use of the term ''Indian'' or of the term ''Native American'' or the unqualified use of the name of a foreign tribe, in connection with an art or craft product, regardless or where it is produced and regardless of any country-of-origin marking on the product, is interpreted to mean for purposes of this part that—

(i) The maker is a member of an Indian tribe, is certified by an Indian tribe as a non-member Indian artisan, or is a member of the particular Indian tribe named;

(ii) The tribe is resident in the United States; and

(iii) The art or craft product is an Indian product.

(2) *Exception where country of origin is disclosed.* Paragraph (b) of this section does not apply to any art or craft for which the name of the foreign country of tribal ancestry is clearly disclosed in conjunction with marketing of the product.

(c) *Example.* X is a lineal descendant of a member of Indian Tribe A. However, X is not a member of Indian Tribe A, nor is X certified by Indian Tribe A as a non-member Indian artisan. X may not be described in connection with the marketing of an art or craft product made by X as an Indian, a Native American, a member of an Indian tribe, a member of Tribe A, or as a non-member Indian artisan of an Indian tribe. However, the true statement may be used that X is of Indian descent, Native American descent, or Tribe A descent.

§ 309.4 How can an individual be certified as an Indian artisan?

(a) In order for an individual to be certified by an Indian tribe as a non-member Indian artisan for purposes of this part—

(1) The individual must be of Indian lineage of one or more members of such Indian tribe; and

(2) The certification must be documented in writing by the governing body of an Indian tribe or by a certifying body delegated this function by the governing body of the Indian tribe.

(b) As provided in section 107 of the Indian Arts and Crafts Act of 1990, Public Law 101–644, a tribe may not impose a fee for certifying an Indian artisan.

§ 309.5 What penalties apply?

A person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States:

(a) Is subject to the criminal penalties specified in section 1159, title 18, United States Code; and

(b) Is subject to the civil penalties specified in section 305e, title 25, United States Code.

§ 309.6 How are complaints filed?

Complaints about protected products alleged to be offered or displayed for sale or sold in a manner that falsely suggests they are Indian products should be made in writing and addressed to the Director, Indian Arts and Crafts Board, Room 4004–MIB, U.S. Department of the Interior, 1849 C Street, NW, Washington, DC 20240.

Dated: October 15, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 96–26876 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–RK–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL18–9; FRL–5615–6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: 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), as amended in 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. On January 26, 1996, USEPA issued a direct final approval of these non-CTG VOC rules. On the same day (January 26, 1996) USEPA proposed approval and solicited public comment on this requested revision to the Illinois State implementation plan (SIP). This proposed rule established a 30-day public comment period noting that if adverse comments were received regarding the direct final rule USEPA would withdraw the direct final rule and publish an additional final rule to address the public comments. Adverse comments were received during the public comment period from the Illinois Environmental Regulatory Group (IERG). USEPA withdrew the direct final rule on March 25, 1996. This final rule addresses these comments and finalizes the approval of these major non-CTG rules for the Chicago area.

EFFECTIVE DATE: This final rule is effective November 20, 1996.

ADDRESSES: 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, Air Programs Branch (AR–18J) (312) 886–6052.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1993, and March 4, 1994, IEPA submitted VOC rules for the Chicago severe ozone 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 reasonably available control technology (RACT) 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, the 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

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

regulations by November 1994 for these 11 source categories.

On January 26, 1996, (61 FR 2423) the USEPA issued a direct final approval (and proposed approval) of these non-CTG rules as a revision to the Illinois SIP. (For further information refer to the January 26, 1996, final rule.) Because adverse comments were received by IERG regarding the direct final rule, USEPA withdrew the direct final rule on March 25, 1996 (61 FR 12030). This final rule addresses the comments which were received during the public comment period and announces USEPA's final action on the non-CTG rules for the Chicago ozone nonattainment area.

The January 26, 1996, direct final rule incorrectly referred to ''Section 218.113—Compliance with Permit Conditions,'' based upon the Illinois Pollution Control Board's January 6, 1994, Final Order. However, the correct citation is Section 218.114, as indicated in the Illinois Register (18 Ill. Reg. 1958).

IERG Comment and USEPA Response

IERG Comment

IERG's February 26, 1996, comment relates to provisions in Illinois' VOC rules for major sources which allow them to avoid reasonably available control technology (RACT) control requirements, to which they would otherwise be subject, if they obtain a federally enforceable permit that limits emissions to below the applicable cutoff through capacity or production limitations. USEPA noted in the January 26, 1996 rulemaking that:

> 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. 61 FR 2423

In its comments, IERG stated that it found this language ''troublesome,'' as it appeared to indicate that USEPA could deem a permit ''not federally enforceable'' at any time. IERG further suggested that this approach was inconsistent with the framework outlined in a March 26, 1993, letter to USEPA from Bharat Mathur, Chief of IEPA's Bureau of Air. According to IERG, this letter, which USEPA specifically referenced in the rulemaking, supports the position that USEPA may only deem a provision of a permit ''not federally enforceable'' [2] during the public notice and comment period.

USEPA Response

The primary basis for USEPA approval of Illinois' provisions allowing sources to avoid applicability by obtaining a federally enforceable permit that limits emissions to below the applicable cutoff through capacity or production restrictions is USEPA's December 17, 1992, (57 FR 59928) approval of Illinois' Operating Permit program. This permit program was found to satisfy USEPA's five criteria for approving a state operating permit program as part of the SIP. See 54 FR 27274, 27282 (June 28, 1989). The second of these criteria is that:

> The SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provides that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not ''federally enforceable'' by EPA. (54 FR 27282).

In its December 17, 1992, approval of Illinois' operating permit program, USEPA stated that:

> The latter part of the second approval criterion requires that the SIP has provisions which allow USEPA to deem a permit not ''federally enforceable'' under certain conditions. In approving the State operating permit 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. Such a determination will (1) be done according to appropriate procedures, and (2) be based upon the permit, permit approval procedures or permit requirements which do not conform with the operating permit program requirements and the requirements of USEPA's underlying regulations. Based on this interpretation of Illinois program, USEPA finds that the second criterion for approving an operating permit program has been met by the State. (57 FR 59930).

The third (of USEPA's five) criterion is that:

> The State operating permit program requires that all emissions limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP. * * * (54 FR 27282).

As stated in USEPA's December 17, 1992, final rule, since Section 39 of the Illinois Environmental Protection Act requires that State-issued operating permits must comport with all State regulations, which could include the regulations adopted to implement the SIP, the State cannot issue operating permits less stringent than the regulations in the SIP. (57 FR 59930).

The fourth (of USEPA's five) criterion is that:

> The limitations, controls, and requirements in the operating permits are permanent, quantifiable, and otherwise enforceable as a practical matter.

In its December 17, 1992, final rule, USEPA stated that it had reviewed the Illinois operating program and was satisfied that it required the State to issue permits which satisfy this criterion and added that:

> If USEPA in the future determines that an individual permit condition is not quantifiable or practically enforceable, it can deem the permit not ''federally enforceable'' within the means of the NSR regulations. The State's current practice and regulatory provisions meet the fourth criterion for permit program approval. (57 FR 59931)

As demonstrated by the above discussion, USEPA can deem a permit not ''federally enforceable'' if it does not conform to the operating permit program requirements and USEPA's underlying regulations. These requirements include the need for the permit to be no less stringent than the SIP and for the limitations in the permit to be quantifiable and otherwise enforceable as a practical matter. It should be noted that IEPA did not disagree with, during the comment period, USEPA's statements in the January 26, 1996, final rule regarding USEPA's ability to deem a permit to be ''not federally enforceable.''

In the January 26, 1996, direct final approval of Illinois' non-CTG rules, USEPA referenced the March 26, 1993, letter to it from IEPA's Bharat Mathur. This letter described IEPA's procedures for coordinating with USEPA before issuing a federally enforceable operating permit (FESOP) containing operating/production restrictions which limit a source's emissions to below an applicability cutoff (thereby allowing the source to avoid the rule's control requirements). More specifically, IEPA acknowledges in this letter: (1) its intent to provide USEPA with copies of subject draft permits, and (2) USEPA's ability to deem a permit to be ''not federally enforceable.''

IERG is mistaken in interpreting this letter to mean that USEPA can only make such a determination with a draft permit during the public comment period. Rather, this letter merely

[2] ''Not federally enforceable'' in this context means that the permit is not valid for purposes of establishing a federally recognized limit below the applicable cutoff(s) (to avoid the requirement of complying with RACT).

acknowledges IEPA's intent to submit these draft permits to USEPA at the beginning of Illinois' public notice and comment period and USEPA's ability to deem a permit to be ''not federally enforceable'' (and subject to the otherwise applicable SIP requirements). IERG's position, that USEPA can only take action on a draft permit, means that under no circumstances could USEPA deem an issued (as opposed to draft) permit ''not federally enforceable.'' IERG's objections to USEPA's ability to deem State operating permits ''not federally enforceable'' are not supported.

First, neither USEPA's June 28, 1989, criteria nor the Agency's December 17, 1992, approval of Illinois's FESOP rule suggest that a determination by USEPA that a permit is ''not federally enforceable'' must be made within the public comment period—or within any particular time.

It should also be noted that IERG has not objected to USEPA's potential actions on draft permits during the comment period; its concern is solely with the timing of USEPA's action, and the potential uncertainty to affected facilities. While USEPA understands IERG's concerns, IERG should be aware that its suggested constraint is unreasonable as a practical matter: USEPA simply does not have the resources to review in the requisite detail each submitted permit within the relatively short (30 days) time period provided under Illinois' rules. There also may be facts which are not known/existent at the time of State draft permit submission, which later come to the Agency's attention, and merit a negative determination.

Finally, USEPA's June 28, 1989, criteria for an approvable FESOP program consistently refers to USEPA action on *permits*, not *draft permits*, reflecting USEPA's intention to act on issued permits. In fact, one obvious problem with reviewing a State permit in draft form is that it may be modified in response to public comments received during the comment period. Thus, if USEPA were to review only draft permits, it might not review significant changes that are ultimately incorporated into the actual, issued permits.

Nonetheless, USEPA will make every attempt to comment during the public notice and comment period. See, also, Ohio Federally Enforceable State Operating Permit (FESOP) Program, at 59 FR 53586 (Final Rule) (October 25, 1994) and 60 FR 55200 (October 30, 1995). USEPA's ability to do so, of course, is limited by such events as when (relative to the comment period) the draft permit is received, whether it is flagged as a potential ''federally enforceable'' permit, intended to limit emissions below the applicable cutoff to allow the source to avoid RACT, and the number of such draft permits that are submitted at or about the same time. Furthermore, each permittee is (or should be) typically informed by IEPA that USEPA's review and concurrence is required; and that a confirmatory letter from USEPA must be sent in order for the source to ensure that it will remain subject to the FESOP limits, and exempt from the otherwise applicable RACT emission limits. USEPA will send such a letter to IEPA in those cases in which the USEPA determines that the permit has been found to meet USEPA's June 28, 1989, criteria, provided that the submitted permit has been adequately identified (''flagged'') by IEPA as a FESOP intended to allow a source to avoid Illinois' VOC RACT control requirements by limiting its VOC emissions to below the applicable cutoff through capacity or production limitations.

In summary, although USEPA does have the legal authority to deem an operating permit ''not federally enforceable'' at any time, it will attempt to complete this determination (for those permits in which the source seeks to avoid RACT and are flagged as such by IEPA) during the comment period; or if not, as expeditiously as practicable thereafter. Furthermore, there is no reason for any uncertainty on the part of an affected facility as to the status of its permit. Permittees have the ability, at any time, to contact EPA's regional office to determine the status of the federal permit review.

Final Rulemaking Action

For the reasons discussed in the January 26, 1996, (61 FR 2423) direct final approval, and as clarified by the above response to IERG's comment, USEPA approves the major non-CTG VOC RACT rules (for the Chicago ozone nonattainment area) that were submitted on October 21, 1993, (and not replaced, or repealed, by the rules submitted on March 4, 1994) and March 4, 1994.

On September 9, 1994, (59 FR 46562) USEPA approved a number of Illinois' VOC regulations which replaced a large part of the Chicago Federal Implementation Plan (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 § 218.101(b), all non-CTG FIP requirements remaining in effect on October 11, 1994[3], 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 § 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 or federally-approved rule applicable to such source.

(3) In accordance with section 218.101(b), all FIP requirements in effect prior to October 11, 1994[4], remain in effect (and are enforceable after October 11, 1994) for the period prior to October 11, 1994.

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.

The action will become effective on November 20, 1996.

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.

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregrate; or to the private sector, of $100 million or more. This Federal action approves pre-existing

[3] October 11, 1994, is the effective date of the September 9, 1994, Federal Register notice approving most of Illinois' VOC rules for the Chicago ozone nonattainment area.

[4] See footnote 3.

requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, USEPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a major rule as defined by 5 U.S.C. 804(2).

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 December 20, 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 § 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: September 9, 1996.

David A. Ullrich,

Acting 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, Subchapter 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, 218.114; 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) Any source that received a stay, as indicated in § 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 or federally-approved rule applicable to such source.

(ii)(A) Effective November 20, 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 211: Definitions and General Provisions, and Part 218: Organic Material Emission Standards and Limitations for the Chicago Area replace 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 for the major non-Control Technique Guideline (CTG) sources in the Chicago area, previously subject to paragraph u, v, w, or x because of the applicability criteria in these paragraphs.

(B) In accordance with Section 218.101(b), for the major non-CTG sources subject to paragraphs u, v, w, or x because of the applicability criteria of those paragraphs, the requirements of paragraphs u, v, w, and x, and the recordkeeping requirements in paragraph y and any related parts of § 52.741 necessary to implement these paragraphs (including, but not limited to, those paragraphs containing test methods and definitions), shall remain in effect and are enforceable after November 20, 1996 for the period from July 30, 1990 until November 20, 1996.

(iii)(A) Except as provided in paragraphs (a)(2) (i) and (ii) of this section, 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 211: Definitions and General Provisions, and Part 218: Organic Material Emission Standards and Limitations for the Chicago Area replace the requirements of this § 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.

(B) In accordance with § 218.101(b), the requirements of § 52.741 shall remain in effect and are enforceable after October 11, 1994, for the period from July 30, 1990, to October 11, 1994.

[FR Doc. 96–26571 Filed 10–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[WA53–7126 FRL–5637–3]

Approval and Promulgation of Maintenance Plan for Air Quality Planning Purposes for the State of Washington: Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating the Vancouver nonattainment area to attainment for the carbon monoxide (CO) air quality standard and approving a maintenance plan that will insure that the area remains in attainment. Under the Clean Air Act (CAA) as amended in 1990, designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the Washington Department of Ecology's request because it meets the redesignation requirements set forth in the CAA. In addition, EPA is approving a related State Implementation Plan (SIP) revision, the 1990 base year emission inventory for CO emissions, which includes emissions data for sources of CO in the Vancouver, Washington CO nonattainment area.

EFFECTIVE DATE: This rule is effective as of October 21, 1996.

ADDRESSES: Copies of the State's redesignation request and other information supporting this action are available during normal business hours at the following locations: EPA, Alaska-Washington Unit (OAQ–107), 1200 Sixth Avenue, Seattle, Washington, 98101, and the Washington State Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, Washington, 98504–7600.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, EPA Region 10, Office of Air Quality, at (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

In a March 15, 1991, letter to the EPA Region 10 Administrator, the Governor of Washington recommended that the Vancouver portion of the Portland-Vancouver Air Quality Maintenance Area be designated as nonattainment for carbon monoxide (CO) as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAAA) (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The area was designated nonattainment and classified as ''moderate,'' with a design value less than or equal to 12.7 ppm under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694 (Nov. 6, 1991), codified at 40 CFR § 81.348.) On September 29, 1995, EPA approved the separation of the Portland-Vancouver CO nonattainment area into two distinct nonattainment areas, effective November 28, 1995. Because the Vancouver area had a design value of 10 ppm (based on 1988–1989 data), the area was considered moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas. The Vancouver area has ambient monitoring data showing attainment of the CO National Ambient Air Quality Standard (NAAQS) since 1992.

On March 19, 1996, the Washington State Department of Ecology (Washington) submitted a CO redesignation request and a request for approval of a CO maintenance plan for the Vancouver area. On July 29, 1996, EPA proposed to approve Washington's requested redesignation and maintenance plan. Washington has met all of the CAA requirements for redesignation pursuant to section 107(d)(3)(E). EPA has approved all SIP requirements for the Vancouver area that were due under the 1990 CAA.

Washington provided monitoring, modeling and emissions data to support its redesignation request. The 1992 CO attainment emissions inventory totals in tons per day are 76.43, 15.14, 164.3, and 67.84, respectively, for the area, non-road, mobile, and point sources. The emission budget established through the year 2006 is as follows:

VANCOUVER CO EMISSION BUDGET

[Pounds per winter day]

	1992	1995	1997	2001	2003	2006
Other sources	318,823	318,259	327,317	344,693	350,365	359,089
Mobile budget	328,606	300,000	300,000	270,000	270,000	260,000
Total	647,429	618,259	627,317	614,693	620,365	619,089

Washington relied on the existence of an approved Inspection and Maintenance (I/M) program as part of the maintenance demonstration. EPA approved the I/M program on September 25, 1996. Washington will discontinue implementation of the oxygenated fuel program in the Vancouver Consolidated Metropolitan Statistical Area (CMSA) once the CO maintenance plan is approved.

Washington will retain the oxygenated fuels program as a contingency measure as required under section 175A(d) of the CAA. The program will be reimplemented the next full winter season following the date of a quality assured violation of the CO National Ambient Air Quality Standards (NAAQS).

II. Public Comment/EPA Response

During the public comment period on EPA's proposed finding, the Agency received a number of comments from one commenter. No other comments were received. A discussion of those comments follows.

1. The commenter asserted that the Maintenance Demonstration developed by the Southwest Air Pollution Control Authority (SWAPCA) was a direct result