Regional administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under Section 110 and Subchapter I, part D of the 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, the Administrator certifies that it does not have significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rules that include a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated 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 to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the CAA).

Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

List of Subjects in 40 CFR Part 52

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

Dated: November 12, 1996.

Jack W. McGraw,

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 G—Colorado

2. Section 52.348 is added to subpart G to read as follows:

§ 52.348 Emission inventories.

The Governor of the State of Colorado submitted the 1990 carbon monoxide base year emission inventories for the Colorado Springs, Denver/Longmont, and Fort Collins nonattainment areas on December 31, 1992, as a revision to the State Implementation Plan (SIP). The Governor submitted revisions to the Colorado Springs and Fort Collins inventories by a letter dated March 23, 1995. The Governor submitted revisions to the Denver/Longmont inventory by letters dated July 11, 1994, and October 21, 1994. The inventories address emissions from point, area, on-road mobile, and non-road sources. These 1990 base year carbon monoxide inventories satisfy the requirements of section 187(a)(1) of the Clean Air Act for each of these nonattainment areas.

[FR Doc. 96–32222 Filed 12–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL144–1a; FRL 5648–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 10, 1996, the State of Illinois submitted a State Implementation Plan (SIP) revision request to the EPA which grants a variance to Rexam Medical Packaging Inc. facility located in Mundelein, Lake County, Illinois (Rexam). This variance extends the date by which certain flexographic printing presses operated by Rexam must comply with Illinois' Volatile Organic Material (VOM) Reasonably Available Control Technology (RACT) rules. This rulemaking action approves, through direct final, this SIP revision request; the rationale for this approval is set forth in **SUPPLEMENTARY INFORMATION**. Elsewhere in this Federal Register, EPA is proposing approval and soliciting comment on this direct final action; if adverse comments are received, EPA will withdraw the direct final and address the comments received in a new

final rule. Unless this direct final is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: The ''direct final'' is effective on February 21, 1997, unless EPA receives adverse or critical comments by January 22, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of this SIP revision request are available for inspection 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 Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

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.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(a)(2)(A) of the Clean Air Act (Act) requires states to ''fix-up'' deficient RACT regulations for ozone nonattainment areas, and section 182(b)(2) of the Act requires States with severe ozone nonattainment areas to ''catch-up'' by revising the RACT applicability threshold from 100 tons per year (TPY) potential to emit to 25 TPY potential to emit. On September 9, 1994, EPA approved, as a revision to the Illinois SIP for ozone, a number of VOM RACT regulations, including 35 Illinois Administrative Code part 218, subpart H (section 218.401 through 218.405), which governs the control of VOM from printing and publishing operations in the Chicago ozone nonattainment area (59 FR at 46562). These regulations were submitted in order to meet the State's ''fix-up'' requirement for the Chicago severe ozone nonattainment area. This area includes Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County.

On January 26, 1996, EPA promulgated a direct final rulemaking approving a second set of Illinois VOM RACT regulations, part of which includes a revision to section 218.402, which changed the RACT applicability threshold to include sources with flexographic and/or rotogravure printing line(s) with a potential to emit of 25 TPY or more of VOM (including emissions from solvents used for cleanup operations associated with the flexographic and rotogravure printing line(s)), in order to comply with the RACT ''catch-up'' requirements. Also included was a revision to section 218.106, the general compliance date provisions for regulations under part 218 (61 FR 2423). This revision provides a compliance date of March 15, 1995, for sources newly subject to the 25 TPY applicability threshold. The direct final approval was withdrawn on March 25, 1996 (61 FR 12030), due to an adverse comment addressing an issue unrelated to the new applicability requirements for printing presses. The comment will be addressed in a new final rule in an upcoming Federal Register.

Section 218.401(a) of subpart H requires subject sources to apply no coating or ink on any flexographic or rotogravure printing line unless the VOM content does not exceed either 40% VOM by volume of the coating/ink as applied (minus water and any compounds specifically exempted from the definition of VOM), or 25% VOM by volume of the volatile content in the coating and ink. Section 218.401(b) allows daily-weighted averaging to comply with the above listed VOM content limits, whereby coatings/inks with higher VOM content can be used if offset by lower VOM content coatings/inks. Section 218.401(c) allows for alternative compliance with the VOM content limits through operation of a control device which reduces captured VOM emissions by at least 90% by weight, in a capture system with the control device which provides an overall reduction in VOM emissions of at least 75% for publication rotogravure printing lines, 65% for packaging rotogravure printing lines, and 60% for flexographic printing lines.

