ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN 87–1a; FRL–6527–8]

Approval of Post-1996 Rate of Progress Plan: Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA is approving the Lake and Porter Counties, Indiana Post-1996 Rate of Progress (ROP) Plan, including a 1990 inventory adjustment, as revisions to the State Implementation Plan (SIP). The Indiana Department of Environmental Management (IDEM) submitted the Post-1996 ROP Plan on December 17, 1997, with a supplemental submission on January 22, 1998.

The control strategies in the plan are designed to reduce volatile organic compounds (VOC) emissions in Lake and Porter Counties by 9 percent (%) from 1990 baseline levels. The Clean Air Act (the Act) requires that these reductions occur by November 15, 1999. The Post-1996 ROP Plan is designed to reduce VOC emissions in Lake and Porter Counties by at least 77,366 pounds (lbs) per day; from a projected 369,387 lbs/day to 292,021 pounds/day.

VOC emissions combine with oxides of nitrogen in the atmosphere to form ground-level ozone, a pollutant which can cause inflammation of the lungs, decrease lung capacity, and aggravate asthma. The purpose of this **Federal Register** action is to explain what EPA is approving and to discuss the rationale for today's approval.

DATES: This rule is effective on March 27, 2000, unless EPA receives relevant adverse written comments by February 25, 2000. If EPA receives adverse comment, it 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 addressed 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 SIP revision request for this direct final rule 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 Ryan Bahr at (312) 353–4366, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Ryan Bahr, Environmental Engineer, Regulation Development Section, at (312) 353–4366.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'', are used we mean EPA. This Supplementary Information section is organized as follows:

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I. General Information on this Approval

What is EPA approving?

In today's action, EPA is approving the Lake and Porter Counties, Indiana Post-1996 Rate of Progress (ROP) Plan, including a 1990 inventory adjustment, as a revision to the State Implementation Plan (SIP). IDEM submitted these items on December 17, 1997, and January 22, 1998.

Why is EPA approving this submittal?

The Post-1996 ROP Plan satisfies the requirements of the Clean Air Act. Specifically, the plan:

- Revises the 1990 base year emission inventory,
- Identifies control measures to achieve a projected 9% VOC emission reduction in Lake and Porter Counties,
- Documents the 9% reductions to occur by November 15, 1999, and,
- Identifies a 1999 mobile source emissions budget for VOC.

EPA found that the Post-1996 ROP Plan contains 77,660 pounds VOC/day of emission reductions in Lake and Porter Counties that are creditable. This exceeds the required reduction of 77,366 pounds VOC/day. The Act requires these reductions because VOC emissions combine with oxides of nitrogen in the atmosphere to form ground-level ozone, a pollutant which can cause inflammation of the lungs, decrease lung capacity, and aggravate asthma.

Section 182(c)(2)(B) of the Act requires submittal of a demonstration that the SIP will result in a 9% emission reduction by November 15, 1999. This 9% needs to be in addition to the emission reduction requirement for a 15% reduction by November 15, 1996. Indiana submitted the demonstration as part of the Post-1996 ROP Plan.

Who is affected by this action?

The Post-1996 ROP Plan refers to various emission control regulations which IDEM estimates will achieve the 9% emission reductions for Lake and Porter Counties. The regulations, both Federal and State, impact a wide variety of industries and businesses. For the most part, these regulations have already been implemented. All of them have already been approved into the SIP or promulgated by EPA. Today's approval does not establish any new requirements. The plan identifies and documents how existing SIP and Federal regulations achieve the necessary 9% emission reductions. The plan, by documenting emission reductions, demonstrates the progress being made toward cleaner air for the

people that live and work in Lake and Porter Counties, Indiana.

II. Background on IDEM Submittal

What is a Post-1996 Rate Of Progress (ROP) Plan?

A Post-1996 ROP Plan documents the control strategies a State is implementing to reduce emissions of ozone precursors by 9% from 1990 baseline emissions. Section 182(b)(1) of the Act requires States to develop these Post-1996 ROP Plans for ozone nonattainment areas which have been classified as serious and above. Lake and Porter Counties are classified as severe nonattainment for ozone. To be approvable, a State must show that the 9% emission reduction will occur by November 15, 1999.

The Plan is called a ''Post-1996'' ROP Plan because the Act also requires that by November 15, 1996, the States implement control strategies achieving 15% emission reduction for ozone nonattainment areas classified as moderate and above. The Post-1996 ROP Plan continues the 3% per year reductions from November 16, 1996, through November 15, 1999.

What pollutants does the IDEM Post-1996 ROP Plan Reduce?

The IDEM Post-1996 ROP Plan identifies VOC control strategies. VOC emissions combine with oxides of nitrogen in the atmosphere to form ground-level ozone. Ozone can cause inflammation of the lungs, decrease lung capacity, and aggravate asthma.

