assistant Postmasters General, whether so denominated or not, as the Board authorizes by resolution. These officers are appointed by, and serve at the pleasure of, the Postmaster General. The Chief Postal Inspector shall report to, and be under the general supervision of, the Postmaster General. The Postmaster General shall promptly notify the Governors and both Houses of Congress in writing if he or she removes the Chief Postal Inspector or transfers the Chief Postal Inspector to another position or location within the Postal Service, and shall include in any such notification the reasons for such removal or transfer.

### § 4.6 [Removed]

4. Section 4.6 is removed.

### § 4.7 [Redesignated as § 4.6]

5. Section 4.7 is redesignated as § 4.6.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 97-30412 Filed 11-19-97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL-5925-4]

#### Final Determination To Extend Deadline for Promulgation of Action on Section 126 Petitions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is extending by a second one-month period the deadline for taking final action on petitions that eight States have submitted to require EPA to make findings that sources upwind of those States contribute significantly to nonattainment problems in those States. Under the Clean Air Act (CAA or Act), EPA is authorized to grant this time extension if EPA determines that the extension is necessary, among

other things, to meet the purposes of the Act's rulemaking requirements. By this notice, EPA is making that determination. The eight States that have submitted the petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.

**EFFECTIVE DATE:** This action is effective as of November 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Howard J. Hoffman, Office of General Counsel, MC-2344, 401 M St. SW, Washington, D.C. 20460, (202) 260-5892.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Today's action follows closely EPA's final action taken by notice dated October 22, 1997 (62 FR 54769). Familiarity with that document is assumed, and background information in that document will not be repeated here.

In the October 22, 1997 document, EPA extended by one month, pursuant to its authority under CAA section 307(d)(10), the time frame for taking final action on petitions submitted by eight states under CAA section 126. These eight states are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont. By these petitions, the eight states have asked EPA to make findings that major stationary sources in upwind states emit in violation of the prohibition of CAA section 110(a)(2)(D), by contributing significantly to nonattainment problems in the petitioning States.

EPA received the petitions on August 14-15, 1997. Under section 126(b), for each petition, EPA must make the requested finding, or deny the petition, within 60 days of receipt of the petition. As indicated in the October 22, 1997 document, EPA has the authority to extend the deadline for up to six months, under CAA section 307(d)(10). By the October 22, 1997 document, EPA extended the deadline for one month, to November 14, 1997, and further indicated that EPA was reserving its option to extend the period by all or part of the remaining five months of the six-month extension period.

EPA is today extending the deadline for an additional one month, to December 14, 1997. EPA's reasons are identical to those articulated in the October 22, 1997 document. In the October 22, 1997 document, EPA explained the basis for the first one-month extension as follows:

In accordance with section 307(d)(10), EPA is today determining that the 60-day period afforded by section 126(b) is not adequate to allow the public and the agency adequate opportunity to carry out the purposes of the section 307(d) procedures for developing an adequate proposal on whether the sources identified in the section 126 petitions contribute significantly to nonattainment problems downwind, and, further, to allow public input into the promulgation of any controls to mitigate or eliminate those contributions. The determination of whether upwind emissions contribute significantly to downwind nonattainment areas is highly complex. The NO<sub>x</sub> SIP call, which proposes a somewhat comparable determination, relied on extensive computer modeling of air quality emissions and the ambient impacts therefrom in the large geographic region of the eastern half of the United States. This modeling was developed over a two-year period. It reflected the input of EPA, the 37 states east of the Rockies as well as numerous industry and citizen groups, all of whom participated in the OTAG. Moreover, EPA is allowing a 120-day comment period on the NO<sub>x</sub> SIP call proposal, and expects to take final action on the NO<sub>x</sub> SIP call in September 1998, some 11 months after the date of proposal.

In acting on the section 126 petitions, EPA must make determinations that, generally, are at least as complex as those required for the NO<sub>x</sub> SIP call, and EPA must do so for sources throughout the eastern half of the United States. Moreover, if EPA determines that the petitions should be granted, EPA must promulgate appropriate controls for the affected sources.

