

5; Section 25—25(c)(4)(vi) by changing *calibrated* to *calculated*; Section 29—29(i)(3)(i)(A) by correcting 0.09 to 0.044 in Hg, 29(i)(3)(i)(B) by correcting 0.09 to 0.044 in Hg; Section 30—30(b) by deleting definitions of *liquid mounted seal and vapor mounted seal* that were added in Section 2—Definitions; Section 31—31(b) by deleting definition of *internal floating roof* that was added to Section 2—Definitions, 31(e)(ii) by correcting letter *i* to *ii*; Section 33—33(f)(3) by correcting (c)(3)(j)(B) to (c)(3)(ii)(B), Section 35—35(c)(2)(i) by adding *weight*, 35(c)(3)(i) by adding *by weight*; Section 37—37(a)(1) by deleting *of press ready ink*; Section 43—43(a)(1) by renumbering section 13 to 10 and section 42 to 49; Appendix A—(a) by renumbering section 13(c)(1) or section 14 through 43 to section 19 through 50; Appendix D—(a)(2)(iii)(i) by deleting *to be published*, effective November 29, 1994.

(ii) Additional Material.

(A) Remainder of December 19, 1994 State submittal pertaining to Regulation 24 referenced in paragraphs (c)(54)(i).

[FR Doc. 96-1299 Filed 1-25-96; 8:45 am]

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40 CFR Part 52

[IL 18-6-6516a; FRL-5334-2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On October 21, 1993, and March 4, 1994, the Illinois Environmental Protection Agency (IEPA) submitted to the USEPA volatile organic compound (VOC) rules that were intended to satisfy part of the requirements of section 182(b)(2) of the Clean Air Act (Act) amendments of 1990. Specifically, these rules provide control requirements for certain major sources not covered by a Control Technique Guideline (CTG) document. These non-CTG VOC rules apply to sources in the Chicago ozone nonattainment area which have the potential to emit 25 tons of VOC per year. These rules provide an environmental benefit due to the imposition of these additional control requirements. IEPA estimates that these rules will result in VOC emission reductions, from 119 industrial plants, of 2.78 tons per day. The rationale for the approval is set forth in this final rule; additional information is available at the address indicated below.

Elsewhere in this Federal Register USEPA is proposing approval and soliciting public comment on this requested revision to the Illinois State implementation plan (SIP). If adverse comments are received on this direct final rule, USEPA will withdraw the final rule and address the comments received in a new final rule. Unless this final rule is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective March 26, 1996 unless adverse comments are received by February 26, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Steven Rosenthal at (312) 886-6052, before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Regulation Development Branch (AR-18J), (312) 886-6052.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 1990, USEPA promulgated a Federal implementation plan (FIP) for the six counties in the Chicago metropolitan area: Cook, Du Page, Kane, Lake, McHenry, and Will. 55 FR 26818, codified at 40 CFR 52.741. This FIP required that certain VOC sources comply with reasonably available control technology (RACT) requirements.

Under the Act as amended in 1977, ozone nonattainment areas were required to adopt reasonably available control technology (RACT) for sources of 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 the

area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Those areas (including the Chicago area) 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 (100 tons per year or more of VOC emissions under the pre-amended Act) non-CTG sources.

Section 182(b)(2) of the Act as amended in 1990 (amended Act) requires States to adopt reasonably available control technology (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.

The amended Act requires USEPA to issue CTGs for 13 source categories by November 15, 1993. A CTG was published by this date for two source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation; 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. Accordingly, States must submit a RACT rule for SOCMI reactor processes and distillation operations before March 23, 1994.

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.

On October 21, 1993, and March 4, 1994, IEPA submitted VOC rules for the Chicago ozone severe nonattainment area.¹ The rules submitted on March 4, 1994, include both new rules and revisions to the rules that were submitted on October 21, 1993. Those sections contained in the March 4, 1994, submittal supersede the same sections in the October 21, 1993, submittal. These rules were intended to satisfy, in part, the major non-CTG control requirements of section 182(b)(2). These "catch-up" rules lower the applicability cutoff for major non-CTG sources from 100 tons VOC per year to 25 tons VOC per year. This cutoff was lowered because section 182(d) of the amended Act defines a major source in a severe ozone nonattainment area as a source that emits 25 tons or more of VOC per year. However, this March 4, 1994, submittal does not include major non-CTG regulations for the 11 source categories for which USEPA expected to issue CTGs to satisfy section 183, but did not. As stated previously, Illinois is required to adopt and submit RACT regulations by November 1994 for these 11 source categories.

