

**Approval and Promulgation of Implementation Plan; Illinois**

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**Numbers:** IL172-1a; FRL-6152-5

**Dates:** Effective: 19981109; Comment by: 19981008

**Contact Information:** David Pohlman at (312) 886-3299.

**Action:** Direct final rule.

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SUMMARY: On November 14, 1995, and May 9 and June 14, 1996, the State of Illinois submitted State Implementation Plan (SIP) revision requests to meet commitments related to the conditional approval of Illinois' May 15, 1992, SIP submittal for the Lake Calumet (SE Chicago), McCook, and Granite City, Illinois, Particulate Matter (PM) nonattainment areas. The EPA is approving the SIP revision request as it applies to the McCook area, including the attainment demonstration for the McCook PM nonattainment area. The SIP revision request corrects, for the McCook PM nonattainment area, all of the deficiencies of the May 15, 1992, submittal (as discussed in the November 18, 1994, conditional approval notice). This document also revises the codification of the conditional approval to remove issues which have been resolved. No action is being taken on the submitted plan revisions for the Lake Calumet area at this time; they will be addressed in a separate rulemaking action. Approval of the Granite City PM plan became effective on May 11, 1998 (see 63 FR 11842).

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ENVIRONMENTAL PROTECTION AGENCY

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**DATES:** This rule is effective on November 9, 1998, unless EPA receives written adverse comments by October 8, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Copies of the revision request and EPA's analysis 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 David Pohlman at (312) 886-3299 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:** David Pohlman at (312) 886-3299.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Under section 107(d)(4)(B) of the Clean Air Act (Act), as amended on November 15, 1990 (amended Act), certain areas ("initial areas") were designated nonattainment for PM. Under section 188 of the amended Act these initial areas were classified as "moderate." The initial areas included the Lake Calumet, McCook, and Granite City, Illinois, PM nonattainment areas. The McCook area includes Lyons Township in Cook County, Illinois. (See 40 CFR 81.314 for a complete description of these areas.) Section 189 of the amended Act requires State submittal of a PM SIP for the initial areas by November 15, 1991. Illinois submitted the required SIP revision for the McCook, Illinois, PM nonattainment area to EPA on May 15, 1992. Upon review of

Illinois' submittal, EPA identified several concerns. Illinois submitted a letter on March 2, 1994, committing to satisfy all of these concerns within one year of final conditional approval. On May 25, 1994, the EPA proposed to conditionally approve the SIP. Final conditional approval was published on November 18, 1994, and became effective on December 19, 1994. The final conditional approval allowed the State until November 20, 1995, to correct the stated deficiencies. Of the five deficiencies, only three apply to the McCook area:

1. Invalid emissions inventory and attainment demonstration, due to underestimated emissions from 3 coal-fired boilers at CPC International, and 3 coal-fired boilers at GM Electromotive Division.

2. Failure to adequately address maintenance of the PM National Ambient Air Quality Standards (NAAQS) for at least 3 years beyond the applicable attainment date.

3. The following enforceability concerns:

a. Section 212.107, Measurement Methods for Visible Emissions could be misinterpreted as requiring use of Method 22 for sources subject to opacity limits as well as sources subject to limits on detectability of visible emissions.

b. Inconsistencies in the measurement methods for opacity, visible emissions, and "PM" in section 212.110, 212.107, 212.108, and 212.109.

c. Language in several rules which exempts from mass emissions limits those sources having no visible emissions.

The Illinois Environmental Protection Agency (IEPA) held a public hearing on the proposed rules on January 5, 1996. The rules became effective at the State level on May 22, 1996, and were published in the Illinois Register on June 7, 1996. Illinois made submittals to meet the commitments related to the conditional approval on November 14, 1995, May 9, 1996, and June 14, 1996. At this time, the EPA is only acting on the portions of those submittals that pertain to the McCook PM nonattainment area.

Based on Illinois' submittals, the EPA is now fully approving the SIP for the McCook area.

## II. Analysis of State Submittal

The first deficiency was an incomplete emissions inventory and attainment demonstration. The emissions inventory issue involved emissions estimations from 3 coal-fired boilers at CPC International and 3 coal-fired boilers at GM Electromotive Division. The EPA had pointed out that emissions from these sources were underestimated in the emissions inventory. Illinois recalculated these emissions, and EPA agrees that they are now correct. (Appendix 1 to Attachment 18 of Illinois' May 9, 1996 submittal)

To correct the problems with the attainment demonstration and emissions inventory, Illinois submitted a revised emissions inventory, which includes corrected emissions estimates from the GM Electromotive Division and CPC International boilers, and a revised attainment demonstration including an air quality modeling analysis.

In the submitted modeled attainment demonstration, which uses 5 years of meteorological data, a

violation of the 24-hour NAAQS is indicated when six exceedances of the 24-hour standard are predicted. Each receptor's predicted 6th highest 24-hour value is, therefore, compared to the standard. The 24-hour PM standard is 150 micrograms per cubic meter ("micro-g/m<sup>3</sup>"). The highest, sixth highest predicted 24-hour PM concentration at any receptor in the McCook nonattainment area was 145.3 "micro-g/m<sup>3</sup>". Thus, the modeling analysis predicts that the 24-hour NAAQS will be met.

A modeled violation of the annual PM standard is indicated when any receptor's 5 year arithmetic mean annual PM concentration exceeds the annual PM standard of 50 micro-g/m<sup>3</sup>. The highest arithmetic mean annual PM concentration predicted by the modeling for the McCook area was 47.38 micro-g/m<sup>3</sup>. Therefore, the modeling analysis predicts that the annual PM NAAQS will be met.

The second deficiency was Illinois' failure to adequately address maintenance of the PM NAAQS for at least 3 years beyond the applicable attainment date. Because of the length of time it may take to determine whether an area has attained the standards, EPA recommends that PM nonattainment area SIP submittals demonstrate maintenance of the PM NAAQS for at least 3 years beyond the applicable attainment date. (See a August 20, 1991, memorandum from Fred H. Renner, Jr. to Regional Air Branch Chiefs titled "Questions and Answers for Particulate Matter, Sulfur Dioxide, and Lead".) Illinois' May 15, 1992, submittal took growth into account in the modeling analysis, but did not sufficiently address maintenance of the NAAQS for PM.

The attainment date was December 31, 1994. Therefore, Illinois needs to show maintenance up to December 31, 1997. In the May 9, 1996, submittal, Illinois used ambient monitoring data to show that background concentrations of PM were no higher in 1995 than they were in 1991, and there are no significant trends in background PM concentrations from 1989 to 1995. Illinois concluded from this analysis that the effects of growth on ambient PM concentrations in the McCook PM nonattainment area would continue to be negligible through the end of the maintenance period. The EPA agrees, because the maintenance period is over, that the projection of trends in PM background concentrations is sufficient for this maintenance demonstration.

The final issue from the November 18, 1994, conditional approval notice which applies to the McCook area involves specific wording in several of Illinois' rules. In the 1992 submittal, 35 IAC Section 212.107, Measurement Methods for Visible Emissions, stated that Method 22 should be used for "detection of visible emissions." This could be misinterpreted as requiring use of Method 22 for sources subject to opacity limits as well as sources subject to limits on detectability of visible emissions. The revised rule (See the June 14, 1996, submittal) contains revised language which adequately clarifies the intended uses of Method 22.

Another wording problem was the fact that measurement methods for opacity, visible emissions, and "PM" in 35 IAC 212.107, 212.108, and 212.109, and 212.110 were not always consistent with each other. The revised rules in the June 14, 1996, submittal contain much less potential overlap than the previous rules. The rules are now consistent.

Finally, several of the rules in the 1992 submittal contained language which exempted sources with no visible emissions from mass emissions limits.

Illinois has added language which states that the exemption "is not a defense to a finding of a violation of the mass emission limits." This issue has been adequately addressed, and these rules were approved by the USEPA on March 11, 1998. (63 FR 11842)

Section 179(a) of the amended Act states that if the Administrator finds that a State has failed to make a required submission, finds that a SIP or SIP revision submitted by the State does not satisfy the minimum criteria established under section 110(k) of the amended Act, or disapproves a SIP submission in whole or in part, unless the deficiency has been corrected within 18 months after the finding, one of the sanctions referred to in section 179(b) of the amended Act shall apply until the Administrator determines that the State has come into compliance. (Pursuant to 40 CFR 52.31, the first sanction shall be a sanction requiring 2 to 1 offsets, in the absence of a case-specific selection otherwise.) If the deficiency has not been corrected within 6 months of the selection of the first sanction, the second sanction under section 179(b) shall also apply. In addition, section 110(c) of the Act requires promulgation of a Federal Implementation Plan (FIP) within 2 years after the finding or disapproval, as discussed above, unless the State corrects the deficiency and the SIP is approved before the FIP is promulgated.

On December 17, 1991, a letter was sent to the Governor of Illinois notifying him that the EPA was making a finding that the State of Illinois had failed to submit a PM SIP for the McCook PM nonattainment area. This letter triggered both the sanctions and FIP processes as explained above. Illinois submitted a PM SIP revision for the nonattainment area on May 15, 1992, and in an April 30, 1993, letter to the State the EPA informed the State that the SIP was determined to be complete. Therefore, the deficiency which started the sanctions and FIP processes was corrected, and the sanctions process ended. The FIP process, however, was not stopped by the correction of the deficiency and EPA was to promulgate a FIP within 2 years of the failure-to-submit letter (or December 17, 1993), unless a PM SIP for the nonattainment area was finally approved before then.

On November 18, 1994, the EPA conditionally approved the SIP. The final conditional approval allowed the State until November 20, 1995, to correct the five stated deficiencies. Conditional approval does not start a new sanctions process, unless the State fails to make a submittal to address the deficiencies, makes an incomplete submittal, or the submittal is ultimately disapproved. Illinois made a submittal to meet the commitments related to the conditional approval on November 14, 1995. Supplemental information was submitted on May 9, 1996, and June 14, 1996. This submittal became complete by operation of law on May 14, 1996. No sanctions process is currently running. Upon full approval of the McCook PM plan, FIP liability will also end.

### III. Final Rulemaking Action

Illinois has corrected all of the deficiencies listed in the November 18, 1994, conditional approval as they relate to the McCook PM nonattainment area. Because Illinois has met all of the commitments of the conditional approval, the EPA is approving the plan for the McCook PM nonattainment area.

The EPA is publishing this rule 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 specified written adverse or critical comments be filed. This rule will become effective without further notice unless the Agency receives relevant adverse written comment within 30 days from the date of publication, as indicated above. Should the Agency receive such comments, it will publish a final rule informing the public that this rule will not take effect. Any parties interested in commenting on this action should do so at this time.

#### IV. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

##### B. Executive Order 13045

This final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

##### C. Future Requests

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 relevant statutory and regulatory requirements.

##### D. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 impose 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 a 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. EPA.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

##### E. 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 requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

#### F. 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. 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. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### G. 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 November 9, 1998. 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, Particulate matter.

Dated: August 11, 1998.

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 et seq.

Subpart O--Illinois

2. Section 52.719 is amended by revising paragraph (a) to read as follows:  
Sec. 52.719 Identification of plan--Conditional approval.

\* \* \* \* \*

(a) On May 15, 1992, Illinois submitted a part D particulate matter (PM) nonattainment area plan for the Lake Calumet (Southeast Chicago) moderate nonattainment area. This plan included control measures adopted in a final opinion and order of the Illinois Pollution Control Board, on April 9, 1992, in proceeding R91-22. The United States Environmental Protection Agency conditionally approved the State's plan, contingent on fulfillment of the State's commitment to meet 3 requirements by November 20, 1995. The first requirement is for the State to adopt and submit additional enforceable control measures, if necessary, that will achieve attainment. The second requirement is for the State to submit a complete and accurate emissions inventory (including corrected emissions estimates, as well as any new control measures which may be needed) and an acceptable modeled attainment demonstration. The third requirement is for the State to impose an opacity limit for coke oven combustion stacks which is reflective of their mass emission limits.

(1) Incorporation by reference.

(i) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 1: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart A: General Provisions, Section 211.101. Adopted at 16 Illinois Register 7656, effective May 1, 1992. (ii) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 1: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 212: Visible and Particulate Matter Emissions, Subpart A: General, Sections 212.107, 212.108, 212.109, 212.110, 212.113; Subpart E: Particulate Matter Emissions from Fuel Combustion Sources, Section 212.210; Subpart K: Fugitive Particulate Matter, Sections 212.302, 212.309, 212.316; Subpart L: Particulate Matter from Process Emission Sources, Section 212.324; Subpart N: Food Manufacturing, Section 212.362; Subpart Q: Stone, Clay, Glass and Concrete Manufacturing, Section 212.425; Subpart R: Primary and Fabricated Metal Products and Machinery Manufacture, Section 212.458; Subpart S: Agriculture, Section 212.464; Section 212 Illustration D: McCook Vicinity Map, Illustration E: Lake Calumet Vicinity Map, and Illustration F: Granite City Vicinity Map. Adopted at 16 Illinois Register 7880, effective May 11, 1992.

3. Section 52.725 is amended by adding paragraph (f) to read as follows:  
Sec. 52.725 Control strategy: Particulates.

\* \* \* \* \*

(f) On November 14, 1995, May 9, 1996, and June 14, 1996, the State of Illinois submitted State

Implementation Plan (SIP) revision requests to meet commitments related to the conditional approval of Illinois' May 15, 1992, SIP submittal for the Lake Calumet (SE Chicago), McCook, and Granite City, Illinois, Particulate Matter (PM) nonattainment areas. The EPA is approving the SIP revision request as it applies to the McCook PM nonattainment area.

For the McCook PM nonattainment area, all of the deficiencies of the May 15, 1992, submittal have been corrected.

(FR Doc. 98-24037 Filed 9-4-98; 8:45 am)

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**Legal Publications:**

- Pub. Law 84-159 SEC. 107 110 179 307 -- Air Pollution Control Act (Act of 7/14/55)
- Pub. Law 101-549 SEC. 102 -- Clean Air Act, Amendments (11/15/90)
- Pub. Law 91-604 SEC. 4 12 -- Noise Pollution and Abatement Act of 1970; Clean Air Act Amendments of 1970
- Pub. Law 999-13045 -- Protection of Children From Environmental Health Risks and Safety Risks (Executive Order of April 21, 1997)