

US EPA ARCHIVE DOCUMENT

All sanctions and sanction clocks, which were triggered as a result of the disapproval action on March 29, 2001 (66 FR 17078), continue to be stayed as a result of the interim final determination published on October 7, 2002 (67 FR 62388). The sanctions and sanction clocks will be permanently terminated on the effective date of this final rule approval.

V. Statutory and Executive Order Reviews

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. For this reason, 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). 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.). 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).

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 (65 FR 67249, November 9, 2000). 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. 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.

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. 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.).

The Congressional Review Act, 5 U.S.C. section 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. section 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 *June 2, 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,

Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: February 15, 2008.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ 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 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(353) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(353) New and amended regulations were submitted on August 12, 2002, by the Governor’s designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(1) Rule 9–10, Inorganic Gaseous Pollutants: Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators, and Process Heaters in Petroleum Refineries, adopted on July 17, 2002.

[FR Doc. E8–6643 Filed 4–1–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2008–0006; FRL–8550–1]

RIN 2060–AO83

Final 8-Hour Ozone National Ambient Air Quality Standards Designations for the Early Action Compact Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is designating 13 Early Action Compact (EAC) Areas as attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The EAC areas agreed to reduce ground-level ozone pollution earlier than the Clean Air Act (CAA) required and to demonstrate attainment with the 8-hour ozone NAAQS by December 31, 2007. The States in which these 13 areas are located have submitted quality-assured data indicating that the areas are in

attainment for the 8-hour ozone NAAQS based on ambient air monitoring data from 2005, 2006 and 2007. In addition, consistent with EPA's implementing regulations, the 1-hour ozone NAAQS will no longer apply in each of these areas one year after the effective date of the designation. We are modifying the 8-hour ozone NAAQS tables in the regulations to reflect the attainment designation for the 13 EAC areas and the 1-hour ozone NAAQS tables in the regulations to reflect that the 1-hour standard will no longer apply in these areas as of April 15, 2009. Additionally, we are modifying the 8-hour and 1-hour ozone NAAQS tables in the regulations to reflect the nonattainment designation for the Denver EAC area, which became effective November 20, 2007 and to reflect that the 1-hour standard will no longer apply in that area as of November 20, 2008.

DATES: This rule is effective April 15, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2008-0006. All documents in the docket are listed on the www.regulations.gov Web site. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Docket, EPA/DC, EPA West Building, EPA Headquarters Library, Room 3334, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room Hours of operation will be 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Office of Air and Radiation Docket is (202) 566-1742. The Air and Radiation Docket Information Center's e-mail address is a-and-r-Docket@epa.gov, and Web address is: <http://www.epa.gov/oar/doCKET.html>. In addition, we have placed a copy of the rule and a variety of materials relevant to EAC areas on EPA's Web site at <http://www.epa.gov/ttn/naaqs/ozone/eac/>.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Driscoll, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-04, Research Triangle Park, NC 27711, phone number (919) 541-

1051 or by e-mail at: driscoll.barbara@epa.gov or Mr. David Cole, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C304-05, Research Triangle Park, NC 27711, phone number (919) 541-5565 or by e-mail at: cole.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This final action applies to the 13 EAC areas identified in section V, Table 1, below that have deferred designations for the 8-hour ozone NAAQS until April 15, 2008. Additionally, EPA is taking the ministerial action of revising the CFR to reflect the effective date of the nonattainment designation for the Denver EAC area, which was designated nonattainment on November 20, 2007, and to reflect that the 1-hour ozone standard will no longer apply in the Denver area as of November 20, 2008.