Evaluation of Rules

Subpart B: Definitions

Illinois has added 18 definitions to Subpart B. All but one of these definitions apply to new rules for "Polyester Resin Product Manufacturing Process," "Aerosol Can Filling," and "Leather Coating." These definitions accurately describe the specified terms and are necessary for implementation of these three rules. These definitions are therefore approvable.

Illinois has also added a definition of "potential to emit" (PTE). This term is used to establish the applicability cutoff for the major non-CTG "catch-up" rules described in the following part of this notice. PTE is defined as "the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable." This definition is acceptable for establishing applicability and for establishing federally

enforceable restrictions for the purpose of allowing a source to avoid applicability. This definition is therefore approvable.

Subpart A: General Provisions

Section 218.106 Compliance Dates—A new subsection 218.106(c) is added which provides a compliance date of March 15, 1995, for newly subject 25 ton per year VOC sources. This subsection is approvable because this date is prior to May 31, 1995, the implementation date that is specified in section 182(b)(2) for major non-CTG sources.

Section 218.108 Exemptions, Variations, and Alternative Means of Control or Compliance Determinations—Subsection 218.108(b) allows equivalent alternative control plans and test methods to be established in a federally enforceable permit. This provision allows Illinois to revise its control requirements and test methods through a federally enforceable state operating permit (FESOP) or Title V (of the Act) operating permit. The application of this section is discussed in subsequent parts of these rules.

Section 218.113 Compliance with Permit Conditions—This section requires sources to comply with their permit requirements and is therefore approvable.

Section 218.402 Applicability—This section contains a 25 tons per year PTE cutoff (in addition to a 100 ton maximum theoretical emissions² (MTE)

² "Maximum theoretical emissions" means the quantity of volatile organic material that theoretically could be emitted by a stationary source before add-on controls based on the design capacity or maximum production capacity of the source and 8760 hours per year. The design capacity or maximum production capacity includes use of coating(s) or ink(s) with the highest volatile organic material content actually used in practice by the source, provided, however, the Agency shall, when appropriate, and upon request by the permit applicant, limit the "maximum theoretical emissions" of a source by the imposition of conditions in a federally enforceable operating permit for such source. Such conditions shall not be inconsistent with requirements of the Clean Air Act, as amended, or any applicable requirements established by the Board. Such conditions shall be established in place of design capacity or maximum production capacity in calculating the "maximum theoretical emissions" for such source and may include, among other things, the establishment of production limitations, capacity limitations, or limitations on the volatile organic material content of coatings or inks, or the hours of operation of any emission unit, or a combination of any such limitations. Production or capacity limitations shall be established on a basis of no longer than one month except in those cases where a limit spanning a longer period of time is appropriate. In such cases, a limit or limitation must not exceed an annual limit rolled on a basis of at most a month; that is, for example, a monthly production or a capacity level must be determined for each parameter subject to a production or capacity limitation and added to the eleven prior monthly levels for monthly

cutoff) for flexographic and rotogravure printing sources as required by the new major source definition applicable in severe ozone nonattainment areas. In addition, this section allows sources to avoid the applicability of specified printing rules, provided a source has a federally enforceable permit that limits emissions to below the applicable cutoff through capacity or production limitations. This use of federally enforceable permits is approvable because USEPA can deem a permit to be "not federally enforceable" in a letter to IEPA. Upon issuance of such a letter, the source is no longer protected by this permit. The source would then be subject to the SIP requirements if its emissions exceed the applicable cutoffs. This is consistent with USEPA's December 17, 1992, approval of Illinois' operating permit program which states: "In approving the State operating program USEPA is determining that Illinois' program allows USEPA to deem an operating permit not 'federally enforceable' for purposes of limiting potential to emit and offset credibility." (57 FR 59928, 59930). IEPA has agreed to this approach and specified the applicable procedures in a March 26, 1993, letter to USEPA. This section is therefore approvable because it adds a cutoff consistent with the requirements of the amended Act and because USEPA can invalidate the protection provided by an operating permit by deeming such operating permit to be "not federally enforceable" in a letter to IEPA.

Section 218.611 Applicability for Petroleum Solvent Dry Cleaners—The above discussion in section 218.402, for flexographic and rotogravure printing sources, applies to this section for petroleum solvent dry cleaners.

Section 218.620 Applicability—This section contains a 25 tons per year PTE cutoff (in addition to a 100 ton MTE cutoff) for paint and ink manufacturing sources as required by the new major source definition applicable in severe ozone nonattainment areas and is therefore approvable.

Subpart CC: Polyester Resin Product Manufacturing Process—This new rule applies to a source's polyester resin products manufacturing process emission units and the associated handling of materials, cleanup activity, and formulation activity at sources with MTE of less than 100 tons. The control requirements consist of any of the following: (1) The use of polyester resin material with specified monomer contents; (2) the use of a closed-mold or

comparison with the annual limit. Any production or capacity limitations shall be verified through appropriate recordkeeping.

¹ The Chicago severe ozone nonattainment area consists of Cook, Du Page, Kane, Lake, McHenry, and Will Counties and Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in Kendall County.

pultrusion system which will result in less than 4% weight loss of polyester resin materials; (3) the use of vapor suppressed polyester resin approved by IEPA in the source's permit such that weight loss from VOC emissions does not exceed 60 grams per square meter of exposed surface area during molding; or (4) the use of any materials or processes demonstrated to the satisfaction of IEPA to achieve VOC emission levels equivalent to any of the above control techniques. This alternative must be approved by IEPA and USEPA in a federally enforceable permit or as a SIP revision. An analysis of alternative equivalent control plans is contained below within the discussion of Subparts PP, QQ, RR, and TT. This rule also includes work practices (such as use of closed containers) and regulates the use of cleaning materials. Section 218.668(a)(3)(C), 218.668(a)(4)(D) and 218.668(a)(5)(C), allow for the determination of specified control requirements "By site-specific sampling and analysis methods approved by the Agency and USEPA in a federally enforceable permit." The procedures for USEPA's review and approval of these alternative test methods are specified in a September 13, 1995, letter from the Illinois Environmental Protection Agency to Region 5 of the USEPA. The emission limits contained in this rule are very similar to the emission limits contained in Rule 1162 for Polyester Resin Operations that was revised, in May 1994, by the South Coast Air Quality Management District—which covers the Los Angeles area. Rule 1162 was approved by USEPA on August 25, 1994 (59 FR 43571). Illinois' Polyester Resin Product Manufacturing Process rule is therefore approvable.

Subpart DD: Aerosol Can Filling—This new rule applies to a source's aerosol can filling lines if the source's MTE is less than 100 tons and it has a PTE equal or greater than 25 tons VOC per year. Aerosol can filling lines can comply by one of the following options: (1) Use of add-on control which achieves an overall reduction of 81%; or (2) (A) Use of through-the-valve (TTV) fill or enhanced under-the-cup (UTC) fill to minimize loss of VOC propellant; or use of another system approved in a federally enforceable permit which achieves at least 75% reduction of the emissions of UTC fill; (B) Fill on a monthly basis at least 90% of cans filled on such aerosol can filling lines that are capable of being filled by the TTV method with TTV fill. TTV filling causes only 15% to 25% of the emissions from UTC (the standard method of filling cans) and is

considered to be RACT. Based on discussions with IEPA, the two aerosol can filling sources that have been identified as emitting over 25 tons VOC per year either are or will be controlled as follows: CCL Custom Manufacturing will be installing an incinerator and will therefore comply with the 81% overall control requirement and Chase Products Company is filling 90% of its cans with TTV. Therefore this rule satisfies the requirement for RACT on aerosol filling operations.

