

Federalism

We have analyzed this action under Executive Order 13132, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This temporary rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This temporary rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

Environment

The Coast Guard has considered the environmental impact of implementing this temporary rule and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

A “Categorical Exclusion Determination” is available in the docket.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. From October 6, 2001 through June 15, 2002, § 165.121 is temporarily suspended and § 165.T01–188 is temporarily added as follows:

§ 165.T01–188 Safety and Security Zones: High Interest Vessels, Narragansett Bay, Rhode Island.

(a) *Location.* The following areas are safety and security zones:

(1) All waters of Rhode Island Sound within a one half mile radius of any high interest vessel while the vessel is anchored within one half mile of the point Latitude 41°25′ N, Longitude 71°23′ W; (2) all waters of Rhode Island Sound, Narragansett Bay, the Providence and Taunton Rivers two (2) miles ahead and one (1) mile astern, and extending 1000 yards on either side of any high interest vessel transiting Narragansett Bay, or the Providence and Taunton Rivers; (3) all waters and land within a 1000-yard radius of any high interest vessel moored at a waterfront facility in the Providence Captain of the Port zone.

(b) *Effective date.* This rule is effective from October 6, 2001, through June 15, 2002.

(c) Regulations.

(1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones, including below the surface of the water, during times in which high interest vessels are present and the zones are enforced is prohibited unless authorized by the COTP Providence or authorized representative.

For the purposes of this rule, high interest vessels operating in the Captain of the Port Providence zone include barges or ships carrying liquefied petroleum gas (LPG), liquefied natural gas, chlorine, anhydrous ammonia, or any other cargo deemed to be high interest by the Captain of the Port.

(2) All persons and vessels shall comply with the instructions of the COTP, and the designated on-scene U.S. Coast Guard personnel and any personnel from Federal, state, county, municipal or private agencies designated by the Captain of the Port to assist with the enforcement of these safety and security zones.

(3) The general regulations covering safety and security zones in §§ 165.23 and 165.33, respectively, of this part apply.

Dated: October 6, 2001.

J.D. Stieb,

Captain, U.S. Coast Guard, Acting Captain of the Port.

[FR Doc. 01–30750 Filed 12–11–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL212–1a; FRL–7098–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to volatile organic compound (VOC) rules for Formel Industries, Incorporated (Formel). This flexographic printing facility is located in Cook County, Illinois. The Illinois Environmental Protection Agency (IEPA) submitted the revised rules on March 21, 2001 as amendments to its State Implementation Plan (SIP). The revisions consist of an adjusted standard from the Flexographic Printing Rule, 35 IAC 218.401(a), (b), and (c). The Illinois Pollution Control Board (Board) approved this adjusted standard because the Board considers this to be the

Reasonably Achievable Control Technology (RACT) for Formel. The Board concluded that complying with the Flexographic Printing Rule requirements would be either technically infeasible or economically unreasonable for this facility. The EPA concurs with the Board. The adjusted standard requirements include participation in a market-based emissions trading system, daily record keeping, conducting trials of compliant inks, and reviewing alternate control technologies.

DATES: This rule is effective on February 11, 2002, unless the EPA receives relevant adverse written comments by January 11, 2002. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Illinois's submittal at: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6524.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean the EPA.

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I. What Is the EPA Approving?

The EPA is approving an adjusted standard from the Flexographic Printing Rule for Formel. Formel is required to comply with the conditions in their adjusted standard. The conditions include participation in the market-based emissions trading system, daily record keeping of inks and VOC content,

conducting trials of compliant inks, and reviewing alternate control technologies.

II. What Are the Changes From the Current Rule?

The adjusted standard changes the VOC rule Formel must follow. Formel's facility is located in the metropolitan Chicago severe ozone non-attainment area. Formel, with a permitted VOC emissions limit of 80 tons per year (TPY), is classified as a major source because it can emit more than 25 TPY of VOC. Chicago area flexographic printers classified as major VOC sources are subject to the Flexographic Printing Rule. This rule requires printers to either use compliant inks (low or no VOC content) or use a VOC emissions control device. Limiting VOC emissions will help to reduce ozone because VOC can chemically react in the atmosphere to form ozone.

