in Waukesha. The SIP revision was submitted by the Wisconsin Department of Natural Resources (WDNR) on February 21, 1997, and would exempt the facility from the volatile organic compound (VOC) emission limits applicable to miscellaneous metal coating operations. The EPA proposed to disapprove this request on April 28, 1998. No negative comments were submitted during the comment period.

DATES: This disapproval is effective August 24, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–1767.

SUPPLEMENTARY INFORMATION:

I. Background

On April 28, 1998, EPA proposed to disapprove the site-specific SIP revision for Amron Corporation (63 FR 23239). This proposed disapproval was based on numerous factors which are discussed in detail in the proposed disapproval. EPA received no negative comments during the public comment period. Therefore, EPA is finalizing the disapproval proposed on April 28, 1998.

II. Miscellaneous

A. Applicability to Future SIP Decisions

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

B. Executive Orders 12866 and 13045

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

The final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

C. Regulatory Flexibility

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 this disapproval only affects one source, Amron Corporation. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, as explained in this document, the request does not meet the requirements of the Clean Air Act and EPA cannot approve the request. EPA has no option but to disapprove the submittal.

EPA's disapproval of the State request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect State-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this disapproval does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal disapproval action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result.

E. Small Business Regulatory Enforcement Fairness 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. Section 804, however, exempts from section 891 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q

Dated: July 9, 1998.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 98–19656 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6112–7]

National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action corrects and clarifies regulatory text of the ''National Emission Standard for Hazardous Air Pollutants for Industrial Process Cooling Towers,'' which was issued as a final rule on September 8, 1994. The rule is being revised to clarify that the owner or operator of a source that ceases use of chromium-based chemicals may demonstrate compliance with the standard through recordkeeping.

Because the rule merely clarifies the intent and coverage of the September 8, 1994 final rule, it has no impact on the environment beyond that of the original rule.

DATES: *Effective Date.* The direct final rule will be effective October 21, 1998 if no timely adverse comments are received by September 21, 1998.

If a hearing is requested, the comment period will end October 6, 1998. Should the EPA receive such comments, it will publish a timely withdrawal of the Direct Final rule in the **Federal Register** and inform the public that the rule will not take effect.

Public Hearing. Anyone requesting a public hearing must contact EPA no later than August 3, 1998. If a hearing is held, it will take place on August 7, 1998.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket (6102), Attention Docket Number A–91–65, Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW Washington, DC 20460.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mr. Phil Mulrine, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5289.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Metals Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–5289.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Entities potentially regulated by this action include:

Category	Examples of regulated entities
Industry	Industrial Process Cooling Towers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the revisions to the regulation contained in this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. To determine whether your facility is affected by these revisions, you should carefully examine the language of section 63.404 of the title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Comments

If significant adverse comments are timely received on the direct final rule, all such comments will be addressed in a subsequent final rule based on the proposed rule contained in the Proposed Rules Section of this **Federal Register** that is identical to this direct final rule. The direct final rule will be withdrawn.

This rule will become effective without further notice unless the Agency receives relevant adverse comment within 60 days of the publication of this document. Should the Agency receive such comments, it will publish a timely withdrawal and inform the public that this rule will not take effect.

On September 8, 1994 (59 FR 46339), the Environmental Protection Agency (EPA) promulgated in the **Federal Register** national emission standards for hazardous air pollutants for industrial process cooling towers. These standards were promulgated as subpart Q in 40 CFR part 63.

Subpart Q limits the discharge of chromium from industrial process cooling towers (IPCTs) located at major sources by prohibiting the use of chromium-based water treatment chemicals in those IPCTs. As authorized by section 112(h) of the Clean Air Act (the Act) this standard is a work practice standard. The standard specifies that owners and operators may not use chromium-based water treatment chemicals in IPCTs and that on or after 3 months after the compliance date a cooling water sample residual hexavalent chromium concentration in excess of 0.5 ppm shall indicate a violation of the standard. This document contains amendments to clarify the applicability of the final standard.

III. Description of the Changes

Section 63.404 is being revised to clarify that compliance with the standard can be demonstrated either by cooling water sampling analysis or by recordkeeping which shows that the owner or operator has switched to a non-chromium water treatment method. At the time the final standard was promulgated in September of 1994, EPA believed that once an owner or operator ceased adding chromium-based chemicals to the IPCT water the residual chromium would fall below 0.5 ppm in all cases in less than 3 months. As a result, § 63.404(b) was drafted to allow 3 months for sources to reach a residual chromium reading of less than 0.5 ppm. On or after 3 months after the compliance date the Administrator (or delegated authority) could require cooling water to be analyzed to determine whether the residual hexavalent chromium concentration exceeds 0.5 ppm by weight. A reading in excess of 0.5 ppm would indicate a violation of the standard.

Since promulgation of the final rule EPA has learned that there are some IPCTs for which residual chromium remains higher than 0.5 ppm beyond 3 months after chromium-based chemicals cease to be added to the IPCT water. EPA has therefore concluded that sampling of cooling water to measure residual chromium may not always be an accurate measure of whether an owner or operator has ceased using chromium-based chemicals. Today's revisions to the September 1994 final rule provide that an owner or operator may demonstrate through recordkeeping that the chemicals used in the IPCT are not chromium-based. This revision does not change the underlying standard contained in 40 CFR 63.402 which provides that ''no owner or operator of an IPCT shall use chromium-based water treatment chemicals in any affected IPCT.''

In addition, § 63.404(b) is revised to clarify that a cooling water sample showing residual hexavalent chromium of 0.5 parts per million by weight or less shall be considered compliance with the standard. This change does not alter the standard but rather rephrases it for clarity.

IV. Administrative

A. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1876.01) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460, by e-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information collected will be used as an alternative means of

compliance under § 63.404. Owners of IPCT's are required to maintain a cooling water concentration of residual hexavalent chromium equal to or less than 0.5 parts per million. The owners of IPCT's can choose to demonstrate compliance by maintaining records of chemical treatment purchases instead of measuring the cooling water hexavalent chromium concentration.

The recordkeeping burden is estimated to be 6 hours annually. The rule has no reporting requirements so there is no burden associated with reporting. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Comments are requested by September 21, 1998. Include the ICR number in any correspondence.

B. Executive Order 12866

Under Executive Order 12866, the EPA must determine whether a regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Industrial Process Cooling Towers rule was promulgated on September 8, 1994. The amendments issued today do not add any additional control requirements to the rule, but rather would clarify the rule and add an alternative means of compliance. It has been determined that these amendments are not a ''significant regulatory action'' under terms of Executive Order 12866 and, therefore, are not subject to review by the Office of Management and Budget.

C. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities because it imposes no additional requirements, and adds compliance flexibility.

D. Unfunded Mandates Act

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

The EPA has determined that the action promulgated today does not include a Federal mandate that will result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

E. Submission to Congress and the General Accounting Office

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

F. Protection of Children From Environmental Health Risks and Safety Risks Under Executive Order 13045

The Executive Order 13045 applies to any rule that (1) OMB determines is ''economically significant'' as defined under Executive Order 12866, and (2) EPA determines the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety aspects 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.

The direct final rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Industrial process cooling towers, Reporting and recordkeeping requirements.

Dated: June 12, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63,

subpart Q of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart Q—National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

2. Section 63.404 is amended by revising the introductory language and paragraph (b), and by adding new paragraphs (c) and (d) to read as follows:

§ 63.404 Compliance demonstrations.

No routine monitoring, sampling, or analysis is required. In accordance with section 114 of the Act, the Administrator or delegated authority can require cooling water sample analysis of an IPCT if there is information to indicate that the IPCT is not in compliance with the requirements of § 63.402 of this subpart. The owner or operator of an IPCT may demonstrate compliance through recordkeeping in accordance with paragraph (c) of this section in lieu of a water sample analysis. If cooling water sample analysis is required:

(a) * * *

(b) On or after 3 months after the compliance date, a cooling water sample residual hexavalent chromium concentration equal to or less than 0.5 parts per million by weight shall indicate compliance with § 63.402. Alternatively, an owner or operator may demonstrate compliance through record keeping in accordance with paragraph (c).

(c) To demonstrate compliance with § 63.402, in lieu of the water sample analysis provided for in paragraph (a) of this section, the owner or operator of each IPCT may maintain records of water treatment chemical purchases, including invoices and other documentation that includes invoices and other documentation that includes date(s) of purchase or shipment, trade name or other information to identify composition of the product, and quantity of the product.

(d) Following a request, by the Administrator or delegated authority, under paragraph (a) for a water sample analysis, failure to either meet the concentration level specified in paragraph (b) or provide the records specified in paragraph (c) shall indicate a violation of § 63.402.

[FR Doc. 98–19407 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300422A; FRL–5799–7]

RIN 2070–AB78

Capsaicin; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of Capsaicin in or on all food commodities, when applied in accordance with approved product labeling and good agricultural practice. This exemption from requirement of a tolerance is being established by the Agency on its own initiative, under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation becomes effective July 23, 1998. Written objections and requests for hearings must be received by September 21, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300422A], 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–300422A], 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, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300422A]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Richard W. King, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 9th Floor (902W38), CM #2, 1921 Jefferson Davis Hwy., Arlington, VA; (703) 308–8052, e-mail: king.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 1, 1996 (61 FR 19233) [OPP–300422; FRL–5362–9], EPA proposed, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(d) to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for Capsaicin in or on all food commodities, when applied in accordance with approved product labeling and with good agricultural practice. There were no comments received in response to the proposed rule. Since the date of this proposal, FFDCA section 408 has been significantly amended by the Food Quality Protection Act of 1996 (FQPA). The FQPA amended the safety standard that applies to both tolerances and exemptions from the requirement for tolerance. Nonetheless, the legislative history indicates that the same rigorous safety standard EPA had always imposed as to tolerance exemptions should be the Agency's guide in implementing the new provision. On this specific point, the House Commerce Committee Report states:

> The Committee understands that EPA currently issues exemptions only for the pesticide chemical residues that do not pose a dietary risk under reasonably foreseeable circumstances. The Committee intends that EPA retain its current practice. H.Rep. 104-669 part 2, 104th Cong., 2d Sess. 45 (1996).

Capsaicin clearly meets this standard. Capsaicin and related capsaicinoids are the ingredients that produce the ''hotness'' in certain species of peppers in the Genus *Capsicum*. As noted in the proposal, there are no known toxicological concerns from the ingestion of capsaicin and related capsaicinoids. Residues of capsaicin on food will not pose a dietary risk. Thus, EPA concludes that, consistent with the amended section 408, exempting