program. Therefore, USEPA approves the ECO program for Lake and Porter Counties.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA 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, USEPA may certify that the rule will not have a significant economic 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 Act do not create any new requirements, but 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 small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. 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)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Ozone.

Dated: February 10, 1995.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(92) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(92) On February 25, 1994, Indiana submitted an employee commute option rule intended to satisfy the requirements of section 182(d)(1)(B) of the Clean Air Act Amendments of 1990.

(i) *Incorporation by reference.* (A) Title 326 of the Indiana Administrative Code, Article 19 MOBILE SOURCE RULES, Rule 1, Employee Commute Options. Filed with the Secretary of State, October 28, 1993, effective November 29, 1993. Published at Indiana Register, Volume 17, Number 3, December 1, 1993.

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[FR Doc. 95–5446 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC19–1–5031a; FRL–5166–7]

Approval and Promulgation of Implementation Plans State: Disapproval of Revisions to the South Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is disapproving South Carolina's generic bubble regulation submitted for approval into the State Implementation Plan (SIP) by the State of South Carolina through the South Carolina Department of Health and Environmental Control (DHEC) on June 5, 1985, because it does not comply with EPA's Emissions Trading Policy Statement (ETPS) of December 4, 1986, or the Economic Incentive Program Rules (EIP). The policy states that existing state generic bubble rules should be reviewed and that a notice be published identifying any deficiencies found in the review and giving a means and a schedule to correct them. However, since revision of their federally approved generic rule or withdrawal of the 1985 submittal will require legislative action by the State, South Carolina requested in a letter to John Hankinson, Regional Administrator, that EPA disapprove the submittal. Therefore, EPA is rescinding the previous approval of the generic bubble regulations and disapproving the June 5, 1985 submittal.

DATES: This final rule will be effective May 8, 1995 unless adverse or critical comments are received by April 7, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Kay T. Prince, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Kay T. Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 x4221. Reference file SC19–1–5031.

SUPPLEMENTARY INFORMATION: On June 7, 1982 (47 FR 38887), EPA approved into the SIP the South Carolina generic bubble regulation as meeting all EPA

requirements at that time. On January 14, 1985, the State of South Carolina through DHEC submitted revisions to their generic bubble regulation, requesting concurrent review by EPA. On June 5, 1985, the State of South Carolina submitted the state-effective version of the bubble regulation (Regulation No. 62.5, Standard No. 6, Alternative Emission Limitation Options (''Bubble''). Subsequently EPA's revised ETPS was published on December 4, 1986. (51 FR 43814). The policy indicates that existing state generic bubble rules should be reviewed and notices published identifying any deficiencies and a means to correct them. It also gives EPA the option to rescind its previous approval of a generic bubble rule. (51 FR 43853) Following enactment of the 1990 Clean Air Act Amendments, EPA promulgated the EIP on April 7, 1994. (59 FR 16690)

EPA has reviewed both the approved and revised generic bubble rules and found them to be deficient with respect to the ETPS, the EIP, and the provisions of the 1990 Amendments. Following is a summary of the review of some of the deficiencies of the revised generic rule.

Section II—Conditions for Approval

The rule does not provide for federal enforceability. To assure that Clean Air Act requirements are met, each transaction which revises any emission limit upward must be approved by the state and be federally enforceable. (e.g., 51 FR 43832, 59 FR 16700) Revised limits can be made federally enforceable through source specific SIP revisions, federally approved generic bubble regulations, federally approved EIPs or construction permits issued through a federally approved permit program.

Emissions prior to and after the bubble from all points involved must be quantifiable, the total emissions resulting from the bubble must show a net decrease, and the procedures for determining the emissions from the bubble must be replicable. Replicability generally means a high likelihood that two decision-makers applying the rule to a given bubble would reach the same conclusion. The South Carolina generic bubble rule does not contain any provisions to ensure that the calculation procedures used to quantify the emissions are replicable. (e.g., 51 FR 43850, 59 FR 16713)

Bubble rules must contain provisions for determining a baseline emissions level beyond which the reductions must occur to be creditable. There are three baseline factors—emission rate, capacity utilization, and hours of operation—which must be used to compute pre- and post-bubble emission levels. Baseline factors differ depending on the status of SIP development for the area. The South Carolina rule does not address baseline factors. (e.g., 51 FR 43838, 59 FR 16697)

Section III—Part B.—Emissions of Volatile Organic Compounds

In general, generic bubble rules for volatile organic compounds (VOCs) must require that surface coating emissions be calculated on a solids-applied basis and specify a maximum time period over which emissions may be averaged in an acceptable compliance demonstration, usually not exceeding 24 hours. Averaging times greater than 24 hours must meet the criteria outlined in Appendix D of the ETPS. (51 FR 48857) The South Carolina rule does not include these requirements. The South Carolina rule also does not include the requirements to meet the extended averaging times provided in the EIP rule. (e.g., 59 FR 16706)

Final Action

EPA is disapproving the May 24, 1985, version of the South Carolina generic bubble rule, Regulation No. 62.5, Standard No. 6, as requested by the State on March 24, 1994, because it does not meet EPA requirements. Additionally, EPA is rescinding its approval of the May 28, 1982, version of the rule as approved in the **Federal Register** on June 7, 1982. (47 FR 38887) This action is being published 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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 8, 1995 unless, by April 7, 1995, adverse or critical comments are received.

If the 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. 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 May 8, 1995.

The agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action does not conform with the statute as amended and must be disapproved. The Agency has examined the issue of whether this action should be reviewed only under the provisions of the law as it existed on the date of submittal to the Agency (i.e. prior to November 15, 1990) and has determined that the Agency must apply the new law to this revision.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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.

EPA's disapproval of the State request under section 110 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor

does it impose any new Federal requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 26, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart PP—South Carolina

2. Section 52.2122, is amended by designating the introductory text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.2122 Approval status.

* * * * *

(b) EPA disapproved South Carolina's generic bubble regulation submitted for approval into the State Implementation Plan (SIP) on June 5, 1985.

[FR Doc. 95–5574 Filed 3–7–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 4F4328/R2112; FRL–4940–5]

RIN 2070–AB78

Pseudomonas Syringae; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement for a tolerance for residues of *Pseudomonas syringae* in or on all raw agricultural commodities when applied postharvest in accordance with good agricultural practices. EcoScience Corp. requested this exemption.

EFFECTIVE DATE: This regulation becomes effective March 8, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP4F4328/R2112], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document 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 a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Sheryl K. Reilly, Biopesticides and Pollution Prevention Division (7501W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703)–308–8265.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 11, 1994 (59 FR 24429), EPA issued a notice that the EcoScience Corp., One Innovation Drive, Worcester, MA 01545, had submitted pesticide petition PP 4F4328 to EPA proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance the residues of the biological control agent, Bio-Save 10, containing the active ingredient *Pseudomonas syringae* in or on pears, apples, lemons, oranges, and grapefruit when applied postharvest in accordance with good agricultural practices.

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

Pseudomonas syringae is naturally occurring and was originally isolated from apples.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance include an acute oral toxicity/pathogenicity study, an acute dermal toxicity study, an acute pulmonary toxicity/pathogenicity study, an acute intravenous toxicity/pathogenicity study, a primary eye irritation study, and a primary dermal irritation study.

The results of these studies indicated that the organism was not toxic to test animals when administered via oral, dermal, pulmonary, or intravenous routes.

The active ingredient was not infective or pathogenic to test animals in any of the studies. Minimal ocular irritation observed in the eye irritation study dissipated within 5 days; very slight skin irritation noted immediately following exposure to the compound dissipated within 2 days. There have been no reports of hypersensitivity related to the active ingredient. All of the toxicity studies submitted are considered acceptable.

The toxicology data provided are sufficient to demonstrate that there are no foreseeable human health hazards likely to arise from the use of *Pseudomonas syringae* on all raw agricultural commodities when applied postharvest in accordance with good agricultural practices.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition because the data submitted demonstrated that this biological control agent is not toxic to humans by dietary exposure. No enforcement actions are expected. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request. This is the first exemption from the requirement of a tolerance for this biological control agent.

Based on the information considered, the Agency concludes that establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the 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 genuine and substantial issue of fact; there is reasonable possibility that available evidence identified by the requestor would, if established, resolve