

40 CFR Part 52

[KY-092-9649a; FRL-5653-9]

Approval and Promulgation of Revisions to the Commonwealth of Kentucky's State Implementation Plan (SIP)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: On June 19, 1996, the Commonwealth of Kentucky through the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC) submitted revisions to the Kentucky SIP. This revision exempts acetone and perchloroethylene (tetrachloroethylene) from the list of compounds regulated as volatile organic compounds (VOC) for ozone control purposes.

DATES: This action will be effective March 24, 1997 unless adverse or critical comments are received by February 20, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by KNREPC may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 100 Alabama Street, Atlanta, Georgia 30303-3104.

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning Section, Air Planning Branch, Air Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, 100 Alabama Street, SW, Atlanta, Georgia 30303-3104. The telephone number is (404) 562-9038.

SUPPLEMENTARY INFORMATION: On June 19, 1996, the Commonwealth of Kentucky through the KNREPC submitted revisions to the Kentucky SIP. The EPA is approving the following revisions to the Kentucky SIP. 401 KAR Chapters 50, 51, 59, 61, 63, and 65 were amended to add acetone and perchloroethylene (tetrachloroethylene) to the list of compounds excluded from the definition of VOC on the basis that these compounds have been determined to have negligible photochemical

reactivity. Hence, acetone and perchloroethylene will be excluded as a VOC for ozone control purposes. The EPA published notices in the Federal Register on June 16, 1995, (60 FR 31633) and February 7, 1996, (61 FR 4590), that document the Agency's decision to add acetone and perchloroethylene to this list of excluded compounds, respectively.

Final Action

The EPA is approving the aforementioned revisions because they meet the Agency requirements. This action is being published without prior proposal because the Agency views this as a noncontroversial amendment 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 March 24, 1997 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. 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 March 24, 1997.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 24, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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, 42 U.S.C. 7607 (b)(2)).

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 Nichols, Assistant Administrator for Air and Radiation. The Office of Management

and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

SIP approvals under section 110 and subchapter I, part D of the CAA 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 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. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action would impose no new requirements, since such sources are already subject to these

regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

Under 801(a)(1)(A) of the Administrative Procedures Act (APAA) as amended 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) of the APAA as amended.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone.

Dated: November 4, 1996.

A. Stanley Meiburg,
Acting Regional Administrator.

Chapter I, title 40, *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 S—Kentucky

2. Section 52.920 is amended by adding paragraph (c)(85) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(85) The Commonwealth of Kentucky submitted revisions to the Kentucky SIP on June 19, 1996. These revisions involve changes to 401 KAR Chapters 50, 51, 59, 61, 63, and 65.

(i) Incorporation by reference. 401 KAR Chapters 50:010(62), 51:001(62), 59:001(63), 61:001(63), 63:001(62), and 65:001(31) of the Kentucky regulations effective on June 6, 1996.

(ii) Other material. None.

[FR Doc. 97–1333 Filed 1–17–97; 8:45 am]

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40 CFR Part 52

[IL143–1a; FRL–5671–5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 8, 1996, the State of Illinois submitted to EPA a site-specific State Implementation Plan (SIP) revision request for Reynolds Metals Company's (Reynolds) McCook Sheet and Plate Plant in McCook, Illinois (in Cook County). The purpose of this request is to amend the State's volatile organic material (VOM) reasonably available control technology (RACT) requirements for Reynolds' aluminum rolling operations to mirror the facility's RACT requirements promulgated under the Chicago area Federal Implementation Plan (FIP). VOM, as defined by the State of Illinois, is identical to "volatile organic compounds" (VOC), as defined by EPA. Emissions of VOC react with nitrogen oxides in sunlight to form ground-level ozone, commonly known as smog. Exposure to high ozone concentrations causes respiratory irritation, especially to children, seniors, and people with asthma and other respiratory problems. RACT rules establish the lowest VOC emission limitation that major stationary sources are capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. In this action, EPA is approving the requested SIP revision through a "direct final" rulemaking; the rationale for this approval is set forth in the "supplementary information" section of this rulemaking. 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; otherwise, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective March 24, 1997 unless adverse comments are received by February 20, 1997. 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 Mark J. Palermo at (312) 886–6082, 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: Mark J. Palermo, Air Programs Branch (AR–18J) at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

On June 29, 1990, the EPA promulgated a FIP which contained RACT regulations for stationary sources located in six northeastern Illinois (Chicago area) counties: Cook, DuPage, Kane, Lake, McHenry, and Will.¹ Included in EPA's rules was a requirement that major non-Control Techniques Guideline (CTG) sources be subject to 40 CFR 52.741 (s), (u), (v), (w), or (x).² The major non-CTG limits in 40 CFR 52.741(x) applied to the hot and cold aluminum rolling operations at the Reynolds McCook facility, and required the facility's rolling mills to meet an 81 percent (%) reduction in uncontrolled VOM emissions. On August 19, 1991, Reynolds requested that EPA reconsider the application of 40 CFR 52.741(x) to the facility, and on October 17, 1991, Reynolds requested that EPA promulgate site-specific RACT limits for the facility's hot and cold rolling mills. EPA agreed to reconsider the RACT control requirements for Reynolds' aluminum rolling operations, and on March 10, 1995, revised the FIP as it applied to Reynolds by promulgating site-specific lubricant selection and temperature control requirements as RACT for the facility (60 FR at 3042). On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act; Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q (Act). Section 182(b)(2) of the Act requires states with moderate and above ozone nonattainment areas to adopt RACT rules covering "major" sources not already covered by a CTG for all areas designated nonattainment for ozone and classified as moderate or

¹ A definition of RACT is cited in a General Preamble-Supplement on CTGs, published at 44 FR at 53761 (September 17, 1979). RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

² CTGs are documents published by EPA which contain information on available air pollution control techniques and provide recommendations on what the EPA considers the "presumptive norm" for RACT. Sources which are not covered by a CTG are called "non-CTG" sources.