EPA is in the process of determining what would be an appropriate schedule for action on the section 126 petitions, in light of the complexity of the required determinations and the usefulness of coordinating generally with the procedural path for the NO<sub>x</sub> SIP call. It is imperative that this schedule (i) afford EPA adequate time to prepare a document that clearly elucidates the issues so as to facilitate public comment, as well as (ii) afford the public adequate time to comment.

EPA is continuing to discuss an appropriate schedule with the section 126 petitioners and other interested parties. Accordingly, EPA concludes today, as it did in the October 22, 1997 document, that extending the date for action on the section 126 petitions for another one month is necessary to determine the appropriate overall schedule for action, as well as to

continue to develop the technical analysis needed to develop a proposal.

EPA's action of October 22, 1997, erroneously indicated that the extended deadline for six of the States—Connecticut, Maine, New Hampshire, New York, Pennsylvania, and Vermont—would be November 15, 1997. Because the initial 60-day period for EPA action on the 126 petitions submitted by these states expired on October 14, 1997, the first one-month extension would extend the deadline to November 14, 1997. EPA is today correcting that error, although today's action, which further extends the deadline, makes this error irrelevant.

As EPA indicated in the October 22, 1997 document, EPA, even with today's action, continues not to use the entire six months provided under section 307(d)(10) for the extension. EPA continues to reserve the right to apply the remaining four months, or a portion thereof, as an additional extension, if necessary, immediately following the conclusion of the one-month period, or to apply the remaining time to the period following EPA's proposed rulemaking.

## II. Final Action

### A. Rule

Today, EPA is determining, under CAA section 307(d)(10), that a second one-month period is necessary to assure the development of an appropriate schedule for rulemaking on the section 126 petitions, which schedule would allow EPA adequate time to prepare a notice for proposal that will best facilitate public comment, as well as allow the public sufficient time to comment. Accordingly, EPA is granting a one-month extension to the time for rulemaking on the section 126 petitions. Under this extension, the date for action on each of the section 126 petitions is December 14, 1997.

### B. Notice-and-Comment Under the Administrative Procedures Act (APA)

This document is a final agency action, but may not be subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). EPA believes that because of the limited time provided to make a determination that the deadline for action on the section 126 petitions should be extended, Congress may not have intended such a determination to be subject to notice-and-comment rulemaking. However, to the extent that this determination is subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). Providing notice and

comment would be impracticable because of the limited time provided for making this determination, and would be contrary to the public interest because it would divert agency resources from the critical substantive review of the section 126 petitions.

### C. Effective Date Under the APA

Today's action will be effective on November 14, 1997. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if the agency has good cause to mandate an earlier effective date. Today's action—a deadline extension—must take effect immediately because its purpose is to move back by one month the November 14, 1997 deadlines for the section 126 petitions. Moreover, EPA intends to use immediately the one-month extension period to continue to develop an appropriate schedule for ultimate action on the section 126 petitions, and to continue to develop the technical analysis needed to develop the notice of proposed rulemaking. These reasons support an effective date prior to 30 days after the date of publication.

### D. Executive Order 12866

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

### E. Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate. In addition, before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, EPA must have developed a small government agency plan. EPA has determined that these requirements do not apply to today's action because this rulemaking (i) is not a Federal mandate—rather, it simply extends the date for EPA action on a rulemaking; and (ii) contains no regulatory requirements that might significantly or uniquely affect small governments.

### F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, EPA must propose a regulatory flexibility analysis assessing the impact on small entities of any rule subject to the notice-and-comment rulemaking requirements. Because this action is exempt from such

requirements, as described above, it is not subject to RFA.

*G. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A), added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA submitted, by the date of publication of this rule, 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. This rule is not a "major rule" as defined by 5 U.S.C. 804(2), as amended.

*H. Paperwork Reduction Act*

This rule does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

*I. Judicial Review*

Under CAA section 307(b)(1), a petition to review today's action may be filed in the Court of Appeals for the District of Columbia within 60 days of November 20, 1997.

Dated: November 14, 1997.

**Carol M. Browner,**  
Administrator.

[FR Doc. 97-30520 Filed 11-19-97; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

**Clean Air Act Promulgation of Extension of Attainment Date for the Portland, Maine, Moderate Ozone Nonattainment Area**

*CFR Correction*

In Title 40 of the Code of Federal Regulations, parts 81 to 85, revised as of July 1, 1997, make the following correction:

On page 180, in § 81.320, in the table under the heading "Maine—Ozone", footnote 2 is corrected to read "Attainment date extended to November 15, 1997."

