ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL164–2; FRL 6917–7]

Approval and Promulgation of Air Quality Plans; Illinois; Post-1996 Rate of Progress Plan for the Chicago Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the post-1996 Rate-of-Progress (ROP) plan submitted by the State of Illinois for the Chicago ozone nonattainment area, as a requested revision of the State Implementation Plan (SIP) for ozone. A post-1996 ROP plan is required for the Chicago ozone nonattainment area under the Clean Air Act (Act). The purpose of the post-1996 ROP plan is to incrementally reduce ground-level ozone (smog) pollution in the Chicago ozone nonattainment area and to provide for progress toward attainment of the 1-hour ozone standard in this nonattainment area. The submitted plan, which covers the period of 1996 through 1999 and emission reductions occurring prior to November 15, 1999, shows that Illinois reduced emissions of ozone-forming pollutants by the amounts required by the Act to occur prior to November 15, 1999. These pollutants include emissions of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X). The submittal includes a demonstration that the Chicago area has also achieved a sufficient emission reduction to meet contingency measure requirements under the Act. In addition to the post-1996 ROP plan and the contingency measure provisions, the EPA is approving, as a revision to the SIP, certain Transportation Control Measures (TCM) included in the plan. EPA is also approving a 1999 on-road mobile source emissions budget of 279.3 tons/day of volatile organic compounds for the Chicago ozone nonattainment area. EPA proposed approval on this SIP revision submittal on March 3, 2000. This final action addresses public comments submitted regarding the proposed rulemaking and the State submittal.

DATES: This final rule is effective January 17, 2001.

ADDRESSES: You can access copies of the SIP revision request and the Technical Support Document (TSD) for the proposed rulemaking on the SIP revision request at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Edward Doty at (312) 886–6057 before visiting the Region 5 Office).

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, U.S. Environmental Protection Agency, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean EPA.

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I. What Is EPA Approving in This Action?

We are approving the following:

A. The post-1996 ROP plan for the Illinois portion of the Chicago ozone nonattainment area (see the definition of the Chicago ozone nonattainment area and the Illinois portion of this area below);

B. The contingency measure plan for this area; and,

C. TCMs implemented between 1996 and 1999 in the area.

We are approving the post-1996 ROP plan because it adequately demonstrates that the State has achieved a permanent and enforceable emission reduction as required for a post-1996 ROP plan by the Act and has made adequate incremental progress toward attaining the 1-hour ozone standard in the Chicago ozone nonattainment area. The post-1996 plan addressed in this rulemaking covers VOC and NO_X emission reductions occurring prior to November 15, 1999.

The State also submitted with the post-1996 ROP plan a demonstration that the Chicago area meets the contingency measure requirements of the Act. We are approving the contingency measure demonstration because it adequately shows a 3 percent reduction in emissions beyond that which is necessary to meet the ROP plan requirements.

We are approving certain TCMs submitted with the post-1996 ROP plan as a revision to the SIP. The plan relies on these TCMs as part of the overall strategy to meet the ROP emission reduction requirement. To be creditable, the TCMs must be incorporated into the SIP.

II. What Is the Procedural Background of the Illinois Submittal and EPA Rulemaking?

On December 18, 1997, the State of Illinois submitted the post-1996 ROP plan for the Chicago ozone nonattainment area as a requested SIP revision. The plan was submitted to meet the Act's requirement, in section 182(c)(2)(B), that the State demonstrate a 9 percent reduction of VOC emissions in the Chicago ozone nonattainment area for the 3 year period between 1996 and 1999. The State submitted proposed amendments to the plan on December 17, 1999, and January 14, 2000, with a request for us to parallel process the plan, as amended, pursuant to the provisions of 40 CFR part 51, appendix V. On January 21, 2000, the Illinois Environmental Protection Agency (Illinois EPA) transmitted further changes to the plan in response to public comments received at the State's January 18, 2000 public hearing. On March 3, 2000, we published a proposed approval, through parallel process, on the Illinois proposed plan as amended January 21, 2000. (See 65 FR 11525). On February 17, 2000, Illinois completed its public review process on the amended plan, which was necessary to receive final approval by us. The State completed its Responsiveness Summary to public comments on February 17, 2000. Illinois also submitted its final, adopted post-1996 ROP plan on February 17, 2000. No changes were made to the plan as proposed on January 14, 2000.

During the 30-day public comment period for our March 3, 2000 proposed rulemaking, we received one public comment letter on the proposal. We address these comments in section VI of this action.

III. The Illinois Post-1996 ROP Plan

A. What Is a Post-1996 ROP Plan?

An ROP plan is a strategy to achieve timely periodic reductions of emissions that produce ground-level ozone (smog) in areas that are not attaining the ozone National Ambient Air Quality Standards (NAAQS). A post-1996 ROP plan demonstrates how ozone-forming VOC emissions affecting an area will be reduced by 9 percent between 1996 and 1999 (in post-1996 ROP plans, NO_X emission reductions may be substituted for VOC emission reductions, as discussed below).

ROP plans are a requirement of the Act under section 182. Section 182(c)(2)(B) requires States with ozone nonattainment areas classified as serious and above to adopt and implement plans to achieve periodic reductions in VOC emissions after 1996. The requirement is intended to ensure that an area makes progress toward attainment of the ozone NAAQS. The post-1996 ROP emission reductions are to occur at a rate of 3 percent per year relative to the 1990 baseline emissions, net of emission growth, averaged over three-year periods. States must achieve the first three-year 9 percent milestone, called the ''post-1996 ROP plan,'' by November 15, 1999. Because the Chicago ozone nonattainment area is classified as severe, the area is subject to the post-1996 ROP requirement.

In lieu of the 9 percent VOC emission reduction, under section 182(c)(2)(C) of the Act, the post-1996 ROP plan (and subsequent ROP plans) may provide for reductions of both VOC and NO_X emissions as long as the combination of VOC and NO_X emission reductions result in ozone concentration reductions equivalent to or exceeding the ozone concentration reductions resulting from the 9 percent VOC emissions reduction. The substitution of NO_X emission reductions is further discussed below.

The post-1996 ROP plan contains: (1) Documentation showing how the State calculated the emission reduction(s) needed on a daily basis to achieve a 9 percent VOC emission reduction (or its equivalent in combined VOC and NO_X emission reductions); (2) a description of the control measures used to achieve the emission reduction; and (3) a description of how the State has determined the emission reduction from each control measure.

On December 18, 1997, we approved a 15 percent ROP plan for the Chicago Area which showed a 15 percent VOC emission reduction between 1990 and 1996, as required under section 182(b)(1) of the Act (see 62 FR 66279). This 15 percent reduction is a measure of progress toward achieving attainment. The Chicago nonattainment area, however, has not reached attainment of the 1-hour ozone NAAQS through the 15 percent reduction alone. The post-1996 ROP plan will contribute to continued progress toward achieving attainment by the Act's mandated date of November 15, 2007 for the Chicago ozone nonattainment area.

B. What Is the Contingency Measure Requirement?

In addition to the post-1996 ROP plan, the Illinois submittal also addresses contingency measures required under the Act.

Section 172(c)(9) of the Act requires States with ozone nonattainment areas classified as moderate and above to adopt contingency measures by November 15, 1993. Such measures must provide for the implementation of specific emission control measures if an ozone nonattainment area fails to achieve ROP or fails to attain the NAAQS within the time-frame specified under the Act. Section 182(c)(9) of the Act requires that, in addition to the contingency measures required under section 172(c)(9), the contingency measure SIP revisions for serious and above ozone nonattainment areas must also provide for the implementation of specific measures if the area fails to meet any applicable milestone in the Act. As provided by these sections of the Act, the contingency measures must take effect without further action by the State or by the EPA Administrator upon failure by the State to: meet ROP emission reduction milestones; achieve attainment of the 1-hour ozone NAAQS by the Act's required deadline; or achieve other applicable milestones of the Act.

Our policy, as provided in the April 16, 1992, ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (General Preamble) (57 FR 13498), states that the contingency measures, in total, must generally be able to provide for a 3 percent reduction of 1990 VOC baseline emissions beyond the reduction required for a particular milestone year.

While all contingency measures must be fully adopted rules or measures, States can use the measures in two different ways. A State can choose to implement contingency measures before the milestone deadline. Alternatively, a State may decide not to implement a contingency measure until an area has actually failed to achieve a ROP or attainment milestone. In the latter situation, the contingency measure must be implemented within one year

following identification of a milestone failure.