B. How Is This Document Organized?

The information presented in this preamble is organized as follows:

Outline

- I. General Information
 - A. Does This Action Apply to Me?
 - B. How Is This Document Organized?
- II. What is the Purpose of This Document?
- III. What Action Has EPA Taken to Date for Early Action Compact Areas?
- IV. What Comments Did EPA Receive on the February 6, 2008 Proposal To Designate These 13 Early Action Compact Areas in Attainment With the 8-Hour Ozone NAAQS?
- V. What Is the Final Action for the 13 Early Action Compact Areas?
- VI. Why Is EPA Revoking the 1-Hour Ozone Standard?
- VII. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
 - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer Advancement Act
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act
 - L. Petitions for Judicial Review

II. What Is the Purpose of This Document?

The purpose of this document is to designate 13 EAC areas as attainment for the 8-hour ozone NAAQS, as they have met all the milestones of the EAC program and demonstrated that they were in attainment with the 8-hour ozone NAAQS by December 31, 2007. This final action also takes the ministerial action of revising Section 81.306 to reflect the 8-hour ozone nonattainment designation for the Denver EAC area, which became effective November 20, 2007. Additionally, it revises the 1-hour ozone NAAQS tables for the 13 EAC areas and the Denver area to reflect that the 1-hour ozone standard no longer applies one year after the effective date of designation for each area. The 1-hour standard was revoked, effective June 15, 2005 for all other areas of the country except the 14 EAC areas that were designated nonattainment with a deferred effective date.

III. What Action has EPA Taken to Date for Early Action Compact Areas?

There are 13 EAC areas that had the effective date of their 8-hour ozone designations deferred until April 15, 2008 (71 FR 69022).¹ Fifteen other areas that are participating in the program were designated attainment in April 2004, with an effective date of June 15, 2004. These areas have remained in the program in order to continue improving their local air quality. For one EAC area, the Denver EAC area, the nonattainment designation for the 8-hour ozone NAAQS became effective November 20, 2007, consistent with the terms of a settlement agreement reached in litigation challenging our actions with respect to the Denver EAC area. *Rocky Mountain Clean Air Action v. EPA* (D.C. Cir. No. 07-1012). For discussions on EPA's actions to date with respect to deferring the effective date of nonattainment designations for certain areas of the country that are participating in the EAC program and Denver specifically please refer to the **Federal Register** dated June 28, 2007 (72 FR 35356) and September 21, 2007 (72 FR 53952). In addition, EPA's April 30, 2004, air quality designation rule (69 FR 23858) provides a description of the compact area approach, the requirements for areas participating in

¹ As noted previously, we also initially deferred the nonattainment designation for the Denver EAC area, but the nonattainment designation for the Denver EAC area became effective November 20, 2007.

the compact and the impacts of the compact on those areas.

You may find copies of all State reports at <http://www.epa.gov/ttn/naaqs/ozone/eac/>.

IV. What Comments did EPA receive on the February 6, 2008 proposal to designate these 13 Early Action Compact Areas in attainment with the 8-hour Ozone NAAQS?

We received three comments on the proposed rule to designate these 13 EAC areas in attainment with the 8-hour ozone standard effective April 15, 2008. We have responded to the comments in this section.

Comments: Two commenters expressed support for the compact process, the goal of clean air sooner, the incentives and flexibility the program provides for encouraging early reductions of ozone-forming pollution, and the deferred effective date of nonattainment designation. However, one commenter opposed the EAC program indicating the program conflicts with existing obligations under the Clean Air Act and may create the potential for downwind areas to be adversely affected by the emissions growth in EAC areas in the future. This commenter expressed concern about various legal aspects of the program, primarily the deferral of the effective date of the nonattainment designation

for these areas. The commenter indicated that EPA lacks authority under the CAA to defer the effective date of a nonattainment designation. In addition, the commenter stated that EPA lacks authority to enter into EACs with areas and lacks authority to allow areas to be relieved of obligations under title I, part D of the CAA while these areas are violating the 8-hour ozone standard or are designated nonattainment for that standard.

Response: The compact program, as designed, gives local areas the flexibility to develop their own approach to meeting the 8-hour ozone standard. The participating communities are serious in their commitment and have demonstrated attainment with the 8-hour ozone standard sooner than was required under the CAA by implementing State and local measures for controlling emissions from local sources earlier than the CAA would otherwise require. By involving diverse stakeholders, including representatives from industry, local and State governments, and local environmental and citizens groups, a number of these communities have, for the first time, cooperated on a regional basis to solve environmental problems that affect the health and welfare of their citizens. People living in these areas realized reductions in pollution levels sooner and are enjoying the health benefits of

cleaner air sooner than might otherwise occur. We incorporate our responses to similar comments from our final rules dated April 30, 2004 (69 FR 23858) and August 29, 2005 (70 FR 50988) respectively.