Section 218.926(b)(2) consists of a new set of control requirements which apply to a source's leather coating operations if the source's MTE is less than 100 tons and it has a PTE of 25 tons VOC per year or greater. These control requirements are: (A) For the application of stain coating to leather, other than specialty leather, the VOC contained in the subject coatings shall not exceed 10 tons in any consecutive 12-month period or the application of such coatings shall comply with (C) below; (B) For the application of coatings to specialty leather, the total VOC content of all coatings, including stains, as applied to a category of specialty leather, shall not exceed 38 lbs per 1000 square feet of such specialty leather produced, determined on a monthly basis; or (C) The daily-weighted average VOC content shall not exceed 3.5 lbs VOC/gallon of coating as applied. A daily-weighted average of 3.5 lbs VOC per gallon has previously been established as RACT by USEPA for major non-CTG coating sources and a 38 lbs VOC per 1000 square feet limit is contained in Wisconsin's leather coating rules which has been approved as RACT by USEPA. IEPA justified its 10 ton exemption for stains by explaining that use of high VOC content stain is needed for some natural leathers. Even when a stain with dye can be thinned with water the VOC content can still be very high because of the VOC required to actually dissolve the small amount of dye present. Stain is applied at varying rates on different pieces of leather and at varying rates on a single piece of leather, as it is used to achieve uniform shade on animal hides with naturally varying coloration. IEPA added that at the same time and in light of the above, total VOC emissions from a source attributable to stain are small. Illinois' leathercoating rule is therefore consistent with RACT. The compliance certification and recordkeeping requirements for leathercoating operations are contained in Sections 218.991(d)(1) and 218.991(d)(2), respectively. The recordkeeping requirements in Section 218.991(d)(2)

establish monthly records of (1) the pounds VOC per gallon of coating (VOC content) and volume of each stain coating used for other than specialty leather, (2) the VOC content and volume of each coating used for specialty shoe leather, (3) the VOC content and volume of each coating used for specialty football leather, (4) the square feet of specialty shoe leather produced, and (5) and the square feet of specialty football leather produced. These recordkeeping requirements are therefore sufficient to establish compliance with the leathercoating emission limits.

Subparts PP, QQ, RR, and TT consist of "generic" major non-CTG rules for sources not specifically covered by another rule. Sections 926, 946, 966, and 986 specify the control requirements for the rules. Subsection (a) of each of these Sections requires an overall 81 percent reduction from each emission unit. A Board Note has been added to each subsection to clarify what is intended by the term "emission unit." A further clarification of the Board Note has been provided in a June 16, 1993, letter from Dennis Lawler, IEPA.

Subpart UU contains the recordkeeping and reporting requirements for the non-CTG requirements in Subparts PP, QQ, RR, and TT and Section 218.990 contains the recordkeeping and reporting requirements for exempt sources. Although these sections refer to emission units which are exempt, it should be noted that the owner or operator of such an exempt emission unit would need to submit records for the entire source to demonstrate that maximum theoretical emissions from all non-CTG and unregulated CTG operations are below the applicable cutoff. In those cases where one or more (but not all) emission units are exempt (as in 218.920(d), 218.940(d), 218.960(d), and 218.980(d)), records must also be submitted documenting that each such emission unit is exempt.

Illinois' major non-CTG VOC rules in Subparts PP, QQ, RR, and TT allow compliance via (1) Emission capture and control techniques which achieve an overall reduction in uncontrolled VOC emissions of at least 81 percent from each emission unit, or (2) For coating lines, the daily-weighted average VOC content shall not exceed 3.5 pounds (lbs) VOC per gallon (gal) of coating, or (3) an equivalent alternative control plan which has been approved by the Agency and the USEPA in a federally enforceable permit or as a SIP revision.

