EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
Subchapter G—Transportation Planning				
Section 114.260	Transportation Conformity	12/10/98	7/8/99, 64 FR 36794	1. No action is taken on the portions of 30 TAC 114.260 that contain 40 CFR 93.102(c), 93.104(d), 93.109(c)–(f), 93.118(e), 93.120(a)(2), 93.121(a)(1), and 93.124(b). 2. TNRCC order (Docket No. 98–0418 RUL) November 23, 1998.

[FR Doc. 01–1824 Filed 2–6–01; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[IL198–1a; FRL–6935–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving a negative declaration submitted by the State of Illinois which indicates there is no need for regulations covering the industrial cleaning solvents category in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area includes Cook County, DuPage County, Aux Sable and Goose Lake Townships in Grundy County, Kane County, Oswego Township in Kendall County, Lake County, McHenry County and Will County. The State's negative declaration regarding industrial cleaning solvents category sources was submitted to USEPA in a letter dated December 23, 1999.

DATES: This rule is effective on April 9, 2001, unless USEPA receives adverse written comments by March 9, 2001. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the negative declarations are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886–6036 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604,(312) 886–6036.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' is used we mean USEPA.

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I. What Is the Background for This Action?

Under the Clean Air Act (Act), as amended in 1977, ozone nonattainment areas were required to adopt emission controls reflective of reasonably available control technology (RACT) for sources of volatile organic compound (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 are called non-CTG sources. USEPA determined that an area's State Implementation Plan (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. CTGs were published by this date for the following source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operations, shipbuilding and ship repair coating operations, and wood furniture coating operations; 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 the CTG document.

The USEPA created a control guideline 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 9 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.

II. Negative Declarations and Their Justification

The USEPA does not require States to develop plans or regulations to control emissions from sources which are not present in the nonattainment area. If it is thought that this might be the case, the State carefully examines its emissions inventory before initiating the planning and regulation development process. If a careful examination of the emissions inventory finds no sources for a particular source category, then the State prepares and submits to USEPA a negative declaration stating that there are no sources in the nonattainment area for that source category in lieu of submitting a control strategy.

III. USEPA Review of the Negative Declarations

On December 23, 1999, Illinois submitted a negative declaration for major sources of industrial cleaning solvents VOC emissions in the Chicago ozone nonattainment area. In making this determination, the Illinois EPA conducted a search of its 1996 Chicago ozone precursor emission inventory for any source that would have the potential to emit at least 25 tons per year (TPY) of VOC emissions from industrial cleaning solvents. Illinois' search consisted of sources with source code classifications (SCCs) that may be used for cleaning solvents or key words related to industrial cleaning solvents appearing in their descriptions. From these, Illinois EPA calculated potential emissions and found that five sources had the potential to emit over 25 TPY. These were investigated more thoroughly using permit information. From this investigation, Illinois EPA found that none of the five sources would need to be subject to an industrial cleaning solvents rule either because emissions were limited by a federally enforceable permit or because the source was not a type of operation that would fall into the scope of the Industrial Cleaning Solvent Alternative Control Technique, for example, a vapor degreaser that is already covered by existing Illinois regulations. Further, Illinois' rules for the Chicago ozone nonattainment area already contain provisions for the regulation of cleaning solvents used in cold cleaning/degreasing, conveyorized degreasing, vapor degreasing, cleaning solutions on lithographic printing lines and cleaning solvents for wood furniture coating operations. It should be noted that any industrial cleaning solvent operation in the Chicago ozone nonattainment area that has maximum theoretical emissions of 100 TPY or greater, and is not otherwise regulated by Title 35 of the Illinois Administrative Code, Part 218 Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code, Part 218) would be regulated under Illinois' generic rules category which is codified under 35 Ill. Adm. Code Part 218, Subpart TT. Based on Illinois EPA's review of the 1996 Chicago ozone precursor emission inventory and the ongoing review of staff engineers of facilities in the Chicago ozone nonattainment area, there are no facilities would be subject to the industrial cleaning solvents RACT category. Therefore, RACT regulations for industrial cleaning solvents are not needed for the Chicago ozone nonattainment area.

USEPA has examined the State's negative declaration regarding the lack of need for regulations controlling emissions from industrial cleaning solvents sources located in the Chicago ozone nonattainment area. USEPA agrees there are no industrial cleaning solvents sources in the Chicago ozone nonattainment area which would require the adoption of rules to control this source category.

USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve the State Plan should adverse written comments be filed.

This action will be effective without further notice unless USEPA receives relevant adverse written comment by March 9, 2001. Should USEPA receive such comments, it will publish a final rule informing the public that this action will not take effect. 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 April 9, 2001.

VI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 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 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, 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 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. section 804(2). This rule will be effective April 9, 2001 unless EPA receives adverse written comments by March 9, 2001.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

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 April 9, 2001. 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, Administrative practice and procedure, Air pollution control, Hydrocarbons,

Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 8, 2001.

David A. Ullrich,

Acting 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 52.726 is amended by adding paragraph (z) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(z) Negative declaration—Industrial cleaning solvents category. On December 23, 1999, the State of Illinois certified to the satisfaction of the United States Environmental Protection Agency that no major sources categorized as part of the industrial cleaning solvents category are located in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area includes Cook County, DuPage County, Aux Sable and Goose Lake Townships in Grundy County, Kane County, Oswego Township in Kendall County, Lake County, McHenry County and Will County.

[FR Doc. 01–1822 Filed 2–6–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE043–1030a; FRL–6941–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Revisions to New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to convert its conditional approval of Delaware's revised New Source Review (NSR) regulations to a full approval and to incorporate those revised regulations into the Delaware State Implementation Plan (SIP). Delaware submitted the revised regulations as a SIP revision to satisfy conditions imposed by EPA in its conditional approval of the NSR program published in the **Federal Register** on April 3, 1998. EPA is converting its conditional approval to a full approval as Delaware's revised regulations satisfy those conditions. This action is being taken in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on April 9, 2001 without further notice, unless EPA receives adverse written comment by March 9, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Makeba Morris, Chief, Permits and Technology Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 814–2068, or by e-mail at *miller.linda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 30, 1999, the Delaware Department of Natural Resources and Environmental Control submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of amended New Source Review (NSR) regulations found in Delaware Regulation 25, Requirements for Preconstruction Review. Regulation 25, sections 1 and 2, affect major new or modified stationary sources in nonattainment areas. The SIP Revision was submitted to meet the requirements imposed by EPA in its conditional approval of Delaware's NSR program published on April 3, 1998 (64 FR 16433–16535). The conditional approval required that certain deficiencies be corrected and clarifications made to Delaware's NSR program. Delaware's April 30, 1999 submittal satisfies the requirements of the April 3, 1998 conditional approval. This rulemaking will convert the conditional approval of Delaware's NSR program to a full approval and incorporate Delaware's revised NSR regulations into the Delaware SIP.

Summary of SIP Revision

The SIP submission includes revisions to the Delaware Regulations Governing the Control of Air Pollution, Regulation 25—REQUIREMENTS FOR PRECONSTRUCTION REVIEW. Brief descriptions of the deficiencies noted in EPA's April 3, 1998 conditional approval and how they have been corrected or resolved are provided below:

1. *Deficiency:* EPA stated that Delaware's regulations did not provide special modification procedures found in the Clean Air Act (CAA) Section 182(c)(7). Under federal regulations, a source that makes a single modification at a unit which is greater than 100 tons per year can choose to make an 130% emission decrease at the same source (rather than off site). The source can then choose to follow different procedures for determining control technology requirements.

Clarification: Upon further review and discussion with Delaware, EPA determined that the Delaware regulations are not deficient in this regard. Delaware has retained the ''dual definition'' of major stationary source. As this definition of stationary source is both the source and the individual unit, the special rule for modifications would be less stringent than the existing Delaware regulations.

2. *Deficiency:* EPA stated that public participation procedures must be consistent with Federal regulations (as found in 40 CFR 51.161). The Delaware regulations did not specify that the public participation procedures found in another section of the Delaware regulations must be used in issuing nonattainment NSR permits.

Correction: New provisions have been added to the Delaware regulations at Delaware Regulation 25.2.4.D.2. The revised regulation requires the appropriate 30 day public comment period for nonattainment area NSR permits.

3. *Deficiency:* EPA stated that Delaware regulations did not contain a provision consistent with federal regulations (40 CFR 51.165 (a)(3)(ii)(A)). This federal requirement states that where a regulatory emission limitation (referred to as the allowable rate) is higher than is physically possible at a particular source (referred to as the potential of the source), credit for any emission reductions (emission offsets)