Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 27, 1995 unless, by October 27, 1995 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. 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 November 27, 1995.

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 November 27, 1995. 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), 42 U.S.C. 7607(b)(2).

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: August 18, 1995.

Charles Findley,

Acting Regional Administrator.

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. 7401–7671q.

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(24) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(24) On December 5, 1994 the Alaska Department of Environmental Conservation sent EPA revisions for inclusion into Alaska's SIP that address transportation and general conformity regulations as required by EPA under the CAA.

(i) Incorporation by reference.

(A) December 5, 1994 letter from the Governor of Alaska to EPA, Region 10, submitting amendments addressing transportation and general conformity revisions to the SIP:

(*1*) Regulations to 18 AAC 50, Air Quality Control, including Article 5, Procedure and Administration, 18 AAC 620; Article 6, Reserved; Article 7, Conformity, 18 AAC 50.700–18 AAC 50.735; Article 8, Reserved; and Article 9, General Provisions, 18 AAC 50.900, all of which contain final edits (23 pages total) by the Alaska Department of Law, were filed by the Lieutenant Governor on December 5, 1994 and effective on January 4, 1995.

(*2*) Amendments to the Alaska State Air Quality Control Plan, ''Volume II: Analysis of Problems, Control Actions,'' as revised on December 1, 1994, adopted by reference in 18 AAC 50.620, containing final edits by the Alaska Department of Law, all of which were certified by the Commissioner of Alaska to be the correct plan amendments, filed by the Alaska Lieutenant Governor on December 5, 1994 and effective on January 4, 1995.

[FR Doc. 95–23841 Filed 9–26–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[VA21–1–5883a; FRL–5292–2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia—VOC RACT Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision pertains to amendments to Virginia's major source volatile organic compound (VOC) reasonably available control technology (RACT) requirements applicable in the Richmond ozone nonattainment area and the Virginia portion of the Washington, DC ozone nonattainment area. The revision was submitted to comply with the RACT ''Catch-up'' provisions of the Clean Air Act Amendments of 1990 (The Amendments). The intended effect of this action is to approve the submitted amendments to Virginia's major source VOC RACT requirements because they strengthen Virginia's SIP. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective November 27, 1995, unless notice is received on or before October 27, 1995, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation & Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Maria Pino, (215) 597–9337.

SUPPLEMENTARY INFORMATION: On November 6, 1992, the Virginia Department of Environmental Quality submitted a revision to its ozone SIP to comply with the RACT ''Catch-up'' provisions of the Clean Air Act (the

Act). The revision consists of amendments to Virginia's major source VOC RACT regulation to: (1) Lower the applicability threshold for RACT in the Virginia portion of the Washington, DC ozone nonattainment area and; (2) add a compliance date of May 31, 1995 for major VOC sources in the Richmond nonattainment area and the Virginia portion of the Washington. DC nonattainment area to comply with RACT emission standards.

I. Background

Under the pre-amended Act (i.e. the Act prior to the 1990 Amendments), ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guideline documents (CTGs), establishing a ''presumptive norm'' for RACT for various categories of VOC sources. Those sources not covered by a CTG were called non-CTG sources. EPA determined that an area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under pre-amended section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major non-CTG sources (i.e. sources having potential VOC emissions of 100 tons per year (TPY) or more).

Under the pre-amended Act, EPA designated the metropolitan Washington, DC area (including a portion of Northern Virginia) and the Richmond area as nonattainment. These areas both had a pre-enactment (i.e. prior to enactment of the 1990 Amendments) attainment date of December 31, 1987 and, therefore, were required to adopt RACT for Group I, II, and III CTG categories as well as non-CTG VOC sources with the potential to emit 100 TPY or more. However, these areas did not attain the ozone standard by the approved attainment date.

On November 15, 1990, amendments to the 1977 Clean Air Act were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Under the amended Act, EPA and the States were required to review the designation of areas and to redesignate areas as nonattainment for ozone if the air quality data from 1987, 1988, and 1989 indicated that the area was violating the ozone standard. On November 6, 1991 and November 30, 1992, EPA issued those designations. 56 FR 56694 and 57 FR 56762. The metropolitan Washington, DC and Richmond nonattainment areas retained their nonattainment designation. The metropolitan Washington, DC area (including a portion of Northern Virginia) was classified as serious, and the Richmond area was classified as moderate. 56 FR 56694 (Nov. 6, 1991).

Section 182(b)(2) of the amended Act 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 Amendments); (2) RACT for sources covered by post-enactment CTGs; and (3) all major sources not covered by a CTG. This RACT requirement makes nonattainment areas that previously were exempt from RACT requirements ''catch up'' to those nonattainment areas that became subject to those requirements during an earlier period, and therefore, is known as the RACT Catch-up requirement. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas.

Since the metropolitan Washington, DC and Richmond nonattainment areas were previously required to adopt RACT for all CTG sources, to meet the RACT Catch-up requirement Virginia was not required to submit additional CTG RACT rules for these areas. However, the major source definition for serious areas has been lowered under the amended Act to cover sources that have the potential to emit 50 TPY of VOC or more. Therefore, Virginia was required to adopt RACT rules for all sources that exceed this cut-off in the Virginia portion of the Washington, DC nonattainment area.

In addition to the pre-enactment metropolitan Washington, DC and Richmond nonattainment areas retaining their nonattainment designations, EPA also extended their nonattainment area boundaries. Therefore, under the RACT Catch-up provision of section 182(b)(2), the Commonwealth was required, for these portions of the nonattainment areas, to submit RACT rules covering all CTGs and all non-CTG major VOC sources.

In summary, to fully comply with the RACT Catch-up provisions of the Act, Virginia is required to expand its RACT regulations to the areas which have been added to the Virginia portion of the pre-enactment metropolitan Washington, DC nonattainment area and the pre-enactment Richmond nonattainment area. It must adopt RACT regulations for all CTG sources and all major non-CTG VOC sources (VOC sources with the potential to emit ≥ 50 TPY in the Virginia portion of the metropolitan Washington, DC nonattainment area and ≥ 100 TPY in the Richmond nonattainment area). Sources must comply with these provisions as expeditiously as possible, but no later than May 31, 1995.

This action pertains only to one portion of the RACT Catch-up provisions, the requirement to lower the applicability threshold for RACT in the Virginia portion of the Washington, DC nonattainment area. The requirement to expand the geographic applicability of Virginia's RACT rules was the subject of a separate rulemaking action. (See 59 FR 52704.)

II. Commonwealth's Submittal

Virginia's existing major source RACT regulation, section 120–04–0407, requires RACT for sources in the Virginia portion of the Washington, DC nonattainment area and the Richmond nonattainment area with the potential to emit ≥ 100 TPY of VOC. On October 19, 1994, EPA approved into the Virginia SIP revisions to Appendix P of Virginia's air quality regulations that redefined the boundaries for Virginia's ozone nonattainment areas. (See 59 FR 52701) Thus, the geographic applicability of section 120–04–0407 was revised to cover the expanded Richmond nonattainment area and the expanded Virginia portion of the Washington, DC nonattainment area.

Virginia's November 6, 1992 submittal contains amendments to section 120–04–0407 that lower the applicability threshold such that sources with potential VOC emissions of 50 TPY or greater in the expanded Virginia portion of the Washington, DC nonattainment area are now subject to RACT. Sources with potential VOC emissions of 100 TPY or greater in the expanded Richmond nonattainment area are also subject to RACT. Additionally, a compliance date of May 31, 1995 was added to the rule for sources in both the Virginia portion of the Washington, DC area and the Richmond area.

III. EPA Evaluation and Action

EPA is approving the amendments to section 120–04–0407 described above because they comply with the RACT Catch-up requirements of the Act and serve to strengthen Virginia's SIP. Detailed descriptions of the

amendments addressed in this document, and EPA's evaluation of the amendments, are contained in the technical support document (TSD) prepared for these revisions. Copies of the TSD are available from the EPA Regional office listed in the **ADDRESSES** section of this document.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 27, 1995, unless, by October 27, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. 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 November 27, 1995.

Final Action

EPA is approving amendments to section 120–04–0407, Virginia's major source VOC RACT requirements applicable in the Richmond ozone nonattainment area and the Virginia portion of the Washington, DC ozone nonattainment area, submitted by the Commonwealth of Virginia on November 6, 1992.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a 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).

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 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.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

EPA has determined that the approval action proposed/promulgated 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 action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to Virginia's major source VOC RACT requirements, must be filed in the United States Court of Appeals for the appropriate circuit by November 27, 1995. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 24, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(106) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(106) Revisions to the Virginia State Implementation Plan submitted on November 6, 1992 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letter of November 6, 1992 from the Virginia Department of Environmental Quality transmitting revisions to Virginia's State Implementation Plan, pertaining to volatile organic compound requirements in Virginia's air quality regulations.

(B) Revisions to § 120–04–0407 that lower the applicability threshold for RACT in the Virginia portion of the Washington, DC ozone nonattainment area and add a RACT compliance date of May 31, 1995 for major VOC sources in the Richmond ozone nonattainment area and the Virginia portion of the Washington, DC ozone nonattainment area, adopted by the Virginia State Air

Pollution Board on October 30, 1992 and effective on January 1, 1993.

(ii) Additional material.

(A) Remainder of Virginia's November 6, 1992 State submittal pertaining to § 120–04–0407.

[FR Doc. 95–23869 Filed 9–26–95; 8:45 am]

BILLING CODE 6560–50–P'

40 CFR Part 52

[IL103–1–6696a; FRL–5283–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On November 30, 1994, the State of Illinois submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) for Synthetic Organic Chemical Manufacturing Industry (SOCMI) air oxidation processes as part of the State's 15 percent (%) Reasonable Further Progress (RFP) Plan control measures for Volatile Organic Matter (VOM) emissions. USEPA made a finding of completeness in a letter dated January 27, 1995. A final approval action is being taken because the submittal meets all pertinent Federal requirements. The SIP revision tightens the source applicability standard for air oxidation processes beyond the existing standard contained in subpart V of 35 Illinois Administrative Code Parts 218 and 219, thereby extending the applicability of Reasonably Available Control Technology (RACT) to additional sources. The revision also adds requirements to sources already covered under the existing SOCMI air oxidation process regulations, as well as new sources of this source category. The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. If USEPA receives comments adverse to or critical of the approval, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time.

DATES: The ''direct final'' approval shall be effective on November 27, 1995, unless USEPA receives adverse or critical comments by October 27, 1995. If no such comments are received, USEPA hereby advises the public that this action will be effective on November 27, 1995.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

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

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Clean Air Act requires all moderate and above ozone nonattainment areas to achieve a 15 percent reduction of 1990 emissions of VOM by 1996 (VOM, as defined by the State of Illinois, is identical to ''volatile organic compounds,'' as defined by the USEPA). In Illinois, the Chicago area is classified as ''severe'' nonattainment for ozone, while the Metro-East area is classified as ''moderate'' nonattainment. As such, these areas are subject to the 15 percent RFP requirement.

On June 14, 1994, the Illinois Environmental Protection Agency (IEPA) filed the proposed amendments to the SOCMI air oxidation processes rule with the Illinois Pollution Control Board (Board). A public hearing on the rule was held on August 4, 1994, in Chicago, Illinois, and on October 20, 1994, the Board adopted a Final Opinion and Order for the proposed amendments. The amended rule became effective on November 15, 1994, and it was published in the Illinois State register on November 28, 1994.

The IEPA formally submitted the amended air oxidation rule to USEPA on November 30, 1994, as a revision to the Illinois SIP for ozone. In doing so, IEPA believes that the air oxidation rule's extended applicability and tightened control measures will help reduce VOM emissions enough to meet the 15% RFP requirements.

II. Analysis of State Submittal

The November 30, 1994, amendments to Illinois' SOCMI air oxidation process rule extended to additional sources applicability of the rule's Reasonably Available Control Technology (RACT) requirements, which include the use of a combustion device to control VOM emissions with an efficiency of at least 98% or emit VOM at a concentration less than twenty parts per million by volume, dry basis. To determine whether the requirements apply to a particular source, USEPA's Control Technique Guideline (CTG) for SOCMI air oxidation processes requires the use of a Total Resource Effectiveness (TRE) index, which takes into account all resources which are expected to be used in VOM emission control. Prior to the amendments, the Illinois rule followed the CTG's determination of source applicability to RACT by requiring that all SOCMI air oxidation processes in the Chicago and Metro-East ozone nonattainment areas with a TRE value of 1.0 or less be required to meet RACT for this source category. With these amendments, the Illinois rule's RACT applicability is extended to SOCMI air oxidation processes in the Chicago and Metro-East ozone nonattainment areas with a TRE value of 6.0 or less.

Sources with a TRE value greater than 1.0 and less than or equal to 6.0, which were in operation before October, 25, 1994, must come into compliance with the rule's control measures by December 31, 1999. Other such sources with a TRE of 6.0 or less which come into operation after October 25, 1994, must meet RACT requirements upon start-up of the emission unit. Sources with a TRE level of 1.0 or less are already required to be in full compliance.

In addition, the SOCMI air oxidation processes rule has been amended to state that the TRE level will be based upon the source's individual process vent streams, or the combination thereof, whichever is more stringent. Also included in the amended rule is the requirement that air oxidation process vent streams currently controlled by combustion devices must continue to be controlled by such devices in compliance with the Illinois rule requirements. Further, once applicability has been triggered, operational changes to a source which causes the TRE index value to increase