

Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Congressional Review Act, 5 U.S.C. 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 United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule for the Kansas City ozone maintenance plan is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: June 7, 1999.

**William Rice,**

*Acting Regional Administrator, Region VII.*

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 AA—Missouri**

##### **§ 52.1319 [Corrected]**

2. Section 52.1319 is corrected by revising the date in paragraph (b) from "June 28, 1999", to "June 28, 2000".

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[IL183-1a; FRL-6360-1]

#### **Approval and Promulgation of Implementation Plans; Illinois**

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Direct final rule.

**SUMMARY:** The USEPA is approving a site specific revision to the Illinois State Implementation Plan (SIP) for volatile organic materials (VOM). This revision is an exemption from the otherwise applicable SIP requirements for W.R. Grace, a manufacturer of container sealants, lubricant fluids, and concrete additives at 6050 West 51st Street,

Chicago, Cook County, Illinois. The State's requested revision was submitted to USEPA on September 17, 1998. In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of, and soliciting comments on, this approval. If adverse written comments are received on this action, the USEPA will withdraw this direct final rule and address the comments received in response to this action in a final rule on the related proposed rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes the State's rule federally enforceable.

**DATES:** This rule is effective on August 17, 1999, unless USEPA receives adverse written comments by July 19, 1999. 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 plan and USEPA's analysis 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 Fayette Bright at (312) 886-6069 before visiting the Region 5 Office.)

#### **FOR FURTHER INFORMATION CONTACT:**

Fayette Bright, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, Chicago, Illinois 60604, (312) 886-6069.

#### **SUPPLEMENTARY INFORMATION:**

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#### **I. What Action Is USEPA Taking?**

USEPA is approving a SIP revision for the W.R. Grace and Company facility at 6050 West 51st Street, Chicago, Illinois. This SIP revision approves new Section 218.940(h), which has been added to Subpart QQ of Part 218. Section 218.940(h) waives the control requirements that would otherwise apply to the solvation mixers at W.R. Grace.

#### **II. What Is a SIP?**

Section 110 of the CAA requires states to develop regulations and control strategies to address air pollution within their jurisdictions. They must submit these to USEPA for approval and incorporation into the Federally enforceable SIP. To be approved they must meet Federal requirements and not adversely impact attainment of the National Ambient Air Quality Standards (NAAQS) established by USEPA.

#### **III. Why Is USEPA Taking This Action?**

a. USEPA is approving this action because W.R. Grace Company has demonstrated the infeasibility of complying with the control regulations of Subpart QQ, which call for an overall VOM reduction of at least 81 percent.

b. As required by Section 182 of the Clean Air Act (42 U.S.C. 7511a), sources in ozone nonattainment areas classified as severe must have reasonably available control technology (RACT) if they have the potential to emit 25 tons of VOM annually (VOM is the same as volatile organic compounds).

c. The information gathered from an explosion investigation, and current state of the art technology that detects solvent emission peaks, suggests no catalytic oxidizer may be designed for control of emissions from W.R. Grace's mixer loading operations that will be free from risk of another explosion.

d. W.R. Grace's consultant, Versar, determined through the control device investigations that there is no reasonably available control technology for the solvent mixers at Grace's facility. No add-on control was found to be technically and economically feasible.

#### **IV. What Are the CAA RACT Requirements?**

a. Section 172 of the CAA contains general requirements for States to implement RACT in areas that do not meet the NAAQS.

b. Section 182(b)(2) of the CAA contains more specific requirements for moderate and above ozone nonattainment areas.

c. Chicago is classified as a severe nonattainment area for ozone, VOM is an ozone precursor.

#### V. Does This Source Comply With CAA RACT Requirements?

Yes, due to the possibility of another explosion and other economic infeasibility issues, RACT for W.R. Grace's solvent mixers does not require additional emission control equipment.

#### VI. Summary of SIP Revision

This SIP revision adds the following exemption, in Section 218.940(h), to Subpart QQ of Part 218 for W.R. Grace's solvation mixers.

