

permissions to enter the zones via Broadcast Notice to Mariners.

(d) *Effective dates.* This section is effective from the beginning of August 2001 [date to be inserted in final rule] until the operation ends in mid-November 2001 [date to be inserted in final rule]. The public will be notified of the exact dates for enforcement of the various zones by Broadcast Notice to Mariners.

Dated: June 19, 2001.

**G.J. Kanazawa,**

*Captain, U.S. Coast Guard, Captain of the Port Honolulu.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL208-1, IL209-1; FRL-7003-8]

#### Approval and Promulgation of Implementation Plans; Illinois NO<sub>x</sub> Regulations

**AGENCY:** Environmental Protection Agency (USEPA).

**ACTION:** Proposed rule.

**SUMMARY:** On April 9, 2001, and May 1, 2001, Illinois submitted adopted rules to reduce emissions of nitrogen oxides (NO<sub>x</sub>) from cement kilns and from industrial boilers and turbines, respectively. Illinois adopted these rules to help meet the NO<sub>x</sub> emission budget as required under USEPA's NO<sub>x</sub> State Implementation Plan (SIP) Call as well as to help attain the 1-hour ozone standard in the Chicago area.

USEPA proposes to approve these two sets of rules. These rules are similar to and satisfy the requirements of USEPA's sample rules. Illinois' rules include language mandated by the Illinois legislature making the compliance deadline contingent on Federal enforceability of similar rules in other nearby states. However, the legislature has recently reversed its prior mandate and established a fixed compliance deadline of May 31, 2004.

On June 18, 2001, Illinois submitted a budget demonstration, reflecting the impact of the rules on cement kilns and industrial boilers and turbines in conjunction with previously submitted rules on electricity generating units. The submittal justifies two minor inventory revisions, adding one source and deleting another source from the list of regulated industrial sources. Illinois' submittal shows that its rules will achieve the revised budget of acceptable

2007 NO<sub>x</sub> emission levels. USEPA concurs with the inventory revisions and proposes to approve Illinois' budget demonstration.

USEPA has previously proposed to approve Illinois' rules for electricity generating units, provided Illinois established a fixed compliance deadline. With today's action, USEPA has proposed to approve all of the regulations needed to achieve the budgeted 2007 NO<sub>x</sub> emission levels and to meet USEPA's associated requirements. Therefore, USEPA proposes to conclude that Illinois has satisfied all requirements of USEPA's NO<sub>x</sub> SIP Call.

**DATES:** Written comments on this proposed rule must be received on or before July 30, 2001.

**ADDRESSES:** Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at 312-886-6067, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, [summerhays.john@epa.gov](mailto:summerhays.john@epa.gov), 312-886-6067.

**SUPPLEMENTARY INFORMATION:** In the following text, the terms "we," "us," or "our" refer to USEPA. This notice is organized according to the following table of contents:

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#### I. Background

##### A. What Is USEPA's "NO<sub>x</sub> SIP Call"?

On October 27, 1998, the USEPA promulgated a regulation known as the NO<sub>x</sub> SIP Call for numerous States, including the State of Illinois. The NO<sub>x</sub> SIP Call requires the subject States to develop NO<sub>x</sub> emission control regulations sufficient to provide for a prescribed NO<sub>x</sub> emission budget in 2007.

Preceding the promulgation of USEPA's NO<sub>x</sub> SIP Call was extensive discussions of transport of ozone in the Eastern United States. The Environmental Council of States (ECOS) recommended the formation of a national workgroup to assess the problem and to develop a consensus approach to addressing the transport problem. As a result of ECOS' recommendation and in response to a March 2, 1995 USEPA memorandum, the Ozone Transport Assessment Group (OTAG) was formed to conduct regional ozone transport analyses and to develop a recommended ozone transport control strategy. OTAG was a partnership among USEPA, the 37 eastern States and the District of Columbia, and industrial, academic, and environmental groups. OTAG was given the responsibility of conducting the two years of analyses envisioned in the March 2, 1995 USEPA memorandum.

OTAG conducted a number of regional ozone data analyses and

regional ozone modeling analyses using photochemical grid modeling. In July 1997, OTAG completed its work and made recommendations to the USEPA concerning the regional emissions reductions needed to reduce transported ozone as an obstacle to attainment in downwind areas. OTAG recommended a possible range of regional NO<sub>x</sub> emission reductions to support the control of transported ozone. Based on OTAG's recommendations and other information, USEPA issued the NO<sub>x</sub> SIP Call rule on October 27, 1998. 63 FR 57356.

In the NO<sub>x</sub> SIP Call, USEPA determined that sources and emitting activities in 23 jurisdictions<sup>1</sup> emit NO<sub>x</sub> in amounts that "significantly contribute" to ozone nonattainment or interfere with maintenance of the 1-hour ozone national ambient air quality standards (NAAQS) in one or more downwind areas in violation of Clean Air Act (CAA) section 110(a)(2)(D)(i)(I). USEPA identified NO<sub>x</sub> emission reductions by source sector that could be achieved using cost-effective measures and set state-wide NO<sub>x</sub> emission budgets for each affected jurisdiction for 2007 based on the possible cost-effective NO<sub>x</sub> emission reductions.

The source sectors include nonroad mobile, highway mobile, area, electricity generating units (EGUs), and major non-EGU stationary point sources. EGUs include stationary boilers and turbines that generate at least some electricity, even if they also generate steam for industrial processes. Non-EGUs include other large stationary boilers and turbines, typically for the purpose of generating steam for industrial processes.

USEPA established recommended NO<sub>x</sub> emissions caps for large EGUs (potentially generating more than 25 megawatts) and for large non-EGUs (minimum design heat input of 250 mmBTU per hour). USEPA determined that significant NO<sub>x</sub> reductions using cost-effective measures could be obtained as follows: application of a 0.15 pounds NO<sub>x</sub>/mmBtu heat input emission rate limit for large EGUs; a 60 percent reduction of NO<sub>x</sub> emissions from large non-EGUs; a 30 percent reduction of NO<sub>x</sub> emissions from large cement kilns; and a 90 percent reduction of NO<sub>x</sub> emissions from large stationary internal combustion engines. The 2007 state-wide NO<sub>x</sub> emission

budgets established by jurisdiction were based, in part, by assuming these levels of NO<sub>x</sub> emission controls coupled with NO<sub>x</sub> emissions projected by source sector to 2007.