What geographic area does the IDEM Post-1996 ROP Plan affect?

IDEM's Post-1996 ROP Plan is applicable to the severe ozone nonattainment area of Lake and Porter Counties, Indiana. Lake and Porter Counties are part of the Chicago-Gary-Lake County ozone nonattainment area, which is classified as severe nonattainment for ozone.

Why did IDEM submit a SIP revision request for the Post-1996 ROP Plan?

Lake and Porter Counties are classified as severe nonattainment for ozone. For that reason, section 182(c)(2)(B) of the Act requires that these areas reduce emissions of ozone precursors by 3% per year, and that the State submit a Post-1996 ROP Plan to identify and document those reductions.

What information did IDEM submit in its request?

On December 17, 1997, Indiana submitted to EPA the Lake and Porter Counties Indiana Post-1996 ROP Plan. EPA found this submittal to be complete in a letter to IDEM dated December 30, 1997.

The ROP Plan contains documentation and control strategies for both the 9% reduction requirement and 3% contingency measures, as well as a revision to the 1990 VOC emission inventory. The contingency measures include agreed orders for Keil Chemical and United States Steel Gary Works. EPA will address the contingency measures and these agreed orders in a subsequent rulemaking action.

The submittal also contains a mobile source emission budget for VOC. IDEM supplemented its submittal on January 22, 1998, to clearly identify the mobile source emission budget.

What Mobile Source Budget did IDEM identify in the Post-1996 ROP Plan?

IDEM supplemented its submittal on January 22, 1998 to clearly identify a 1999 mobile source budget for VOCs of 40,897 pounds VOC per summer day, as contained in Table 16 of the Post-1996 ROP Plan.

What action has EPA previously taken on the mobile source budget?

At the time that EPA received this submittal, the transportation rules (62 FR 43780) required EPA to review mobile source budgets within 45 days of submittal. After receiving the supplemental submittal regarding the budget on January 22, 1998, EPA completed that review of the budget. EPA found the 1999 VOC budget of 40,897 pounds VOC per summer day adequate in a February 2, 1998, letter. Since that time, Lake and Porter Counties have been required to restrict their 1999 modeled mobile source VOC emissions to below that budget.

What public review opportunities did IDEM provide for the Post-1996 ROP Plan?

On October 13, 1997, IDEM published a notice of public hearing for the Post-1996 ROP Plan and opened a public comment period through December 1, 1997. IDEM held a public hearing on the proposed ROP Plan on November 13, 1997. The submittal summarizes the public comments and IDEM's responses to those comments.

What prior action has EPA taken on Rate of Progress Plans for Lake and Porter Counties Indiana?

On April 3, 1997, EPA proposed approval and solicited public comment on Indiana's 15% ROP plan. EPA finalized approval of the 15% ROP plan on July 18, 1997 (62 FR 38457). The 15% ROP plan was designed to reduce VOC emissions in Lake and Porter Counties by 68,242 pounds per day.

III. Content of IDEM Submittal

What changes did IDEM make to the 1990 VOC emission inventory in this submission?

IDEM has revised the 1990 Lake and Porter Counties base year VOC emissions inventory. The revision increases the base year VOC emissions inventory by 195,349 pounds/day, a 46% increase. The resulting 1990 VOC emissions inventory for Lake and Porter Counties is 620,070 pounds/day (typical weekday emissions during the period of June through August).

Both the 15 percent ROP plan and the Post-1996 ROP Plan depend on the level of the 1990 base year VOC emissions. EPA has encouraged the States to update the 1990 base year emissions as needed, and to make appropriate changes in ROP plans. EPA recognizes that the base year emissions estimates (or the estimated emissions for any other year) are not fixed over time and that new data can improve these estimates. Such is the case in this ROP submittal.

In July and August 1993, the United States Steel Corporation (US Steel) commented to IDEM on the 1990 base year inventory. US Steel stated that the 1990 base year emissions inventory underestimated VOC emissions from the US Steel coke oven by-product recovery plant. When IDEM received these comments, it was in the final stages of preparing the base year emissions inventory and did not have time to further investigate US Steel's claim prior to submitting the inventory to the EPA.

EPA approved IDEM's 1990 base year emissions inventory for Lake and Porter Counties on January 4, 1995 (60 FR 375). The rulemaking suggested that IDEM give further consideration to the comments of US Steel and acknowledged that IDEM would need extra time to consider relevant data prior to amending the base year emissions inventory, if warranted.

