comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace around the New Albany-Union County Airport.

Lists of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO MS E5 New Albany, MS [NEW]

New Albany-Union County Airport, MS
(lat. 34°32′55″ N., long. 89°01′27″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of New Albany-Union County Airport and within 4 miles each side of the 176° bearing from the airport extending from the 7.1-mile radius to 10.3 miles southeast of the airport.

Issued in College Park, Georgia, on December 14, 2007.

Mark D. Ward,

Manager, System Support Group, Eastern Service Center.

[FR Doc. 08–322 Filed 1–29–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF STATE

22 CFR Part 51

RIN 1400–AC28

[Public Notice: 6084]

Revisions to Passport Regulations; Correction

AGENCY: Department of State.

ACTION: Final rule; correction.

SUMMARY: This document contains correction to the revised Passport rule published in the **Federal Register** on November 19, 2007 [Public Notice 5991].

DATE: Effective on February 1, 2008.

FOR FURTHER INFORMATION CONTACT: Consuelo Pachon, Office of Legal Affairs and Law Enforcement Liaison, Bureau of Consular Affairs, 2100 Pennsylvania Avenue, NW., Suite 3000, Washington, DC, telephone number 202–663–2431.

Correction

The final rule published on November 19, 2007 (72 FR 64930) is corrected as follows:

■ 1. In the **SUPPLEMENTARY INFORMATION** section, on page 64930, in the third column, final paragraph, the first sentence is corrected by removing the words ''for first time passport applicants.'' The sentence as corrected reads ''The passport application process is designed to verify the citizenship and identity of the applicant.''

■ 2. On page 64932, 22 CFR 51.1(j) is corrected to read as follows:

''§ 51.1 Definitions.

* * * * *

(j) *United States* when used in a geographical sense means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and all other United States territories and possessions.

* * * * *

■ 3. On page 64936, 22 CFR 51.51(e) is corrected to place quotes around the term ''enhanced border security'' and reads as follows:

''§ 51.51 Passport fees.

* * * * *

(e) An ''enhanced border security'' surcharge on the filing of each application for a regular passport in an amount set administratively by the Department and published in the Schedule of Fees for Consular Services.

* * * * *

Dated: January 24, 2008.

Ann Barrett,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E8–1670 Filed 1–29–08; 8:45 am]

BILLING CODE 4710–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–0183; FRL–8514–5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Revisions to Emission Reduction Market System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In 1997, Illinois adopted and submitted rules establishing a cap and trade program regulating emissions of volatile organic compounds (VOC). The program, known as the Emission Reduction Market System (ERMS), was designed to address VOC sources in the Chicago area with potential to emit at least 25 tons per year. Then, in 2004, the Chicago ozone nonattainment area was in effect reclassified from severe to moderate, which according to EPA guidance revised the applicable definition of major sources from 25 tons per year to 100 tons per year. This ''reclassification'' could have resulted in the program no longer including sources with potential to emit more than 25 but less than 100 tons per year. Instead, Illinois adopted rule revisions, submitted to EPA on January 10, 2007, which required that these sources remain part of the program. Illinois' rule revisions also address other ramifications of the ''reclassification.'' EPA is approving these rule revisions.

DATES: This direct final rule will be effective March 31, 2008, unless EPA

receives adverse comments by February 29, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–0183, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email: mooney.john@epa.gov*.
3. *Fax:* (312) 886–5824.
4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2007–0183. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone John Summerhays, Environmental Scientist, at (312) 886–6067 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6067, *summerhays.john@epa.gov*.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. Description and Review of Illinois' Submittal

On January 10, 2007, Illinois submitted revisions to Part 205 of Title 35 of the Illinois Administrative Code, entitled ''Emissions Reduction Market System'' (ERMS). ERMS is a cap and trade program addressing VOC emissions in the Chicago area. Under ERMS, Illinois issues allowances equivalent to 12 percent less than baseline VOC emission levels, and requires affected sources to hold allowances equivalent to their VOC emissions during the ozone season. The program thereby requires overall VOC emission levels to be reduced to 12 percent below baseline levels. The original rules for this program were adopted on November 20, 1997, and were submitted by Bharat Mathur of the Illinois EPA on December 16, 1997. EPA approved those rules on October 15, 2001, at 66 FR 52359.

Part 205 requires participation of all major VOC sources in the Chicago area. More specifically, the 1997 version of Section 205.200 that Illinois adopted in 1997 stated that ''The requirements of this Part shall apply to any source * * * located in the Chicago ozone nonattainment area that is required to obtain a [Title V permit], and [has VOC emissions during the ozone season of at least 10 tons].'' The requirement for a Title V operating permit applies to major sources. Since the Chicago area at that time was classified as a severe ozone nonattainment area, major sources were defined to include sources with the potential to emit 25 tons per year or more of VOC.

In 2004, EPA classified the Chicago ozone nonattainment area as moderate for the 8-hour ozone standard, and effective in 2005 rescinded the severe classification for the 1-hour ozone standard. The definition of major sources for moderate ozone nonattainment areas includes sources with the potential to emit 100 tons per year or more of VOC. According to EPA guidance (see 69 FR 23951, April 30, 2004), the replacement of the prior classification of severe with a classification of moderate thus meant that sources with potential to emit at least 25 tons per year but less than 100 tons per year of VOC would no longer be required to have Title V operating permits. As a result, the sources in the Chicago area in this size range would no longer be subject to the ERMS requirements, given the applicability criteria in Section 205.200 as quoted above.

Illinois estimated that the loss of these intermediate sized sources from ERMS would result in a loss of 330 tons of VOC emission reduction per ozone season associated with these sources. Illinois sought to avoid this loss of sources from the program. Consequently, Illinois revised Section 205.200 to redefine applicability to include sources with potential to emit at least 25 tons of VOC (and sources otherwise required to have a Title V permit) and at least 10 tons of VOC emissions during the ozone season. By this means, Illinois revised its applicability provisions to include the same set of sources as were included in 1997, notwithstanding the change in the classification of the Chicago area.

Under the 1997 rules, Illinois established several elements of the ERMS program by means of Title V permits. Most notably, the source's Title V permit is used to specify the number of allowances to be issued to the source (Cf. Section 205.315) and the source-specific VOC monitoring methods (Cf.

Section 205.330). Since ERMS included sources which under EPA's guidance were not subject to a requirement for a Title V permit, the State needed an alternative means of specifying source-specific ERMS provisions.

Illinois therefore adopted Section 205.316, to provide that sources that are not required to obtain a Title V permit (i.e., under EPA's guidance, sources with potential emissions between 25 and 100 tons per year) shall either request a Title V permit anyway or apply for a federally enforceable state operating permit (FESOP). The FESOP is to specify the provisions (relating for example to the number of allowances allocated to the source and the source-specific monitoring requirements) that would otherwise be specified in the Title V permit.

Title V provides for defining some operations with trivial or no emissions as insignificant activities. The 1997 version of Section 205.220 of Illinois' rules exempts these activities from ERMS. The revised version of Section 205.220 extends this exemption to sources obtaining FESOPs. That is, the revised Section 205.220 provides that any activity meeting the criteria in Part 201 Subpart F of Title 35 of the Illinois Administrative Code for insignificant activities may be exempted from the ERMS program, whether the source is subject to a Title V permit or a FESOP.

In ozone nonattainment areas classified as severe, major new sources and existing sources undergoing major modifications must obtain 1.3 tons of offsets for every ton of new emissions. In ozone nonattainment areas classified as moderate, major new sources and existing sources undergoing major modifications need only obtain 1.1 tons of offsets for every ton of new emissions. New source review rules require that any change in offset ratio applies only prospectively, to sources permitted after the change in ratio, and that sources permitted before the change in ratio must continue to have offsets in at least the ratio that applied at the time the source was permitted.