Although the state-wide NO<sub>x</sub> emission budgets were based on the levels of reduction achievable through cost-effective emission control measures, the NO<sub>x</sub> SIP Call allows each State to determine what measures it will choose to meet the state-wide NO<sub>x</sub> emission budgets. It does not require the States to adopt the specific NO<sub>x</sub> emission rates assumed by the USEPA in establishing the NO<sub>x</sub> emission budgets. The NO<sub>x</sub> SIP Call merely requires States to submit SIPs, which, when implemented, will require controls that meet the NO<sub>x</sub> state-wide emission budget. The NO<sub>x</sub> SIP Call encourages the States to adopt a NO<sub>x</sub> cap and trade program for large EGUs and large non-EGUs as a cost-effective strategy and provides an interstate NO<sub>x</sub> trading program that the USEPA will administer for the States. If States choose to participate in the national trading program, the States must submit SIPs that conform to the trading program requirements in the NO<sub>x</sub> SIP Call.

#### *B. What Requirements Must Illinois Meet?*

The State of Illinois has the primary responsibility under the Clean Air Act for ensuring that Illinois meets the ozone air quality standards and is required to submit a SIP that specifies emission limitations, control measures, and other measures necessary for meeting the NO<sub>x</sub> emissions budget. The SIP for ozone must meet the ozone transport SIP Call requirements, must be adopted pursuant to notice and comment rulemaking, and must be submitted to the USEPA for approval.

These NO<sub>x</sub> emission reductions will address ozone transport in the area of the country primarily east of the Mississippi River. USEPA promulgated the NO<sub>x</sub> SIP Call pursuant to the requirements of CAA section 110(a)(2)(D) and our authority under CAA section 110(k). Section 110(a)(2)(D) applies to all SIPs for each pollutant covered by a NAAQS and for all areas regardless of their attainment designation. It requires a SIP to contain adequate provisions that prohibit any source or type of source or other types of emissions within a State from emitting any air pollutants in amounts which will contribute significantly to nonattainment in, or interfere with maintenance of attainment of a standard by any other State with respect to any NAAQS.

Pursuant to its authority under section 110(k)(5), USEPA concluded that the SIPs for Illinois and other states are substantially inadequate to prohibit NO<sub>x</sub> emissions that significantly contribute to ozone nonattainment in downwind states. Therefore, Illinois must submit SIP revisions that address this inadequacy.

USEPA has published a model rule for control of NO<sub>x</sub> emissions from boilers and turbines. This model rule, codified at Title 40 of the Code of Federal Regulations Part 96 (40 CFR part 96), reflects USEPA's recommendations for the general design of the necessary NO<sub>x</sub> emission control programs as well as detailed recommendations for specific program features. Similarly, at 63 FR 56393 (October 21, 1998), USEPA has published a proposed Federal implementation plan including rules regulating cement kilns, which serve as sample rules for this source type. USEPA recommends the cost-effective levels of control noted above. The budget that USEPA established for states reflects these control levels. USEPA further recommends that states take the necessary steps to allow their sources to participate in a multi-state NO<sub>x</sub> emissions trading program that USEPA will run. While USEPA offers flexibility to states on various elements of program design, particularly in the distribution of projected emission reductions, USEPA can offer more streamlined approval of programs that more closely follow USEPA's model rule.

## **II. Summary of Illinois Submittals**

### *A. Overview of Pertinent Submittals*

#### **1. What Are the Elements of Illinois' NO<sub>x</sub> Emission Control Program?**

Illinois has adopted a control strategy that closely matches the control strategy that USEPA assumed in determining NO<sub>x</sub> emission budgets. Like USEPA's assumed strategy, Illinois is regulating emissions from large utility sources, from large cement kilns, and from large industrial boilers and turbines. Illinois requires cement kilns to meet an emission factor limitation or other equivalent limitation corresponding to 30 percent emission control. Illinois requires utility sources on average to meet a limitation of 0.15 pounds of NO<sub>x</sub> emissions per mmBTU and requires industrial boilers on average to achieve 60 percent emissions control.

Illinois provides for the utility and industrial boiler sources to participate in the trading program that USEPA is running. Thus, these sources are not subject to specific emission limitations. Instead, USEPA would issue allowances to these sources in amounts equivalent

<sup>1</sup> Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

to the budgeted emissions level, and USEPA and Illinois would require each source to emit no more tons than the number of allowances it holds. One option a source would have is to emit at or below the budgeted level and accommodate these emissions with the issued allowances. Another option is to emit more than the budgeted amount and accommodate these emissions by purchasing allowances from a second source that has excess allowances due to a corresponding degree of control below its budgeted level. Under either option, and under any of the variants of these options permissible in Illinois' rules, the net effect is designed to be achievement of the targeted emissions reductions by some combination of sources in the program.

## 2. What Submittals Has Illinois Made?

Illinois divided its NO<sub>x</sub> emission control program into several components, each submitted separately. On July 18, 2000, Illinois submitted a draft version of subpart W of part 217 of the Illinois Administrative Code, regulating electricity generating units. Illinois submitted a fully adopted version of this rule on February 23, 2001. On April 9, 2001, Illinois submitted an adopted subpart T of part 217, regulating cement kilns. On May 1, 2001, Illinois submitted adopted subpart U, regulating industrial boilers and turbines.

USEPA proposed rulemaking on the submittal for electricity generating units on August 31, 2000, at 65 FR 52467. Today's notice proposes rulemaking on the submittals for cement kilns and industrial boilers.

These submittals constitute the full set of rules that Illinois has adopted to satisfy the requirements of USEPA's NO<sub>x</sub> SIP Call. USEPA additionally requires each state to submit a demonstration that its regulations are adequate to attain the state NO<sub>x</sub> emissions budget mandated by USEPA. Illinois submitted its budget demonstration on June 18, 2001. USEPA is proposing rulemaking on this budget demonstration as part of this notice. More generally, USEPA is proposing action on whether Illinois has fully satisfied USEPA's NO<sub>x</sub> SIP Call.

## 3. What are USEPA's Plans for Rulemaking on Subpart X?

The submittal of May 1, 2001, also includes adopted rules of subpart X of part 217, entitled Voluntary NO<sub>x</sub> Emissions Reduction Program. These rules authorize issuance of allowances for NO<sub>x</sub> emission reductions at sources not required to reduce these emissions. Sources seeking such allowances must

operate continuous emission monitors in accordance with USEPA's regulations at 40 CFR part 60. Subpart X is intended to provide flexibility for sources not part of the core group of sources to be subject to Illinois' NO<sub>x</sub> emission control regulations to achieve reductions which can in effect substitute for reductions at facilities that must be subject to Illinois' regulations.