II. Summary of SIP Submittal

Rexam manufactures sterilizable flexible packaging and other film products such as bags, pouches, and rollstock for sterilization protection of medical devices and products. The packages are sold to medical device manufacturers and health care providers, and are designed to permit gas sterilization and aeration of the contents while maintaining sterility until the packages are opened. To meet customer approval, the packages must be printed with user instructions which will stay adhered to the packages and not contaminate the medical product when opened. In addition, the packages must be printed with special inks used as sterilization indicators. These inks change color to indicate whether the medical product inside the package has been sterilized.

On March 14, 1995, Rexam filed a petition for variance with the Illinois Pollution Control Board (Board). At the time of the petition, the Rexam facility operated 18 flexographic printing presses subject to the RACT requirements of subpart H and the compliance date of March 15, 1995. In the petition, Rexam indicated that in 1990, the facility began a process to install and test press equipment for the application of water-based ink that would not only meet VOM content requirements, but customer approval, as well. Rexam indicated that this process was difficult because the use of water-based inks was new to the medical packaging industry. On March 15, 1995, 13 of the 18 presses were applying water-based inks to medical packaging which both complied with VOM content requirements and met customer specifications. The 5 presses not in compliance included, Inline Press No. 105, Inline Press No. 107, Inline Press No. 111, Offline 32-inch press, and Offline 36-inch press.

Rexam contended Inline Press No. 105 and Offline 32-inch press, the presses used to print indicator inks, were out of compliance because no trialed technology for water-based indicator inks was available. Further, the remaining presses were out of compliance because, according to Rexam, customer approval to convert the presses to water-based technology had not yet been obtained. Rexam indicated the delay in customer approval was due primarily to the extensive validation and testing trial period used by the customers to determine the integrity of the water-based inks and the packaging's sterilization capability. Because of these compliance difficulties, Rexam requested a compliance date extension to install and operate a catalytic oxidizer in accordance with subpart H, which would control emissions from the presses applying indicator inks. In addition, the extended compliance would allow the customer approval process for the remaining presses to reach completion. The petition also requested that a proposed 42-inch offline press to apply indicator inks also be covered under the variance Subsequent to the petition, Inline Press No. 107 was converted to water-based ink.

A public hearing on the variance petition was held on August 18, 1995, in Libertyville, Illinois, before the Board. On October 19, 1995, the Board granted a variance (PCB 95–99) from subpart H to Rexam for its Inline Press No. 105, Inline Press No. 111, Offline 32-inch Press, Offline 42-inch Press, and

Offline 36-inch Press. The variance extends the compliance date for the 5 presses from March 15, 1995, until June 15, 1996, or upon submittal of the ''certificate of compliance'' required under section 218.404 of subpart H, whichever occurs first. The variance includes a compliance plan requiring the installation and use of a catalytic oxidizer to control emissions from Inline Press No. 105, Inline Press No. 111, Offline 32-inch Press, and Offline 42-inch Press. The remaining press, Offline 36-inch Press, is required to convert to water-based ink, or be controlled by the oxidizer if the press is not converted by March 1, 1996. The variance is contingent upon certain compliance milestone conditions intended to assure that all the presses are in compliance by June 15, 1996.

The variance was granted because Rexam presented adequate proof to the Board that immediate compliance with subpart H would result in an arbitrary or unreasonable hardship which outweighs the public interest in attaining immediate compliance with regulations designed to protect the public. Such a burden of proof is required by Illinois law before a variance can be granted. The effective date of the variance is March 15, 1995. The Illinois Environmental Protection Agency formally submitted the variance to EPA on January 10, 1996, as a revision to the Illinois SIP for ozone.

III. EPA Evaluation of Submittal

Section 182(b)(2) requires state rules intended to meet RACT ''catch-up'' requirements be implemented by May 31, 1995. Under this variance, Rexam's compliance with Illinois' rule would extend beyond this date. However, based on the information provided in the SIP submittal, the EPA finds that the variance for Rexam is justified, and the compliance milestone provisions required by the variance represent a reasonable approach to bringing the Rexam facility into compliance in a timely manner. Therefore, the EPA finds this SIP submittal approvable.