After taking a more detailed look at the emissions from the coke oven by-product recovery sector, IDEM concluded that it was appropriate to revise the 1990 base year emissions inventory. Both State rule 326 IAC 14–9 and the Federal National Emission Standard for Hazardous Air Pollutants (NESHAP) regulate benzene emissions from coke oven by-product recovery plants. The rules were implemented in 1991 and not 1990, as assumed in the original 1990 base year emissions inventory. IDEM is now correcting this

assumption, resulting in the need to increase the 1990 base year emissions.

To accurately reflect the overall emissions from this category, IDEM increased the resolution of the emissions inventory for the emissions from coke oven by-product recovery plants. These enhanced emission calculations provided the context for the compliance data from US Steel, allowing IDEM to more accurately determine the correct 1990 emissions level.

IDEM concluded that the 1990 base year emissions were significantly higher than the base year inventory originally adopted and has requested that the 1990 SIP base year inventory be adjusted accordingly.

What control strategies did IDEM implement to achieve reductions?

The Post-1996 ROP Plan Control Strategies and their Emission Reductions.

Control Strategies	Emission Reductions (Pounds VOC/day)	Date of EPA Promulgation or Approval
Coke Oven By-Product Recovery Plant NESHAP (40 CFR Part 61 Subpart L).	55,371	Promulgated September 14, 1989 (54 FR 38044) Amended September 19, 1991 (56 FR 47404)
Inland Steel Coke Battery Shutdowns (326 IAC 6–1–10.1(k)(5)) (40 CFR 52.770(c)(99)).	6,666	Approved June 15, 1995 (60 FR 31412)
Reformulated Gasoline Use in Small Engines (40 CFR Part 80).	575	Promulgated February 16, 1994 (59 FR 7716)
New Small Engine Emission Standards (40 CFR Part 90)	6,034	Promulgated July 3, 1995 (60 FR 34581)
Volatile Organic Liquid Storage Reasonably Available Control Technology (326 IAC 8–9) (40 CFR 52.770(c)(111)).	2,700	Approved January 17, 1997 (62 FR 2593)
Coke Oven NESHAP (40 CFR Part 63 Subpart L)	6,314	Promulgated October 27, 1993 (58 FR 57911)
Total Emission Reduction	77,660	

In determining what control measures a State can use in its Post-1996 ROP Plan strategy, emission reductions from control measures are creditable to the extent they occur before November 15, 1999. The General Preamble for the Implementation of Title I of the Act also interprets and clarifies the Act's requirements for crediting control strategies. The Preamble provides that all credited emission reductions must be real, permanent, and enforceable, and discusses how these criteria can be met with specific strategies (57 FR 13497). EPA has explained these requirements in more detail in the guidance documents listed in this **Federal Register**.

The Post-1996 ROP Plan Control Strategies; Emission Reduction Calculations

To achieve the required 9% VOC emission reduction requirement, IDEM reviewed and chose the following emission control measures.

Coke Oven By-Product Recovery Plants NESHAP. This Federal NESHAP at 40 CFR Part 61, Subpart L, applies to all furnace and foundry coke oven by-product recovery plants. The NESHAP requires the use of gas blanketing to control emissions from tar intercepting sumps, process vessels, and naphthalene processing operations. The NESHAP also covers controlling emissions from equipment leaks, coolers, and light oil processes.

As noted above, Indiana promulgated rule 326 IAC 14–9 in 1988, covering some of the emissions for this source category. It was scheduled for implementation in 1990, but was actually implemented in 1991. EPA approved the rule as part of the State's Reasonably Available Control Technology (RACT) SIP on September 17, 1992 (57 FR 42889).

IDEM has requested credit in its Post-1996 ROP Plan for reductions from coke oven by-product recovery plants that went beyond rule 326 IAC 14–9. EPA believes this approach is consistent with EPA guidance which provides that only the emission reductions from NESHAPS that go beyond RACT rules in existence before November 15, 1990, can be credited in ROP plans. Based on this guidance, the State determined the emission reduction resulting from the NESHAP that went beyond that of rule 326 IAC 14–9.

IDEM has determined that the NESHAP has resulted in additional VOC emission reductions of 45,300 pounds/day at the US Steel mill and 10,071 pounds/day at the Bethlehem Steel mill, for a total additional VOC emission reduction of 55,371 pounds/day.

Furthermore, EPA has determined that while the reductions from 326 IAC 14–9 are not creditable toward the 9% reduction requirements, they should be removed from the baseline emission inventory before determining the required reductions for the ROP purposes. This approach acknowledges that while these reductions were not actually made before 1990, they are also not part of the 1990 Act's ROP process.

Inland Steel Coke Oven Battery Shutdowns. Indiana rule 326 IAC 6–1–10.1(k)(5) (adopted by the State in March 1993), required Inland Steel Flat Products to shut down coke batteries numbers 6 through 11 before November 1996. Inland Steel no longer holds a valid operating permit for these coke batteries. In addition, based on a consent decree between the State and Inland Steel, Inland Steel cannot bank the VOC emission reductions from these coke battery closures for future use. IDEM considers them to be permanent emission reductions.

IDEM notes that, since it found emissions from the coke oven by-products recovery to be higher than was originally reported in the 1990 base year inventory, additional emission reduction credits are available. Note that IDEM increased the 1990 base year VOC emissions in this source category, as discussed above.

To calculate the emission reduction credit for this source, IDEM had to take into account emission reduction credits already applied in prior submittals, in particular in the 15 percent ROP plan, to avoid double counting. IDEM increased the resolution of the emissions inventory for this source so that it could consider the impacts of the previously implemented rule 326 IAC 14–9 and previously credited controls.

IDEM found that it could credit an additional VOC emission reduction (beyond that credited in the 15 percent ROP plan) of 6,666 pounds/day to the Inland Steel coke oven battery shutdowns. The IDEM submittal credits 6,288 pounds/day to the 9 percent ROP emission reduction requirement, and

378 pounds/day to the 3 percent contingency requirement. However, EPA is today crediting the full 6,666 pounds VOC/day toward the 9% requirement. This excess reduction accounts for discrepancies identified in other sections of IDEM's submittal.

IDEM had credited a VOC emission reduction of 3,984 pounds/day for this source closure in prior air quality plan submittals, and is not taking credit for that portion in the 9 percent post-1996 ROP Plan.

Effects of Reformulated Gasoline on Small, Non-Road Engines. The emission reduction for this source category applies to 2-stroke and 4-stroke non-road engines. The emission reduction results from the implementation of the Act's requirement for the use of reformulated gasoline in ozone nonattainment areas classified as severe and above.

To determine the emission reduction credit, IDEM used August 1993 guidance from EPA to calculate the emission reduction by engine type. The emission reductions only apply to exhaust and evaporative emissions. Based on the EPA guidance, IDEM did not account for emission reductions resulting from changes in refueling emissions.

Tables 1 and 17 of the Post-1996 ROP Plan, document a VOC emission reduction of 1,292 pounds/day for this source category. However, the detailed emissions summary contained in Appendix C–1 of the submittal calculates a VOC emission reduction of 575 pounds per day. The emission reductions achieved by the use of reformulated gasoline in small, non-road engines and the regulation for new small engines need to be calculated together, since both affect small engines. A calculation error was made when disaggregating the results of that analysis. In Tables 1 and 7, 715 pounds VOC/day were inadvertently shifted from the emissions listed for the ''new small engine standards'' to the emissions reduction credited for ''effects of reformulated gasoline on small, non-road engines.'' This approval corrects that error and credits the effects of reformulated gasoline on small, non-road engines with a 575 pound VOC/day emission reduction.

When this error was made, an additional 2 pounds VOC/day were added to the effects of reformulated gasoline on small, non-road engines. This 2 pound deficit will be made up by the excess credit for the Inland Steel coke oven battery shutdowns. In IDEM's submittal, it only took credit for Inland Steel coke oven battery shutdowns for 6,288 out of a total 6,666 pounds VOC/day. This approval more than makes up the 2 pound deficit by applying all 6,666 pounds VOC/day to the Post-1996 9% reduction.

New Small Engine Standards. IDEM calculated the impact of new federal standards codified at 40 CFR Part 90 for small engines by following November 28, 1994, EPA guidance titled ''Future Non-road Emission Reduction Credits for Court-Ordered Non-Road Standards''. IDEM determined the emission impacts for each equipment type and engine type in Lake and Porter Counties. Appendix C–2 of the Post-1996 ROP Plan submittal specifies the emission reduction for each equipment and engine type combination by county. IDEM calculated emission impacts after removing the impacts of reformulated gasoline, as specified in the EPA guidance.

IDEM determined, as demonstrated in Appendix C–2 of the Post-1996 ROP Plan, that the small engine standards would reduce 1999 emissions by 6,034 pounds VOC/day. However, tables 1 and 18 of the Post-1996 ROP submittal document a VOC emission reduction from this control category equaling only 5,319 pounds/day.

As noted above, IDEM inadvertently shifted 715 pounds VOC/day to reformulated gasoline when listing the measures in the tables. EPA has made this correction to the tables in today's **Federal Register**. The new small engine standard is being credited at 6,034 pounds VOC/day reduction.

Volatile Organic Liquid Storage Reasonably Available Control Technology. The VOC impact of this control is based on the calculated impacts of State rule 326 IAC 8–9, adopted by the Indiana Air Pollution Control Board on May 3, 1995 and approved by EPA on January 17, 1997 (62 FR 2593). This rule became effective in Indiana on October 1, 1995, and was to be phased in over several years, with most sources needing to comply by May 1, 1996. The rule applies to storage vessels with a capacity greater than 39,000 gallons that are used to store volatile organic liquids with a maximum true vapor pressure of 1.52 pounds per square inch or greater.

The rule requires the use of internal floating roofs with vapor-mounted primary and secondary seals with controlled fittings in fixed roof tanks. It also requires the replacement of vapor-mounted primary seals with liquid-mounted primary seals or shoe seals and installation of secondary seals with controlled fittings in external floating roof tanks.

The emission reduction total for this control measure assumes a VOC emission reduction of 96 percent in fixed roof tanks, 29 percent in internal floating roof tanks, and 65 percent for external floating roof tanks. The emission reduction calculation also assumes an 80 percent rule effectiveness level.

All external floating roof tanks have to comply with the State rule by May 1, 1996. Existing internal floating roof tanks have up to 10 years to comply with the rule. IDEM only claims an emission reduction credit for external floating roof tanks and fixed roof tanks.

This approval credits a VOC emission reduction of 2,700 pounds VOC/day for this source control measure in 1999, documented in Table 21 and Appendix C–5 of the Post-1996 ROP submittal.

Coke Oven Batteries NESHAP. The coke oven batteries NESHAP, promulgated by EPA on October 27, 1993, and codified at 40 CFR Part 63, Subpart L, applies to all coke oven batteries in existence prior to December 4, 1992, including by-product and nonrecovery coke oven batteries, and to all new coke oven batteries constructed on or after December 4, 1992. The rule mandates emission limits and/or controls for door leaks, topside port leaks, offtake system leaks, visible emissions, and charging systems.

IDEM calculated the emission reductions based on EPA guidance in the preamble to the 1993 NESHAP (58 FR 57898). Appendix C–4 of the ROP Plan submittal documents in detail the individual source calculations used by IDEM to calculate the total VOC emission reduction. This approval credits a total VOC reduction of 6,314 pounds/day.

IV. EPA Analysis of IDEM Submittal

What guidance documents and requirements apply to the Post-1996 ROP Plan submittal?

EPA has developed a number of guidelines specifically addressing the review of Post-1996 ROP Plans. In addition, EPA guidelines concerning the review of 15 percent ROP plans (1996 ROP plans) address many issues of relevance in the review of the Post-1996 ROP Plans. These documents address such topics as: (1) the requirements of the Act; (2) development of baseline and target emission estimates; (3) emission inventory projection procedures; and, (4) recommended emission reduction levels for various emission control measures.

Rate-of-Progress Plan Policy References

1. *Clean Air Act* (42 U.S.C. 7401–7626), as amended November 15, 1990.

2. *Procedures for Preparing Emissions Projections,* EPA–450/4–91–019, Environmental Protection Agency, July 1991.

3. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' Proposed Rule, **Federal Register**, 57 FR 13498, April 16, 1992.

4. Memorandum, ''November 15, 1992, Deliverables for Reasonable Further Progress and Modeling Emission Inventories,'' from J. David Mobley, Edwin L. Meyer, and G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 7, 1992.

5. *Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans,* EPA–452/R–92–005, October 1992.

6. Memorandum, ''Quantification of Rule Effectiveness Improvements,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 1992.

7. *Guidance for Growth Factors, Projections, and Control Strategies for the 15 Percent Rate-of-Progress Plans,* EPA–452/R–93–002, March 1993.

8. Memorandum, ''Correction to 'Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans','' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 2, 1993.

9. Memorandum, ''15 Percent Rate-of-Progress Plans,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 16, 1993.

10. *Guidance on the Relationship Between the 15 Percent Rate-of-Progress Plans and Other Provisions of the Clean Air Act,* EPA–452/R–93–007, May 1993.

11. Memorandum, ''Credit Toward the 15 Percent Rate-of-Progress Reductions from Federal Measures,'' from G.T. Helms, Ozone/Carbon Monoxide Programs Branch, and Susan Wyatt, Chemicals and Petroleum Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, May 6, 1993.

12. *Guidance on Preparing Enforceable Regulations and Compliance Programs for the 15 Percent Rate-of-Progress Plans,* EPA–452/R–93–005, June 1993.

13. Memorandum, ''Correction Errata to the 15 Percent Rate-of-Progress Plan Guidance Series,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, July 28, 1993.

14. Memorandum, ''Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 13, 1993.

15. Memorandum, ''Region III Questions on Emission Projections for the 15 Percent Rate-of-Progress Plans,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 17, 1993.

16. Memorandum, ''VOC Emission Benefits for Nonroad Equipment with the Use of Federal Phase I Reformulated Gasoline,'' from Phil Lorang, Office of Mobile Sources, Environmental Protection Agency, August 18, 1993.

17. Memorandum, ''Guidance on Issues Related to 15 Percent Rate-of-Progress Plans,'' from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, Environmental Protection Agency, August 23, 1993.

18. Memorandum, ''Credit Toward the 15 Percent Requirements from Architectural and Industrial Maintenance Coatings,'' from John S. Seitz, Office of Air Quality Planning and Standards, Environmental Protection Agency, September 10, 1993.

19. Memorandum, ''Reclassification of Areas to Nonattainment and 15 Percent Rate-of-Progress Plans,'' from John S. Seitz, Office of Air Quality Planning and Standards, Environmental Protection Agency, September 20, 1993.

20. Memorandum, ''Clarification of Guidance for Growth Factors, Projections and Control Strategies for the 15 Percent Rate of Progress Plans,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

21. Memorandum, ''Review and Rulemaking on 15 Percent Rate-of-Progress Plans,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

22. Memorandum, ''Questions and Answers from the 15 Percent Rate-of-Progress Plan Workshop,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 29, 1993.

23. Memorandum, ''Rate-of-Progress Plan Guidance on the 15 Percent Calculations,'' from D. Kent Berry, Acting Director, Air Quality Management Division, Environmental Protection Agency, October 29, 1993.

24. Memorandum, ''Clarification of Issues Regarding the Contingency Measures That are Due November 15, 1993, for Moderate and Above Ozone Nonattainment Areas,'' from D. Kent Berry, Acting Director, Air Quality Management Division, Environmental Protection Agency, November 8, 1993.

25. Memorandum, ''Credit for 15 Percent Rate-of-Progress Plan Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule,'' from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, December 9, 1993.

26. Memorandum, ''Transmittal of NO_x Substitution Guidance, '' from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, December 9, 1993.

27. *Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration,* EPA–452/R–93–015, January 1994.

28. Memorandum, ''Rule Effectiveness Guidance: Integration of Inventory, Compliance, and Assessment Applications,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, January 21, 1994.

29. Memorandum, ''Post-1996 Rate-of-Progress Plan Guidance for Ozone Nonattainment Areas,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, January 24, 1994.

30. Memorandum, ''Guidance on Projection of Nonroad Inventories to Future Years,'' from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, February 4, 1994.

31. Memorandum, ''Post-1996 Rate-of Progress Plan Guidance for Ozone Nonattainment Areas,'' from G.T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, February 22, 1994.

32. Memorandum, ''Clarification of Policy for Nitrogen Oxides (NO_X) Substitution,'' from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 5, 1994.

33. Memorandum, ''Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards,'' from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, November 28, 1994.

34. Memorandum, ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule,'' from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, November 29, 1994.

35. Memorandum, ''Transmittal of Rule Effectiveness Protocol for 1996 Demonstrations,'' from Susan E. Bromm, Director, Chemical, Commercial Services and Municipal Division, Office of Compliance, Environmental Protection Agency, December 22, 1994.

36. Memorandum, ''Future Nonroad Emission Reduction Credits for Locomotives,'' from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, January 3, 1995.

37. Memorandum, ''Ozone Attainment Demonstration,'' from Mary Nichols, Assistant Administrator, Office of Air and Radiation, Environmental Protection Agency, March 2, 1995.

38. Memorandum, ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule,'' from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 22, 1995.

39. Memorandum, ''Fifteen Percent Rate-of-Progress Plans—Additional Guidance,'' from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, May 5, 1995.

40. Memorandum, ''Regulatory Schedule for Consumer and Commercial Products under Section 183(e) of the Clean Air Act,'' from John S. Seitz, Director, Office of Air Quality Planning and Standards,

Environmental Protection Agency, June 22, 1995.

41. Memorandum, ''Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coating Rule,'' from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 7, 1996.

Why Was the 1996 15 Percent ROP Target Level for Lake and Porter Counties Recalculated?

The 15% plan target emission level needed to be recalculated because IDEM has revised the 1990 VOC emission inventory. The Post-1996 ROP Plan uses the 15% plan's 1996 target level as a starting point. IDEM calculated the 1999 target emission level directly from this 1996 target level. IDEM then subtracted the 1999 target emission level from the projected 1999 inventory to determine how much VOC emission reductions are needed. In this manner, instead of revisiting the 15% plan, the Post-1996 ROP Plan has to provide for ample reductions to meet the 1999 target.

How Was the 1996 Target Emission Level for Lake and Porter Counties Recalculated?

Recalculation of 1996 target emission level	Pounds VOC/day
1990 Total VOC Emissions	620,070
1990 Rate-Of-Progress Emissions (A) (Anthropogenic Emissions Only)	577,190
1990–1996 Non-creditable Reductions	187,591
1990 Adjusted Base Year Emissions (B) (1990 ROP Emissions minus non-creditable reductions)	389,599
15 Percent of 1990 Adjusted Base Year Emissions (C)	58,440
1996 Target Emission Level (B)–(C)	331,159

1990–1996 Non-Creditable Reductions: Coke Oven By-Product Recovery=129,913 pounds VOC/day; Federal Motor Vehicle Control Program (FMVCP)=59,950 pounds VOC/day; Reid Vapor Pressure (RVP)=728 pounds VOC/day.

To determine the 1990 adjusted base year inventory, IDEM started with the 1990 base year emission inventory approved by EPA on January 4, 1995 (60 FR 375), which EPA found met the requirements of sections 172(c)(3) and 182(a)(1) of the Act for Lake and Porter Counties. IDEM then revised the inventory as described earlier. The revision resulted in total 1990 adjusted base year emissions of 620,070 pounds VOC/day. IDEM subtracted biogenic emissions and emissions from outside Lake and Porter Counties from the 1990 base year inventory to determine that the 1990 ROP inventory level is 577,190 pounds VOC/day.

IDEM used EPA's Mobile Source Emissions Model (MOBILE) 5a to calculate the emission reductions from the pre-1990 FMVCP and 1990 RVP regulations; IDEM then subtracted these reductions and the emission reductions from coke oven by-product recovery plants from the 1990 ROP inventory level to find the 1990 adjusted base year inventory level of 389,599 lbs VOC/day.

IDEM then multiplied the adjusted base year emissions by 15% resulting in a required reduction of 58,440 pounds VOC/day. To obtain the 1996 emission target level, IDEM subtracted the 15% required emission reductions from the 1990 ROP emissions resulting in a 1996 target level of 331,159 pounds VOC/day.

How Was the Post-1996 ROP Plan Required Emission Reduction Calculated?

9% ROP Summary For Lake and Porter Counties

Calculation of reduction needs by 1999	Pounds VOC/day
1990 Lake and Porter Counties Total VOC Emissions (A)	620,070
1990 Rate-Of-Progress Emissions (B) (Anthropogenic Emissions Only)	577,190
1990–1999 Non-creditable Reductions	224,841
1990 Adjusted Base Year Emissions (C) (1990 ROP Emissions minus Noncreditable Reductions)	352,349
9 Percent of 1990 Adjusted Base Year Emissions (D)	31,711
FMVCP Fleet Turnover Correction (The difference between 1996 and 1999 FMVCP implementation)	7,427
1996 Emission Target Level	331,159
1999 Target Emission Level (E) (1996 Emissions Target Level minus 9% and fleet turnover)	292,021
Projected 1999 VOC Emissions (F) (1990 Adjusted Base Year Emissions plus Growth Factors)	369,387
ROP Reduction Requirement to achieve 9 percent net of growth (G) (1999 Projected Emission (F) minus 1999 Target Level (E))	77,366

1990–1999 Non-Creditable Reductions: Coke Oven By-Product Recovery=159,736 pounds VOC/day; Federal Motor Vehicle Control Program (FMVCP)=64,377 pounds VOC/day; Reid Vapor Pressure (RVP)=728 pounds VOC/day.

(A) IDEM revised the ''1990 Lake and Porter Counties total VOC emissions'', as described earlier, resulting in 1990 emissions of 620,070 pounds VOC/day.

9% ROP Summary For Lake and Porter Counties

Calculation of reduction needs by 1999	Pounds VOC/day

(B) IDEM determined the ''1990 ROP emissions'' (577,190 pounds VOC/day) by subtracting from the 1990 total emissions the biogenic emissions and emissions outside of the nonattainment area.

(C) IDEM calculated the ''1990 adjusted base year emissions'' as 351,440 pounds VOC/day by subtracting from the 1990 ROP inventory any non creditable emission reductions which are projected to occur between 1990 and 1999. EPA slightly revised IDEM's calculations when a computational error was found. The corrected ''1990 adjusted base year emissions'' are 352,349 pounds VOC/day. This correction results in a higher adjusted base year and affects each of the remaining computations, except for the 1999 projected VOC emissions.

(D) EPA calculated the ''9% of adjusted base year emissions'' as 31,711 pounds VOC/day by multiplying the 1990 adjusted base year inventory by 9%.

(E) EPA calculated the ''1999 emissions target level'' as 292,021 pounds VOC/day by subtracting from the 1996 emission target level inventory the FMVCP fleet turnover correction and the 9% reduction requirement.

(F) IDEM calculated the ''1999 projected VOC emissions'' as 369,387 pounds VOC/day. In the Post-1996 ROP Plan, IDEM projected the point, area, and non-road mobile source emission inventories using either source-supplied data, population forecasts, historical data, or, the U.S. Department of Commerce Bureau of Economic Analysis (BEA) regional growth data. IDEM included in the Post-1996 ROP Plan the growth factors used together with documentation for the assumptions made.

IDEM projected the on-road mobile source emission inventory using MOBILE5a. IDEM calculated these growth estimates in a manner consistent with EPA's guidance documents.

(G) EPA then determined the ''ROP reduction requirement to achieve 9 percent net of growth'' as 77,366 pounds VOC/day by subtracting the 1999 emission target level from the 1999 projected VOC emissions.

Why is EPA approving the Post-1996 ROP Plan submittal?

The Post-1996 ROP Plan satisfies the requirements of the Clean Air Act. Specifically, the plan:

- Revises the 1990 base year emission inventory,
- Identifies control measures to achieve a projected 9% VOC emissions reductions in Lake and Porter Counties,
- Documents the 9% reductions to occur by November 15, 1999, and,
- Identifies a 1999 mobile source emissions budget for VOC.

The Post-1996 ROP Plan projects reductions in VOC emissions in Lake and Porter Counties of 77,660 pounds VOC/day. This exceeds the required reduction of 77,366 pounds VOC/day. Indiana can use the excess reduction of 294 pounds VOC/day toward meeting future ROP emission reduction requirements.

Section 182(c)(2)(B) of the Act requires submittal of a demonstration that the SIP will result in a 9% emission reduction by November 15, 1999. This 9% needs to be in addition to the emission reduction requirement for a 15% reduction by November 15, 1996. Indiana submitted the demonstration as part of the Post-1996 ROP Plan.

V. Final Rulemaking Action

EPA approves Indiana's Post-1996 ROP Plan, including the 1990 inventory adjustments, submitted December 17, 1997, and January 22, 1998, for Lake and Porter Counties, as a revision to the SIP. Final approval of the Post-1996 ROP Plan also approves the 1999 mobile source emission budget of 40,897 pounds VOC per summer day.

This action will be effective on March 27, 2000.

EPA is publishing this action 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, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by February 25, 2000. Should the Agency receive such comments, it will publish a withdrawal 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, this action will be effective on March 27, 2000.

VI. 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 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.

C. 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.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces E.O. 12612 (Federalism) and E.O. 12875 (Enhancing the Intergovernmental Partnership). E.O. 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 E.O. 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 E.O. 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 final 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 E.O. 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 E.O. 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 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 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. 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 rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

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.

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 March 27, 2000. 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, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: January 6, 2000.

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. 7401–7671q.

2. Section 52.777 is amended by adding paragraph (u) to read as follows:

§ 52.777 Control Strategy: Photochemical oxidants (hydrocarbon).

* * * * *

(u) On December 17, 1997, and January 22, 1998, Indiana submitted the Post-1996 rate-of-progress plan for the Lake and Porter Counties portion of the Chicago-Gary-Lake County ozone nonattainment area. This plan satisfies the counties' requirements under section 182(c)(2)(B) of the Clean Air Act, as amended in 1990. The plan contains a 1999 mobile source vehicle emission budget for volatile organic compounds of 40,897 pounds per average summer day.

[FR Doc. 00–1558 Filed 1–25–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–043–1–9905a; and GA–045–1–9906a; FRL–6528–9]

Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to Enhanced Inspection and Maintenance Portion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revisions submitted, in two separate packages, by the State of Georgia in November and December of 1998. Both submittals request revisions to the enhanced Inspection and Maintenance (I/M) program, in accordance with the requirements of Section 110 of the Clean Air Act as amended in 1990 (CAA) and section 348 of the National Highway Systems Designation Act (NHSDA). In total, these submittals request revisions to modify the following sections: ''Emission Inspection Procedures,'' ''Inspection Station Requirements,'' ''Certificate of Emissions Inspection,'' ''Definitions,'' ''Waivers,'' ''Inspection Fees,'' and the ''Accelerated Simulated Mode (ASM) Start-up Standards'' found in Appendix H of the Enhanced I/M Test Equipment, Procedures, and Specifications—Phase II.

DATES: This direct final rule is effective March 27, 2000 without further notice, unless EPA receives adverse comment by February 25, 2000. If adverse comment is received, EPA 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: All comments should be addressed to: Dale Aspy (November 1998 submittal) or Lynorae Benjamin (December 1998 submittal) at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the state submittals are available at the following addresses for inspection during normal business hours: Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Dale Aspy, 404/562–9041; Lynorae Benjamin, 404/562–9040.