In the December 18, 1997 rulemaking approving the 15 percent ROP Plan for the Chicago Area, we indicated that the 15 percent ROP plan had enough emission reductions to provide a 3 percent reduction beyond the 15 percent reduction required for 1996. The General Preamble indicates that the 3 percent reduction ''buffer'' must be maintained through each ROP milestone. Therefore, Illinois must demonstrate that the Chicago area has enough contingency measure reductions in addition to the reductions claimed for the post-1996 ROP plan to maintain the 3 percent emissions reduction buffer. Because of this requirement, Illinois' post-1996 ROP plan identifies, for contingency purposes, a 3 percent emission reduction beyond the emission reduction required for ROP.

C. What Environmental Benefits Does the Post-1996 ROP Plan Provide?

The proposed Illinois post-1996 ROP plan shows reductions of both VOC and NO_X emissions. VOC and NO_X contribute to the formation of ground-level ozone in the atmosphere.

The reactivity of ozone causes health problems because it damages lung tissue, reduces lung function and sensitizes the lungs to other irritants. When inhaled, even at low levels, ozone can:

- Cause acute respiratory problems such as shortness of breath, chest pain, wheezing, and coughing;
- Aggravate asthma;
- Cause significant temporary decreases in lung capacity;
- Cause inflammation of lung tissue;
- Lead to hospital admissions and emergency room visits; and,
- Impair the body's immune system, making people more susceptible to respiratory illness, including bronchitis and pneumonia.

Repeated exposure to ozone at elevated concentrations for several months may cause permanent structural damage to the lungs.

Because ozone usually forms in hot weather, anyone who spends time outdoors in the summer is at risk, particularly children, moderate exercisers, and outdoor workers. Children are at greatest risk from exposure to ozone because their respiratory systems are still developing and are more susceptible to environmental threats. Children also breathe more air per pound of body weight than adults, thus increasing the potential impacts of their exposure.

People with existing lung disease, including asthma, chronic bronchitis, and emphysema, are at particular risk from high ozone levels. Since they already suffer from reduced ability to breathe, these individuals are often greatly affected by the increased impairment that can result from exposure to ozone.

Ozone also affects vegetation and ecosystems, leading to reductions in agricultural and commercial forest yields, reduced growth and survivability of tree seedlings, and increased plant susceptibility to disease, pests, and other environmental stresses (*e.g.,* harsh weather). In long-lived species, these effects may become evident only after several years or even decades, thus having the potential for long-term effects on forest ecosystems. Ground-level ozone damage to the foliage of trees and other plants also can decrease the aesthetic value of ornamental species as well as the natural beauty of our national parks and recreation areas.

The overall ROP emissions reduction includes VOC emissions reductions from sources (industries, vehicles, etc.) within the Chicago ozone nonattainment area, and NO_X emission reductions from sources within the State boundaries, but outside of the Chicago and Metro-East/St. Louis ozone nonattainment areas.

Although the plan's NO_X reductions come from outside the nonattainment area, the reductions are nonetheless creditable toward meeting the overall required ROP reduction. (See ''What are the special requirements for claiming NO_X reductions?,'' below). This is because downstate NO_X emissions contribute to ozone formation in the Chicago ozone nonattainment area, and reducing such emissions helps the Chicago area achieve attainment of the ozone NAAQS.

It should be noted that the Illinois ROP plan documentation refers to the term ''Volatile Organic Material'' (VOM) rather than VOC. The State's definition of VOM is equivalent to EPA's definition of VOC. The two terms are interchangeable when discussing volatile organic emissions. For consistency with the Act and EPA policy, we are using the term VOC in this rulemaking.

D. What Illinois Counties Are in the Chicago Ozone Nonattainment Area?

The Illinois portion of the Chicago ozone nonattainment area includes the counties of Cook, DuPage, Kane, Lake, McHenry, and Will, and the townships of Aux Sable and Goose Lake in Grundy County, and Oswego in Kendall County.

E. Who Is Affected by the Illinois Post-1996 ROP Plan?

The post-1996 ROP plan does not create any new control requirements. Rather, it is a demonstration that existing regulations and control programs achieved a 9 percent emission reduction.

The post-1996 ROP plan refers to various emission control regulations that have contributed to achieving the required emission reduction for the Chicago area. These regulations, both Federal and State, affect a variety of industries, businesses, and, through the vehicle inspection and maintenance program, motor vehicle owners. These regulations are already federally enforceable through separate SIP revisions or through separate EPA promulgation.

The TCMs submitted with the post-1996 ROP plan are the only State ROP measures that are not already part of the federally approved SIP. We are approving these TCMs in this rulemaking action, and we discuss the TCM approval in section VII of this rulemaking.

F. What Criteria Must a Post-1996 ROP Plan Meet To Be Approved?

Section 182(c)(2)(B) establishes certain elements a post-1996 ROP plan must contain for approval. These elements are: (1) An emission baseline; (2) an emission target level; (3) an emission reduction estimate to compensate for emission growth projections and to reach the ROP emission reduction goal; and (4) emission reduction estimates for the plan's control measures. Through these elements, the plan must show that the nonattainment area will achieve a 9 percent VOC emission reduction by November 15, 1999 (or its equivalent in combined VOC and NO_X emission reductions).

We have issued several guidance documents for States to use in developing approvable post-1996 ROP plans. These documents address such topics as: (1) The relationship of ROP plans to other SIP elements required by the Act; (2) calculation of baseline emissions and emission target levels; (3) procedures for projecting emission growth; and (4) methodology for determining emission reduction estimates for various control measures, including federal measures.

Our January 1994, policy document, *Guidance on the Post-1996 Rate-Of-Progress Plan and the Attainment Demonstration* (post-1996 policy), provides States with an appropriate method to calculate the emission

reductions needed to meet the ROP emission reduction requirement. A complete list of ROP guidance documents is provided in the Technical Support Document (TSD) for the March 3, 2000 proposed rulemaking (65 FR 11525) on the State's post-1996 ROP plan. The TSD for the proposed rulemaking can be obtained from the Region 5 office at the address indicated above.

G. What Are the Special Requirements for Claiming NO_X Reductions?

If a post-1996 ROP plan relies on NO_X reductions, it is subject to certain additional requirements. As noted above, under section 182(c)(2)(C) of the Act, a plan can substitute NO_X reductions for VOC if the resulting reduction in ozone concentrations is at least equivalent to the ozone reduction that would occur under a plan that relies only on VOC reductions. As required by section 182(c)(2)(C), we issued policy concerning the conditions for demonstrating equivalency (see ''NO_X Substitution Guidance,'' December 1993). Our NO_X substitution policy provides that a ROP plan based in part on a NO_X substitution strategy must show that the sum of the creditable VOC and NO_X reduction percentages (relative to 1990 baseline emissions) equal or exceed a total of 9. Moreover, the State must provide technical justification that the NO_X reductions will reduce ozone concentrations within the nonattainment area.

On December 29, 1997, we issued a policy memorandum entitled, ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS'' (December 1997 policy). This policy document provides that a State included in the core part of the Ozone Transport Assessment Group (OTAG) domain (within the fine grid area where NO_X emission reductions will be required) can claim ROP credit for NO_X reductions that occur within the State's boundaries. (For more information on OTAG, see *http://www.epa.gov/ttn/rto/otag*). Illinois is within the core of the OTAG domain. Consequently, the State can claim NO_X reductions from outside of the Chicago ozone nonattainment area, but within the State's boundaries, for its post-1996 ROP plan, provided the State submits a technical analysis showing that NO_X reductions outside of the nonattainment area will reduce ozone concentrations in the nonattainment area.

The December 1997 policy also states that a nonattainment area which has been granted a NO_X waiver can still claim NO_X reductions from outside the nonattainment area, but within the State's boundaries, if such reductions will reduce ozone concentrations within the nonattainment area. We granted a NO_X waiver for the Chicago ozone nonattainment area on January 26, 1996 (61 FR 2428) and proposed a NO_X waiver for the Illinois portion of the St. Louis ozone nonattainment area on April 17, 2000 (65 FR 20404). NO_X waivers are authorized under section 182(f) of the Act. A State can obtain a waiver to exempt an area from local NO_X control requirements if it can show that local NO_X reductions are not beneficial for attainment of the ozone NAAQS. Illinois made this demonstration for the Chicago ozone nonattainment area, and a NO_X waiver was granted. Illinois has made a similar demonstration for the Illinois portion of the St. Louis nonattainment area. OTAG modeling, however, has shown that several NO_X waiver areas actually benefit from NO_X reductions upwind and outside of the specific local areas. Therefore, under the December 1997 policy, a State can credit NO_X reductions outside a NO_X waiver area, but within the State's boundaries, if the State provides a technical analysis showing that the NO_X reductions will lower ozone concentrations within the nonattainment area.

