the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the FR. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2). This rule will be effective March 8, 1999 without further notice unless the Agency receives relevant adverse comments by February 4, 1999.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 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. (section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, General conformity, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: December 8, 1998.

William N. Rhea,

Acting Regional Administrator, Region 6.

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 T—Louisiana

2. In § 52.970 (c), the table is amended under Chapter 5 by revising the entry for section 504 to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
	LAC Title 33. Environmental Quality Part III. Air			
*	*	*	*	*
	Chapter 5—Permit Procedures			
*	*	*	*	*
Section 504	Nonattainment New Source Review Procedures.	February 20, 1997	January 5, 1999.	
*	*	*	*	*

[FR Doc. 99–19 Filed 1–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY98–9808a; FRL–6199–1]

Approval and Promulgation of Implementation Plans; Kentucky; Approval of Revisions to Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted on November 10, 1997, by the Commonwealth of Kentucky, through the Kentucky Natural Resources and Environmental Protection Cabinet. This revision modifies the implementation of a basic motor vehicle inspection and maintenance (I/M) program in Jefferson County, Kentucky, to require loaded mode testing of vehicles instead of the current idle testing.

DATES: This final rule is effective March 8, 1999 without further notice unless EPA receives relevant adverse comments by February 4, 1999. Should the EPA receive such comments, it will publish a timely document withdrawing this rule informing the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Dale Aspy at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file KY98–9808. The Region 4 office may have additional background documents not available at the other locations.

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

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Dale Aspy, (404) 562-9041.

Kentucky Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403, (505) 573–3382.

Jefferson County Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky, (502) 574–6000.

FOR FURTHER INFORMATION CONTACT: Dale Aspy at 404/562–9041.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act as amended in 1990 (the Act) requires that many ozone nonattainment areas adopt either ''basic'' or ''enhanced'' I/M programs, depending on the severity of the problem and the population of the area. The moderate ozone nonattainment areas, as well as marginal ozone areas with existing or previously required I/M programs, must adopt programs that meet the ''basic'' I/M requirements. Enhanced programs are required in

serious, severe, and extreme ozone nonattainment areas with 1980 urbanized populations of 200,000 or more. On November 5, 1992, EPA promulgated an I/M regulation that establishes minimum performance standards for basic I/M programs as well as other requirements that must be met for the program to be approved in the SIP. The performance standard for basic I/M programs remains the same as it has been since initial I/M policy was established in 1978, pursuant to the 1977 amendments to the Clean Air Act.

The Commonwealth of Kentucky contains the Louisville urbanized area portion of the Louisville ozone nonattainment area which is classified as moderate. The Louisville ozone nonattainment area includes Jefferson County, Kentucky, portions of Bullitt and Oldham Counties, Kentucky, and two counties in Indiana. This notice addresses only the Jefferson County, Kentucky, portion of the nonattainment area.

The I/M program currently in operation in Jefferson County, Kentucky, requires idle testing of a vehicle's emissions and was found to meet all EPA requirements for a basic I/M program. EPA published a notice in the July 28, 1995, **Federal Register** approving the program as meeting all EPA requirements for basic I/M programs. However, the Act also required ozone nonattainment areas such as Louisville to meet several other conditions, including: (1) a 15 percent volatile organic compound (VOC) emission reduction plan; (2) reasonably available control technologies, and (3) an attainment demonstration including any necessary additional reductions sufficient to attain the ozone standard. The Jefferson County, Kentucky, Air Pollution Control District (APCD) determined that reductions beyond those achievable with the basic idle test were needed to meet those additional requirements. They determined that a loaded mode I/M test, in which the vehicle's emissions are measured while the vehicle is on a dynamometer simulating actual driving conditions, would be the most effective emission reduction strategy to meet those additional requirements. The Jefferson County, Kentucky, APCD also determined that an additional emission reduction of 910 tons per year or 2.49 tons per summer day would be achieved through the implementation of loaded mode testing.

On November 10, 1997, the Commonwealth of Kentucky, through the Kentucky Natural Resources and Environmental Protection Cabinet submitted to EPA a revised SIP for an I/M program that would achieve greater emission reductions than the current basic I/M program for Jefferson County. This submittal included revisions to Regulation 8.01, Mobile Source Emissions Control and Regulation 8.02, Vehicle Emissions Testing Procedure. The majority of the changes to these two regulations were minor modifications in the language and numbering of the regulation. The significant revision involved the type of vehicle emission testing required in Jefferson County. Beginning April 1, 1998, all vehicles presented for an emission test in Jefferson County, Kentucky, that are capable of being tested on a dynamometer will be subject to a loaded mode exhaust gas emission test. The loaded mode test adopted and described in Regulation 8.02 is one of the short test procedures contained in EPA's I/M rule, as published on November 5, 1992. The loaded mode procedure is described in Subpart S, Appendix B, Section III of the EPA rule. The I/M regulations were adopted by the Department of Planning and Environmental Management, Air Pollution Control District of Jefferson County, Kentucky, on October 15, 1997.

II. EPA's Analysis of Changes to the Louisville, Kentucky, Basic I/M Program

EPA's review of the submitted revisions indicates that the Jefferson County I/M program is in accordance with the requirements of the Act. Modeling analyses were conducted by the Jefferson County APCD using MOBILE5a–H, and demonstrated that additional emission reductions beyond those of a basic idle test would be achieved by implementing a loaded mode exhaust emission test. Since the revised test procedure adopted by the APCD is one of the short test procedures described in Subpart S, Appendix B, Section III of the November 5, 1992 EPA I/M rule, EPA is approving the Kentucky SIP revision for a loaded mode, basic I/M program in Jefferson County.

III. Final Action

EPA is approving this revision to the Kentucky SIP for a basic I/M program in Jefferson County. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse public comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective March 8, 1999 without further notice unless the Agency receives relevant adverse comments by February 4, 1999.

If EPA receives such comments, then EPA will publish a timely document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will be discussed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 8, 1999 and no further action will be taken on the proposed rule.

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, EPA 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, EPA must provide to the Office of Management and Budget a description of the extent of EPA'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 EPA 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 EPA 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, EPA 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, EPA 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 EPA'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, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian 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. This action does not involve or impose any requirements that affect Indian Tribes. 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 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA 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, EPA 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, 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 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. 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).

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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 5, 1998.

A. Stanely Meiburg,

Acting Regional Administrator, Region 4.

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

PART 52—[AMENDED]

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

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

Subpart S—Kentucky

2. Section 52.920, is amended by adding paragraph (c)(88) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(88) Modifications to the existing basic I/M program in Jefferson County to implement loaded mode testing of vehicles submitted by the Commonwealth of Kentucky on November 10, 1997.

(i) Incorporation by reference.

Regulation 8.01 and 8.02, adopted on October 15, 1997.

(ii) Other material. None.

* * * * *

[FR Doc. 99–17 Filed 1–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300748; FRL–6039–4]

RIN 2070–AB78

Picloram; Time-Limited Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the indirect or inadvertent residues of the herbicide, picloram, 4-amino-3,5,6-trichloropicolinic acid and its potassium salt in or on certain raw agricultural commodities. Dow AgroSciences 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: The effective date of this rule is December 31, 1998. 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–300748], 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–300748], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #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–300748]. 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: James A. Tompkins, 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) 305–5697, e-mail: tompkins.jim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 13, 1997 (62 FR 26305), 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 a pesticide petition (PP 4F4412) for tolerances by DowElanco, 9330 Zionsville Road, Indianapolis, IN 46254. This notice included a summary of the petition prepared by DowElanco, the registrant. The petition requested that 40 CFR 180 be amended by establishing tolerances for inadvertent residues of the herbicide, picloram, 4-amino-3,5,6-trichloropicolinic acid, in or on sorghum grain at 0.3 parts per million (ppm), sorghum grain forage at 0.2 ppm, and sorghum stover at 0.5 ppm.

In the **Federal Register** of November 20,1998 (63 FR 64494), EPA issued a notice announcing that Dow AgroSciences amended the petition by also proposing to established a tolerance for residues of the herbicide picloram in or on the raw agricultural commodity aspirated grain fractions at 4 ppm. There were no comments received in response to the notices of filing. The tolerances will expire and will be revoked on December 31, 2000.

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).

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed adverse effect level'' or ''NOAEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOAEL from the study with the lowest NOAEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human