USEPA views subpart X as a supplement to Illinois' NO<sub>x</sub> emissions regulations and not a direct set of emission reduction requirements needed to achieve the emissions control mandated by USEPA. Subpart X allows a redistribution of the targeted emission reductions but is intended to have no effect on the net emission reductions achieved.

USEPA is under court order to complete rulemaking on the ozone attainment demonstration for the Chicago area by October 15, 2001. The NO<sub>x</sub> emission reductions required by subparts T, U, and W are an important part of the Chicago area attainment demonstration that Illinois has submitted. Therefore, USEPA must also complete rulemaking on these NO<sub>x</sub> emission reduction regulations by October 15, 2001. Because these same three subparts are also designed to be sufficient to satisfy USEPA's NO<sub>x</sub> emission budget requirements, USEPA intends to complete rulemaking on Illinois' budget demonstration in the same timeframe.

USEPA views subpart X as not being an element of Illinois' attainment demonstration, such that rulemaking on this subpart need not occur by October 15, 2001. USEPA believes the best approach for satisfying this deadline is to conduct separate rulemaking on subpart X. Also, because the features of subpart X are not included in USEPA's model rule, USEPA cannot conduct streamlined rulemaking on subpart X. Therefore, USEPA wishes to conduct streamlined rulemaking on the Illinois rules needed to satisfy USEPA's NO<sub>x</sub> SIP Call without delaying the rulemaking to address subpart X.

USEPA provides flexibility for states to adopt different mixes of control strategies, to address different mixes of sources and to impose differing levels of control stringency. Most cases of applying this flexibility are to issue a different distribution of allowances (reflecting different distribution of control levels or growth rates) or to impose specific control requirements on a specific alternative source type. Conceptually, subpart X is a reasonable extension of this flexibility, to allow the reductions dictated in subparts T, U, and W to be replaced with reductions

from other, as yet unidentified sources. Furthermore, subpart X is in many respects similar to the opt-in provisions that USEPA suggests in its model rule. USEPA anticipates proposing rulemaking on subpart X in the near future.

## B. Cement Kiln Rules (Subpart T)

### 1. When Was the Cement Kiln NO<sub>x</sub> Emission Control Rule Submitted to the USEPA?

Illinois EPA submitted to USEPA, additional portions of the State's NO<sub>x</sub> emission control plan in a letter dated April 9, 2001. The letter contained rules adopted by the Illinois Pollution Control Board (IPCB) as requested amendments to the SIP. The submittal included: Subpart A: General Provisions, Subpart B: Definitions and Subpart T: Cement Kiln. The final State rule was published in the Illinois Register, Volume 25, Issue 13, pages 4582-4608, dated March 30, 2001. This version in the Illinois Register differs from that submitted with the SIP revision request only in that the numbering scheme in subpart T was changed from 217.6xx in the final package of rules sent to the IPCB (and in the submittal to USEPA) to 217.4xx in the official Illinois Register publication. This is not a significant issue but, highlighted only for clarity.

### 2. When Must Sources Reduce Emissions?

An important element of Illinois' rules is the date by which sources must comply with the applicable requirements. Section 217.402(b) of subpart T as submitted by Illinois states that sources are subject to the requirements of subpart T only after other nearby states become subject to comparable, federally enforceable NO<sub>x</sub> emission limits. Similar language is in Illinois' rules for utility sources (subpart W), and USEPA proposed to approve those rules only if Illinois made the allowance holding/emission reduction requirements effective in May 2004 without respect to the status of requirements in nearby States. (Cf. 65 FR 52975, dated August 31, 2000.)

The Illinois legislature has passed legislation overriding the contingency clause in these rules and requiring compliance by May 31, 2004. This is the necessary compliance deadline pursuant to the resolution of a lawsuit regarding USEPA's NO<sub>x</sub> SIP Call. USEPA expects the governor to sign this legislation soon. Once the governor signs this legislation, Illinois will have addressed the concern identified in USEPA's prior rulemaking and

established an appropriate compliance deadline for these rules.

3. What Are the Basic Components of the State's Rule?

Basic components of the rule are included in Table 1.

TABLE 1.—40 CFR PARTS AND SECTIONS INCORPORATED BY REFERENCE IN ILLINOIS' CEMENT KILN NO<sub>x</sub> RULE

State subpart	State section	Comment
A .....	217.104(a) .....	Incorporation by reference (IBR) of 40 CFR 60, Appendix A, Method 7.
	217.104(b) .....	IBR of Alternative Control Techniques Document, NO <sub>x</sub> Emissions from Cement Manufacturing.
	217.104(c) .....	IBR of AP-42, Compilation of Air Emission Factors, Volume 1, Section 11.6, Portland Cement Manufacturing.
	217.104(d) .....	IBR of 40 CFR 60.13
	217.104(e) .....	IBR of 40 CFR 60, Appendix A, Methods 7, 7A, 7C, 7D, and 7E.
T .....	217.400 .....	Applicability, lists the types and sizes of kilns which are covered in the rule.
	217.402 .....	Control Requirements. Lists dates, type of kiln, and NO <sub>x</sub> emission limits. Includes language linking effective dates to NO <sub>x</sub> SIPs in other states.
	217.404 .....	Testing Requirements. References 40 CFR 60, Appendix A, Methods 7, 7A, 7C, 7D, or 7E.
	217.406 .....	Monitoring Requirements.
	217.408 .....	Reporting Requirements.
	217.410 .....	Recordkeeping Requirements.

Subpart T applies to all Cement Kilns of the sizes noted in Table 2.

TABLE 2.—EQUIPMENT SUBJECT TO THE ILLINOIS CEMENT KILN RULE

Item	Process name	Process rate
1 .....	Long dry kilns .....	12 tons/hour.
2 .....	Long wet kilns .....	10 tons/hour.
3 .....	Pre-heater kilns .....	16 tons/hour.
4 .....	Pre-heater/pre-calciner kilns .....	22 tons/hour.

The rule applies to all noted sources in the State of Illinois. Equipment with process rates equal to or greater than the rates listed in Table 2, are subject to the requirements of the State's subpart T. There are three sources totaling four units potentially impacted by the cement kiln rule. Using information available to the State, the Illinois EPA applied regulatory control efficiency of 30 percent to the projected 2007

seasonal NO<sub>x</sub> emissions to obtain the 2007 seasonal NO<sub>x</sub> budget for the kilns. The required control on these kilns will reduce the 2007 base emissions to a control level 2,851 tons per control period as a result of emission controls beginning May 31, 2004.

Control requirements are listed in section 217.402 of the State's rule. Section 217.402 identifies a number of emission rates and technologies by

which standards can be met. The rule specifies an emission rate limit based on type of kiln (see Table 2) or the use of emission factors based on a specified method. The rule also allows the use of an alternate emission standard for the kiln based on a demonstration that the alternative standard is justifiable. Illinois EPA established the following NO<sub>x</sub> emission rate limits for the process kilns listed in Table 3.

TABLE 3.—CEMENT KILN EMISSION LIMITS FOR KILNS WHICH BEGAN OPERATION PRIOR TO JANUARY 1, 1996.

Item	Process	Emission limit #/ton clinker
1 .....	Long dry kilns .....	5.1 # of NO <sub>x</sub> / ton of clinker.
2 .....	Long wet kilns .....	6.0 # of NO <sub>x</sub> / ton of clinker.
3 .....	Pre-heater kilns .....	3.8 # of NO <sub>x</sub> / ton of clinker.
4 .....	Pre-heater/pre-calciner .....	2.8 # of NO <sub>x</sub> / ton of clinker.

The State allows other options to control emissions from kilns. As one option, after May 30, 2004, the kiln shall not operate during the control period unless the kiln is operated with a low-NO<sub>x</sub> burner or a mid-kiln firing system for kilns which began operation before January 1, 1996. There is also an option under which the kilns would be

required to achieve a 30 percent or greater reduction from its uncontrolled baseline.

USEPA evaluated whether two provisions posed "director's discretion" concerns, i.e. whether these provisions authorized only the state to make significant judgments without USEPA having independent review authority.

First, section 217.402 (a)(5) authorizes the state to grant alternative emission standards. The state may issue such standards if the source demonstrates that 30 percent control would impose an "unreasonable cost of control" or installation of such control is a "physical impossibility." These terms are undefined.

However, section 217.402(a)(5) also states that alternative standards "shall be effective only when included as a federally enforceable condition in a permit approved by USEPA or approved as a SIP revision." Furthermore, the rule states that alternative standards or alternative compliance deadlines "shall be granted by the Board to the extent consistent with federal law." These provisions clearly require independent USEPA review and approval. Therefore, USEPA does not find this provision to inappropriately remove USEPA from involvement in judging whether to grant alternative emission standards.

The second feature involving state judgment relates to methods for determining emissions. Section 217.402(a)(3)(B) requires sources to determine emissions using (i) appropriate emission factors, (ii) Method 7, or (iii) alternative methods approved by the State. The third option requires the alternative to be established in a federally enforceable permit. Because state issuance of federally enforceable permits require USEPA review and typically allow USEPA to veto any permit to which it objects, USEPA believes it has adequate authority to assure that appropriate emissions determining methods are used.

Sources must submit a compliance plan which must:

1. Identify the specific operating conditions to be monitored and the correlation between the operating conditions and NO<sub>x</sub> emission rates;
2. Include the data and information that the owner or operator used to identify the correlation between NO<sub>x</sub> emission rates and these operating conditions;
3. Identify how the owner or operator will monitor these operating conditions on an hourly or other basis, and identify the quality assurance procedures or practices that will be employed to ensure that the data generated by monitoring these operating conditions will be representative and accurate.
4. If operating a low-NO<sub>x</sub> burner or mid-kiln firing system, the plan must include only monitoring parameters indicated in the manufacturer's specifications and recommendations for the low-NO<sub>x</sub> burner or mid-kiln firing system as approved by the IEPA.
5. If the owner or operator elects to monitor NO<sub>x</sub> emissions using a continuous emissions monitoring system, the owner or operator must submit a monitoring plan subject to the approval by the IEPA.

#### 4. Will Affected Sources Be Allowed to Participate in a NO<sub>x</sub> Emissions Trading Program?

This rule allows the owner or operator to obtain approval from the Illinois EPA and the USEPA to participate in the NO<sub>x</sub> Trading Program. Participation will be effective upon issuance of a permit containing all necessary federally enforceable permit conditions addressing the kiln's participation in the Federal NO<sub>x</sub> Trading Program following the requirements of 40 CFR part 96. A source which participates in the trading program is not subject to subpart T of the State's rule except for the requirement to submit an initial compliance report.

#### 5. What Public Review Opportunities Were Provided?

The IEPA filed the subpart T Cement Kiln rule with the IPCB on August 21, 2000. The first notice of the rule was published in the Illinois Register on September 8, 2000. Hearings were held on October 3, 2000, in Chicago, and November 3, 2000 in Springfield, Illinois. A second notice was issued on December 21, 2000. Illinois issued a certification of no objections and second notice changes on February 21, 2001. On March 1, 2001, the IPCB issued its opinion and final order and adopted the rule. The final rule was published in the Illinois Register on March 30, 2001.

#### C. Industrial Boiler Rules (Subpart U)

Subpart U is quite similar to USEPA's model rule as given in 40 CFR part 96. The central feature is issuance of allowances to subject sources in an amount equivalent to significantly reduced emissions and a requirement to hold allowances equivalent to actual emissions levels. Subpart U also has several special provisions similar to USEPA's model rule, including provisions for a new source set-aside, for early reduction credits, for sources obtaining low emitter status, and for sources to opt into the program. The following summary of Illinois' industrial boiler rules describes the program's general features, discusses the sources subject to the rule, discusses the program's special features, and discusses the emission reductions anticipated from this program.

#### 1. What Do the Industrial Boiler Rules Require?

Starting in 2004, industrial boilers and turbines must hold allowances equal to their emissions during the ozone season, defined here as May 1 to September 30. (As part of the resolution of a lawsuit challenging USEPA's rule, the applicable period for 2004, unlike

the applicable period for subsequent years, excludes May 1 to May 30.) Each year, sources are issued a number of allowances as specified in appendix E to part 217. These sources receive allowances equivalent to 60 percent control. Sources have the option to avoid trading and reduce emissions to their allowance level. Alternatively, sources may alter their required emissions level by buying or selling allowances, presumably with other sources that reduced their own emissions to below or above their own allowance issuance levels, respectively.

As with the cement kiln and utility boiler programs, many elements of Illinois' industrial boiler program directly apply provisions promulgated by USEPA. Illinois applies the same applicability criteria as USEPA applied in assessing its emissions budget. Subject sources must satisfy the continuous emissions monitoring requirements set in 40 CFR part 96 and specified in 40 CFR part 75. Sources that emit in excess of their allowance holdings are subject to the enforcement provisions of 40 CFR 96.54, including a deduction of three allowances per ton of excess emissions and other potential enforcement actions. The process for tracking allowances and recording allowance transfers is the process given in 40 CFR part 96, subparts F and G, respectively. Sources must establish an allowance account representative pursuant to 40 CFR part 96, subpart B. Provisions on permits and emissions reporting closely match the corresponding provisions of 40 CFR part 96.

Subpart U applies the same level of stringency of control as is assumed for these sources in USEPA's emissions budget. The number of allowances issued to individual sources differs from the corresponding numbers in USEPA's emissions budget, principally due to redistribution of allowances of a source that has shut down, but the total number of allowances for source covered by subpart U is identical to the number of tons of NO<sub>x</sub> emissions for these sources in USEPA's budget calculations.

#### 2. What Sources Are Subject to These Rules?

Subpart U focuses on boilers and turbines with heat input capacity greater than 250 million British Thermal Units (mmBTU) that do not produce significant electricity. This rule affects a variety of companies, including refineries, food processors, and steelmakers. The rule includes an appendix that identifies sources that are subject to the regulation and specifies

the number of allowances issued to each of these sources.

Illinois requested two minor revisions to the emissions inventory of sources to be subject to the industrial boiler rules. The first revision applies to LTV Steel. Illinois explains that a boiler of this company was mistakenly identified as a small source. Illinois identifies this boiler as needing an allocation from USEPA; Illinois recommends an allocation of 60 tons per ozone season. The second revision applies to a boiler at the University of Illinois at Urbana-Champaign. Illinois submitted evidence that this boiler has a design capacity below the 250 mmBTU/hour cutoff given in Illinois' rule and assumed in USEPA's budget calculations. This revision would remove an allocation of 86 tons of allowances. The net effect of recognizing LTV's larger size and voiding the University of Illinois control requirement would be to increase the emissions budget for industrial boilers and turbines by 188 tons per ozone season. Considering existing controls at the LTV boiler, the addition of the LTV boiler and removal of the University of Illinois boiler from the list of sources subject to control would decrease the actual emission reductions expected from the rule by 124 tons per ozone season, to about 4100 tons per ozone season.

3. What Are the Special Provisions of These Rules?

Various special provisions supplement these general features. Appendix E allocates three percent of the industrial boiler allowances as a new source set-aside. Illinois issues these allowances to new sources to accommodate generally three years of well controlled operation, and redistributes any remaining "new source set-aside" allowances back to the existing sources listed in appendix E. Illinois rules allow special issuance of allowances to sources that achieve early reductions, i.e. reductions in 2001, 2002, or 2003, provided the source has reduced its emission rate by at least 30 percent. Illinois allows sources that burn natural gas or fuel oil to achieve "low emitter status," in which the source must limit its fuel usage to remain below 25 tons of NO<sub>x</sub> emissions per ozone season in exchange for being exempted from monitoring and allowance holding requirements. Illinois' rule differs slightly from USEPA's model rule (cf. 63 FR 57491, October 27, 1998) by giving sources the option to use continuous emissions monitoring rather than conservative default emission factors to show compliance with the 25 tons per ozone season qualifying level. Finally, Illinois

allows smaller sources that are not required to participate in the program to opt into the program.

4. How Much Emission Reduction Do These Rules Achieve?

With the inventory adjustments recommended by Illinois, the sources identified in subpart U have a total allocation of 4856 tons per ozone season. Each individual allocation generally reflects 60 percent control, i.e. 40 percent of uncontrolled emissions. Thus, subpart U requires emission reductions to about 7300 tons below uncontrolled levels. Because many sources already have some emission controls, the reduction of actual emissions from these sources is projected to be about 4100 tons.

D. Budget Demonstration

On June 18, 2001, Illinois submitted its demonstration that its rules were adequate to achieve the 2007 level of NO<sub>x</sub> emissions that USEPA budgeted for Illinois. As requested by USEPA, Illinois used USEPA's baseline inventory as the basis for this demonstration. Illinois provided the following table of NO<sub>x</sub> emissions from the various types of sources that emit NO<sub>x</sub> in significant quantities.

Sector	2007 Base ozone season total (tons)	2007 Budget ozone season total (tons)	Emission reduction (tons)	Category reduction (%)	Contribution to NO <sub>x</sub> trading budget (tons)
Electrical Generating Units (EGUs) .....	119,311	32,372	86,939	73	30,701
Non-Electrical Generation Units (Non-EGUs) .....	71,011	59,765	11,246	16	4,856
Area .....	9,369	9,369	0	0	0
On-Road Mobile .....	112,518	112,518	0	0	0
Non-Road Mobile .....	56,724	56,724	0	0	0
<b>Total .....</b>	<b>368,933</b>	<b>270,748</b>	<b>98,185</b>	<b>127</b>	<b>35,557</b>

<sup>1</sup> Total Reduction.

This table relies on USEPA budget information as of March 2, 2000. On this date, at 65 FR 11222, USEPA published revised budgets for each of the states subject to the NO<sub>x</sub> SIP Call and provided a detailed inventory of baseline and controlled emissions, available on the internet at [ftp.epa.gov/EmisInventory/NOxSIPCall\\_Mar2\\_2000/](http://ftp.epa.gov/EmisInventory/NOxSIPCall_Mar2_2000/).

Subsequent to March 2, 2000, the Court of Appeals for the District of Columbia Circuit remanded to USEPA the portion of the NO<sub>x</sub> SIP Call requiring control of stationary internal combustion engines. Thus, pending further rulemaking, USEPA does not currently require control of these sources. In Illinois, control of these

sources is projected to reduce NO<sub>x</sub> emissions by 5954 tons per ozone season. Illinois has not adopted regulations for control of these sources and intends instead to adopt these regulations after USEPA completes rulemaking pursuant to the remand. Nevertheless, Illinois includes the prospective control of these sources, to simplify the comparison of projected Illinois emissions with USEPA's budget requirements. This approach is of course equivalent to making a comparison in which both the Illinois inventory and USEPA's budget exclude these controls.

Also subsequent to March 2, 2000, Illinois identified the issues described earlier in this notice concerning the size

of the boilers of LTV Steel and the University of Illinois. Illinois' budget demonstration reflects the state's recommended budget revisions for these sources. These revisions increase the baseline emissions by 64 tons per ozone season and increase the budget level emissions by 188 tons per ozone season.

Because Illinois has adopted rules which reflect the same control strategy as USEPA assumed in formulating its budget, Illinois' projected, controlled emission inventory closely resembles USEPA's budget for Illinois. Illinois obtains emission reductions from electricity generating units and from non-electricity generating point sources. The inventory for non-electricity generating units reflects controls on

both cement kilns and industrial boilers and turbines. Because Illinois is pursuing the same mix of controls as was assumed in USEPA's budget, the projected 2007 emissions for these two categories are identical to the emissions for these categories in USEPA's budget except for the adjustments to the inventory for the two industrial boilers as described above. Illinois obtains no emission reductions from area sources, highway mobile sources, or nonroad mobile sources beyond the baseline inventory. (The baseline inventory reflects reductions from federal measures, notably highway vehicle controls.) USEPA's budget also assumes no emission reductions below the baseline inventory, so for all three categories Illinois' inventory and USEPA's budget equal the same USEPA baseline inventory total. Consequently, with adjustment for the alterations described above, Illinois' budget demonstration shows that total 2007 NO<sub>x</sub> emissions are identical to the 2007 total NO<sub>x</sub> emissions budget that USEPA has required Illinois to achieve.

### III. USEPA Review

#### A. Cement Kiln Rules (Subpart T)

##### 1. What Guidance Did USEPA Use To Evaluate the State's Rule?

The proposed Federal implementation plan, proposed at 63 FR 56393 (October 21, 1998), including regulations covering cement kilns, reflects USEPA's recommendations for the design of State regulations of such sources. Also relevant are USEPA's regulations on emissions monitoring in 40 CFR part 60, a significant portion of which are incorporated by reference into the State rules. The portions incorporated by reference are listed elsewhere in this proposal.

##### 2. Can USEPA Approve Illinois' Cement Kiln Rules?

A key deficiency in subpart T is language which affords sources in Illinois a delay of one year or more in complying with the requirements of the rule. However, on May 31, 2001, the Illinois legislature passed a bill to establish a fixed compliance deadline of May 31, 2004. We anticipate that the Governor will sign this legislation soon, which would remove this deficiency. This legislation must be signed before we can approve subpart T.

The earlier section describing the rule discusses two issues relating to "director's discretion", i.e., questions as to whether the rules authorize only the state to make significant judgments without USEPA having independent review authority. As previously

discussed, USEPA concludes that the alternative standard provisions at section 217.402(a)(5) sufficiently protect the viability of the NO<sub>x</sub> budget plan. The intent is to ensure the source controls emissions to at least 30 percent below the baseline. The rule does not give the state sole discretion to broadly interpret terms such as "unreasonable cost" and "physical impossibility". The rule allows an "adjusted standard or alternate emission standard \* \* \* consistent with federal law. Such alternate shall be effective only when included as a federally enforceable condition in a permit approved by USEPA or approved as a SIP revision." USEPA believes this provision gives USEPA adequate authority to reject unacceptable requests for emission standards that require less than 30 percent emission reduction.

USEPA has conducted an extensive evaluation of controls feasible at cement kilns. Based on these efforts, USEPA does not expect any source to find 30 percent control to impose unreasonable costs or to be physically impossible. USEPA further expects to find that any request for lesser controls to be contrary to federal law, in particular the provisions of Clean Air Act section 110(a)(2)(D) requiring the state to prohibit emissions that contribute significantly to downwind nonattainment. Cement kilns which find control to be expensive or difficult can, in any case, opt into the trading program and purchase allowances as an alternative compliance strategy. Therefore, USEPA plans to use its discretion to reject requests for alternative emission standards.

The State rule addressed in this proposal applies to equipment of a size comparable to that used by USEPA in the development of the budget for the State of Illinois. For purposes of calculating the State's budget, USEPA assumed a 30 percent reduction in emissions from uncontrolled levels. The State's rule calls for a minimum reduction of NO<sub>x</sub> of 30 percent as part of the approved federally enforceable permit conditions for a kiln participating in the NO<sub>x</sub> trading program.

Illinois EPA identifies four large kilns as potentially impacted by the State's rule at three sources in the State. Each of these sources emitted more than 1 ton per day of NO<sub>x</sub> during 1995. The total base year 2007 seasonal emissions of NO<sub>x</sub> from these four kilns is calculated to be 4,073 tons during the control period. The required 30 percent control on these kilns will reduce the 2007 base to a controlled level of 2,851 tons during the control period.

We believe the State rule is approvable as an element of the State's NO<sub>x</sub> plan.

#### B. Industrial Boiler Rules (Subpart U)

Illinois' rules for industrial boilers and turbines are similar to USEPA's model rule, both in their general design and in their inclusion of several special features. These features include provisions for a new source set-aside, for early reduction credits, for some sources to obtain low emitter status, and for sources not required to participate in the program to opt into the program.

This review of Illinois' industrial boiler rules focuses on the slight differences between Illinois' rules and USEPA's model rule. The review begins with a review of the general features of the program and continues with a review of each of the above special features.

##### 1. Can USEPA Approve the General Approach?

Illinois' rules for industrial boilers and turbines are similar to USEPA's model rule for these sources. Therefore, USEPA finds acceptable the general design of Illinois' program for these sources, including the allocation of allowances, the requirement to hold allowances equivalent to emissions during a properly defined ozone season, and the supplemental features including the provisions for a new source set-aside, for early reduction credits, for sources obtaining low emitter status, and for sources to opt into the program. Thus, the principal question for this review is whether the details of Illinois' rules properly implement these general features. This review focuses on modest differences between particular elements of Illinois' rules and the corresponding elements of USEPA's model rule.

Illinois used the emissions inventory developed by USEPA, given at [ftp.epa.gov/EmisInventory/NOxSIPCall\\_Mar2\\_2000](http://ftp.epa.gov/EmisInventory/NOxSIPCall_Mar2_2000), reflecting 60 percent emissions control, as the basis for determining allowances for each source. While the total number of allowances is identical to the number of tons per ozone season assumed for these sources in USEPA's budget, Illinois redistributes the allowances associated with a source that has shut down to the currently operating sources. USEPA guidance clearly accepts such redistributions of control burden. A subsequent section of this notice reviews whether the emission reductions mandated by these rules in conjunction with reductions mandated by other Illinois rules are adequate to achieve the NO<sub>x</sub> emissions budget required by USEPA.

USEPA's model rule has provision for periodic reassessment of the number of allowances to be issued to each source. In USEPA's model rule, the state makes an annual determination of heat input, which the state uses to determine the source's allocation of allowances for four years thereafter.

In contrast, Illinois does not change its distribution of allowances to industrial boiler sources from year to year. In fact, aside from adjustments from overall budget changes that may in time be imposed by USEPA, and aside from source-specific changes such as opt-ins and low emitter status changes, Illinois' allocations of allowances to industrial boilers and turbines are permanent. Illinois has the flexibility to distribute allowances in a fixed manner, and this approach clearly gives sources the advance notice of allotments that USEPA requires.

USEPA objects to language in the rule making the compliance deadline contingent on action in other nearby states. However, legislation passed by the state legislature would remedy this problem, establishing a fixed, noncontingent compliance deadline of May 31, 2004. If the governor signs this legislation, the state will have an approvable compliance deadline.

The remaining general features of Illinois' program for industrial boilers and turbines either apply the provisions that USEPA has promulgated (such as for monitoring emissions, imposing penalties for noncompliance, and tracking and transferring allowances) or establish provisions closely matching USEPA's recommendations (such as for applicability and requirements for permitting and emissions reporting). These elements of Illinois' program are clearly acceptable.

## 2. Can USEPA Approve the New Source Set-aside Features?

USEPA's model rule reserves allowances to be granted to new sources. The model rule reserves five percent of the budget for this purpose for the first three years of the program and two percent thereafter. The model rule grants allowances to new industrial boilers and turbines in an amount equal to the maximum design heat input times 0.17 pounds of allowances per mmBTU. Illinois' industrial boiler rule also reserves allowances for new sources, but Illinois reserves three percent of the large industrial boiler source budget in all years and issues a smaller number of allowances to new sources. Illinois' rules determine the number of allowances available to a new source based on a heat input rate that reflects actual usage once actual usage data

become available times an emission factor equal to the lesser of 0.15 pounds NO<sub>x</sub> per mmBTU or the new source's permit limit. Illinois also requires the new source to purchase these allowances, the funds of which are returned to existing sources. USEPA expressly states that states have flexibility on these issues, and these aspects of Illinois' rules are well within the range of acceptable options.

## 3. Can USEPA Approve the Early Reduction Credit Features?

USEPA's model rule provides for early reduction credits. The model rule defines a process for requesting early reduction credits. In the model rule, sources that reduce their emission rate (pounds per mmBTU) by at least 20 percent and to below 0.25 pounds of NO<sub>x</sub> emissions per mmBTU in 2001 or 2002 may request early reduction credits. USEPA's model rule issues allowances to the extent the source reduces emissions below 0.25 pounds per mmBTU, up to a specified maximum total issuance. Illinois' rule applies the same basic process as the model rule. However, Illinois issues allowances to any timely reduction that reduces the emission rate by at least 30 percent, irrespective of whether the resulting emission rate is above or below 0.25 pounds per mmBTU. (Although section 217.470(c) is somewhat confusing, USEPA interprets the language according to Illinois' intent, that credits may be requested only if the emission rate is at least 30 percent below the prior actual emission rate.) Since Illinois requires suitable monitoring before and after the reduction to assure that credits reflect valid reductions, USEPA accepts issuing credits for reductions above the 0.25 pounds per mmBTU level.

Two issues relating to early reduction credits arise from the one year delay in program startup mandated by the District of Columbia Circuit Court in its ruling on USEPA's NO<sub>x</sub> SIP Call regulations. Since emission controls are no longer required in 2003, the first issue is whether sources that reduce emission rates in 2003 may receive early reduction credits. Illinois' rules provide that sources may request early reduction credits for adequate reductions "in the 2001 or 2002 control period, or if approved by USEPA the 2003 control period." The second issue is when these credits may be used. USEPA's model rule provides that early reduction credits may only be used in 2003 and 2004. Illinois' rules provide that early reduction credits are "for use in [the] 2004 control period, or later control periods authorized by USEPA."

Because reductions are not required in 2003, USEPA considers reductions in 2003 to be early reductions. That is, USEPA approves issuing early reduction credits for qualifying reductions in 2003. USEPA intended for these early reduction credits to be used in the first two control years of the program. Therefore, USEPA authorizes use of these credits in 2005 as well as 2004. All early reduction credits not used by 2005 must be retired at the end of 2005 and may no longer be used.

## 4. Can USEPA Approve the Low Emitter Exemption Features?

Section 217.472 of Illinois' rules provides an exemption very similar to an exemption in USEPA's model rule for sources that only burn natural gas and/or fuel oil and emit under 25 tons per ozone season. Such sources do not receive allowances and need not hold allowances for these emissions but must comply with permit limitations sufficiently restricting fuel usage to comply with this emission level.

The only significant difference in Illinois' rule from USEPA's model rule is that sources may rely on continuous emissions monitoring (rather than fuel usage multiplied by default emission factors) to assess compliance with the 25 ton limit. USEPA discussed the interpretation of section 217.472 with the state. Illinois clarified this section in its letter of June 18, 2001. First, Illinois stated that section 217.472(a)(4) in effect defines "potential NO<sub>x</sub> mass emissions" as the emissions determined either by emissions monitoring or by multiplying hours of operation times maximum potential hourly emissions. Second, Illinois clarified that, for sources relying on mass emissions monitoring, the restriction on operating hours should be interpreted as allowing only the number of hours of operation associated with the permissible number of tons of emissions (usually 25 tons per ozone season). Operation for any additional hours, during which the source would be emitting tons in excess of its permissible level (e.g. above 25 tons), would constitute a violation of the operating hours restriction and would cause the source to lose the low-emitter exemption (cf. section 217.472(c)). Third, as indicated in section 217.472(d) and reaffirmed by Illinois, whenever a source obtains low emitter status, Illinois will reduce the budget accordingly, so that sufficient allowances are set aside to account for the potential emissions of the low emitting source.

Similar provisions are in subpart W of part 217, applying to EGU's. The same interpretations of "potential NO<sub>x</sub> mass

emissions" and operating hours restrictions apply to subpart W, for similar reasons. Illinois also reaffirmed that its rules provide a similar budget adjustment for low emitting sources under subpart W as under subpart U. USEPA concurs with these interpretations and finds these features of Illinois' rules approvable.

USEPA finds one paragraph of Illinois' rule pertaining to the low emitting source exemption to be confusing. Illinois has clarified that section 217.472(a)(5) was intended to use the language of USEPA's model at 40 CFR 96.4(b)(1)(v) but inadvertently omitted several words. USEPA therefore interprets section 217.472(a)(5) to require that the permit for the exempted source must "require that *the owner or operator of the unit shall retain* for 5 years at the source that includes the unit, [records demonstrating compliance]." (Underlined words added.)

#### 5. Can USEPA Approve the Opt-in Features?

Finally, the Illinois rules include provisions similar to provisions in the USEPA model rule for sources not required to participate in the program to opt into the program. As with the model rule, Illinois requires these sources to monitor emissions using continuous emissions monitors meeting the same criteria as mandatory program participants. Illinois' criteria and process for opting in, the requirements and process for withdrawing after opting in, and the method of calculating the number of allowances to be allocated to opt-in sources, are all essentially identical to the corresponding provisions in USEPA's model rule. USEPA finds this aspect of Illinois' program acceptable.

#### 6. In Summary, Can USEPA Approve Illinois' Industrial Boiler Rules?

Illinois' rules for industrial boiler NO<sub>x</sub> emissions closely resemble USEPA's model rule. USEPA believes that the modest differences between Illinois' rules and the model rule are well within the range of flexibility that USEPA has offered to states. The recent legislation overriding the rules' contingent compliance date and establishing a compliance requirement starting May 31, 2004, will provide a timely deadline for compliance. Once this legislation is signed by the Governor, USEPA believes that Illinois' rules for industrial boilers and turbines will satisfy USEPA's requirements for program design and provide a creditable contribution toward achieving the NO<sub>x</sub> emissions budget that USEPA requires

Illinois to achieve and a creditable NO<sub>x</sub> emission reduction for attainment planning purposes.

#### C. Budget Demonstration

##### 1. Does USEPA Accept Illinois' Recommended Budget Revisions?

Illinois submitted evidence that the LTV Steel boiler is in fact a large boiler that should have been inventoried as having much greater emissions and should have been assumed to be subject to control. Illinois also submitted evidence that the maximum design heat input for the University of Illinois boiler is below 250 mmBTU/hour, so that this source should have been assumed to remain uncontrolled. These revisions would have minimal impact on the overall impact of the program. Also, these revisions are similar to revisions recommended by other states during early 2000 and incorporated into USEPA's budget in its March 2, 2000, rulemaking. While USEPA would have preferred to address these revisions then, USEPA can nevertheless address Illinois' recommendations now. USEPA concludes that Illinois has adequately justified these modest revisions to the inventory of data on these sources.

The special interaction between states and USEPA in implementing the NO<sub>x</sub> emission trading program requires special procedures for addressing the revisions requested by Illinois. USEPA has established a budget of total 2007 NO<sub>x</sub> emissions to be achieved by Illinois. Illinois cannot unilaterally change this budget; Illinois must instead request that USEPA change this budget.

Illinois has made its recommended allotment revisions contingent on USEPA concurrence with the requested budget revisions. Subpart U provides allotments without these revisions. Section 217.460(e) within subpart U specifies that Illinois will adjust the allocations for single units if USEPA makes unit-specific adjustments to the budget. USEPA hereby proposes to adjust the budget to reflect the revisions requested by Illinois. If finalized, this will have the result pursuant to section 217.460(e) that LTV Steel will receive an allocation of 60 allowances and the University of Illinois will receive no allowances and may be exempt from the requirements of subpart U.

##### 2. Do Illinois' Rules Satisfy USEPA's Budget?

Illinois has adopted regulations governing NO<sub>x</sub> emissions from EGUs, from cement kilns, and from large industrial boilers and turbines. On August 31, 2000, at 65 FR 52967, USEPA proposed to approve Illinois'

EGU rules provided Illinois removed language making the compliance date contingent on similar rules taking effect in nearby states. The Illinois legislature has passed a bill to override that contingency and establish a fixed compliance deadline of May 31, 2004. Today's rulemaking proposes to approve the regulations for cement kilns and for large industrial boilers and turbines, provided the legislation is signed. Thus, USEPA believes that these regulations will be fully creditable for satisfying USEPA's NO<sub>x</sub> emission budget requirements and attainment planning requirements once the Governor signs the legislation setting a fixed compliance date.

Illinois adopted rules reflecting the same control strategy as USEPA assumed in formulating its budget. Therefore, Illinois' budget demonstration is straightforward. Illinois used USEPA's baseline inventory as a basis for this demonstration, using the same five categories of sources as USEPA. For four of the five categories, namely electricity generating units, stationary area sources, highway vehicle sources, and nonroad vehicles, the inventory in Illinois' budget demonstration is identical to USEPA's budget inventory for both the base case and the controlled emissions case.

Illinois' subinventory for non-EGU point sources differs slightly from USEPA's subinventory for these sources. The differences are attributable to adjustments that Illinois recommends for LTV Steel and for the University of Illinois at Urbana-Champaign. As discussed above, USEPA proposes to make these revisions to the baseline and budget inventories.

USEPA concludes that Illinois has demonstrated that its NO<sub>x</sub> regulations are adequate to achieve the adjusted 2007 NO<sub>x</sub> emissions budget required by USEPA. Therefore, USEPA proposes to conclude further that Illinois has satisfied the requirements of USEPA's NO<sub>x</sub> SIP Call.

#### IV. Proposed Action

USEPA proposes to approve Illinois' cement kiln rule and its industrial boiler rule (subparts T and U of part 217, respectively) as elements of the State's plan to meet the requirements of the NO<sub>x</sub> SIP Call and the requirements of the 1-hour ozone demonstration for the Chicago area, provided the governor signs legislation setting a fixed compliance deadline. USEPA proposes to adjust the budget to reflect the revisions requested by Illinois, adding 188 tons to the nonEGU point source portion of the budget due to

reassessments of the size of boilers at LTV and the University of Illinois. USEPA proposes to approve Illinois' budget demonstration, demonstrating that Illinois' cement kiln and industrial boiler rules, in conjunction with the state's rules for electricity generating units, are adequate to achieve the NO<sub>x</sub> emissions level that USEPA has budgeted for the state. Therefore, USEPA proposes to conclude more generally that Illinois has satisfied the requirements of USEPA's NO<sub>x</sub> SIP Call, again provided the governor signs legislation setting a fixed compliance deadline.

USEPA is not proposing action today on subpart X, entitled "Voluntary NO<sub>x</sub> Emissions Reduction Program." USEPA is continuing to review this portion of Illinois' submittal and plans to propose rulemaking on these rules in the near future.

#### V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and

does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, USEPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), USEPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for USEPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, USEPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. USEPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 20, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01-16292 Filed 6-27-01; 8:45 am]

BILLING CODE 6560-50-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IN138-1; FRL-7003-7]

#### Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on June 8, 2000. The revised SIP pertains to the Indiana motor vehicle inspection and maintenance (I/M) program. The purpose of this action is to approve certain amendments to the Indiana program, which EPA originally approved on March 19, 1996 (61 FR 11142).

**DATES:** Written comments must be received on or before July 30, 2001.

**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 this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco J. Acevedo at (312) 886-6061 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6061, E-Mail: acevedo.francisco@epa.gov.

#### SUPPLEMENTARY INFORMATION:

Throughout this document, the terms "you" and "me" refer to the reader of this proposed rulemaking and to sources subject to the State rule addressed by this proposed rulemaking, and the terms "we," "us," or "our" refer to the EPA.

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