IV. Illinois' Calculation of the Needed ROP Reduction

A. How Does Illinois Demonstrate That it Meets the Requirements for Claiming NO_X Reductions?

To justify claiming upwind NO_X reductions for ROP, Illinois submitted results of both the OTAG regional ozone modeling study, and ozone modeling done in January 1999 by the Lake Michigan Air Directors Consortium (LADCO). The modeling results show that downstate NO_X reductions contribute to a reduction of ozone background concentrations in the Chicago Area. These reduced background concentrations lead to reduced ozone concentrations within and downwind of the Chicago area. Illinois, therefore, satisfies the requirement set forth in the December 1997 policy that NO_X reductions outside of the nonattainment area must reduce ozone concentrations within the nonattainment area to be creditable as ROP reductions.

B. How Did Illinois Calculate the Needed ROP and Contingency Measure Reduction?

The following tables summarize the State's post-1996 ROP calculations for determining the needed 9 percent ROP and 3 percent contingency measure emission reductions. The calculation of required emission reductions was based on a combination of VOC and NO_X emission reductions. To achieve the 9 percent emission reduction, the State chose a VOC/NO_X emission reduction blend of a 2 percent VOC emission reduction and a 7 percent NO_X emission reduction.

NEEDED VOC REDUCTION BY 1999

	Tons VOC/ Day
Calculation of the VOC Target Level for 1999	
1990 Chicago Area Total VOC Emissions	1,363.40
1990 ROP VOC Emissions (Anthropogenic only)	1,216.56
1990–99 Noncreditable Reductions	179.57
1990 Adjusted Base Year Emissions (1990 ROP Emissions minus Noncreditable Reductions)	1,036.99
2 percent of Adjusted Base Year Emissions	20.74
1999 Fleet Turnover Correction Factor	28.46
1996 Target Level (From 15 percent ROP Plan)	857.02
1999 Target Level (1996 Target Level minus 2 percent Reductions minus Fleet Turnover Correction Factor)	807.82
Calculation of the Needed VOC Reduction Net-of-Growth	
1996 VOC Emissions with 15 percent ROP Plan Measures	835.81
1999 Projected VOC Emissions (1996 VOC Emissions Grown to 1999 plus Noncreditable Emission Reductions Only)	929.61

NEEDED VOC REDUCTION BY 1999—Continued

	Tons VOC/ Day
VOC Creditable Reduction Needs by 1999 Net-of-Growth (1999 Projected Emissions minus 1999 Target Level)	121.79
Contingency Measure Requirement (3 percent of Adjusted Base Year Emissions)	31.11
Total VOC Emission Reductions Required	152.90

NEEDED NO_X REDUCTION BY 1999

	Tons NO_X/ Day
Calculation of the NO_X Target Level For 1999	
1990 Attainment Area Total NO_X Emissions	2085.80
1990 ROP NO_X Emissions (Anthropogenic only)	2085.80
1990–99 Noncreditable Reductions	128.26
1990 Adjusted Base Year Emissions (1990 ROP Emissions minus Noncreditable Reductions)	1957.54
7 percent of Adjusted Base Year Emissions	137.03
1999 Target Level: (1990 Adjusted Base Year Emissions minus 7 percent Reductions)	1820.51
Calculation of the Needed NO_X Reduction Net-of-Growth	
1999 Projected NO_X Emissions (1996 NO_X Emissions Grown to 1999 plus Noncreditable Emission Reductions Only)	2063.03
Creditable Reduction Needs by 1999 Net-of-Growth (1999 Projected Emissions minus 1999 Target Level)	242.52
Contingency Measure Requirement (All Contingency Coming From VOC Portion of ROP Plan)	0
Total NO_X Emission Reduction Required	242.52

Using our post-1996 policy, Illinois calculated the needed emissions reduction by taking the following steps:

(1) Determine what proportion of the 9 percent reduction is VOC and what proportion is NO_X;

(2) Establish the emission baselines for both VOC and NO_X;

(3) Calculate the emission target levels to meet the overall 9 percent reduction by 1999;

(4) Estimate the projected emission growth that would occur if no 9 percent emission reduction takes place;

(5) Subtract the projected emission level from the emission target to determine the VOC and NO_X emission reduction needed, net of growth; and,

(6) Calculate the needed contingency measure reduction.

The State obtained data for developing the plan from the Chicago ozone nonattainment area 15 percent ROP Plan, EPA guidance documents, and information received from industry and public agencies.

1. Proportion of VOC to NO_X Emission Reduction

Illinois' post-1996 ROP plan relies on both VOC and NO_X reductions to meet the 9 percent reduction in ozone precursors. Under Illinois' plan, the VOC reduction is a 2 percent reduction of the VOC emissions in the Illinois portion of the Chicago nonattainment area, and the NO_X reduction is a 7 percent reduction of the NO_X emissions within the State, but outside of the NO_X waiver areas (outside of the ozone nonattainment areas).

2. Emission Baselines

Under our post-1996 policy, ROP plans that rely on both VOC and NO_X reductions should have separate emission baselines for VOC and NO_X. The Act requires baselines to represent 1990 anthropogenic emissions on a peak ozone season weekday basis. Peak ozone season weekday emissions represent the average VOC and NO_X daily emissions that occur on weekdays during the peak 3-month ozone period of June through August.

Illinois used the Chicago area's 1990 base year emission inventory as the basis for the VOC baseline. We approved the Chicago area 1990 inventory as a SIP revision on March 14, 1995 (see 60 FR 13631).

For the NO_X baseline, Illinois used the 1990 statewide NO_X emission inventory it submitted to EPA in response to the NO_X SIP Call (see **Federal Register** 63 FR 57356, October 27, 1998). The NO_X baseline consists of the 1990 emissions which occurred statewide, but excluding emissions from the Chicago and Metro-East/St. Louis ozone nonattainment areas. The State excluded the nonattainment area emissions from the baseline because the State is relying on NO_X reductions only from the State's ozone attainment area, and because the State has an approved waiver from NO_X emission controls in the Chicago ozone nonattainment area and has sought a waiver from certain NO_X controls in the Metro-East/St. Louis ozone nonattainment area. The EPA proposed to approve the Metro-East/St. Louis NO_X waiver on April 17, 2000 (see **Federal Register** 65 FR 20404, April 17, 2000). Illinois EPA's technical analysis for supporting NO_X substitution shows that NO_X reductions which occur in the attainment area reduces ozone concentrations in the Chicago ozone nonattainment area. Therefore, Illinois' NO_X baseline is consistent with the State's technical analysis submitted to justify NO_X substitution in the Chicago nonattainment area post-1996 ROP plan.

The Act requires that the ROP baseline be ''adjusted'' to exclude emissions eliminated by the Federal Motor Vehicle Control Program (FMVCP) and Federal Reid Vapor Pressure (RVP) regulations promulgated before November 15, 1990. Because these regulations were promulgated before the 1990 amendments to the Act, the Act prohibits States from claiming ROP reductions from these regulations. To achieve an accurate ROP target, however, the State must subtract the noncreditable reductions from the baseline to reflect the impact of these reductions on 1999 emissions. The resulting inventory is called the ''adjusted base year inventory.''

The adjusted base year inventory under the Illinois post-1996 ROP plan is different than the adjusted inventory used under the 15 percent ROP Plan.

This is because the emission reduction associated with the FMVCP program changes over time as fleet turnover occurs, *i.e.,* old vehicles in an area are replaced with new vehicles. Illinois EPA determined the emission reduction associated with the noncreditable FMVCP and RVP programs by using our MOBILE emission factors program.

3. 1999 Emission Target Level to Meet ROP Emission Reduction Requirement

After the State establishes the adjusted base year emission inventories, the next step is to calculate the VOC and NO_X emission target levels for 1999. Our post-1996 policy provides the method for calculating target levels. To calculate the VOC target, the State first identified the previous milestone target, which in this case is the 1996 target level under the 15 percent plan. From the 1996 target level, the State subtracted (1) the percent reduction required to meet the ROP requirement, and (2) the fleet turnover correction factor.

The State obtained the 1996 VOC target level from the 15 percent ROP Plan. The percent reduction used is 2 percent of the adjusted base year inventory. The fleet turnover correction factor represents the emission reduction that has occurred under the pre-1990 Act FMVCP and RVP regulations between consecutive milestone years, *i.e.,* 1996 to 1999. Since the 1996 target level and the 2 percent ROP reduction do not factor in these reductions, the fleet turnover correction factor is necessary to accurately calculate the emission level that must be achieved by 1999.

For NO_X, a 1996 target level from a 15 percent plan does not exist. Therefore, the State needs only to subtract the 7 percent adjusted emission inventory reductions, and the noncreditable NO_X reductions from the pre-1990 Act FMVCP program, from the 1990 adjusted base year emission inventory. No fleet correction factor is necessary when calculating the NO_X target this way.

4. 1999 Projected Growth Level

To account for source emission growth between 1990 and 1999, the State must develop projected emission inventories for VOC and NO_X. The projected emission inventories represent what emissions would be expected in 1999 if no post-1996 ROP control measures had been implemented.

The State established the projected emission inventories for point, area, and nonroad source categories by taking the 1990 emission inventories and applying either EPA growth factors, or State justified growth factors. Projected vehicle emissions were established using the MOBILE model. The projected emission inventory for NO_X is consistent with the emission inventory data which the State submitted to us in response to the NO_X SIP call.

5. Emission Reduction Needed for ROP Reduction Net-Of-Growth

According to the State's calculations, a 152.90 TPD VOC emission reduction is needed in the Chicago ozone nonattainment area, and a 242.52 TPD NO_X emission reduction is needed in the Illinois ozone attainment areas to meet the 9 percent ROP requirement.

6. Calculation of the Needed Contingency Measure Emission Reduction

Consistent with guidance provided in the General Preamble, Illinois determined the emission reduction needed to meet the contingency measure requirement by multiplying 3 percent of the 1990 adjusted base year VOC emissions. Based on this calculation, the needed contingency measure reduction for the Chicago nonattainment area is 31.11 TPD of VOC.

V. The Illinois Post-1996 ROP Plan Control Strategies

A. What Are the Criteria for Acceptable Control Strategies?

Under section 182(b)(1)(C) of the Act, emission reductions claimed for ROP must be creditable to the extent that the reductions have actually occurred before the applicable ROP milestone date, *i.e.,* by November 15, 1999.

To meet this requirement, our policy provides that all credited emission reductions must be real, permanent, and enforceable. In addition, the plan's control measures must be adopted and implemented before November 15, 1999.

Post-1996 plans must also adequately document the methods used to calculate the emission reduction for each control measure. Our policy under the General Preamble provides that, at a minimum, the methods should meet the following four principles: (1) Emission reductions from control measures must be quantifiable; (2) control measures must be enforceable; (3) interpretation of the control measures must be replicable; and, (4) control measures must be accountable.

Section 182(b)(1)(D) of the Act places limits on what control measures States can include in ROP plans. All permanent and enforceable control measures occurring after 1990 are creditable with the following exceptions: (1) FMVCP requirements promulgated by January 1, 1990; (2) RVP regulations promulgated by November 15, 1990; (3) Reasonably Available Control Technology (RACT) ''Fix-Up'' regulations required under section 182(a)(2)(A) of the Act; and (4) Inspection and Maintenance (I/M) program ''Fix-Ups'' as required under section 182(a)(2)(B) of the Act.

B. What Are the Control Strategies Under the Illinois Post-1996 ROP Plan?

1. Point/Area Sources

a. *Title IV Acid Rain Power Plant Controls.* Under title IV of the Clean Air Act, certain power plants are required to limit NO_X emissions to reduce acid rain. These NO_X reductions, in turn, benefit the Chicago area in dealing with its ozone nonattainment problem.

Phase I of the acid rain regulation began on January 1, 1996, and Phase II began January 2000. Illinois is claiming credit for NO_X control measures that certain power plants have implemented to meet the Federal acid rain rules.

The power plants that Illinois is claiming NO_X reductions from are the following:

Plant name	Unit(s)	Control technology	Emission Reduction NO_X TPD
Illinois Power	Baldwin 1	Selective Catalytic Reduction	50.00
Illinois Power	Baldwin 2	Selective Catalytic Reduction	44.85
Illinois Power	Baldwin 3	Low NO_X Burner	16.10
Illinois Power	Vermillion 1 –2	Low NO_X Burner	5.48
Illinois Power	Hennepin 1–2	Boiler Tuning Modifications	3.78
Electric Energy	Joppa 1–6	Low NO_X Burner	51.85
Commonwealth Edison	Powerton 5–6	Change to Low-Sulfur Coal	14.30
Dominion Energy	Kincaid 1–2	Change to Low-Sulfur Coal	18.39

Plant name	Unit(s)	Control technology	Emission Reduction NO_X TPD
Cilco	Edwards 2–3	Low NO_X Burner	17.18

Baldwin 3, Vermillion 1–2, Hennepin 2, and Joppa 1–6 are subject to Phase I NO_X emission rates under the Federal acid rain rules. Powerton 5–6 and Kincaid 1–2 were required to change to low-sulfur coal to meet sulfur dioxide limitations under the Federal acid rain rules; low-sulfur coal has reduced NO_X emission rates at these plants.

Baldwin 1–2, and Edwards 2–3 are subject to the acid rain Phase II NO_X emission limitations, which took effect January 2000. NO_X reductions from these sources are creditable because the power plants actually implemented control measures to meet the Phase II requirements prior to November 15, 1999.

The State determined emission reductions using OTAG data, as well as data from Continuous Emission Monitors (CEM) at the plants.

b. *1999 Cold Cleaning Degreasing.* This rule establishes vapor pressure standards for cold cleaning degreasing solvents sold or used in the Chicago ozone nonattainment area. Cold cleaning degreasing takes place at auto repair shops, car dealerships, machine shops and other metal fabrication, and manufacturing businesses. Cold cleaning degreasers typically consist of a holding tank containing solvent, connecting hoses, and a small vat where components are sprayed and brushed clean. The rule regulates both the suppliers and users of cold cleaning degreasing solvents in the nonattainment area. Beginning March 15, 1999, the rule limits the vapor pressure of solvent to 2.0 millimeters of mercury (0.038 pounds per square inch) measured at 20 degrees Celsius (68 degrees Fahrenheit).

c. *Stepan Batch Processes.* On April 2, 1996, we approved Illinois' batch process RACT rule as a revision to the SIP. Under the rule, the process vents at batch operations must be controlled with a reduction efficiency of 90 percent (or down to a VOC concentration of no more than 20 parts per million volume). Illinois had claimed credit for the rule under the 15 percent plan. At the time of rulemaking on the 15 percent plan, however, we did not allow credit for controls at Stepan Company's Milldale facility because of uncertainty whether the controls at the facility were implemented before or after 1990. As part of the December 17, 1999 post-1996 ROP amended submittal, Illinois submitted documentation showing that the controls were implemented after 1990. Therefore, in this rulemaking, we are approving credit for the emission reductions which occurred at Stepan Company. These emission reductions were ultimately not needed for approval of Illinois' 15 percent ROP plan, and, therefore, are creditable toward the post-1996 ROP plan requirements.

d. *Municipal Solid Waste Landfills.* On November 23, 1998 (63 FR 64628), we approved Illinois' section 111(d)/129 State Plan for municipal solid waste landfills. The State plan includes regulations requiring the control of Non-Methane Organic Compound (NMOC) emissions at existing landfills that have a design capacity threshold equal to or greater than 2.5 million megagrams (Mg) measured in mass units and 2.5 million cubic meters measured in volume units, and that have an annual emissions equal to or greater than 50 Mg/year of NMOC gases. The rule adopts our March 12, 1996, Emission Guidelines for this source category (see 61 FR 9905). Subject landfills must install a well-designed and well-operated collection and control system to reduce NMOC gases. A portion of NMOC is VOC, and therefore landfill controls are creditable toward the ROP plan. In the Chicago ozone nonattainment area, there are twelve landfills which have installed and are operating the required gas collection and control systems pursuant to construction permits.

e. *Coke Oven By-Product Plants.* This Federal National Emission Standard for Hazardous Air Pollutants (NESHAP) applies to all furnace and foundry coke oven by-product recovery plants. The NESHAP requires that process vessels and tar storage tanks in furnace and foundry coke by-product recovery plants be enclosed and that emissions be ducted to an enclosed point in the by-product recovery process where they are to be recovered or destroyed. This requirement is based on the use of a gas blanketing system. The same requirement also applies to storage tanks for benzene, benzene-toluene-xylene mixtures, and light-oil in furnace coke by-product recovery plants. The standard also calls for visual inspections and monitoring (leak detection and repair) as well as annual maintenance inspections.

It should be noted that Illinois originally claimed credit in the December 18, 1997, post-1996 ROP plan submittal for the Emission Reduction Marketing System (ERMS), a new State regulation establishing a VOC cap and trade requirement for Chicago area stationary sources. The ERMS program, however, has been delayed beyond November 15, 1999. Therefore, Illinois is not claiming credit in the final post-1996 ROP plan for ERMS. Nonetheless, Illinois EPA plans to rely on the ERMS program in future ROP plans.

2. Mobile Sources

a. *Enhanced Vehicle Inspection/Maintenance Program.* The Act requires Illinois to establish an enhanced vehicle I/M program in the Chicago area to achieve a higher emission reduction than the State's original I/M program. Enhanced I/M covers more vehicles in operation in the fleet and employs more effective techniques for finding high emitting vehicles. The new program also has additional features to ensure that all vehicles are tested properly and are effectively repaired.

We approved the Illinois' enhanced I/M program for the Chicago ozone nonattainment area on February 22, 1999 (64 FR 8517). The State began testing vehicles under the new program on February 1, 1999.

A single contractor, Envirotest, Inc., operates a test-only centralized network for inspections and re-inspection. The I/M contractor has constructed or retrofitted all the emission test sites required under the State I/M contract.

The Illinois I/M program requires coverage of all 1968 and newer gasoline-powered light-duty passenger cars and light-duty trucks up to 8,500 pounds Gross Vehicle Weight Rating (GVWR). The program requires all applicable 1981 and newer vehicles to meet an IM240 exhaust test (a test that simulates actual driving conditions using a dynamometer). These vehicles must also undergo a gas cap check to reduce evaporative emissions. All applicable 1968 through 1980 vehicles will be subject to a basic idle emission exhaust test. The frequency of the test is biennial, with the first four years of a new vehicle excluded.

Due to the delay in implementation of the enhanced I/M program, we requested Illinois EPA to revise its original VOC emission reduction estimate from 30.10 TPD to 15 TPD, which represents only the level of

emission reduction that occurred between February 1, 1999, and November 15, 1999. Since the 15 TPD reduction does not reflect the program's full cutpoints, and thus, emission reduction potential, additional emission reduction credit will be available for use in future ROP plans.

b. *Phase I Reformulated Gasoline.* Beginning January 1, 1995, EPA regulations require only reformulated gasoline to be sold in the Chicago ozone nonattainment area. Reformulated gasoline is specially designed to result in less VOC emissions occurring from motor vehicle operation and gasoline evaporation. Illinois ran our MOBILE model and determined that Phase I of the reformulated gasoline requirement achieved 65.5 TPD of VOC emission reductions in the Chicago ozone nonattainment area in 1999.

c. *Post-1994 Tier 1 Vehicle Emission Rates.* Pursuant to section 202 of the Act, we promulgated new standards that tighten emission control requirements for passenger cars and light-duty trucks, called ''Tier 1'' standards. The standards, fully effective in 1996, are approximately twice as stringent as pre-1990 vehicle standards.

Tier 1 standards require both VOC and NO_X emission reductions. Illinois is claiming VOC reductions from Tier 1 that occur within the Chicago ozone nonattainment area, and NO_X reductions that occur within the Illinois ozone attainment areas.

d. *1992 Vehicle Inspection/Maintenance Amendments.* In 1992, Illinois added improvements to its original I/M program as a result of an agreement resolving a lawsuit between Wisconsin and EPA. Illinois added a tamper check and two-speed idle test to the basic I/M program in the Chicago metropolitan area. The State also increased the coverage of the program over the Chicago metropolitan area. Illinois fully implemented these changes to the I/M program in 1992.

e. *Federal Gasoline Detergent Additive.* Beginning January 1, 1995, Federal regulations require that gasoline sold nationwide must contain additives to prevent accumulation of deposits in engines and fuel systems. Preventing such deposits maintains the efficiency of engine systems and reduces VOC emissions resulting from engine efficiency degradation.

f. *Federal Non-Road Small Engine Standards.* Illinois is claiming emission reduction credit from two Federal rules which affect gasoline nonroad engines, the 1995 Federal emission standards for nonroad engines at 25 horsepower (hp) and below, and the 1996 marine gasoline engine standards.

The nonroad engine standards, beginning in model year 1997, primarily affects two stroke and four stroke lawn and garden equipment, and light commercial, construction, and logging equipment. The marine engine rule applies to marine spark-ignition engines for outboards, personal watercraft, and jet boats, beginning in model year 1998. Illinois EPA estimated the emission reduction for these standards through the use of our guidance document, ''Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards,'' dated November 28, 1994.

The State also claims an emission reduction for the impact the reformulated gasoline program has on nonroad engines. Our guidance document, ''VOC Emission Benefits for Nonroad Equipment with the Use of Federal Phase I Reformulated Gasoline,'' dated August 18, 1993, provides the methodology for determining the emission reduction impact of reformulated gasoline on nonroad engines and was used by Illinois to determine the emission reduction credit for this control measure.

g. *Federal Non-Road Heavy-Duty Engine Standards.* In 1994, we promulgated national NO_X emission standards for large nonroad Compression Ignition (CI) engines at 50 hp and above. Such engines include farm tractors, bulldozers, and forklifts. This standard is the ''Tier 1'' standard for CI engines at or above 50 hp. Implementation of the standard began January 1, 1996. Illinois is claiming credit for the NO_X reductions this regulation achieves in the Illinois ozone attainment area.

h. *Clean-Fuel Fleet Vehicle Program.* The State has a Clean-Fuel Fleet (CFF) rule which requires certain vehicle fleets in the Chicago ozone nonattainment area to purchase vehicles with tighter emission standards than conventional vehicles. The program affects fleets with ten or more vehicles which can be centrally fueled. Beginning with model year 1999, covered fleets must ensure that a certain percentage of new vehicle acquisitions are certified to meet EPA's Low Emission Vehicle (LEV) emission standards. In model year 1999, 30 percent of new light-duty vehicles and 50 percent of heavy-duty vehicles acquired by covered fleets must be certified LEVs.

i. *Energy Policy Act.* The National Energy Policy Act (EPAct) was enacted in October 1992. EPAct mandates implementation (use) of Alternative Fueled Vehicles (AFVs) in Federal, State, and utility company fleets. EPAct requires that 25 percent of new vehicle purchases by Federal fleets, 10 percent of new vehicle purchases by State fleets, and 30 percent of new vehicle purchases by utility fleets must be AFVs beginning in 1996. Illinois EPA estimated that, by 1996, 2,000 AFVs were operating in the Chicago ozone nonattainment area.

j. *TCMs.* See Part VII of this **Federal Register** document, ''EPA's approval of the TCMs in the post-1996 ROP plan,'' for a description of the TCMs for which Illinois is claiming credit to meet the 9 percent reduction requirement.

C. What are the ***Federal Register*** *citations for the Federal approval or promulgation of the control measures?*

FEDERAL APPROVAL OR PROMULGATION OF CONTROL MEASURES

Control measure	Date of EPA approval or promulgation
Title IV Acid Rain Power Plant Controls	Federal Regulation, 40 CFR 72–78, April 13, 1995 (60 FR 18761).
1999 Cold Cleaning Degreasing	November 26, 1997 (62 FR 6295).
Batch Process Rule	April 2, 1996 (61 FR 14484).
Municipal Solid Waste Landfills	November 23, 1998 (63 FR 64628).
Coke Oven By-Products Recovery NESHAP	Federal Regulation, 40 CFR 61 Subpart L, September 14, 1989 (54 FR 38047).
Enhanced Vehicle I/M Program	February 22, 1999 (64 FR 8517).
Reformulated Gasoline	Federal Regulation, 40 CFR 80, Subpart D, February 16, 1994 (59 FR 7716).
Post-1994 Tier 1 Vehicle Emission Rates	Federal Regulation, 40 CFR 86, June 5, 1991 (56 FR 25724).
1992 Vehicle I/M Program Amendments	April 9, 1996 (61 FR 15715).
Federal Gasoline Detergent Additive	Federal Regulation, 40 CFR 80, Subpart G, November 1, 1994 (59 FR 54706).

FEDERAL APPROVAL OR PROMULGATION OF CONTROL MEASURES—Continued

Control measure	Date of EPA approval or promulgation
TCMs	EPA is promulgating approval in this rulemaking action.
1992 EPAct	Federal Regulation, 10 CFR 490, March 14, 1996 (61 FR 10621).
Federal Nonroad Small Gasoline Engine Standards	Federal Regulation, 40 CFR 90, July 3, 1995 (60 FR 34582).
Federal Marine Spark—Ignition Engine Standard	Federal Regulation, 40 CFR 91, October 4, 1996 (61 FR 52087).
Federal Nonroad Large Diesel Engine Standards	Federal Regulation, 40 CFR 89, June 17, 1994 (59 FR 31306).
CFF Vehicle Program	March 19, 1996 (61 FR 11139).

D. How Did Illinois Calculate the Emission Reductions for the Control Strategies?

We have issued several policy documents, listed in the TSD for the April 17, 2000 proposed rulemaking, which provide assumptions for States to use in quantifying emission reductions. We have also developed the MOBILE model for the States to calculate emission reductions from mobile sources.

The State appropriately used our policy documents and MOBILE model for calculating emission reductions. Illinois obtained the necessary data for quantifying the source baselines and emission reductions from its 1990 emission inventory, OTAG inventory submittal, CEM data (for acid rain reductions), permit information, and from surveying affected industries. Where Illinois had to develop its own assumptions regarding emission reductions, the assumptions were adequately justified based on existing data.

It should be noted that Illinois is claiming post-1996 ROP credit for mobile and nonroad source measures that were part of the 15 percent ROP Plan, including Tier 1, I/M expansion, Phase I reformulated gasoline, nonroad small engine standards, Federal detergent additive, and EPAct. No double-counting of emission reductions, however, has occurred. Unlike other 15 percent control measures, the State did not consider these measures when calculating the 1999 projected growth inventory. The State treated these reductions separately because the impacts of these measures change over time due to fleet turnover.

As noted in section IV of this final rulemaking, the State calculated the projected growth in emissions assuming no post-1996 ROP emission reductions in place, and subtracted the 1999 target from the projected emissions to find the needed reduction net-of-growth. The impact on the plan would be the same if Illinois factored in the above control measures in the 1999 projected growth inventory and had not treated these measures as creditable post-1996 ROP reductions. Therefore, Illinois can claim reductions from these measures as legitimate post-1996 ROP reductions.

E. What Amount of Emission Reduction Is Achieved by Each Control Strategy?

The following tables summarize the State's VOC and NO_X reduction claims for the post-1996 ROP control measures, and the amount of reductions we find acceptable.

Control measure	VOC reduction state claimed tons/day	VOC reduction credit accepted tons/day
Mobile Source Measures		
Post-1994 Tier 1 Vehicle Emission Rates	16.80	16.80
Phase I Reformulated Gasoline	65.50	65.50
Federal Detergent Additive Gasoline	2.20	2.20
1992 I/M Program Improvements	7.00	7.00
Enhanced I/M Program	30.10	15.00
Conventional TCMs	2.00	2.00
National Energy Policy Act of 1992	0.20	0.20
Federal Non-Road Small Engine Standards	23.43	23.43
National Low Emission Vehicle Program	Deferred	Deferred
Clean Fuel Fleet Vehicle Program	0.30	0.30
Subtotal	147.53	132.43
Industrial Source Measures		
ERMS	Deferred	Deferred
Stepan Batch Process Rule Credit	9.40	9.40
Municipal Solid Waste Landfill	1.06	1.06
Coke Oven By-Product NESHAP	2.65	2.65
Subtotal	13.11	13.11
Area Source Measures		
1999 Cold Cleaning Degreasing Limits	11.35	11.35
Total 1999 creditable VOC reductions	171.99	156.89

Control measure	NO_X reduction state claimed tons/day	NO_X reduction credit accepted tons/day
Mobile Source Measures		
Post-1994 Tier 1 Vehicle Emission Rates	24.30	24.30
Federal Heavy-Duty Non-Road Engine Standards	15.75	15.75
Subtotal	40.05	40.05
Industrial Source Measures		
Title IV Acid Rain Controls	221.92	221.92
Total 1999 Creditable NO_X reductions	261.97	261.97

VI. Public Comment on Proposed Rulemaking and EPA's Response

EPA received one public comment letter regarding our proposed rulemaking of the Illinois post-1996 ROP plan. The comment letter was submitted by the American Lung Association of Metropolitan Chicago.

The commenter disagrees with our proposed rulemaking because we accept downstate NO_X emission reductions as one of the control strategies for the Chicago area post-1996 ROP demonstration. The following discussion summarizes the commenter's arguments against crediting downstate NO_X reductions, and provides our responses.

Comment: The commenter believes that the Act prohibits NO_X reductions from outside the Chicago ozone nonattainment area from being claimed as creditable ROP reductions under the post-1996 ROP plan. Section 182(c)(2)(B) of the Act states that the post-1996 ROP plan shall reduce by 9 percent ''baseline emissions,'' as described in section 182(b)(1)(B). Section 182(b)(1)(B), in turn, defines ''baseline emissions'' to mean the total amount of actual VOC or NO_X emission from all anthropogenic sources in the area during 1990, excluding emissions reduced by pre-1990 vehicle emissions regulations and 1990 gasoline volatility regulations. Based on section 182(b)(1)(B), the commenter asserts that, since baseline emissions under the Act's definition reflect only VOC or NO_X emissions within the ozone nonattainment area, and a 9 percent ROP plan is to reduce the emission baseline, Illinois is prohibited from claiming NO_X reductions from outside of the nonattainment area.

Response: We disagree with the commenter. Claiming downstate NO_X reductions is consistent with the Act's requirements concerning ROP plans and NO_X substitution.

The Act's provision for NO_X substitution is separate from the sections of the Act focused on by the commenter. Section 182(c)(2)(B) of the Act discusses the reduction of VOC emissions by a post-1996 ROP plan. Section 182(c)(2)(C) provides that NO_X reductions can be substituted for or combined with VOC reductions to meet the ROP requirements under section 182(c)(2)(B). Section 182(c)(2)(C) does not state such NO_X reductions must come from ''baseline emissions'' as defined under section 182(b)(1)(B). Rather, section 182(c)(2)(C) defers to the EPA Administrator to determine ''the conditions under which NO_X control may be substituted for VOC control or may be combined with VOC control in order to maximize the reduction in ozone air pollution.'' The only caveat to NO_X substitution under 182(c)(2)(C) is that NO_X reductions claimed under the ROP plan, in combination with VOC reductions, ''would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emission reduction required under section 182(c)(2)(B).'' Accordingly, the Act directs us to use our technical judgement to determine what types of NO_X control would be suitable for NO_X substitution strategies under section 182(c)(2)(C).

As discussed in section III of this final rulemaking, we have made the technical determination that, for areas within the OTAG fine grid, upwind NO_X reductions can result in reductions in ozone concentrations that are equivalent to results achievable from local VOC reductions. In Part IV of this **Federal Register** document, we discussed how we provided Illinois with guidance on how to establish VOC/NO_X reduction equivalency with respect to upwind NO_X reductions, and how the State appropriately followed that guidance. The ozone modeling contained in the State's April 1998 attainment demonstration shows upwind NO_X emissions significantly contribute to high ozone concentrations in the Chicago area. Even if the Chicago area reduces VOC emissions significantly beyond current levels, the area would not reach attainment without reduction of upwind NO_X emissions. These findings are consistent with the results of OTAG's study of NO_X transport on ozone nonattainment areas. Moreover, the State submitted, as part of the post-1996 ROP Plan, modeling results from the Lake Michigan Air Directors Consortium (LADCO) and from OTAG to demonstrate that upwind NO_X reductions do reduce ozone concentrations in the Chicago area. All of this is consistent with guidance in the December 29, 1997 policy, which explains the conditions under which a NO_X waiver area may claim ROP credit for upwind NO_X reductions. (See our answer to ''How does Illinois demonstrate that it meets the requirements for claiming NO_X reductions?'' in Part IV of this **Federal Register** document.) Therefore, ROP credit for upwind NO_X reductions is consistent with section 182(c)(2)(C), which directs that the substitution of NO_X for VOC control, or the combination of NO_X and VOC control, ''maximize the reduction in ozone air pollution.''

Comment: The commenter alleges that the State's Post-1996 ROP Plan has not met the requirement under section 182(c)(2)(C) that the specific NO_X reductions credited toward ROP provide reductions in ozone concentrations at least equivalent to that which would result from a 9% reduction in VOC emissions.

Response: We disagree with the commenter and believe the State's plan is consistent with the requirements of section 182(c)(2)(C) and EPA guidance interpreting that section, and does indeed ensure VOC/NO_X equivalency.

We issued NO_X substitution guidance initially on December 15, 1993 and clarified the guidance on August 8, 1994.[1] In each case, the guidance

[1] ''Transmittal of NO_X Substitution Guidance,'' memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Air Division Directors, December 15, 1993. ''Clarification of Policy for Nitrogen Oxides (NO_X) Substitution,'' memorandum from John S. Seitz, Director, Office of

requires a demonstration that substitution of NO_X for VOC controls will provide at least equivalent ozone benefits. The 1993 guidance stated that States should ''justify substitution by illustrating 'consistency' between the cumulative emission changes emerging from the reasonable further progress/substitution and the emission reductions in the model attainment demonstration (or comparable modeling analysis).'' In the 1994 guidance, EPA required either photochemical grid modeling or regional modeling results to show that NO_X control is beneficial in helping an area to attain the ozone NAAQS.

As described in the 1993 guidance, any combination of VOC and NO_X emission reduction percentages which total to 3 percent per year, *e.g.*, 2 percent NO_X and 1 percent VOC, and which meet other SIP consistency requirements described in that document are allowed (VOC and NO_X emission reductions are equated on a percentage equivalency basis). These requirements ensure that the cumulative ROP reductions are consistent with the emission reduction measures identified in the model attainment demonstration. Further, the NO_X emission reductions credited toward ROP may be capped by the cumulative reductions dictated by the attainment demonstration. For example, a control strategy emerging from a modeled attainment demonstration might show reductions of 6% NO_X and 40% VOC are needed to attain. Assuming zero creditable NO_X emission reductions from 1990 through 1996, NO_X reductions averaging 2% per year over the 3 years from 1996 to 1999 represent a cap on the NO_X ROP reductions. In allowing a combination of NO_X and VOC controls or the substitution of NO_X emissions reductions for VOC emissions reductions, section 182(c)(2)(C) of the statute states that the resulting reductions ''in ozone concentrations'' must be ''at least equivalent'' to that which would result from the 3% VOC reductions required as a demonstration of ROP under section 182(c)(2)(B). The second sentence of Section 182(c)(2)(C) requires us to issue guidance ''concerning the conditions under which NO_X control may be substituted for [or combined with] VOC control.'' In particular, we are authorized to address in the guidance the appropriate amounts of VOC control and NO_X control needed, in combination, ''in order to maximize the reduction in ozone air pollution.'' Further, the Act explicitly provides that the guidance may permit ROP demonstrations which allow a lower percentage of VOC emission reductions. In light of the entire set of language and Congress' evident intent under this subsection to maximize the opportunity for ozone reductions, we believe that section 182(c)(2)(C) confers on us the discretion to select, for purposes of determining equivalent reductions, a percentage of NO_X emission reductions which is reasonably calculated to achieve both the ozone reduction and attainment progress goals intended by Congress.

The NO_X control measures relied on by the Chicago Post-1996 ROP Plan, *i.e.*, Federal acid rain rules, Tier I vehicle emission standards, and non-road engine standards, are also relied upon in the Chicago ozone attainment demonstration submittal. Based on our review of all the information submitted in support of this attainment demonstration, it is our belief that the percentage of ozone reduction benefits achieved by application of NO_X controls, for both ozone reduction and attainment progress goals, is ''at least equivalent'' as that achieved by application of VOC controls. This is because both the NO_X and VOC controls are necessary if the area is to realize ozone reduction benefits and to ultimately attain the ozone NAAQS. That is, the ''basis for equivalency is the ability of a given control strategy (*i.e.*, any particular mix of NO_X and VOC emission reductions) to effect attainment of the ozone NAAQS by the designated attainment year.'' (NO_X substitution guidance at page 2).

Comment: The commenter argues that, assuming the State could claim ROP credit in the Chicago area for downstate NO_X reductions, there is no rational basis for excluding the East St. Louis area from the baseline.

Response: We disagree with the commenter because the exclusion of emission reductions from the East St. Louis ozone nonattainment area from the Chicago area ROP demonstration is reasonable and consistent with the Act's requirements.

Nothing in the Act or our NO_X substitution policy mandates that States which claim NO_X emission reductions from outside the nonattainment area must claim NO_X reductions state-wide. Rather, consistent with our NO_X substitution policy, a State need only claim those NO_X reductions as are necessary to meet the ROP plan's NO_X reduction target in a given milestone year. The State did not claim East St. Louis area NO_X reductions to meet the Chicago area Post-1996 ROP plan's 1999 NO_X reduction target. Illinois wanted to avoid potential ''double counting'' issues that it believes may arise by claiming emission reductions from one nonattainment area as part of an ROP demonstration in another nonattainment area. Since the State's decision to exclude these reductions does not interfere with the Chicago area's ability to meet its ROP and attainment objectives, we find no valid basis for rejecting the Chicago Area 9% ROP plan because it did not claim NO_X reductions from the East St. Louis area.

In conclusion, throughout the preceding section we have considered the commenter's objections to our proposed rulemaking, and, for the reasons presented above, we continue to believe that upwind NO_X reductions are creditable toward ROP under the Act. Moreover, we have determined that the State's demonstration meets the VOC/NO_X equivalency requirement in section 182(c)(2)(C) as interpreted under the Agency's NO_X substitution policy. Therefore, we are taking final action to approve the Chicago area post-1996 ROP plan.

VII. EPA's Approval of the TCMs in the Post-1996 ROP Plan

A. What Are TCMs?

TCMs are programs that encompass elements of transportation system management and/or transportation demand management. Transportation system management strategies are typically low capital intensive transportation improvements that increase the efficiency of transportation facilities and services. Transportation demand management involves policies, programs, and actions directed toward increasing the use of high occupancy vehicles (transit, carpooling, and vanpooling), and the use of bicycling and walking.

The Chicago Area Transportation Study (CATS), a Metropolitan Planning Organization (MPO), implements TCMs in the Chicago area. CATS implements a number of TCM projects to both reduce Vehicle Miles Traveled (VMT) and VOC emissions per VMT. The projects have been programmed and funded through the areas' Transportation Improvement Programs (TIP) under the federal Congestion Mitigation and Air Quality Improvement Program (CMAQ).

B. What Are the TCMs Included in Illinois Post-1996 ROP Plan?

The post-1996 ROP plan claims emission reduction credit for those TCMs implemented between 1990 and 1996 which were not included in the 15

Air Quality Planning and Standards, to Air Division Directors, August 8, 1994.

percent plan, and the TCMs implemented between 1996 and 1999.

CATS has documented TCM implementation and estimated emission reductions in the following documents:

(1) ''Transportation Control Measures Committal to the State Implementation Plan,'' November 5, 1992;

(2) ''Transportation Control Measures Contribution to the 15 percent Rate of Progress State Implementation Plan,'' December 9, 1993;

(3) ''Transportation Control Measures Contribution to the Control Strategy State Implementation Plan,'' March 9, 1995;

(4) ''Transportation Control Measures Contribution to the Post-1996 Rate-Of-Progress State Implementation Plan,'' March 22, 1996;

(5) ''Transportation Control Measures Contribution to the 9 percent Control Strategy State Implementation Plan,'' June 11, 1998; and,

(6) ''1999 Transportation Control Measures Contribution to the 9 percent Rate of Progress Control Strategy State Implementation Plan,'' December 9, 1999.

The November 5, 1992, document provides a comprehensive discussion of the TCM planning and implementation process in the Chicago region. Illinois submitted the December 9, 1993, and March 9, 1995, documents with the Chicago Area VMT Offset SIP revision, and provided the basis for emission reductions claimed as part of the 15 percent ROP Plan.

On September 21, 1995, we incorporated into the SIP 127 TCMs when we approved the Illinois' Vehicle Miles Traveled (VMT) Offset SIP (60 FR 48896). As indicated in the September 21, 1995 rulemaking, the combined VOC emission reduction from these TCMs is 2.78 TPD by 1996. Of this reduction, the State claimed 2 TPD in the 15 percent plan, which leaves 0.78 TPD for use in the post-1996 ROP plan.

The 1995, 1996, 1998, and 1999 TCM documents demonstrate an additional 1.22 TPD from TCMs which have been implemented by November 15, 1999. These TCMs include:

(1) Improved public transportation, such as fixed guideway transit and rail station infrastructure improvements;

(2) Traffic flow improvements, such as traffic signalization and intersection and road widening;

(3) Increased park and ride service, parking at major transit stations, and fringe parking to serve major highway facilities; and,

(4) Bicycle and pedestrian programs, including increased bicycle lanes and paths, racks and storage facilities, and sidewalks and walkways.

C. How Do TCMs Become Approvable as Revisions to the SIP?

States can take credit for TCMs that we have approved as revisions to the SIP. Our requirements for TCMs are summarized in the June 1993, guidance document, ''Guidance on Preparing Enforceable Regulations and Compliance Programs for the 15 Percent Rate-of-Progress Plans,'' dated June 1993.

The required elements are:

(1) A complete description of the measure, and, if possible, its estimated emission reduction benefit;

(2) Evidence that the measure was properly adopted by a jurisdiction(s) with legal authority to execute the measure;

(3) Evidence that funding will be available to implement the measure;

(4) Evidence that all necessary approvals have been obtained from all appropriate government offices;

(5) Evidence that the implementing agencies have adopted a complete schedule to plan, implement, and enforce the measure; and,

(6) A description of any monitoring program to evaluate the measure's effectiveness and to allow for necessary in-place corrections or alterations.

D. Are the Chicago Area 1996–1999 TCMs Approvable?

The TCM documents cited above provide the necessary documentation to incorporate into the SIP the TCMs implemented between 1996 and 1999 in the Chicago ozone nonattainment area.

VIII. EPA Review of the Illinois Post-1996 ROP Plan

A. Why Is the Illinois Post-1996 ROP Plan Approvable?

We reviewed the documentation submitted with the Illinois post-1996 ROP plan. From this review, we find that the plan is approvable.

The State provided sufficient justification that the attainment area NO_X reductions will reduce ozone concentrations in the Chicago ozone nonattainment area. Illinois also correctly calculated, following our guidance documents, the emission reduction needed to meet the 9 percent ROP reduction requirement. The plan's control measures are creditable because the emissions reductions achieved are real, permanent, and enforceable. All claimed emission reductions from the plan's control measures occurred by November 15, 1999, the Act's deadline by which creditable reductions are to occur.

The State's emission reduction estimates for the control strategies follow our guidance documents, where applicable, and are adequately documented with acceptable emission control assumptions.

Finally, the post-1996 ROP plan shows that it will achieve a reduction of ozone precursor emissions sufficient to achieve the required ROP toward attaining the 1-hour ozone NAAQS in the Chicago ozone nonattainment area.

COMPARISON OF NEEDED AND CREDITABLE EMISSION REDUCTIONS

	TPD
VOC Reduction Needed to Meet 2 percent ROP	121.79
VOC Reduction Needed to Meet 3 percent Contingency	31.11
VOC Reduction Needed for ROP and Contingency	152.90
Total Creditable VOC Reduction	156.89
NO_X Reduction Needed to Meet 7 percent ROP	242.52
Total Creditable NO_X Reduction	261.97

For these reasons, we are approving Illinois' Chicago Area post-1996 ROP plan, as meeting the requirements of section 182(c)(2)(B).

B. Why Is the Contingency Measure Portion of the Plan Approvable?

The post-1996 ROP plan achieves, in addition to the required ROP VOC and NO_X emission reductions, a 3 percent reduction in VOC emissions through creditable control measures. For this reason, the contingency measure portion of the post-1996 ROP plan satisfies the contingency measure requirements of the Act. We therefore approve the contingency measure portion of the plan.

IX. Transportation Conformity Mobile Source Budget

In Illinois' December 17, 1999, supplemental submittal, the State clearly identified in the proposed post-1996 ROP plan the establishment of the 1999 motor vehicle emissions budget of 279.3 TPD of VOC. The 1999 budget in the supplemental submittal is a revision to the budget in the earlier ROP submission. The revisions in the credit granted for the control strategies resulted in a change to the 1999 on-road mobile source emissions total. This emissions level serves as the emissions budget for determining transportation conformity. This **Federal Register** approval also approves the 1999 on-road mobile source budget of 279.3 TPD of VOC.

X. Final Rulemaking Action

In this rulemaking action, we are approving Illinois' SIP revisions, submitted on December 18, 1997, December 17, 1999, January 14, 2000, and January 21, 2000, establishing the post-1996 ROP plan and contingency measures for the Chicago ozone nonattainment area. We are approving certain TCMs which were submitted with the post-1996 ROP plan and were implemented between 1996 and 1999. We are also approving the 1999 on-road mobile source budget of 279.3 TPD of VOC.

XI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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, Executive Order 13084 requires EPA to develop an effective process permitting elected officials 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 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 Executive Order 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 Executive Order 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 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 Executive Order 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 Executive Order do not apply to this rule.

E. Regulatory Flexibility

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 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 sections 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 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 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. section 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 action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule will be effective January 17, 2001.

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.

The 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 February 16, 2001. 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, Nitrogen Oxides, Ozone, Volatile Organic Compounds.

Dated: December 5, 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 *et seq.*

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraphs (w), (x) and (y) to read as follows:

§ 52.726 Control Strategy: Ozone.

* * * * *

(w) *Approval*—On December 18, 1997, December 17, 1999, January 14, 2000, and January 21, 2000, Illinois submitted a post-1996 Rate Of Progress Plan for the Chicago ozone nonattainment area as a requested revision to the Illinois State Implementation Plan. This plan reduces ozone precursor emissions by 9 percent from 1990 baseline emissions by November 15, 1999. This plan also supports a mobile source emissions budget of 279.3 tons/day of volatile organic compounds for transportation conformity purposes.

(x) *Approval*—On December 18, 1997, Illinois submitted a contingency measure plan as part of the Chicago Area post-1996 Rate of Progress Plan. This plan reduces volatile organic compound emissions in the Chicago ozone nonattainment area by 3 percent from 1990 baseline emissions by November 15, 1999.

(y) *Approval*—On December 18, 1997, Illinois submitted Transportation Control Measures (TCMs) as part of the post-1996 Rate Of Progress Plan for the Chicago ozone nonattainment area. The TCMs being approved are listed in the following documents published by the Chicago Area Transportation Study: ''Transportation Control Measures Contribution to the Post-1996 Rate-Of-Progress State Implementation Plan,'' March 22, 1996; ''Transportation Control Measures Contribution to the 9 percent Control Strategy State Implementation Plan,'' June 11, 1998; and ''1999 Transportation Control Measures Contribution to the 9 percent Rate of Progress Control Strategy State Implementation Plan,'' December 9, 1999.

[FR Doc. 00–32026 Filed 12–15–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA078–01–7211b; A–1–FRL–6914–1]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Revisions to Stage II Vapor Recovery Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This submittal contains a revised Stage II vapor recovery regulation. The intended effect of this action is to approve Massachusetts' revised Stage II rule. This action is being taken in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This rule will become effective on January 17, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 918–1047.

SUPPLEMENTARY INFORMATION: This section is organized as follows:

What action is EPA taking?
What revisions did Massachusetts make to its Stage II rule?
Why is EPA approving Massachusetts' revised Stage II rule?
What comments did EPA receive on its proposed approval of this rule and what is EPA's response to these comments?

What Action Is EPA Taking?

EPA is approving Massachusetts' revised 310 CMR 7.24(6) ''Dispensing of