The adjusted standard given to Formel changes its requirements to complying with a market-based emissions trading system, daily record keeping requirements, and to conduct trials with compliant inks and control devices. The market-based trading system will allow Formel to buy emissions allotments from companies which can reduce their VOC emissions at a lower cost than Formel can. The net VOC emissions of all participants meets the desired reductions.

III. What Is the EPA's Analysis of the Supporting Materials?

Illinois included information on compliant ink trials and control device studies at Formel. The Flexographic Printing Rule requires sources use either compliant inks or use a control device to limit VOC emissions. To evaluate what RACT is for Formel, the first consideration is what options would work? The costs of the options that will work are then estimated. The economic burden on the company is then considered. If the compliance costs of an option are determined to be too high, this option is not considered RACT.

Formel ran trials of printing with compliant inks. They also determined what control technologies would work and their costs. The Illinois Pollution Control Board concluded that the using either compliant inks or a control device would not be RACT for Formel. The EPA agrees with this assessment. Printing on plastic with compliant inks is rather difficult. Low VOC content in Formel's exhaust makes control devices have high operational costs. The adjusted standard requirements are considered RACT by the Board. Similar printers have been granted adjusted

standards with comparable requirements.

IV. What Are the Environmental Effects of These Actions?

Formel is located in the Chicago severe ozone non-attainment area. It is permitted to emit up to 80 TPY of VOC. The actual VOC emissions from this facility are about 45-70 TPY. VOC can chemically react to form ozone, so limiting VOC emissions in an ozone non-attainment area is desired. Formel is reducing VOC emissions through participation in a market-based emissions trading program. In this program, Formel buys emission allotments from other participants as an alternative to reducing its emissions. Formel bought 15 allotments in 2000. Each allotment is for 200 pounds of VOC emissions. All participants need to own allotments covering its VOC emissions for the ozone season (May 1 to September 30). The trading program reduces the total VOC emissions from the Chicago area. The total area wide emissions are limited by the number of allotments distributed to participants.

V. What Rulemaking Actions Are the EPA Taking?

The EPA is approving, through direct final rulemaking, revisions to the volatile organic compound rules for Formel Industries, Incorporated of Cook County, Illinois. These revisions are the required compliance with an adjusted standard to the Flexographic Printing Rule. The Illinois Pollution Control Board determined that the adjusted standard is RACT for Formel. The requirements of the adjusted standard include complying with a market-based emissions trading system, daily record keeping, conducting compliant ink trials, and investigation of alternative control devices.

We are publishing this action without a prior proposal because we view these as non-controversial revisions and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that serves as the proposal to approve the SIP revision if adverse written comments are filed. This rule will be effective on February 11, 2002. If the EPA receives an adverse written comment, we will publish a final rule informing the public that this rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA does not intend to institute a second comment period on this action. Any parties interested in commenting on this action must do so now.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action merely approves 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 rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA'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), EPA has no authority

to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, 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. This 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(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 February 11, 2002. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 25, 2001.

David A. Ullrich,

Deputy Regional Administrator, Region 5.

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 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(160) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(160) On March 21, 2001, Illinois submitted revisions to volatile organic compound rules for Formel Industries, Incorporated in Cook County, Illinois. The revisions consist of a January 18, 2001 Opinion and Order of the Illinois Pollution Control Board in the Matter of: Petition of Formel Industries, Inc. for an Adjusted Standard from 35 ILL. ADM. CODE 218.401(a),(b) and (c); AS 00-13 (Adjusted Standard Air). This Opinion and Order grants Formel Industries, Incorporated an adjusted standard to the Flexographic Printing Rule. The adjusted standard requirements include participation in a market-based emissions trading system, maintaining daily records, conducting trials of compliant inks, and reviewing alternate control technologies.

(i) Incorporation by reference.

Volatile organic compound emissions limits contained in a January 18, 2001 Opinion and Order of the Illinois Pollution Control Board in the Matter of: Petition of Formel Industries, Inc. for an Adjusted Standard from 35 ILL. ADM. CODE 218.401(a), (b) and (c); AS 00-13 (Adjusted Standard-Air). This Opinion and Order was adopted by the Illinois Pollution Control Board on January 18, 2001. It became effective under State law on January 18, 2001.

[FR Doc. 01-30581 Filed 12-11-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 0140-1140a; FRL-7116-3]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve the Kansas rule, "Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens