the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 8, 1999. 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, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 18, 1998.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 99–13 Filed 1–5–99; 8:45 am]

BILLING CODE 6560–50–W

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL178–1a, I1179–1a; FRL–6216–2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving two negative declarations submitted by the State of Illinois. The first indicates there is no need for regulations covering the industrial wastewater category in the Metro-East St. Louis (Metro-East) ozone nonattainment area. The Metro-East ozone nonattainment area includes Madison, Monroe and St. Clair Counties which are located in southwest Illinois, adjacent to St. Louis, Missouri. The second negative declaration indicates there is no need for regulations covering the industrial cleaning solvents category in the Metro-East ozone nonattainment area. The State's negative declarations regarding industrial wastewater category sources and industrial cleaning solvent sources were submitted to USEPA in two letters dated October 2, 1998. In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of, and soliciting comments on, the approval of these two negative declarations. If adverse written comments are received on this action, the USEPA will withdraw this final rule based and address the comments received in response to this action in a final rule based on the related proposed rule. A second public comment period will not be provided. Parties interested in commenting on this action should do so at this time.

DATES: This rule is effective on March 8, 1999, unless USEPA receives adverse written comments by February 5, 1999. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the negative declarations are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886–6036 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION:

I. Background-Emission Control Requirements

Under the Clean Air Act (Act), as amended in 1977, ozone nonattainment areas were required to adopt emission controls reflective of reasonably available control technology (RACT) for sources of volatile organic compound (VOC) emissions. USEPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. USEPA determined that an area's State Implementation Plan (SIP) approved attainment date established which RACT rules the area needed to adopt and implement. In those areas where the State sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987, RACT was required for all CTG sources and for all major (100 tons per year or more of VOC emissions under the pre-amended Act) non-CTG sources. Illinois sought and received such an extension for the Metro-East area.

Section 182(b)(2) of the Act as amended in 1990 requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT ''catch-up'' requirements.

Section 183 of the amended Act requires USEPA to issue CTGs for 13 source categories by November 15, 1993. A CTG was published by this date for the following source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operation, shipbuilding and ship repair coating operations, and wood furniture coating operation; however, the CTGs for the remaining source categories have not been completed. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document.

The USEPA created a CTG document as Appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.* (57 FR 18070, 18077, April 28, 1992). In Appendix E, USEPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs USEPA expected to issue to meet the requirement in section 183. Appendix E states that if USEPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule for those sources by November 15, 1994. In accordance with section 182(b)(2), implementation of that RACT rule should occur by May 31, 1995.

II. The Negative Declarations and Their Justification

The USEPA does not require States to develop plans or regulations to control emissions from sources which are not present in the planning area. If it is thought that this might be the case, the State carefully examines its emissions inventory before initiating the planning and regulation development process. If a careful examination of the emissions inventory finds no sources, then the State prepares and submits to USEPA, a negative declaration stating that there are no sources in the planning area which would be subject to the required rule rather than a control plan for sources in a particular category.

On October 2, 1998, the State of Illinois submitted to USEPA a negative declaration regarding the need for regulations covering the industrial wastewater category in the Metro-East Area. The State indicated that in making this determination, the Illinois Environmental Protection Agency (Illinois EPA) conducted a search of its 1996 Metro-East inventory for any major source potentially subject to USEPA's draft Control Techniques Guideline (CTG) document for the ''Control of Volatile Organic Material Emissions from Industrial Wastewater'' [EPA–453/D–93–056, September 1992]. The Illinois EPA found only one major source, industrial wastewater from Shell Oil Refinery (Shell) in Wood River with a potential to emit more than 100 tons per year from this draft CTG category.

Portions of Shell's wastewater operation emissions are subject to the Federal rule covering benzene waste operations applicable to petroleum refineries, the Benzene National Emissions Standards for Hazardous Air Pollutants (Benzene NESHAP) which was promulgated on January 7, 1993 (58 FR 3072) and codified at 40 CFR part 61, subpart FF. Other wastewater operation emissions are subject to the petroleum refinery NESHAP which was promulgated on August 18, 1995 (60 FR 43244) and codified at 40 CFR part 61, subpart CC. All new sources added to Shell's wastewater collection and treatment system will be subject to the new source performance standards for petroleum refineries which were promulgated on November 23, 1985 (53 FR 47623) and codified at 40 CFR part 60, subpart QQQ.

The Illinois EPA stated in its October 2, 1998, negative declaration submittal that Shell Oil was in compliance with the above listed requirements. They noted that this was affirmed in a consent agreement reached among the company, Illinois EPA, and USEPA which was issued by the United States District Court in Civil Action No. 97–539–GPM and became effective on September 25, 1997. The Illinois EPA also noted that Shell Oil's current operating permit for the wastewater collection and treatment system contains permit conditions which compel Shell Oil to meet the various requirements of the previously discussed Federal regulations.

For these reasons, Illinois EPA believes that volatile organic material (VOM) [1] emissions from Shell Oil, the only major source as defined by the draft CTG for the industrial wastewater category in the Metro-East ozone non-attainment area, are adequately regulated. No further industrial wastewater source emissions controls are contemplated by Illinois EPA.

On October 2, 1998, Illinois also submitted a second negative declaration which addressed the need for regulations covering the use of industrial cleaning solvents in the Metro-East area. The State indicated that in making this determination, the Illinois EPA conducted a search of its 1996 Metro-East inventory for any major source subject to USEPA's 1994 Alternative Control Techniques (ACT) for Industrial Cleaning Solvents. This inventory is a combination of all permitted sources and emissions estimates for the units therein. Any source that would emit 100 Tons Per Year (TPY) of industrial cleaning solvent would be required to have an operating period and would appear in this data base.

Illinois' search of its inventory identified five industrial cleaning solvent sources in the Metro-East ozone nonattainment area, four of which are below 3 TPY. The fifth source was in excess of 100 TPY, however it is already subject to Illinois' cold cleaning RACT rule, 35 IAC 219.182.

It should be noted that Illinois' rules for the Metro-East ozone non-attainment area already contain provisions for the regulation of cleaning solvents used in cold cleaning/degreasing, conveyorized degreasing, vapor degreasing, cleaning solutions on lithographic printing lines and cleaning solvents for wood furniture coating operations. It should be noted that the industrial cleaning solvent category is not specifically exempted from coverage under Illinois' ''generic'' rules. Any industrial cleaning solvent operation in the Metro-East ozone nonattainment area that did have maximum theoretical emissions of 100 TPY or greater and was not otherwise regulated by 35 IAC Part 219 would be regulated by the ''generic'' rules.

[1] The USEPA generally uses the term ''Volatile Organic Compounds (VOC)'' to refer to the hydrocarbon compounds that participate in the chemical formation of ozone in the lower Troposphere. The State of Illinois uses the term ''Volatile Organic Material (VOM)'' to refer to the same hydrocarbon compounds. The definition of VOM is identical to the definition of VOC. The two terms can be used interchangeably.

III. USEPA Review of the Negative Declarations

USEPA has examined the State's negative declarations regarding the lack of need for regulations controlling emissions from industrial wastewater or industrial cleaning solvent sources located in the Metro-East ozone nonattainment areas. The supporting evidence provided by the State was also examined. Based on these examinations, USEPA agrees there are no industrial wastewater or industrial cleaning solvent sources in the Metro-East ozone nonattainment area which would require the adoption of rules to control these two categories of sources.

USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve the State Plan should adverse written comments be filed. This action will be effective without further notice unless USEPA receives relevant adverse written comment by February 5, 1999. Should USEPA receive such comments, it will publish a timely withdrawal informing the public that this action will not take effect. 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 on March 8, 1999.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, USEPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, USEPA must provide to the Office of Management and Budget a description of the extent of USEPA's

prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires USEPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that USEPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, USEPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, USEPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of USEPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires USEPA to develop an effective process permitting elected officials and other representatives of tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

USEPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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. USEPA 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 rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. 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 appropriate circuit by March 8, 1999. 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, Administrative practice and procedure, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 21, 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, 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 O—Illinois

2. Section 52.726 is amended by adding paragraphs (u) and (v) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(u) Negative declaration—Industrial wastewater category. On October 2, 1998, the State of Illinois certified to the satisfaction of the United States Environmental Protection Agency that no major sources categorized as part of the Industrial wastewater category are located in the Metro-East ozone nonattainment area (Metro-East). The Metro-East area is comprised of Madison, Monroe and St. Clair Counties which are located in southwest Illinois, adjacent to St. Louis, Missouri.

(v) Negative declaration—Industrial cleaning solvents category. On October 2, 1998, the State of Illinois certified to the satisfaction of the United States Environmental Protection Agency that no major sources categorized as part of the Industrial cleaning solvents category are located in the Metro-East ozone nonattainment area (Metro-East). The Metro-East area is comprised of Madison, Monroe and St. Clair Counties which are located in southwest Illinois, adjacent to St. Louis, Missouri.

[FR Doc. 99–227 Filed 1–5–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300767; FRL–6049–2]

RIN 2070–AB78

Dicamba (3,6-dichloro-o-anisic acid); Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes, revises and revokes tolerances for combined residues of Dicamba in or on various raw agricultural commodities. BASF Corporation requested this tolerance under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170).

DATES: This regulation is effective January 6, 1999. Objections and requests for hearings must be received by EPA on or before March 8, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300767], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300767], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), 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. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300767]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6224, e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 20, 1998 (63 FR 64481)(FRL–6043–9), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of pesticide petitions (PP 6F4604, 4F3041 and FAP 4H5428) for tolerances by BASF Corporation. This notice included a summary of the petitions prepared by BASF. There were no comments received in response to the notice of filing.

These petitions requested that 40 CFR 180.40 CFR part 180.227 be amended by establishing, revising and revoking tolerances for combined residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolites 3,6-dichloro-5-hydroxy-*o*-anisic acid and 3,6-dichloro-2-hydroxybenzoic acid in or on the commodities listed in the summary of this Final Rule

I. Risk Assessment and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997)(FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant