

43472). The final regulations published on September 6, 1995 did not reflect these redesignations. The final regulations are corrected as follows:

§§ 76.708, 76.703, 76.704 [Corrected]

1. On page 46494, column 1, amendment 19, § 76.708 is added to the list of sections for which the authority citation is revised and §§ 76.703 and 76.704 are removed from the list.

2. An amendment is added revising the authority citations for §§ 76.703 and 76.704 to read "(Authority: 20 U.S.C. 1221e-3, 3474, 6511(a) and 31 U.S.C. 6503)".

§§ 76.705, 76.709, 76.710 [Corrected]

3. On page 46494, column 1, amendment 27, the reference to § 76.705 is removed and §§ 76.709 and 76.710 are added in its place.

4. On page 46494, column 2, amendment 30 is corrected by removing "81.24" and adding, in its place, "81.34".

5. On page 46494, column 3, and 46495, column 1, amendments 43 through 56, are corrected by renumbering the sections for which the authority citations are revised from sections 81.21 through 81.34 to sections 81.31 through 81.44, respectively.

Dated: March 25, 1996.

Donald R. Wurtz,

Chief Financial Officer, Office of The Chief Financial Officer.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL120-1-6819a; FRL-5424-4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On May 23, 1995, and June 7, 1995, the Illinois Environmental Protection Agency (IEPA) submitted an adopted rule and supporting information for the control of batch processes as a requested State Implementation Plan (SIP) revision. This rule is part of the State's control measures for volatile organic compound (VOC) emissions, for the Chicago and East St. Louis ozone nonattainment areas, and is intended to satisfy part of the requirements of section 182(b)(2) of the Clean Air Act (Act), as amended in 1990. VOCs are air pollutants which

combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. This regulation requires a reasonably available control technology (RACT) level of control for batch processes, as required by the amended Act. In this document, USEPA is approving Illinois' rule. The rationale for the approval is set forth in this final rule; additional information is available at the address indicated below. Elsewhere in this Federal Register USEPA is proposing approval and soliciting public comment on this requested revision to the SIP. If adverse comments are received on this direct final rule, USEPA will withdraw the final rule and address the comments received in a new final rule. Unless this final rule is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective June 3, 1996, unless adverse comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

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

Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Steven Rosenthal at (312) 886-6052, before visiting the Region 5 office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR-18J) (312) 886-6052.

SUPPLEMENTARY INFORMATION:

Background

Under the Act, as amended in 1977, ozone nonattainment areas were required to adopt RACT for sources of VOC emissions. USEPA issued three sets of control technique guidelines (CTGs) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. USEPA determined that an

area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. In those areas where the State sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987, RACT was required for all CTG sources and for all major (100 tons per year or more of VOC emissions under the pre-amended Act) non-CTG sources. Illinois sought and received such an extension for the Chicago area.

Section 182(b)(2) of the Act as amended in 1990 requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT "catch-up" requirements.

Section 183 of the amended Act requires USEPA to issue CTGs for 13 source categories by November 15, 1993. A CTG was published by this date for two source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation; however, the CTGs for the remaining source categories have not been completed. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document. Accordingly, States must submit a RACT rule for SOCMI reactor processes and distillation operations before March 23, 1994.

The USEPA created a CTG document as Appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*. (57 FR 18070, 18077, April 28, 1992). In Appendix E, USEPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs USEPA expected to issue to meet the requirement in section 183. Appendix E states that if USEPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule for those sources by November 15, 1994. In accordance with section 182(b)(2), implementation of that RACT rule should occur by May 31, 1995.

On May 23, 1995, and June 7, 1995, IEPA submitted adopted VOC rules and supporting information for the control of batch processes in the Chicago ozone severe nonattainment area and the Metro-East (East St. Louis) ozone moderate nonattainment area. These rules were intended to satisfy, in part, the major non-CTG control requirements of section 182(b)(2).

Evaluation of Rules

Subpart B: Definitions

Illinois has added the following four definitions to Subpart B: "Batch Operation," "Batch Process Train," "Process Vent," and "Single Unit Operation." These definitions accurately describe the specified terms and are necessary for implementation of the batch process rules. These definitions are, therefore, approvable.

Subpart V: Batch Operations and Air Oxidation Processes

Subpart V of Part 218 (for the Chicago area) and Part 219 (for the East St. Louis area) have been amended with rules covering batch processes. USEPA guidance on batch processes is contained in "Control of Volatile Organic Compound Emissions from Batch Processes—Alternative Control Techniques Information Document" (ACT).

Section 218/219.500 Applicability for Batch Operations—This rule applies to process vents associated with batch operations at sources identified by specified standard industrial classification (SIC) codes and to all batch operations at Stepan Company's Millsdale manufacturing facility in Elwood, Illinois. This rule does not apply to any emission unit included within the category specified in Subpart B: Organic Emissions from Storage and Loading Operations and Subpart T: Pharmaceutical Operations. A July 28, 1995, letter from Bharat Mathur, Chief, Bureau of Air for IEPA, to Stephen Rothblatt, Chief Regulation Development Branch for Region 5 USEPA clarifies that " * * * for purposes of the rule for Batch Operations, otherwise applicable unit operations within a batch process remain subject to Subpart V (and not B), even if the unit operation performs what could be considered storage as some part of its operation. More specifically, those unit operations which form the batch process train are covered by Subpart V." The rule also does not apply to Air Oxidation processes, which are regulated by sections 218/520–526, and emission units included within an Early Reduction Program (as specified

in 40 CFR Part 63) with a timely enforceable commitment approved by USEPA. Any single unit operation within a batch operation and any batch process train containing process vents with de minimis emissions are exempt from the control requirements of this Subpart.

The applicability equations in subsection (e) of Sections 218/219.500, which require the calculation of uncontrolled total annual mass emissions and flow rate value, are used to determine whether a single unit operation or a batch process train is subject to the control requirements in Sections 218/219.501. These applicability equations, which are consistent with the equations in the ACT, establish which vent streams are feasible to control.

Section 218/219.501 Control Requirements for Batch Operations—Any individual unit operation within a batch process train determined to be subject to these control requirements must reduce uncontrolled VOC emissions by an overall efficiency of at least 90 percent or emit less than 20 parts per million by volume (ppmv). Similarly, any batch process train determined to be subject to these control requirements must reduce uncontrolled VOC emissions by an overall efficiency of at least 90 percent or emit less than 20 parts per million by volume (ppmv). The ppmv limit is also clarified in IEPA's July 28, 1995, letter. If a source has installed a control device prior to March 15, 1995, that source can meet an 81 percent control efficiency—as opposed to 90 percent—until no later than December 31, 1999, at which time the 90 percent/20 ppmv requirement is put into effect. These control requirements are generally consistent with the guidance in USEPA's ACT document.

Section 218/219.502 Determination of Uncontrolled Total Annual mass Emissions and Average Flow Rate Values for Batch Operations—This section establishes the way in which total annual mass emissions and average flowrate are to be determined. These parameters are used to establish applicability of the control requirements to single unit batch operation and a batch process train.

Section 218/219.503 Performance and Testing Requirements for Batch Operations—Batch Operations must be run at representative operating conditions and flow rates during any performance test and the methods in 40 CFR 60 Appendix A must be used to determine compliance with the percent reduction efficiency and ppmv requirement in Section 501. Subsection

503(h) allows "an alternative test method or procedures to demonstrate compliance with the control requirements set forth in Section 501 of this Subpart. Such method or procedures shall be approved by the Agency and USEPA as evidenced by federally enforceable permit conditions." The procedures for USEPA's review and approval of these alternative test methods and procedures are specified in a September 13, 1995, letter from IEPA to Region 5 of the USEPA.

Section 218.504 Monitoring requirements for Batch Operations—This section specifies monitoring devices and parameters to be measured—depending upon the control device used. Subsection 504(g) allows a source to monitor by an alternative method and to monitor parameters other than those listed in subsections (a) through (f) in this section. "Such alternative method or parameters shall be contained in the source's operating permit as federally enforceable permit conditions." The procedures for USEPA's review and approval of these alternative monitoring methods and parameters are specified in a September 13, 1995, letter from IEPA to Region 5 of the USEPA.

Section 218/219.505—Reporting and Recordkeeping for Batch Operations—Sources that are exempt because their emissions are lower than the cut-off must keep records of, and document, their total annual mass emissions and average flowrate. Sources subject to the control requirements in Section 501 must keep the records specified in Subsection 505(c) (which are dependent upon the type of control device in use). Subsection 505(e) allows a source to maintain alternative records other than those listed in subsection 505(c) and states "Any alternative recordkeeping shall be approved by the Agency and USEPA and shall be contained in the source's operating permit as federally enforceable permit conditions." The procedures for USEPA's review and approval of these alternative monitoring methods and parameters are specified in a September 13, 1995, letter from IEPA to Region 5 of USEPA.

Section 218/219.506 Compliance Date—Compliance with this rule is required by March 15, 1996.

Final Rulemaking Action

Illinois' rules for batch operations are generally consistent with USEPA's guidance in the ACT for this category and are therefore considered to constitute RACT. USEPA therefore approves these rules in Part 218 (for the Chicago ozone nonattainment area), in

Part 219 (for the East St. Louis ozone nonattainment area) and the related definitions in Part 211 that were submitted on May 23, 1995, and June 7, 1995.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on June 3, 1996. However, if we receive adverse comments by May 2, 1996, then USEPA will publish a document that withdraws this final action. If no request for a public hearing has been received, USEPA will address the public comments received in a new final rule on the requested SIP revision based on the proposed rule located in the proposed rules section of this Federal Register. If a public hearing is requested, USEPA will publish a document announcing a public hearing and reopening the public comment period until 30 days after the public hearing. At the conclusion of this additional public comment period, USEPA will publish a final rule responding to the public comments received and announcing final action.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, former Acting Assistant Administrator for the Office of Air and Radiation. A July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for the Office of Air and Radiation explains that the authority to approve/disapprove SIPs has been delegated to the Regional Administrators for Table 3 actions. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

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

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from

and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

Final Rule: Direct Final Approval of Illinois' Batch Operations Rules. Page 11 of 13.

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 June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 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: January 17, 1996.

Valdas V. Adamkus,
Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(121) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(121) On May 23, 1995, and June 7, 1995, the State submitted volatile organic compound control regulations for incorporation in the Illinois State Implementation Plan for ozone.

(i) *Incorporation by reference.*

(A) Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Sections 211.695, 211.696, 211.5245, 211.6025. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7344, and effective May 22, 1995.

(B) Title 35: Environmental Protection, Subtitle B: Air Pollution,

Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart V: 218.500, 218.501, 218.502, 218.503, 218.504, 218.505, 218.506. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7359, and effective May 22, 1995.

(C) Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart V: 219.500, 219.501, 219.502, 219.503, 219.504, 219.505, 219.506. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7385, and effective May 22, 1995.

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[FR Doc. 96-7904 Filed 4-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[IN55-1-7076a; FRL-5435-8]

Approval And Promulgation of Implementation Plan For Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On October 25, 1994, the Indiana Department of Environmental Management (IDEM) submitted a proposed amendment to the State implementation plan (SIP) containing Source Specific Operating Agreement (SSOA) regulations (326 IAC 2-9). This regulation has been developed to establish federally enforceable conditions for industrial or commercial surface coating operations, graphic arts operations, or grain elevators by limiting potential emissions below the title V major source threshold levels. In this action, USEPA approves 326 IAC 2-9-1 and 326 IAC 2-9-2(a), (b), and (e) of Indiana's SSOA regulation for establishing federally enforceable conditions for these source categories. In the proposed rules section of this Federal Register, USEPA is proposing approval of and soliciting public comment on these requested SIP revisions. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address the comments received in a final rule on the related proposed rule which is being published in the proposed rules section of this Federal Register. Unless this final rule is

withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This action will be effective June 3, 1996, unless adverse or critical comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments can be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch, United States Environmental Protection Agency, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604.

A copy of this SIP revision is also available at the following location: Office of Air and Radiation, Docket and Information Center (Air Docket 6102), room M1500, USEPA, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, USEPA (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189.

SUPPLEMENTARY INFORMATION:

I. Background

The Indiana SSOA program will be a major mechanism in limiting potential to emit for sources enabling them to remain below the applicability threshold for the operating permits program of title V of the Clean Air Act (CAA). The federal title V regulation is codified in 40 CFR part 70 and the State of Indiana's title V program is codified in 326 IAC 2-7. The title V program could encompass a large number of sources and could be a resource burden on the State and smaller title V sources. State mechanisms to establish federally enforceable limits on sources' potential to emit below the title V threshold will enable a State to reduce resource burdens.

II. This Action

IDEM has adopted a SSOA program regulation in 326 IAC 2-9 to provide certain source categories the opportunity to be subject to generic enforceable limits on potential to emit. 326 IAC 2-9-1 applies to all sources subject to the SSOA program, unless otherwise specified in 326 IAC 2-9-2. The subsections of 326 IAC 2-9-2 apply to the specific source categories. In this action, USEPA takes action on

subsections 326 IAC 2-9-2(a), (b), and (e). Sources will be able to apply for an operating agreement under this program to limit their potential to emit to below the title V threshold level(s). This will provide a less resource-intensive alternative to the title V or Federally Enforceable State Operating Permit (FESOP) programs for both sources and the permitting authority for specific source categories that typically have actual emissions far below their potential to emit. The following is an analysis of the SSOA program for each source category it entails. This analysis will compare the SSOA program to the October 15, 1993, USEPA policy memorandum titled "Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound (VOC) Use", from D. Kent Berry, Acting Director of the Air Quality Management Division, where appropriate.

In this action, USEPA proposes approval of the SIP revision request submitted to USEPA on October 25, 1994, and revised on January 16, 1996, for the 326 IAC 2-9 regulation because the regulation is adequate to limit potential emissions of industrial or commercial surface coating operations, graphic arts operations, and grain elevators to below the title V threshold level.

1. Industrial or Commercial Surface Coating Operations or Graphic Arts Operations

This portion of the SSOA regulation has been divided into 2 subcategories. The first subcategory (326 IAC 2-9-2(a)) is for eligible surface coating or graphic arts sources which are not modifications to major sources in Lake or Porter County subject to 326 IAC 2-3-3 and which are not subject to 326 IAC 8-2 or 8-5-5. The second subcategory (326 IAC 2-9-2(b)) is for any eligible surface coating or graphic arts sources. USEPA proposes approval of 326 IAC 2-9-2(a) and (b).

a. 326 IAC 2-9-2(a)

This section allows industrial or commercial surface coating operations or graphic arts operations who wish to opt into the SSOA program to limit their VOC or hazardous air pollutant (HAP) emissions to less than the major source threshold. 326 IAC 2-9-2(a)(1) limits the total amount of VOC delivered to a source less the amount of VOC shipped off the site to 2 tons per month (tpm) or less (this equals 24 tons per year (tpy)). 326 IAC 2-9-2(a)(1) limits the total amount of HAPs delivered to a source less the amount of HAP shipped off the site to 0.2 tpm (2.4 tpy) for a single HAP