On December 17, 1992, (57 FR 59928) USEPA approved Illinois' existing Operating Permit program as satisfying

USEPA's June 28, 1989, (54 FR 27274) five criteria regarding Federal enforceability. One of the criteria is that permits may not be issued that make less stringent any SIP limitation or requirement. USEPA's December 17, 1992, notice states that operating permits issued by Illinois in conformance with the five criteria (including the prohibition against States issuing operating permit limits less stringent than the regulations in the SIP) discussed in this notice will be considered federally enforceable. This notice also states Illinois' operating permit program allows USEPA to deem an operating permit not "federally enforceable."

On July 21, 1992, USEPA promulgated a new part 70 of chapter 1 of title 40 of the Code of Federal Regulations. See 57 FR 32250. This new part 70 contains regulations, required by Title V of the Act, that require and specify the minimum elements of State operating permit programs. Part 70 is therefore an appropriate basis for evaluating the acceptability of Illinois' use of federally enforceable State operating permits (FESOP) and Title V permits in its VOC rules.

Section 70.6(a)(1)(iii) states:

If an applicable implementation plan allows a determination of an alternative emission limit at a part 70 source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the State elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

USEPA has therefore determined that the alternative control requirement, submitted on March 4, 1994, in subsections 218.926(c), 218.946(b), 218.966(b) and 218.986(c), is approvable because it requires that any alternative must be equivalent to the underlying SIP requirements (consistent with part 70) and USEPA can deem a permit containing an alternative control plan to be not "federally enforceable" if it determines that a permit is not quantifiable or practically enforceable or a permit relaxes the SIP. The underlying SIP, to which any equivalent alternative control plan must be compared, has federally enforceable control requirements, test methods, and recordkeeping and reporting requirements. In addition, IEPA's September 13, 1995, letter contains the specific procedures for USEPA review and approval.

Subsections 218.620(a)(1)(B), 218.920(a)(1)(B), 218.940(a)(1)(B), 218.960(a)(1)(B), 218.980(a)(1)(B), along with the following subsections in conjunction with Section 211.4970 (the definition of "Potential to emit"): Subsections 218.620(b)(1), 218.920(b)(1), 218.940(b)(1), 219.960(b)(1) and 218.980(b)(1), allow sources to avoid the applicability of specified major non-CTG rules, provided a source has a federally enforceable permit that limits emissions to below the applicable cutoff through capacity or production limitations. These subsections are approvable because USEPA can deem a permit to be "not federally enforceable" in a letter to IEPA. Upon issuance of such a letter, the source is no longer protected by the permit referenced in the subject subsections. The source would then be subject to the SIP requirements if its emissions exceed the applicable cutoff. This is consistent with USEPA's December 17, 1992, approval of Illinois' operating permit program which states: "In approving the State operating program USEPA is determining that Illinois' program allows USEPA to deem an operating permit not 'federally enforceable' for purposes of limiting potential to emit and to offset creditability." (57 FR 59928, 59930). IEPA has agreed to this approach and specified the applicable procedures in a March 26, 1993, letter to USEPA. In summary, these subsections are approvable because USEPA can invalidate the protection provided by an operating permit by deeming such operating permit to be "not federally enforceable" in a letter to IEPA.

USEPA's "generic major (based on potential emissions of 25 tons of VOC) non-CTG rules" in subparts PP, QQ, RR and TT, do not apply to synthetic organic chemical industry (SOCMI) distillation, SOCMI reactors, wood furniture, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvent operations. In addition, bakeries (for which an Alternative Control Technology document was issued in December, 1992) are exempt from the control requirements in the generic rules. Out of these categories, Illinois has submitted adopted rules for USEPA approval for all except industrial wastewater, clean-up solvent operations, autobody refinishing, and bakeries. Autobody refinishing rules are not required to satisfy RACT requirements because there are no major

autobody refinishing sources. Illinois' adopted major non-CTG rules are undergoing USEPA review and will be the subject of separate rulemaking actions.

Final Rulemaking Action

For the reasons discussed above, USEPA approves the major non-CTG VOC RACT rules in Part 218 (for the Chicago ozone nonattainment area) that were submitted on October 21, 1993, and March 4, 1994. More specifically, this includes all sections of part 218 that were submitted on March 4, 1994, and Section 218.990 from the October 21, 1993, submittal.