Section 218.940(h)—The control requirements of this Subpart shall not apply to the solvation mixers at the container sealant manufacturing facility located at 6050 West 51st Street in Chicago, Illinois.

Grace's Chicago facility was established in 1940, and currently employs approximately 100 people. The facility manufactures container sealants, lubricant fluids, and concrete additives. The container sealants are a rubbery coating material used by beverage, food, and other can coaters to form a seal between the ends of cans to the can body within the area where the two pieces are crimped together. Grace's Chicago plant produces both solvent-based and water-based container sealants.

##### a. Regulatory Background

In 1994, the Illinois Pollution Control Board promulgated certain amendments to 35 Ill. Adm. Code Part 218 that require RACT, for sources in the Chicago ozone nonattainment area, with the potential to emit 25 tons of VOM annually, as mandated by Section 182 of the Clean Air Act.

Emissions from W.R. Grace's mixers occur in a complex and variable manner due to the batch nature of the process. On June 14, 1996, W.R. Grace's incinerator exploded resulting in a fire in the solvent mixing area of the facility. The explosion significantly damaged the oxidizer and the associated ventilation system. Information gathered in the investigation of the explosion suggests that no catalytic oxidizer is currently available that will control the emissions from W.R. Grace's mixer loading operations and that will be free from the risk of another explosion.

##### b. USEPA's Review of This Site Specific SIP Revision Request

This exemption was reviewed on the merits of W.R. Grace's RACT analysis, primarily based upon the uncertainties involved in the chance of another

explosion. This site specific SIP revision request is technically justified.

#### VII. What Changes Will This Federal Action Make?

It exempts W.R. Grace's solvation mixers from the control requirements of Subpart QQ of Part 218.

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 July 19, 1999. 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 August 17, 1999.

#### VIII. Administrative Requirements

##### A. Executive Order 12866

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

##### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities.

Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

##### C. 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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### D. Executive Order 13084

Under E.O. 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. If the mandate is unfunded, EPA must 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, E.O. 13084 requires EPA to develop an effective process permitting elected 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. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

##### E. Regulatory Flexibility Act

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 final 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 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 rule that includes a Federal mandate that may result in estimated annual 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 annual 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. 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this rulemaking action under section 801 because this is a rule of particular applicability.

#### H. 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 August 17, 1999. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 7, 1999.

**Francis X. Lyons,**  
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 52.720 is amended by adding paragraph (c)(149) to read as follows:

##### **§ 52.720 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(149) On September 17, 1998, the Illinois Environmental Protection Agency submitted a site specific State Implementation Plan revision request for W.R. Grace and Company's facility, which manufactures container sealants, lubricant fluids, and concrete additives, and is located at 6050 West 51st Street in Chicago, Illinois (Cook County). This rule revision is contained in R98-16, the July 8, 1998, Opinion and Order of the Illinois Pollution Control Board, and consists of new Section 218.940(h), which exempts W.R. Grace's facility from the control requirements in 35 Illinois Administrative Code Part 218 Subpart QQ.

(i) *Incorporation by reference.*

Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218 Organic Material Emission Standards and Limitations for the Chicago Area, Subpart QQ: Miscellaneous Formulation Manufacturing Processes, Section 218.940 Applicability, paragraph (h) which was amended in R98-16 at 22 Ill. Reg. 14282, effective July 16, 1998.

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#### GENERAL SERVICES ADMINISTRATION

##### **41 CFR Part 301-11**

[FTR Interim Rule 7]

RIN 3090-AG99

##### **Federal Travel Regulation; Income Tax Reimbursement Allowance (ITRA)**

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Interim rule.

**SUMMARY:** The General Services Administration (GSA) is amending the Federal Travel Regulation (FTR) to add authority to implement sections of the Travel and Transportation Reform Act of 1998, which authorize Federal agencies to reimburse Federal, State and local income taxes incurred as a result of long term official travel. It also allows for the reimbursement of penalty and