

Vessel	Number	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3 (a)	After mast-head light less than 1/2 ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
USS BATAAN	LHD 5	*	X	X	39.7

Approved:
 R.R. Pixa,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).
 Dated: January 29, 1997.
 [FR Doc. 97-6220 Filed 3-11-97; 8:45 am]
 BILLING CODE 3810-FF-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL138-1a; FRL-5660-2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).
ACTION: Direct final rule.

SUMMARY: The EPA approves Illinois' May 5, 1995, May 26, 1995, and May 31, 1995, submittal of miscellaneous amendments to Illinois' Volatile Organic Material (VOM) Reasonably Available Control Technology (RACT) rules as requested revisions to Illinois' State Implementation Plan (SIP) for ozone. VOM, as defined by the State of Illinois, is identical to "volatile organic compounds" (VOC), as defined by EPA. These amendments make certain clarifications to the State's VOM RACT rules, and includes an exemption of certain polyethylene foam packaging operations from these rules. In this action, EPA is approving the requested SIP revision through a "direct final" rulemaking; the rationale for this approval is set forth below. Elsewhere in this Federal Register, EPA is proposing approval and soliciting comment on this direct final action; if

adverse comments are received, EPA will withdraw the direct final rulemaking and address the comments received in a new final rule; otherwise, no further rulemaking will occur on this requested SIP revision.

DATES: This action will be effective May 12, 1997 unless adverse comments not previously addressed by the State or EPA are received by April 11, 1997. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the Federal Register.

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

Copies of the Illinois submittal are available for public review during normal business hours, between 8:00 a.m. and 4:30 p.m., at the above address.

A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), Room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 886-6082.

SUPPLEMENTARY INFORMATION:

I. Background

On September 9, 1994 and October 21, 1996 (59 FR at 46562 and 61 FR at 54556), the EPA approved VOM

reasonably available control technology (RACT) rules under 35 Illinois Administrative Code (IAC) parts 218 and 219. Part 218 covers the Chicago ozone nonattainment area (Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County), while part 219 covers the Metro-East ozone nonattainment area (Madison, Monroe, and St. Clair Counties). These rules were submitted by Illinois in order to comply with the RACT "fix-up" and "catch-up" requirements under sections 182(a)(2)(A) and 182(b)(2) of the Clean Air Act (Act).

On September 12, 1994, and October 27, 1994, the Illinois Environmental Protection Agency (IEPA) filed proposed amendments to parts 218 and 219 with the Illinois Pollution Control Board (Board). These amendments were proposed in order to clarify certain applicability provisions, control requirements, and compliance dates contained within these rules. Also included in these proposed amendments was an exemption for certain polyethylene foam packaging operations from the rules' RACT requirements. Public hearings on the proposed amendments were held on November 4, December 2, December 15, December 16, 1994, and January 9, 1995, in Chicago, Illinois. On April 20, 1995, the Board adopted Final Opinions and Orders for the proposed amendments. The amendments became effective on May 9, 1995, and were published in the Illinois Register on May 19, 1995. The IEPA formally submitted the amendments to EPA in two submittals dated May 5, 1995, as a revision to the Illinois SIP for ozone; supplemental

submittals were submitted on May 26, 1995, and May 31, 1995.

II. State Submittal

A summary of the rule amendments contained in the State's requested SIP revision follows. Where the same change has been made in both Part 218 and Part 219, the change to both parts is discussed together.

Section 218.106

Section 218.106(e) affects coating operations on electromotive diesels in Cook County, Illinois, by extending the compliance date for meeting coating VOM content limits specified in sections 218.204(m) (2) and (3) to March 25, 1995. Illinois has submitted this amendment to make its rules consistent with a Chicago Federal Implementation Plan (FIP) revision for General Motors Corporation's Electromotive Division located in Cook County, Illinois promulgated on March 24, 1994 (59 FR 14110).

Sections 218.480 and 219.480

These amendments affect RACT rules under subpart T covering pharmaceutical manufacturing in the Chicago and Metro East ozone nonattainment areas. Sections 218/219.480(i) have been added to provide that equipment and operations emitting VOM at a source subject to the applicability provisions for pharmaceutical manufacturing under sections 218/219 (a) or (c), and are used to produce pharmaceutical products or a pharmaceutical-like product such as a hormone, enzyme, or antibiotic, shall be deemed to be engaged in the manufacture of pharmaceuticals for purposes of this Subpart.

These amendments clarify that equipment and processes which are already subject to the VOM RACT requirements for pharmaceutical manufacturing under subpart T are not additionally subject to subpart RR, the requirements for miscellaneous organic chemical manufacturing processes, when manufacturing a pharmaceutical-like product such as a hormone, enzyme, or antibiotic.

Section 218.686

This amendment affects aerosol can filling lines in the Chicago ozone nonattainment area. Section 218.686(a)(2)(B) is revised to clarify that a source only needs to demonstrate its inability to use the through-the-valve filling method for a particular product by meeting any one of the three factors listed, rather than all three. The previous language incorrectly used the word "and," instead of "or," which

inadvertently required the source to meet all three factors instead of just one.

Section 218.966

Section 218.966(c) specifies control practices of components leaking VOM at Miscellaneous Organic Chemical Manufacturing Plants in the Chicago ozone subject to Part 218, Subpart RR. A compliance date of March 15, 1995, has been added to this subsection because Illinois inadvertently omitted this compliance date when this subsection was first adopted.

Sections 218.980 and Sections 219.980

Part 218/219, subpart TT contains non-Control Techniques Guidelines (CTG) RACT requirements for various sources which do not fall under any subpart of the rules. Sections 218/219.980(f), have been revised to add polyethylene foam packaging operations to the list of units exempted from the control requirements under subpart TT. This exemption would affect only one source, Freeflow Packaging (Freeflow), located in the Chicago ozone nonattainment area. Freeflow manufactures polyethylene foam sheets that are used as a wrapping to prevent marring and scratching during shipment of electronic equipment and cabinets. VOM emissions from this operation come mainly from the blowing agent, isobutane, which is used to expand polymeric resin to form the sheets. Without this exemption, Freeflow would be required under sections 218/219.986 to use either an emission capture and control techniques that achieve an overall reduction in uncontrolled VOC emissions of at least 81 percent from each emission unit, or comply with an equivalent alternative control plan which has been approved by IEPA and EPA in a federally enforceable permit or as a SIP revision.

In support of the rule exemption, Illinois submitted a November 25, 1996, RACT analysis which indicated that Freeflow's estimated control cost to comply with the regulation, \$10,260 to \$11,370 per ton of VOM emissions destroyed, is economically unreasonable for this particular source. To further support the exemption, Illinois investigated other state RACT regulations which covered polyethylene foam packaging. Two California regulations were identified: San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4682, and South Coast Air Quality Management District (SCAQMD) Rule 1175. Illinois found that there were five polyethylene foam packaging operations covered under SJVUAPCD Rule 4682. These five sources, however, do not manufacture

foam sheets such as Freeflow, and therefore utilize a different operation, which involves the extrusion of pelletized resin using steam or heat to form the final product without the need to employ VOM containing blowing agents. As for SCAQMD Rule 1175, no affected polyethylene foam packaging operations were identified by SCAQMD during the rulemaking process. Therefore, Illinois could not find any polyethylene foam packaging operation similar to Freeflow's operation which is subject to RACT regulations. Because Illinois has found that RACT control to be economically unreasonable for Freeflow's polyethylene foam packaging operation, and that Freeflow's particular type of operation is not covered under RACT in other states, Illinois is requesting that EPA approve the addition of polyethylene foam packaging operations to the list of operations exempted from control under subpart TT.

III. Review of Submittal

The EPA finds that the amendments contained in 35 IAC sections 218.106, 218.480, 218.686, 218.966, and 219.480 are acceptable clarifications to Illinois' existing VOM RACT rules and represent no deviation from RACT. EPA also finds that the RACT exemption for polyethylene foam packaging operations contained in sections 218.980(f) and 219.980(f) is adequately justified by Illinois. EPA, therefore, approves these amendments as a revision to the Illinois SIP for ozone.

IV. Rulemaking Action

The EPA approves Illinois' May 5, 1995, May 26, 1995 and May 31, 1995, submittals requesting revisions to the Illinois SIP for ozone. These revisions include 35 IAC sections 218.106, 218.480, 218.686, 218.966, 218.980, 219.480, and 219.980.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision 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 on May 12, 1997 unless, by April 11, 1997, 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 rulemaking 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 on May 12, 1997.

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

V. Administrative Requirements

A. Executive Order 12866

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 D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 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. sections 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 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 the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA 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 aggregate; or to the private sector, of \$100 million or more. 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 the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA 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).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 12, 1997. 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, Ozone, and Volatile organic compounds.

Dated: November 27, 1996.

Valdas V. Adamkus,
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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(123) to read as follows:

§ 52.720 Identification of plan.

(c) * * *

(123) On May 5, 1995, May 26, 1995, and May 31, 1995, the State of Illinois submitted miscellaneous revisions to its Volatile Organic Material (VOM) Reasonably Available Control Technology (RACT) rules contained in 35 Illinois Administrative Code Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, and Part 219: Organic Material Emission Standards and Limitations for the Metro East Area. These amendments clarify certain applicability provisions, control requirements, and compliance dates contained within these regulations. Also included in these amendments is an exemption for certain polyethylene foam packaging operations from VOM RACT requirements.

(i) *Incorporation by reference.* Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart A: General Provisions, Section 218.106; Subpart T: Pharmaceutical Manufacturing, Section 218.480; Subpart DD: Aerosol Can Filling, Section 218.686; Subpart RR: Miscellaneous Organic Chemical Process, Section 218.966; Subpart TT: Other Emission Units, Section 218.980. Amended at 19 Ill. Reg. 6848; effective May 9, 1995.

(B) Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart T: Pharmaceutical Manufacturing, Section 219.480; Subpart TT: Other Emission Units, Section 219.980. Amended at 19 Ill. Reg. 6958, effective May 9, 1995.

[FR Doc. 97-6076 Filed 3-11-97; 8:45 am]

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40 CFR Part 52

[DE027-1004a, DE020-1004a; FRL-5679-4]

Approval and Promulgation of Air Quality Implementation Plans; State of Delaware: Open Burning and Non-CTG RACT Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.