BILLING CODE 1505-01-D

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AD14**

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Two Tidal Marsh Plants—*Cirsium hydrophilum* var. *hydrophilum* (Suisun Thistle) and *Cordylanthus mollis* ssp. *mollis* (Soft Bird's-Beak) From the San Francisco Bay Area of California**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for two plants—*Cirsium hydrophilum* var. *hydrophilum* (Suisun thistle) and *Cordylanthus mollis* ssp. *mollis* (soft bird's-beak). These species are restricted to salt and brackish tidal marshes within the San Francisco Bay area in northern California. Habitat conversion, water pollution, changes in salinity, indirect effects of urbanization, mosquito abatement activities (including off-road vehicle use), competition with non-native vegetation, insect predation, erosion, and other human-caused actions threaten these two species. This rule implements the Federal protection and recovery provisions afforded by the Act for these plants.

**EFFECTIVE DATE:** December 22, 1997.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 3310 El Camino, Suite 130, Sacramento, California 95821-6340.

**FOR FURTHER INFORMATION CONTACT:** Kirsten Tarp (telephone 916/979-2120) and Matthew D. Vandenberg (telephone 916/979-2752), staff biologists at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section); FAX 916/979-2723.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Cirsium hydrophilum* var. *hydrophilum* (Suisun thistle) and *Cordylanthus mollis* ssp. *mollis* (soft bird's-beak) occur in salt and brackish tidal marshes fringing San Pablo and Suisun Bays in the San Francisco Bay area of northern California. Since 1850, this habitat has been drastically

reduced. Approximately 15 percent, or 12,142 hectares (ha) (30,000 acres), of the historical tidal marshland habitat within the San Francisco Bay area remains (Dedrick 1989).

With the exception of the San Francisco Bay area, the mountainous coast of California and the narrow continental shelf provide few areas that are suitable for tidal marsh development (MacDonald 1990). Coastal salt marshes are found along sheltered margins of shallow bays, estuaries, or lagoons, in low lying areas that are subject to periodic inundation by salt water. Brackish marshes occur at the interior margins of coastal bays, estuaries, or lagoons where fresh water sources (streams and rivers) enter salt marshes. Brackish marshes are similar to salt marshes but differ in the degree of water and soil salinity. Brackish marshes are less saline than salt marshes. Salinity levels vary with time, tides, and the amount of freshwater inflow. Vegetation communities in salt and brackish marshes often occur in distinct zones, depending on the frequency and length of tidal flooding. *Cirsium hydrophilum* var. *hydrophilum* and *Cordylanthus mollis* ssp. *mollis* are restricted to a narrow tidal band, typically in higher elevational zones within larger tidal marshes that have fully developed tidal channel networks. These plants usually do not occur in smaller fringe tidal marshes that are generally less than 100 meters (m) (300 feet (ft)) in width, or in non-tidal areas.

**Discussion of the Two Species**

Asa Gray (1888) originally described *Cirsium hydrophilum* var. *hydrophilum* as *Cnicus breweri* var. *vaseyi*. Subsequent authors treated the taxon as *Carduus hydrophilus* (Greene 1892), *Cirsium hydrophilum* (Jepson 1901), and *Cirsium vaseyi* var. *hydrophilum* (Jepson 1925). John Thomas Howell (1959) concluded that Jepson's *Cirsium hydrophilum* and *Cirsium vaseyi* of the Mt. Tamalpais area in Marin County, California are varieties of a single species, *Cirsium hydrophilum*. According to the rules for botanical nomenclature, when a new variety is described in a species not previously divided into intraspecific taxa, an autonym (automatically created name) is designated. In this case, the autonym is *Cirsium hydrophilum* var. *hydrophilum*.

*Cirsium hydrophilum* var. *hydrophilum* is a perennial herb in the aster family (Asteraceae). Slender, erect stems 1.0 to 1.5 m (3.0 to 4.5 ft) tall are well branched above. The spiny leaves are deeply lobed. The lower leaves have ear-like basal lobes; the upper leaves are