

the Department of Transportation (DOT) (44 CFR 11040; February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

#### Collection of Information

This temporary rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that under section 2.B.2.e(34) of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways. In consideration of the foregoing, the Coast Guard amends 33 CFR 165 as follows:

#### PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

3. A new temporary section 165.T05–040 is added to read as follows:

#### **§ 165.T05–040 Safety Zone: Delaware Bay and Delaware River from the Delaware Breakwater to Marcus Hook, PA.**

(a) *Location:* The following area is a safety zone: (1) All waters within an area which extends 500 yards on either side and 1000 yards ahead and astern of the T/V EEKLO while the vessel is in the loaded condition and underway in the area of the Delaware River and Delaware Bay bounded by the Sun Refining and Marketing Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania and the Delaware Breakwater.

(2) All waters within a 200 yd radius of the T/V EEKLO while it is moored at the Sun Refining and Marketing

Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania.

(b) *Effective Dates:* This rule is effective from 11:59 p.m. May 31, 1997, and terminates at 11:59 p.m. June 10, 1997.

(c) *Definitions:* (1) *Captain of the Port* or *COTP* means the Captain of the Port Philadelphia or any Coast Guard commissioned, warrant or petty officer authorized to act on his behalf. (2) *Loaded Condition* means loaded with LHG that exceeds 2% of the vessel's cargo carrying capacity.

(d) No vessel may enter the safety zone unless its operator obtains permission of the Captain of the Port or his designated representative.

(e) As a condition of entry, the COTP may order that: (1) All vessels operating within the safety zone must maintain a continuous radio guard on channels 13 and 16 VHF-FM while underway; (2) Overtaking may take place only under conditions where overtaking is to be completed well before any bends in the channel. Before any overtaking, the pilots, masters, and operators of both vessels must clearly agree on all factors including speeds, time, and location of overtaking. (3) On the Delaware River, the T/V EEKLO and an oncoming vessel shall not meet at a relative speed greater than twenty (20) knots, or greater than prevailing weather conditions make prudent. Meeting situations on river bends shall be avoided.

(4) The operator of any vessel in the safety zone shall proceed as directed by the Captain of the Port or by his designated representative.

(f) The senior boarding officer enforcing the safety zone may be contacted on VHF channels 13 and 16. The Captain of the Port of Philadelphia and the Command Duty Officer at the Marine Safety Office, Philadelphia, may be contacted at telephone number (215) 271–4940.

Dated: May 30, 1997.

**John E. Veentjer,**

*Captain, U.S. Coast Guard, Captain of the Port, Philadelphia, PA.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IL 149–1a; FRL–5834–6]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** On July 23, 1996, the State of Illinois submitted a site specific State Implementation Plan (SIP) revision request to revise Volatile Organic Material (VOM) Reasonably Available Control Technology (RACT) requirements for Chase Products Company in Broadview (Cook County), Illinois. VOM, as defined by the State of Illinois, is identical to “volatile organic compounds” (VOC), as defined by USEPA. Emissions of VOC react with other pollutants, such as oxides of nitrogen, 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.

Chicago area RACT rules are intended to establish, for each particular major stationary source in the Chicago ozone nonattainment area, the lowest VOC emission limitation it is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. RACT controls are a major component of the Chicago ozone nonattainment area's overall strategy to achieve and maintain attainment with the ozone standard. A direct final approval action is being taken because the submittal meets all pertinent Federal requirements.

**DATES:** The “direct final” is effective on August 8, 1997, unless USEPA receives adverse or critical comments by July 9, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the 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 Ryan Bahr, Environmental Engineer, at (312) 353–4366 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:** Ryan Bahr at (312) 353–4366.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

Section 182(b)(2) of the Clean Air Act (Act) requires States with moderate and above ozone nonattainment areas to

adopt VOC RACT rules covering "major" sources not already covered by a Control Technique Guideline (CTG) for all areas designated nonattainment for ozone and classified as moderate or above. Under section 182(d), sources located in areas classified as "severe" are considered "major" sources if they have the potential to emit 25 tons per year or more of VOC.

On October 21, 1993, and March 4, 1994, the State of Illinois submitted and supplemented, as a revision to the Illinois SIP, "generic" RACT rules covering non-CTG major sources in the Chicago severe ozone nonattainment area, including subpart DD of part 218 of 35 Illinois Administrative Code (IAC).

Public hearings on the adjusted standard proposal were held on June 26, 1995, and on August 2, 1995, in Chicago, Illinois and on August 8, 1995, Chase Products and the Illinois Environmental Protection Agency (IEPA) filed a joint petition for an adjusted standard for Chase Products' Broadview, Illinois facility with the Illinois Pollution Control Board (Board). The adjusted standard petition sought relief for the Broadview facility's aerosol can filling lines from VOM control requirements found in part 218, subpart DD. Subpart DD requires that 90 percent (%) of the cans filled on a monthly basis on the Broadview facility's aerosol can filling lines to be filled using a method called through the valve (TTV). TTV filling greatly reduces emissions when compared with the standard under the cup method (UTC). Subpart DD additionally requires the remaining cans to be filled using enhanced under the cup (EUTC) techniques or another approved system which reduces emissions by at least 75% of UTC emissions.

On January 26, 1997, (61 FR 2423) the USEPA issued a direct final approval of the non-CTG rules, as a revision to the SIP. Adverse comments were received on the direct final rule and it was withdrawn by the USEPA on March 25, 1996 (61 FR 12030). A final rule addressing those comments and taking final action to approve the non-CTG rules was subsequently published October 21, 1996 (61 FR 54556), and became effective on November 20, 1996. Subpart DD of part 218 of 35 IAC was approved at that time. On March 12, 1997, technical amendments to subpart DD were approved (62 FR 11327), and became effective on May 12, 1997.

On May 16, 1996, the Board adopted a Final Opinion and Order, AS 94-4, granting the adjusted standard, requiring Chase Products to fill 95% of their cans using TTV and exempting Chase Products from the requirement to

fill the remaining cans using EUTC; thereby allowing them to fill up to 2 million cans per year (not to exceed 5% of total cans filled per month) with UTC. The adjusted standard also became effective on May 16, 1996.

The IEPA formally submitted the adjusted standard for the Chase Products Company on July 23, 1996, as a site-specific revision to the Illinois SIP for ozone. In doing so, IEPA intends to cover the Act's section 182(b)(2) major non-CTG RACT requirement for Chase Products' Broadview, Illinois facility. USEPA made a finding of completeness on this SIP submittal in a letter dated August 28, 1996.

## II. State Submittal of Adjusted Standard

The following is a summary of adjusted standard AS 94-4 requirements for the Chase Products facility's aerosol filling lines:

### A. Through the Valve Filling

The Chase Products Company shall fill at least 95% of their cans on a monthly basis with TTV.

### B. Under the Cup Filling

The Chase Products Company is permitted to fill up to two million cans per year using UTC, not to exceed 5% of the cans filled on a monthly basis. All other cans must be filled using TTV, except for trial runs to verify product quality.

### C. Recordkeeping and Reporting

Chase Products Company shall maintain daily records, establishing the total number of cans filled by TTV and the total filled by UTC. These records shall be kept on file, and be available for inspection by the Agency (IEPA or USEPA), for three years.

### D. Modifications

If Chase Products Company modifies any of the filling lines at its Broadview facility after March 15, 1995, the Company shall meet all requirements of subpart DD.

## III. Analysis of Adjusted Standard

The site-specific SIP revision would alter the control requirements contained within part 218, subpart DD, section 218.686 of the 35 IAC as they apply to the Chase Product facility's aerosol can filling lines. Section 218.686 of subpart DD (61 FR 2425) is summarized as follows:

Aerosol filling lines to which Subpart DD applies must comply with one of the following:

(1) Use of add-on controls which achieve an overall reduction of 81%, or,

(2)(A) Use of TTV or EUTC or another system approved in a federally enforceable permit which achieves at least 75% reduction of UTC fill; and, (B) fill on a monthly basis at least 90% of cans filled on such aerosol can filling lines that are capable of being filled with TTV fill.

The adjusted standard, approved by the Board May 16, 1996, most closely resembles the scenario outlined in option (2). The adjusted standard adheres to the central provision contained is option (2) part (B) by specifying that at least 95% of cans filled on the aerosol filling lines must be filled using TTV. In fact, the adjusted standard requires Chase Products to use TTV filling for 5% more cans than the current SIP minimum.

The reason Chase Products requested an adjusted standard is that Chase Products has determined it to be technically infeasible to fill certain aerosol cans using anything but UTC. Therefore, the Chase Products facility can not comply with (2)(A) as specified above for the remaining 5% of cans.

However, the same emission reduction is expected to be achieved under the adjusted standard (95% TTV, 5% UTC) as would be achieved under the Subpart DD requirements (90% TTV, 10% EUTC). That is to say that, the requirement to fill 5% more cans with TTV offsets the relaxation of filling 5% of the total cans with UTC.

## IV. Final Rulemaking Action

The USEPA has determined that the VOM control requirements specified in AS 94-4 for Chase Products Company's Broadview facility's aerosol can filling lines constitute RACT and are fully enforceable. On this basis, the site-specific SIP revision request for Chase Products Company's Broadview facility is approved.

This adjusted standard, AS 94-4, was adopted on May 16, 1996, and became effective on May 16, 1996, and supersedes the control requirements codified at 35 IAC, part 218, subpart DD, section 218.686 as they apply to the Chase Products Company's Broadview, Illinois facility's aerosol can filling lines.

The 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, the USEPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on August 8, 1997 unless, by July 9, 1997, adverse or critical comments are received.

If the USEPA receives such comments, this action 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 USEPA 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 August 8, 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.

## V. 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.*, 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 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 USEPA 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, USEPA 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 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 August 8, 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 22, 1997.

**Elissa Speizman,**

*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)(133) to read as follows:

#### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(133) On July 23, 1996, the Illinois Environmental Protection Agency submitted a site-specific State Implementation Plan revision request for the Chase Products Company's Broadview (Cook County), Illinois facility located at 19th Street and Gardner Road, as part of the Ozone Control Plan for the Chicago area. The resulting revision revises the control requirements codified at 35 Illinois Administrative Code Part 218 Subpart DD Section 218.686 as they apply to the Chase Products Company's Broadview facility.

(i) *Incorporation by reference.* May 16, 1996, Opinion and Order of the Illinois Pollution Control Board AS 94-4, effective May 16, 1996.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 099-4063; FRL-5837-6]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 15 Percent Plan and 1990 VOC Emission Inventory for the Philadelphia Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final rulemaking.

**SUMMARY:** EPA is granting conditional interim approval of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania, for the Philadelphia ozone nonattainment area, to meet the 15 percent reasonable further progress (RFP, or 15% plan), also known as rate-of-progress requirements of the Clean Air Act. EPA is granting conditional interim approval because the 15% plan submitted by Pennsylvania for the Philadelphia area relies on the inspection and maintenance (I/M) program that received a conditional interim approval. Finally, EPA is approving the Philadelphia 1990 VOC emission inventory with certain exceptions as explained herein.

**DATES:** This action is final on July 9, 1997.