IV. Final Rulemaking Action.

The EPA approves, through direct final, the Illinois SIP revision request. With the effective date of this approval, the October 19, 1995 variance, PCB 95–99, for Rexam, becomes federally enforceable.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on February 21, 1997 unless, by January 22, 1997, adverse or critical comments on the approval are received.

If the EPA receives adverse comment by the date listed above, the direct final will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on February 21, 1997.

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

VII. Administrative Requirements

A. Executive Order 12866. This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

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

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

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile Organic Compounds.

Dated: September 27, 1996.

David A. Ullrich,

Acting 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)(131) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(131) On January 10, 1996, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision request for ozone, which extends the required deadline for the Rexam Medical Packaging Inc. facility in Mundelein, Lake County, Illinois (Rexam), to comply with 35 Illinois Administrative Code, part 218, subpart H, as it applies to its Inline Press Number No.105, Inline Press No. 111, Offline 32-inch Press, Offline 36-inch Press, and Offline 42-inch press. The compliance date is extended from March 15, 1995, until June 15, 1996, or upon submittal of the ''certificate of compliance'' required under section 218.404 of subpart H, whichever occurs first. The variance includes a compliance plan requiring the installation and use of a catalytic oxidizer to control emissions from Inline Press No. 105, Inline Press No. 111, Offline 32-inch Press, and Offline 42-inch Press. The Offline 36-inch Press is required to convert to water-based ink, or be controlled by the oxidizer if the press is not converted by March 1, 1996. The variance is contingent upon certain compliance milestone conditions.

(i) *Incorporation by reference.* (A) Illinois Pollution Control Board Final Opinion and Order, PCB 95–99, adopted on October 19, 1995, and effective March 15, 1995. Certification of Acceptance dated November 29, 1996, by Rexam.

[FR Doc. 96–32371 Filed 12–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300440A; FRL–5572–2]

RIN 2070–AB78

Sodium Bicarbonate and Potassium Bicarbonate; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This regulation establishes exemptions from the requirement of a tolerance for residues of the biochemical pesticides sodium bicarbonate and potassium bicarbonate in or on all raw agricultural commodities (RACs), when applied as fungicides or post-harvest fungicides in accordance with good agricultural practices.

DATES: This regulation becomes effective December 23, 1996. Objections and requests for hearings must be received by EPA on February 21, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [OPP–300440A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP–300440A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Denise Greenway, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7501W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 5–W57, CSI, 2800 Crystal Drive, Arlington, VA 22202. (703) 308–8263; e-mail: greenway.denise@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 25, 1995 (60 FR 54689), EPA issued a notice (FRL–4982–4) that the Meiji Milk Products Co., Ltd., 2-Chome, Kyabashi Chuoku, Tokyo, Japan 250 (represented by Stewart Pesticide Registration Associates, Inc. of 1901 North Moore Street, Suite 603, Arlington, VA 22209), had submitted pesticide petition (PP) 5F4481 to EPA proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance the residues of the biochemical pesticide sodium bicarbonate in or on citrus when applied as a fungicide in accordance with good agricultural practices. There were no comments received in response to this notice of filing. Another company, Church and Dwight Co., Inc., obtained registration of the active ingredients sodium bicarbonate and potassium bicarbonate on December 20, 1994 as manufacturing products for formulating into fungicides to control powdery mildew and other fungal diseases of food and non-food crops. The Agency concluded that the historical knowledge of the effects of sodium bicarbonate and potassium bicarbonate on humans and the environment was adequate to allow the waiver of all data requirements. The Meiji Milk Products Co., Ltd. Pesticide Petition (PP 5F4481) was filed because associated registration applications from that company represent the first fungicidal food use sodium bicarbonate end-use products.

In the Federal Register of November 6, 1996 (61 FR 57356), the EPA issued a proposed rule (FRL–5572–2) to expand the tolerance exemption originally sought by Meiji Milk Products Co., Ltd. to (1) include the related compound, potassium bicarbonate, and (2) to permit pre-harvest and post-harvest use of both active ingredients in or on all raw agricultural commodities. The Administrator, for good cause, found it in the public interest to reduce the comment period for the proposed regulation from 60 to 30 days (FFDCA 408(e)(2)). There were no comments received in response to the proposed rule.

Based on the information, data, and findings described in the preamble to the proposed rule, EPA establishes the exemptions from the requirement of a tolerance as set forth below.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance