final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. See *Union Electric Co. v. U.S. E.P.A.* , 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany 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. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

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.

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 September 26, 1995. 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, Ozone.

Dated: July 14, 1995.

**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 P—Indiana

2. Section 52.777 is amended by adding paragraph (h) to read as follows:

### § 52.777 Control Strategy: Photochemical oxidents (hydrocarbons).

* * * * *

(h) On November 17, 1993, Indiana submitted two of three elements required by section 182(d)(1)(A) of the Clean Air Amendments of 1990 to be incorporated as part of the vehicle miles traveled (VMT) State Implementation Plan intended to offset any growth in emissions from a growth in vehicle miles traveled. These elements are the offsetting of growth in emissions attributable to growth in VMT which was due November 15, 1992, and, any transportation control measures (TCMs) required as part of Indiana's 15 percent reasonable further progress (RFP) plan which was due November 15, 1993. Indiana satisfied the first requirement by projecting emissions from mobile sources and demonstrating that no increase in emissions would take place. Indiana satisfied the second requirement by determining that no TCMs were required as part of Indiana's 15 percent RFP plan.

[FR Doc. 95–18521 Filed 7–27–95; 8:45 am]

BILLING CODE 6560–50–P

### 40 CFR Part 52

**[WI49–01–6738a; FRL–5254–4]**

## Approval and Promulgation of Implementation Plans; Wisconsin

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The United States Environmental Protection Agency (USEPA) approves revisions to Wisconsin's State Implementation Plan (SIP) for ozone which were submitted to the USEPA on April 17, 1990, and June 30, 1994, and supplemented on July 15, 1994. Included in these revisions is a volatile organic compound (VOC) regulation which establishes reasonably available control technology (RACT) for screen printing facilities. Additionally, the State has submitted current negative declarations for pre-1990 Control Technology Guideline (CTG) categories for which Wisconsin does not have rules as well as a list of major sources affected by the 13 CTG categories that USEPA is required to issue pursuant to sections 183(a), 183(b)(3) and 183(b)(4) of the Clean Air Act (Act). These revisions were submitted to address, in part, the requirement of section 182(b)(2)(B) of the Act that States adopt RACT regulations for sources covered by pre-1990 CTG documents, and the requirement of section 182(b)(2)(C) of the Act that States revise their SIPs to establish RACT regulations for major sources of VOCs for which the USEPA has not issued a CTG document. In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this action, the USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

**DATES:** This action will be effective September 26, 1995 unless an adverse comment is received by August 28, 1995. 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: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency,

77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for public review during normal business hours at the above address. (It is recommended that you telephone Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.)

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6036.

**SUPPLEMENTARY INFORMATION:** Section 182(b)(2) of the Act requires States to adopt VOC RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. Section 182(b)(2)(B) requires that States adopt RACT regulations for sources covered by pre-1990 CTG documents. Section 182(b)(2)(C) requires that States submit revisions to the SIP for major sources of VOCs for which the USEPA has not issued a CTG document. The counties of Kewaunee, Manitowoc, and Sheboygan and the Milwaukee area (including Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha) are the only areas in Wisconsin designated nonattainment and classified as moderate or above. Therefore, these are the areas in Wisconsin subject to the RACT catch-up requirements of section 182(b)(2).

### Negative Declarations

Wisconsin has not promulgated RACT regulations for several pre-1990 CTG categories because there are no sources located in the ozone nonattainment areas that would be affected. Therefore, to satisfy the requirement of section 182(b)(2)(B), the State is required to officially certify that there are currently no sources in the nonattainment areas that would be covered by these categories. The State submitted current negative declarations for the following categories on April 17, 1990, and June 30, 1994: (1) leaks from petroleum refinery equipment; (2) manufacture of synthesized pharmaceutical products; (3) manufacture of pneumatic rubber tires; (4) automobile and light duty truck manufacturing; (5) fire truck and emergency response vehicle manufacturing; (6) manufacture of high-density polyethylene, polypropylene, and polystyrene resins, a.k.a. polymer manufacturing; (7) leaks from synthetic organic chemical and polymer manufacturing equipment; (8) air oxidation processes at synthetic organic chemical manufacturing industries; and (9) equipment leaks from natural gas/gasoline processing plants.

### List of Major Sources Subject to Post-1990 CTG Source Categories

Pursuant to sections 183(a), 183(b)(3) and 183(b)(4) of the Act, USEPA was required to develop CTG documents for 13 source categories by November 15, 1993. A list of these source categories, contained in Appendix E to the General Preamble, was published in the **Federal Register** on April 28, 1992 (57 FR 18070). The State was required to submit a list of major sources that would be subject to these post-1990 CTG documents. On June 30, 1994, Wisconsin submitted this list which included facilities in four source categories: (1) cleanup solvents; (2) offset lithography; (3) plastic parts coating; and (4) wood furniture coating.

### Screen Printing

Because the USEPA has not issued a CTG for screen printing, the State of Wisconsin developed a non-CTG regulation for this category. This regulation was submitted to the USEPA on June 30, 1994, and supplemented on July 15, 1994. The Wisconsin rule applies to screen printing facilities which: 1) are located in the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha and have maximum theoretical emissions of VOCs from all screen printing units greater than 25 tons per year, or 2) are located in the counties of Kewaunee, Manitowoc, or Sheboygan and have maximum theoretical emissions of VOCs from all screen printing units greater than 100 tons per year. Sources are required to achieve final compliance with this regulation no later than May 31, 1995.

In its rule, Wisconsin establishes a general emission limit of 3.3 pounds of VOC per gallon of ink or coating, excluding water, as applied. This limit is applicable to all printing operations at screen printing facilities, except for those using special purpose inks and coatings or those involved in roll coating operations.

Wisconsin's rule defines special purpose inks and coatings as those inks and coatings which are conductive; used to print ink transfers (decals); or designed to resist or withstand any of the following: more than 2 years of outdoor exposure; exposure to chemicals, solvents, acids, detergent, oil products, or cosmetics; temperatures in excess of 170 F; vacuum forming; embossing; or molding. The emissions limit established in the Wisconsin rule for special purpose inks and coatings is 6.7 pounds per gallon, excluding water, as delivered to an applicator. Wisconsin's rule establishes a limit of 6.7 pounds per gallon for roll coating operations occurring at screen printing facilities.

Additionally, for screen reclamation processes, the Wisconsin rule establishes a limit of 0.24 kilograms per square meter (0.050 pounds of VOC per square foot) of screen reclaimed, calculated on a daily average basis for each day of operation.

With respect to recordkeeping requirements, the regulation requires sources to collect and record the following information: a unique name or identification number for each coating, as applied; the VOC content of each coating, as applied, in units of pounds of VOC per gallon, excluding water; the daily average VOC emission rate from screen reclamation in kilograms per square meter (pounds per square foot) of screen reclaimed; the amount of VOCs emitted during the day from screen reclamation in kilograms (pounds); and the total surface area of screen reclaimed during the day in square meters (square feet).

To determine the approvability of a VOC rule, USEPA must evaluate the rule for consistency with the requirements of section 110 and part D of the Act. In addition, USEPA has reviewed the Wisconsin rule in accordance with USEPA policy guidance documents and regulations, including ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice;'' South Coast Air Quality Management District rule 1130, as approved in the **Federal Register** on September 29, 1993 (58 FR 50884); and Bay Area Management District rule 8–20 as approved in the **Federal Register** on March 22, 1995 (60 FR 15062). The USEPA has found that the rule meets the requirements applicable to ozone and is, therefore, approvable for incorporation into the State's ozone SIP. A more complete discussion of the USEPA's review of the State's regulation is contained in a technical support document dated April 7, 1995. The USEPA is approving this revision as meeting, in part, the RACT catch-up requirements of section 182(b)(2) of the Act.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a ''proposed approval'' of the

requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on September 26, 1995, unless USEPA receives adverse or critical comments by August 28, 1995.

If the USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date, and publish a subsequent **Federal Register** notice which withdraws this final action. All public comments received will then be addressed in a subsequent final rulemaking notice. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on September 26, 1995.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

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

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 et seq., the USEPA 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, the USEPA may certify that the rule will not have a significant economic 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.

The 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, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany 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. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

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.

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 September 26, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 20, 1995.

**David A. Ullrich,**

*Acting Regional Administrator.*

40 CFR part 52 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 YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(82) to read as follows:

### § 52.2570 Identification of plan.

* * * * *

(c) * * *

(82) Revisions to the ozone State Implementation Plan (SIP) were submitted by the Wisconsin Department of Natural Resources on April 17, 1990, and June 30, 1994, and supplemented on July 15, 1994. Included in these revisions is a volatile organic compound (VOC) regulation which establishes reasonably available control technology (RACT) for screen printing facilities. Additionally, the State submitted current negative declarations for pre-1990 Control Technology Guideline (CTG) categories for which Wisconsin does not have rules as well as a list of major sources affected by the 13 CTG categories that USEPA is required to issue pursuant to sections 183(a), 183(b)(3) and 183(b)(4) of the Clean Air Act (Act).

(i) Incorporation by reference. The following sections of the Wisconsin Administrative Code are incorporated by reference.

(A) NR 422.02(11m), (21s), (41p), (41s), (41v) and (42m) as created and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994. NR 422.02(32) as amended and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

(B) NR 422.03(4m) as created and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

(C) NR 422.145 as created and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

(D) NR 439.04(4)(intro.) and (5)(a) as amended and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

(ii) Additional material.

(A) On April 17, 1990, and June 30, 1994, Wisconsin submitted negative declarations for the following source categories: Leaks from petroleum

refinery equipment; Manufacture of synthesized pharmaceutical products; Mmanufacture of pneumatic rubber tires; Automobile and light duty truck manufacturing; Fire truck and emergency response vehicle manufacturing; Manufacture of high-density polyethylene, polypropylene, and polystyrene resins, a.k.a. polymer manufacturing; Leaks from synthetic organic chemical and polymer manufacturing equipment; Air oxidation processes at synthetic organic chemical manufacturing industries; and Equipment leaks from natural gas/gasoline processing plants. These negative declarations are approved into the Wisconsin ozone SIP.

(B) On June 30, 1994, Wisconsin submitted a list of facilities subject to the post-enactment source categories listed in Appendix E to the General Preamble. 57 FR 18070, 18077 (April 28, 1992). The list included facilities covered by the source categories cleanup solvents, offset lithography, plastic parts coating, and wood furniture coating. This list is approved into the Wisconsin ozone SIP.

[FR Doc. 95–18523 Filed 7–27–95; 8:45 am]
BILLING CODE 6560–50–P

## 40 CFR Part 61

**[FRL–5266–2]**

## Asbestos NESHAP Clarification of Intent

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of clarification.

**SUMMARY:** On November 20, 1990, the **Federal Register** published the Environmental Protection Agency's (the Agency's) revision of the National Emission Standard for Hazardous Air Pollutants for Asbestos (asbestos NESHAP), 40 CFR part 61, subpart M. 55 FR 48406. Since the publication of this revision, EPA has received several inquiries from municipalities regarding whether the ''residential building exemption'' from the asbestos NESHAP applies to the demolition or renovation of isolated residential buildings with four or fewer dwelling units (''small residential buildings'') that have been declared safety hazards or public nuisances by local governments. EPA is publishing this notice to clarify that, in EPA's opinion, the demolition or renovation of an isolated small residential building by any entity is not covered by the asbestos NESHAP. This notice does not affect EPA's policy regarding demolition by fire. However, EPA also believes that the demolition or renovation of multiple (more than one) small residential buildings on the same site by the same owner or operator (or owner or operator under common control) is covered by the asbestos NESHAP.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tom Ripp, United States Environmental Protection Agency (2223A), 401 M Street, SW., Washington, DC 20460, telephone (202) 564–7003.

**SUPPLEMENTARY INFORMATION:** This clarification does not supersede, alter, or in any way replace the existing Asbestos NESHAP. This notice is intended solely as guidance and does not represent an action subject to judicial review under section 307(b) of the Clean Air Act or section 704 of the Administrative Procedure Act.

### I. The Asbestos NESHAP and the ''Residential Building Exemption''

On April 6, 1973, the Agency published its initial NESHAP for asbestos (38 FR 8820) after determining that asbestos was associated with asbestosis and certain cancers. The initial asbestos NESHAP covered ''any institutional, commercial and industrial building (including apartment buildings having more than four dwelling units), structure, facility, installation or portion thereof * * *'' 38 FR 8829 (codified at 40 CFR 61.22(d) (1973)). The NESHAP did not cover individual residential buildings containing four or fewer dwelling units. EPA based this ''residential building exemption'' on a National Academy of Sciences' Report which stated ''[i]n general, single-family residential structures contain only small amounts of asbestos insulation.'' EPA stated that apartment houses with four or fewer dwelling units were considered to be equivalent to single-family residential structures. 38 FR 8821.

Since that time, EPA has revised the asbestos NESHAP on several occasions. EPA has not substantially revised the exemption for small residential buildings. However, EPA has stated that residential buildings demolished or renovated as part of larger projects, for instance, highway construction projects, were not exempt from the NESHAP. *See* Letter from John S. Seitz, Director, Stationary Source Compliance Division, U.S. EPA to Thomas S. Hadden, Supervisor, Division of Air Pollution Control, Ohio EPA, dated March 15, 1989; letter from Ann Pontius, U.S. EPA Region 5 to Thomas Hadden, dated September 28, 1988; letter from David Kee, Air Section, U.S. EPA to Richard Larson, Minneapolis Housing and Redevelopment Authority, dated May 16, 1973.

### II. The 1990 Revisions to the Asbestos NESHAP

On November 20, 1990, EPA published a revision to the asbestos NESHAP. 55 FR 48406. The purpose of the revision was ''to enhance enforcement and promote compliance with the current standard without altering the stringency of existing controls.'' *Id.* The revisions revised and added several definitions in order to clarify the requirements of the NESHAP. The preamble accompanying the revisions also contained clarifying information.

In particular, the 1990 revisions clarified the definition of ''facility'' to include:

> Any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units) * * *

*Id.* at 48415 (codified at 40 CFR 61.141). The 1990 amendments also added a definition of ''installation'' that stated:

> Installation means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

*Id.* (codified at 40 CFR 61.141). In responding to comments regarding the ''residential building exemption,'' the preamble noted that:

> EPA does not consider residential structures that are demolished as part of a commercial or public project to be exempt from this rule. For example, the demolition of one or more houses as part of an urban renewal project, a highway construction project, or a project to develop a shopping mall, industrial facility, or other private development would be subject to the NESHAP. * * * The owner of a home that renovates his house or demolishes it to construct another house is not to be subject to the NESHAP.

*Id.* at 48412.[1] Further, in response to a comment asking whether a group of residential buildings at one location would be covered by the rule, the preamble stated:

> A group of residential buildings under the control of the same owner or operator is considered an installation according to the definition of ''installation'' and is therefore covered by the rule.

[1] EPA considers demolitions planned at the same time or as part of the same planning or scheduling period to be part of the same project. In the case of municipalities, a scheduling period is often a calendar year or fiscal year or the term of a contract.