V. What is the Final Action for the 13 Early Action Compact Areas?

The 13 EAC areas with deferred nonattainment designations for the 8-hour NAAQS, had to meet one final milestone which was to demonstrate attainment with the 8-hour ozone NAAQS by December 31, 2007. Each of these EAC areas met all of the earlier milestones of the EAC program and the States in which the areas are located have now submitted quality-assured data demonstrating that the areas attained the 8-hour ozone NAAQS based on air quality data from 2005, 2006 and 2007. Therefore, EPA is designating these 13 areas as attainment for the 8-hour ozone standard effective April 15, 2008. Because this action will relieve a restriction by finalizing the designations for these areas, the requirement of section 553(d) of the Administrative Procedure Act that a rule not take effect earlier than 30 days following publication does not apply. Table 1 provides the 8-hour ozone design values for each of the 13 EAC areas based on the 2005–2007 air quality data.

TABLE 1.—8-HOUR OZONE DESIGN VALUES FOR COMPACT AREAS TO BE DESIGNATED ATTAINMENT FOR 8-HOUR OZONE NAAQS EFFECTIVE APRIL 15, 2008

(NOTE: Name of designated 8-hour ozone area is in parentheses)

State	Compact area (designated area),	Counties designated attainment effective April 15, 2008	8-Hour ozone design value (parts per million)
EPA Region 3			
VA	Northern Shenandoah Valley Region (Frederick County, VA), adjacent to Washington, DC—MD—VA.	Winchester City	0.073
VA	Roanoke Area (Roanoke, VA)	Frederick County Roanoke County	0.076
		Botetourt County Roanoke City Salem City	
MD	Washington County (Washington County (Hagerstown, MD), adjacent to Washington, DC—MD—VA.	Washington County	0.079
WV	The Eastern Pan Handle Region (Berkeley & Jefferson Counties, WV), Martinsburg area.	Berkeley County	0.075
		Jefferson County	
EPA Region 4			
NC	Unifour (Hickory-Morganton-Lenoir, NC)	Catawba County	0.078
		Alexander County Burke County (part) Caldwell County (part)	

TABLE 1.—8-HOUR OZONE DESIGN VALUES FOR COMPACT AREAS TO BE DESIGNATED ATTAINMENT FOR 8-HOUR OZONE NAAQS EFFECTIVE APRIL 15, 2008—Continued

(NOTE: Name of designated 8-hour ozone area is in parentheses)

State	Compact area (designated area),	Counties designated attainment effective April 15, 2008	8-Hour ozone design value (parts per million)
NC	Triad (Greensboro-Winston-Salem-High Point, NC)	Randolph County	0.083
		Forsyth County	
		Davie County	
		Alamance County	
		Caswell County	
		Davidson County	
		Guilford County	
		Rockingham County	
NC	Cumberland County (Fayetteville, NC)	Cumberland County	0.082
SC	Appalachian (Greenville-Spartanburg-Anderson, SC)	Spartanburg County	0.083
		Greenville County	
		Anderson County	
SC	Central Midlands Columbia area	Richland County (part)	0.082
		Lexington County (part)	
TN/GA	Chattanooga (Chattanooga, TN-GA)	Hamilton County, TN	0.084
		Meigs County, TN	
		Catoosa County, GA	
TN	Nashville (Nashville, TN)	Davidson County	0.084
		Rutherford County	
		Williamson County	
		Wilson County	
		Sumner County	
TN	Johnson City-Kingsport-Bristol Area (TN portion only)	Sullivan County, TN	0.083
		Hawkins County, TN	
EPA Region 6			
TX	San Antonio	Bexar County	0.082
		Comal County	
		Guadalupe County	