Under Section 205.150 of the 1997 ERMS rules, major new sources and sources undergoing major modifications were required to obtain 1.3 allowances for every ton of new emissions. Illinois' revised rules provide for modified ratios as the applicable ratios change. Section 205.150(f)(1) of the revised rules states: ''If the nonattainment classification of the Chicago area for ozone is changed such that the required offset ratio is no longer 1.3 to 1 and a new offset ratio applies, as specified in 35 Ill. Adm. Code 203.302, that ratio shall then apply in lieu of the 1.3 to 1 ratio set forth in subsections (c)(2), (d)(1), and (e) of this Section. Such new ratio shall not apply to any part of a source or any modification already subject to the 1.3 to 1 ratio or other previously effective offset ratio established prior to the effective date of the new ratio.'' Section 205.150(f)(2) provides that the ratio becomes 1 to 1 if the Chicago area is redesignated to attainment.

These revisions address the ramifications of a revised classification according to EPA guidance as cited above. However, while Illinois was adopting these rule revisions, EPA's ozone implementation guidance was being challenged in court. On December 22, 2006, with clarification on June 8, 2007, the Court of Appeals for the District of Columbia Circuit ruled against elements of EPA's ozone implementation guidance, including the ''backsliding'' inherent in allowing an area originally classified as severe and subsequently classified as moderate to apply the less stringent major source definition for moderate areas. *South Coast Air Quality Management Dist.* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2006). As stated in a memorandum from Robert Meyers to EPA's Regional Administrators dated October 7, 2007, the effect of the court's ruling is to restore the applicability thresholds and offset ratios of the higher, 1-hour ozone classification. The court's decision also signifies that operating permits under Title V of the Clean Air Act also must be obtained according to major source thresholds as defined for the 1-hour ozone classification, e.g., for sources in the Chicago area with potential emissions of at least 25 tons per year. This decision would also restore the 1.3 to 1 offset ratio for new VOC sources in the Chicago area. The Meyers memorandum states further that EPA intends two rulemakings, the first to establish applicability thresholds and offset ratios in accordance with the court's ruling and the second to develop rules that would define the circumstances under which the provisions associated with 1-hour classifications might be terminated.

Fortunately, Illinois' rules achieve the intended effect notwithstanding these developments regarding applicable size thresholds and offset ratios. Section 205.200 provides that Part 205 requirements apply to sources with potential to emit at least 25 tons of VOC per year, without regard to whether the major source threshold is 25 or 100 tons per year. Resumption of a 25 ton per year definition of major source simply means that sources with potential emissions between 25 and 100 tons that were subject to ERMS in 1997 because they were major sources are again subject to ERMS because they are again major sources. Since any source with potential to emit more than 25 tons per year now by definition must obtain a Title V permit, it is a moot point whether the State provides a FESOP option for sources of that size that are not subject to the Title V permitting requirement. With respect to offsets, Section 205.150 simply applies required holding allowances for new sources in accordance with the applicable offset ratio. While the ratio for a time was interpreted to be 1.1 to 1, the court decision means that this ratio is reverting back to 1.3 to 1, and Section 205.150 provides that the ratio used for ERMS shall indeed revert back to 1.3 to 1. Thus, the Illinois rules accommodate the effects of the court's ruling, and the court's ruling does not alter the approvability of Illinois' Part 205 rules.

Illinois requested that EPA defer rulemaking on Section 205.150(e). This section provides that new sources providing offsets by holding trading program allowances in the proper ratio need not also provide offsets in their new source permit. Illinois made a similar request for deferral of EPA rulemaking on this section in conjunction with its 1997 submittal of ERMS rules. While a new source may use a shutdown for both purposes, purchasing the necessary allowances from a shutdown source and simultaneously using the shutdown in the new source permit to satisfy offset requirements, the deferral of rulemaking provides that the two requirements must be met independently.

Illinois made a corollary change, changing the term ''Chicago ozone nonattainment area'' to the term ''Chicago area.'' The term ''Chicago area'' is defined to mean the same area as the previous term ''Chicago ozone nonattainment area,'' but the revised term more clearly signifies that the program will remain in effect even if the Chicago area is redesignated as an attainment area.

In addition to the rules identified above, Illinois made conforming revisions to multiple other rules. These revisions generally replace the term ''Chicago nonattainment area'' with the term ''Chicago area'' or mention FESOPs as a possible vehicle for specifying source-specific provisions to implement the ERMS rules.

EPA finds these changes approvable. The change in the applicability provisions merely assures that the original program applicability criteria continue to apply, notwithstanding any change in the classification or designation of the area. The requirement

for sources with potential emissions between 25 and 100 tons per year to obtain FESOPs is a reasonable means of implementing the ERMS requirements at any time when these sources are not required to obtain a Title V permit. Illinois' provision for offset ratios, wherein new source emissions are offset at the ratio that reflects the offset ratio that is mandated at the time the permit authorizing the new source emissions is issued, properly matches offset requirements. The use of the term ''Chicago area'' also properly clarifies that the program continues even if the area is redesignated to attainment.

II. What action is EPA taking?

EPA is approving Illinois' revisions to the ERMS program, except that EPA is deferring action on Section 205.150(e). EPA is publishing this action without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective March 31, 2008 without further notice unless EPA receives relevant adverse written comments by February 29, 2008. If EPA receives such comments, EPA will withdraw this action 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 the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If EPA does not receive any comments, this action will be effective March 31, 2008.

Illinois did not change every rule in part 205. The State submitted only those rules that it changed. Thus, the revised rules being approved here must be viewed in conjunction with the unrevised rules approved at 40 CFR 52.720(c)(158).

III. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal Standard.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 March 31, 2008. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 18, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of 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 et seq.

Subpart O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(180) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(180) On January 10, 2007, Illinois submitted revisions to its rules for the Emission Reduction Market System. These revisions assure that sources in the Chicago area with potential emissions of VOC between 25 and 100 tons per year will remain subject to the program, irrespective of changes in the area's ozone nonattainment classification or designation and any associated changes in whether such sources are defined to be major sources. EPA is again deferring action on section 205.150(e).

(i) *Incorporation by reference.*

(A) The following sections of 35 Illinois Administrative Code Part 205, as effective June 13, 2005: sections 205.120, 205.130, 205.150 (except for 205.150(e)), 205.200, 205.205, 205.210, 205.220, 205.300, 205.310, 205.315, 205.316, 205.318, 205.320, 205.330, 205.335, 205.337, 205.400, 205.405, 205.410, 205.500, 205.510, 205.610, 205.700, 205.730, 205.750, and 205.760.

[FR Doc. E8–806 Filed 1–29–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0145; FRL–8347–3]

Boscalid; Denial of Objections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final order.

SUMMARY: In this order, EPA denies objections filed by the Natural Resources Defense Council (''NRDC'') to a final rule under section 408 of the Federal Food, Drug, and Cosmetic Act (''FFDCA''), (21 U.S.C. 346a), establishing tolerances for the pesticide boscalid on various leafy greens. NRDC argues that EPA has unlawfully removed the additional safety factor for the protection of infants and children required by Food Quality Protection Act of 1996.

FOR FURTHER INFORMATION CONTACT: Tony Kish, Registration Division, (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–308–9443; e-mail address: *kish.tony@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities that are potentially affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. How Can I Access Electronic Copies of Materials in the Docket?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0145. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents.

II. Introduction

A. What Action Is the Agency Taking?

In this order, EPA denies objections filed by the Natural Resources Defense Council (''NRDC'') to a final rule under section 408 of the Federal Food, Drug, and Cosmetic Act (''FFDCA''), (21 U.S.C. 346a), establishing tolerances for the pesticide boscalid on various leafy greens. (Ref. 1). NRDC argues that EPA must retain an additional ten-fold (10X) safety factor for the protection of infants and children due to data showing that juvenile animals are more sensitive than adults. Retention of this additional safety factor, NRDC contends, shows that the tolerances are unsafe. Additionally, NRDC contends that EPA's tolerance decision was arbitrary and capricious because (1) EPA failed to explain adequately its reason for not applying a 10X safety factor for infants and children and (2) the safe dose for boscalid established by EPA is ''clearly contrary to the data . . . .'' (Id. at 3-4, 7–8).

B. What Is the Agency's Authority for Taking This Action?

The procedure for filing objections to tolerance actions and EPA's authority