On September 9, 1994, (FR 59 46562) USEPA approved a number of Illinois' VOC regulations which replaced a large part of the Chicago FIP, which was promulgated June 29, 1990 (55 FR 26814) and codified at 40 CFR 52.741. This rule completes approval of Illinois' VOC regulations which, in combination with the rules approved on September 9, 1994, replace the Chicago FIP, as the federally enforceable VOC rule, except as indicated below:

(1) In accordance with Section 101(b), all FIP requirements remain in effect (and are enforceable after the effective date of this SIP revision) for the period prior to the effective date of this SIP revision.

(2) Any source that received a stay, as indicated in Section 218.103(a)(2), remains subject to the stay if still in effect, or (if the stay is no longer in effect) the federally promulgated rule applicable to such source.

As of the effective date of this final action, these rules are the sole federally enforceable control strategy for sources of VOC located in the Chicago area.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on March 26, 1996. However, if we receive adverse comments by February 26, 1996, then USEPA will publish a notice that withdraws this final action. If no request for a public hearing has been received, USEPA will address the public comments received in a new final rule on the requested SIP revision based on the proposed rule located in the proposed rules section of this Federal Register. If a public hearing is requested, USEPA will publish a notice announcing a public hearing and reopening the public comment period until 30 days after the public hearing. At the conclusion of this additional public comment period, USEPA will publish a final rule responding to the public comments received and announcing final action.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, former Acting Assistant Administrator for the Office of Air and Radiation. A July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for the Office of Air and Radiation explains that the authority to approve/disapprove SIPs has been delegated to the Regional Administrators for Table 3 actions. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA 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.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this

rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA 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, USEPA 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, I certify 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 regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 26, 1996. 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.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 1, 1995.

Valdas V. Adamkus,

Regional Administrator.

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. 7401-7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(102) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *
(102) On October 21, 1993 and March 4, 1994, the State submitted volatile organic compound control regulations for incorporation in the Illinois State Implementation Plan for ozone.

(i) *Incorporation by reference.*

(A) Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, chapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Sections 211.270, 211.1070, 211.2030, 211.2610, 211.3950, 211.4050, 211.4830, 211.4850, 211.4970, 211.5390, 211.5530, 211.6110, 211.6170, 211.6250, 211.6630, 211.6650, 211.6710, 211.6830, 211.7050. These sections were adopted on January 6, 1994, Amended at 18 Ill. Reg. 1253, and effective January 18, 1994.

(B) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emissions Standards and Limitations for the Chicago Area, Subpart PP: 218.927, 218.928; Subpart QQ: 218.947, 218.948; Subpart RR: 218.967, 218.968; Subpart TT: 218.987, 218.988; Subpart UU: 218.990. These sections were adopted on September 9, 1993, Amended at 17 Ill. Reg. 16636, effective September 27, 1993.

(C) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emissions Standards and Limitations for the Chicago Area, Subpart A: 218.106, 218.108, 218.112, 218.113; Subpart H: 218.402; Subpart Z:

218.602, 218.611; Subpart AA: 218.620, 218.623 (repealed); Subpart CC; Subpart DD; Subpart PP: 218.920, 218.926; Subpart QQ: 218.940, 218.946; Subpart RR: 218.960, 218.966; Subpart TT: 218.980, 218.986; Subpart UU: 218.991. These sections were adopted on January 6, 1994, Amended at 18 Ill. Reg. 1945, effective January 24, 1994.

* * * * *

3. Section 52.741 is amended by revising paragraph (a)(2) to read as follows:

§ 52.741 Control Strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry or Will County.

(a) * * *

(2) Applicability.

(i) Effective October 11, 1994, Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emission Standards and Limitations for the Chicago Area replaces the requirements of 40 CFR 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will County as the federally enforceable control measures in these counties except as noted in paragraphs (a)(2)(i) (A) through (C) of this section.

(A) Until March 26, 1996, Illinois' major non-CTG sources in the Chicago area, subject to paragraph u, v, w, or x because of the applicability criteria in these paragraphs, continue to be subject to paragraphs u, v, w, x, and in addition they remain subject to the recordkeeping requirements in paragraph y and any related parts of section 52.741 necessary to implement these paragraphs, e.g., those paragraphs containing test methods, definitions, etc.

(B) In accordance with Section 218.101(b), all FIP requirements remain in effect and are enforceable after October 11, 1994, for the period prior to October 11, 1994 (and the major non-CTG FIP requirements specified in paragraph (a)(2)(i)(A) remain in effect and are enforceable after March 26, 1996 for the period prior to March 26, 1996.

(C) Any source that received a stay, as indicated in Section 218.103(a)(2), remains subject to the stay if still in effect, or (if the stay is no longer in effect) the federally promulgated rule applicable to such source.

(ii) Effective March 26, 1996, Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions

Standards and Limitations for Stationary Sources, Part 218: Organic Material Emission Standards and Limitations for the Chicago Area replaces the requirements of 40 CFR 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will County as the federally enforceable control measures in these counties except as noted in paragraphs (a)(2)(i) (A) and (B) of this section.

(A) In accordance with Section 218.101(b), all major non-CTG FIP requirements specified in paragraph (a)(2)(i)(A) remain in effect and are enforceable after March 26, 1996 for the period prior to March 26, 1996.

(B) Any source that received a stay, as indicated in Section 218.103(a)(2), remains subject to the stay if still in effect, or (if the stay is no longer in effect) the federally promulgated rule applicable to such source.

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[FR Doc. 96-1297 Filed 1-25-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[IL99-2-7003, IN46-2-7004, MI33-2-7005, WI47-2-7006; FRL-5402-8]

Approval of a Section 182(f) Exemption; Illinois, Indiana, Michigan, and Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: As requested by the States of Illinois, Indiana, Michigan, and Wisconsin in a July 13, 1994 submittal pursuant to section 182(f)(3) of the Clean Air Act (CAA or the Act), the EPA is granting exemptions from the Reasonably Available Control Technology (RACT) and New Source Review (NSR) requirements for major stationary sources of Oxides of Nitrogen (NO_x) and from vehicle Inspection/Maintenance (I/M) and general conformity requirements for NO_x for ozone nonattainment areas within the Lake Michigan Ozone Study (LMOS) modeling domain, which includes portions of the States of Illinois, Indiana, Michigan, and Wisconsin. The EPA is also granting exemptions from transportation conformity requirements for NO_x for ozone nonattainment areas classified as marginal or transitional within the LMOS modeling domain. The EPA is approving the exemptions based on a demonstration that additional NO_x reductions would not contribute to attainment of the National Ambient Air Quality Standard (NAAQS)

for ozone within the LMOS modeling domain. The EPA is not taking final action at this time on the granting of exemptions from the transportation conformity requirements of the CAA for ozone nonattainment areas classified as moderate or above in the LMOS modeling domain. The continued approval of these exemptions is contingent on the results of the final ozone attainment demonstrations and plans. These plans are expected to be submitted by mid-1997 and to incorporate the results of the Ozone Transport Assessment Group process. The attainment plans will supersede the initial modeling information which is the basis for the waiver EPA is granting in this document. To the extent the attainment plans include NO_x controls on certain major stationary sources in the LMOS ozone nonattainment areas, EPA will remove the NO_x waiver for those sources. To the extent the final plans achieve attainment of the ozone standard without additional NO_x reductions from certain sources, the NO_x emissions control exemption would continue for those sources. EPA's rulemaking action to reconsider the initial NO_x waiver may occur simultaneously with rulemaking action on the attainment plans.

DATES: This final rule will be effective February 26, 1996.

ADDRESSES: Copies of the exemption request, public comments and EPA's responses are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Regulation Development Section (AR-18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886-6057.

SUPPLEMENTARY INFORMATION:

I. Background Information

On July 13, 1994, the States of Illinois, Indiana, Michigan, and Wisconsin submitted a petition to the EPA requesting that the ozone nonattainment areas within the LMOS modeling domain be exempted from requirements to implement NO_x controls pursuant to section 182(f) of the Act. The exemption request is based on modeling demonstrating that additional NO_x emission controls within the nonattainment areas will not contribute