VI. Why Is EPA Revoking the 1-hour Ozone Standard?

The regulatory text for the 1-hour ozone standard provides that the 1-hour ozone standard “will no longer apply to an area one year after the effective date of the designation of that area for the 8-hour ozone NAAQS pursuant to section 107 of the Clean Air Act.” 40 CFR 50.9(b). In accordance with this regulation, the 1-hour ozone NAAQS will no longer apply in the 13 EAC areas effective April 15, 2009. Because the 8-hour ozone nonattainment designation for the Denver EAC became effective November 20, 2007, the 1-hour ozone NAAQS will no longer apply in the Denver EAC area effective November 20, 2008. We are revising the 1-hour ozone NAAQS tables in Part 81 to reflect the date on which the 1-hour ozone standard will no longer apply for these areas.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of

Executive Order 12866 (58 FR 51735; October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.39b). This final rule does not require the collection of any information.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an Agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business

that is a small industrial entity as defined in the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules

with “Federal mandates” that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Thus, this final rulemaking is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because this rule does not contain Federal mandates.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the E.O. to include regulations that 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.”

This final rule does not have federalism implications. It will 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. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This final rule would not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have “Tribal implications” as specified in Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time or has participated in a compact. Thus Executive Order 13175 does not apply to this rule.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This final rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355; May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This final rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629; Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety.

K. 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. The 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). This rule will be effective April 15, 2008.

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by June 2, 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 must 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* CAA Section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7408; 42 U.S.C. 7410; 42 U.S.C. 7501–7511f; 42 U.S.C. 7601(a)(1).

Dated: March 27, 2008.

Stephen L. Johnson,
Administrator.

■ For the reason set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

Subpart C—[Amended]

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■ 2. Section 81.306 is amended as follows:

■ a. In the table entitled “Colorado-Ozone (1-Hour Standard)”⁴ by revising footnote 4.

■ b. In the table entitled “Colorado-Ozone (8-Hour Standard)” by revising footnote 2.

§ 81.306 Colorado.

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Colorado-Ozone (1-Hour Standard)⁴

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⁴ The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Colorado except the Denver (Denver-Boulder-

Greeley-Ft. Collins-Love) area where it is revoked effective November 20, 2008.

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Colorado-Ozone (8-Hour Standard)

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² Effective November 20, 2007.

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■ 3. Section 81.311 is amended as follows:

■ a. In the table entitled “Georgia-Ozone (1-Hour Standard)”² by revising footnote 2.

■ b. In the table entitled “Georgia-Ozone (8-Hour Standard)” by:

■ i. Revising footnote 2.

■ ii. Under “Chattanooga, TN–GA” by revising the entry for “Catoosa County”.

§ 81.311 Georgia.

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Georgia-Ozone (1-Hour Standard)²

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² The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Georgia, except the Chattanooga (Catoosa County) area where it is revoked effective April 15, 2009.

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GEORGIA-OZONE **[8–Hour Standard]**

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
* * *	* * *	* * *	* * *	* * *
Chattanooga, TN–GA: Catoosa County	(2)	Attainment.		
* * *	* * *	* * *	* * *	* * *

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² Effective April 15, 2008.

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■ 4. Section 81.321 is amended as follows:

■ a. In the table entitled “Maryland-Ozone (1-Hour Standard)”² by revising footnote 2.

■ b. In the table entitled “Maryland-Ozone (8-Hour Standard)” by:

■ i. Revising footnote 2.

■ ii. Under “Washington County (Hagerstown), MD” by revising the entry for “Washington County”.

§ 81.321 Maryland.

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Maryland-Ozone (1-Hour Standard)²

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² The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Maryland except the Washington Co. area where it is revoked effective April 15, 2009.

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MARYLAND-OZONE
[8-Hour Standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
* * *	*	*	*	*
Washington County (Hagerstown), MD:				
Washington County	(2)	Attainment.		
* * *	*	*	*	*

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²Effective April 15, 2008.

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- 5. Section 81.334 is amended as follows:
- a. In the table entitled “North Carolina-Ozone (1-Hour Standard) ²” by revising footnote 2.
- b. In the table entitled “North Carolina-Ozone (8-Hour Standard)” by:
- i. Revising footnote 2.
- ii. Under “Fayetteville, NC” by revising the entry for “Cumberland

County”; under “Greensboro-Winston-Salem-High Point, NC” by revising the entries for “Alamance County”, “Caswell County”, “Davidson County”, “Davie County”, “Forsyth County”, “Guilford County”, “Randolph County”, and “Rockingham County”; under “Hickory-Morganton-Lenoir, NC” by revising the entries for “Alexander County”, “Burke County (part)”, and “Caldwell County (part)”, and “Catawba County”.

§ 81.334 North Carolina.

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North Carolina-Ozone (1-Hour Standard) ²

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² The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in North Carolina except the Cumberland Co. (Fayetteville), Triad (Greensboro-Winston-Salem-High Point), and Unifour (Hickory-Morgantown-Lenoir areas where it is revoked effective April 15, 2009.

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NORTH CAROLINA-OZONE
[8-Hour Standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
* * *	*	*	*	*
Fayetteville, NC:				
Cumberland County	(2)	Attainment.		
Greensboro-Winston-Salem-High Point, NC:				
Alamance County	(2)	Attainment.		
Caswell County	(2)	Attainment.		
Davidson County	(2)	Attainment.		
Davie County	(2)	Attainment.		
Forsyth County	(2)	Attainment.		
Guilford County	(2)	Attainment.		
Randolph County	(2)	Attainment.		
Rockingham County	(2)	Attainment.		
* * *	*	*	*	*
Hickory-Morganton-Lenoir, NC:				
Alexander County	(2)	Attainment.		
Burke County (part) Unifour Metropolitan Planning Organization Boundary.	(2)	Attainment.		
Caldwell County (part) Unifour Metropolitan Planning Organization Boundary.	(2)	Attainment.		
Catawba County	(2)	Attainment.		
* * *	*	*	*	*

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²Effective April 15, 2008.

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- 6. Section 81.341 is amended as follows:

- a. In the table entitled “South Carolina-Ozone (1-Hour Standard) ²” by revising footnote 2.
- b. In the table entitled “South Carolina-Ozone (8-Hour Standard)” by:

- i. Revising footnote 2.
- ii. Under “Columbia, SC” by revising the entries for “Lexington County (part) Portion along MPO lines”, “Richland County (part) Portion along MPO lines”;

under “Greenville-Spartanburg-Anderson, SC” by revising the entries for “Anderson County”, “Greenville County”, and “Spartanburg County”.

§ 81.341 South Carolina.

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South Carolina-Ozone (1-Hour Standard)²

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² The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in South Carolina except the Central Midlands-I (Columbia) and Appalachian-A (Greenville-Spartanburg-Anderson) areas where it is revoked effective April 15, 2009.

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SOUTH CAROLINA-OZONE
[8-Hour Standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Columbia, SC:				
Lexington County (part) Portion along MPO lines.	(2)	Attainment.		
Richland County (part) Portion along MPO lines.	(2)			
Greenville-Spartanburg-Anderson, SC:				
Anderson County	(2)	Attainment.		
Greenville County	(2)	Attainment.		
Spartanburg County	(2)	Attainment.		
* * * * *				

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² Effective April 15, 2008.

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- 7. Section 81.343 is amended as follows:
- a. In the table entitled “Tennessee-Ozone (1-Hour Standard)²” by revising footnote 2.
- b. In the table entitled “Tennessee-Ozone (8-Hour Standard)” by:
- i. Revising footnote 2.

- ii. Under “Chattanooga, TN-GA” by revising the entries under “Hamilton County” and “Meigs County”; under “Johnson City-Kingsport-Bristol, TN” by revising entries for “Hawkins County” and “Sullivan County”; and under “Nashville, TN” by revising the entries for “Davidson County”, “Rutherford County”, “Sumner County”, “Williamson County”, and “Wilson County”.

§ 81.343 Tennessee.

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Tennessee-Ozone (1-Hour Standard)²

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² The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Tennessee except the Chattanooga, Johnson City-Kingsport-Bristol, and Nashville areas where it is revoked effective April 15, 2009.

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TENNESSEE-OZONE
[8-Hour Standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Chattanooga, TN-GA:				
Hamilton County	(2)	Attainment.		
Meigs County	(2)	Attainment.		
* * * * *				
Johnson City-Kingsport-Bristol, TN:				
Hawkins County	(2)	Attainment.		
Sullivan County	(2)	Attainment.		
* * * * *				
Nashville, TN:				
Davidson County	(2)	Attainment.		
Rutherford County	(2)	Attainment.		
Sumner County	(2)	Attainment.		
Williamson County	(2)	Attainment.		
Wilson County	(2)	Attainment.		
* * * * *				

² Effective April 15, 2008.

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- 8. Section 81.344 is amended as follows:

- a. In the table entitled “Texas-Ozone (1-Hour Standard)²” by revising footnote 2.

- b. In the table entitled “Texas-Ozone (8-Hour Standard)” by:
- i. Revising footnote 2.
- ii. Under “San Antonio, TX” by revising the entries “Bexar County”, “Comal County”, and “Guadalupe County”.

§ 81.344 Texas.

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Texas-Ozone (1-Hour Standard) ²

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² The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Texas

except the San Antonio area where it is revoked effective April 15, 2009.

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TEXAS-OZONE
[8-Hour Standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
* * *	*	*	*	*
San Antonio, TX:	(2)			
Bexar County	(2)	Attainment.		
Comal County	(2)	Attainment.		
Guadalupe County	(2)	Attainment.		
* * *	*	*	*	*

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² Effective April 15, 2008.

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- 9. Section 81.347 is amended as follows:

- a. In the table entitled “Virginia-Ozone (1-Hour Standard) ³” by revising footnote 3.

- b. In the table entitled “Virginia-Ozone (8-Hour Standard)” by:

- i. Revising footnote 2.

- ii. Under “Frederick Col, VA” by revising the entries for “Frederick County” and “Winchester City”, and under “Roanoke, VA” by revising the entries for “Botetourt County”, “Roanoke City”, “Roanoke County” and “Salem City”.

§ 81.347 Virginia.

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Virginia-Ozone (1-Hour Standard) ³

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³ The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Virginia except Northern Shenandoah Valley Region (Winchester City and Frederick County) and Roanoke area where it is revoked effective April 15, 2009.

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VIRGINIA-OZONE
[8-Hour Standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Frederick Co., VA:				
Frederick County	(2)	Attainment.		
Winchester City	(2)	Attainment.		
* * *	*	*	*	*
Roanoke, VA:				
Botetourt County	(2)	Attainment.		
Roanoke City	(2)	Attainment.		
Roanoke County	(2)	Attainment.		
Salem City	(2)	Attainment.		
* * *	*	*	*	*

* * * * *

² Effective April 15, 2008.

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- 10. Section 81.349 is amended as follows:

- a. In the table entitled “West Virginia—Ozone (1-Hour Standard) ²” by revising footnote 2.

- b. In the table entitled “West Virginia—Ozone (8-Hour Standard)” by:

- i. Revising footnote 2.

- ii. Under “Berkeley & Jefferson Cos, WV” by revising the entries for “Berkeley County” and “Jefferson County”.

§ 81.349 West Virginia.

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West Virginia-Ozone (1-Hour Standard) ²

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² The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in West Virginia except the Eastern Pan Handle Region (Berkeley and Jefferson Counties) where it is revoked effective April 15, 2009.

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WEST VIRGINIA-OZONE
[8-Hour Standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Berkeley & Jefferson Cos. WV:				
Berkeley County	(2)	Attainment.		
Jefferson County	(2)	Attainment.		
* *	*	*	*	*

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²Effective April 15, 2008.

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[FR Doc. E8-6825 Filed 4-1-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2006-0678; FRL-8356-6]

Acequinocyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of acequinocyl and its metabolite, 2-dodecyl-3-hydroxy-1, 4-naphthoquinone (acequinocyl-OH) expressed as acequinocyl equivalents in or on nut, tree, group 14 and grape and removes the separate tolerances established for almond. Arysta LifeScience North America Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective April 2, 2008. Objections and requests for hearings must be received on or before June 2, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2006-0678. 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 website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in the regulations.gov. Although listed in the

index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Marilyn Mautz, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6785; e-mail address: mautz.marilyn@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 those engaged in the following activities:

- 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 to provide a guide for readers regarding entities likely to be 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 EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2006-0678 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before June 2, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk