takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 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, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: May 16, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

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 BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(53) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(53) The Governor of Montana submitted minor revisions to Asarco's control strategy in the East Helena Lead SIP on November 27, 2000.

(i) Incorporation by reference.

(A) Board order issued on September 15, 2000, by the Montana Board of Environmental Review adopting and incorporating the stipulation of the Montana Department of Environmental Quality and Asarco dated July 18, 2000. The July 18, 2000 stipulation revises the following sections in the previously adopted exhibit A to the stipulation: 1(B(4), 1(B)(5), 3(A)(3), 3(A)(4), 3(A)(12)(a), 3(A)(12)(i), 3(A)(12)(m), 3(A)(12)(o), 3(A)(12)(p), 3(A)(12)(q), 3(A)(12)(r), 3(A)(16)(a), 5(D)(1), 5(D)(2), 5(G)(4), 8(A),(2), 8(A)(3), 9(B)(2), and 9(B)(3). These revisions, which became effective on September 15, 2000, replace the same-numbered sections in previously approved SIP revisions.

[FR Doc. 01–15143 Filed 6–15–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL204–2; FRL–6998–2]

Approval and Promulgation of Air Quality Implementation Plans; State of Illinois; Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On April 3, 2001, the EPA proposed to approve a draft statewide rule to control the emissions of Oxides of Nitrogen (NO_X) from Electric Generating Units (EGUs) in the State of Illinois. Illinois submitted this rule for parallel processing on October 20, 2000. The adopted rule provides NO_X emission reductions to support attainment of the one-hour ozone standard in the Metro-East/St. Louis ozone nonattainment area. In the April 3, 2001, proposed rule, EPA noted that significant changes in the rule between the version upon which EPA's proposed rule is based and the final adopted version, other than those changes resulting from issues discussed in the April 3, 2001, proposed rule, would require EPA to prepare and publish a new EPA proposed rule on Illinois' subsequent submittal of the adopted rule. Because Illinois' final rule submitted on May 8, 2001, did not contain any significant unforeseen changes, EPA is responding to public comments received in response to its proposed rule and announcing final approval of the State adopted rule.

DATES: This final rule is effective July 18, 2001.

ADDRESSES: You may obtain copies of the State Implementation Plan revision request at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please telephone John Paskevicz at (312) 886–6084 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–6084, E-Mail Address: paskevicz.john@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''you'' and ''me'' refer to the reader of this final rule and to sources subject to the State rule, and the terms ''we,'' ''us,'' or ''our'' refers to the EPA.

Table of Contents

I. Background

A. What is a State Implementation Plan (SIP)?

Section 110 of the Clean Air Act (Act or CAA) requires States to develop air pollution control regulations and strategies to ensure that state air quality meets the national ambient air quality standards (NAAQS) established by the EPA. Each State must submit the regulations and emission control strategies to the EPA for approval and promulgation into the federally enforceable SIP.

Each federally approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many State regulations or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeling demonstrations (attainment demonstrations).

B. What is the Federal Approval Process for a SIP?

In order for State regulations to be incorporated into the federally enforceable SIP, States must formally adopt the regulations and emission control strategies consistent with State and Federal requirements. This process generally includes public notice, public hearings, public comment periods, and formal adoption by state-authorized rulemaking bodies.

Once a State rule, regulation, or emissions control strategy is adopted, the State submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the State submittal. If adverse comments are received, they must be addressed prior to any final Federal action (they are generally addressed in a final rulemaking action).

This rule was parallel processed. Parallel processing means that EPA proposes action on a State rule before it becomes final under State law. Under parallel processing, EPA takes final action on its proposal if the final, adopted state submittal is substantially unchanged from the submittal on which the proposed rule was based, or if significant changes in the final submittal are anticipated and adequately described in EPA's proposed rule or result from needed corrections determined by the State to be necessary through review of issues described in EPA's proposed rule.

All State regulations and supporting information approved by the EPA under section 110 of the Act are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, titled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR, but are ''incorporated by reference,'' which means that EPA has approved a given state regulation (or rule) with a specific effective date.

C. What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of a State regulation before and after it is incorporated into a federally approved SIP is primarily a State responsibility. After the regulation is federally approved, however, EPA is authorized to take enforcement actions against violators. Citizens are also offered legal recourse to address violations in the Federal courts as described in section 304 of the Act.

D. What Clean Air Act Requirements Apply to or Led to the State's Submittal of the NO_X Emission Control Regulation?

Sections 108 and 109 of the Act require the EPA to establish NAAQS for certain air pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. In 1979, EPA promulgated an one-hour ozone standard of 0.12 parts per million (ppm) or 120 parts per billion (ppb) to protect public health. 44 FR 8202 (February 8, 1979).

Ground-level ozone is generally not directly emitted into the air by sources. Rather, Volatile Organic Compounds (VOC) and NO_X, both emitted by a wide variety of sources, react in the presence of sunlight to form additional pollutants, including ozone. NO_X and VOC are referred to as precursors of ozone.

The Act, as amended in 1990, required EPA to designate as nonattainment any area that was violating the one-hour ozone standard, generally based on air quality monitoring data from the 1987 through 1989 period. Act section 107(d)(4); 56 FR 56694 (November 6, 1991). The Act further classified these ozone nonattainment areas, based on the areas' ozone design values (generally the fourth highest daily peak one-hour ozone concentrations over a three year period at the areas' worst-case ozone monitoring sites) as marginal, moderate, serious, severe, or extreme. Marginal areas were experiencing the least significant ozone nonattainment problems (lowest ozone design values and generally fewer ozone standard exceedences per year), while the areas classified as severe and extreme had the most significant ozone nonattainment problems.

The control requirements and the dates by which attainment of the ozone standard are to be achieved vary with an area's classification. Marginal areas were subject to the fewest mandated emission control requirements and had the earliest attainment date (deadline), November 15, 1993. Moderate areas were subject to more stringent planning and emission control requirements, but were provided more time to attain the ozone standard, until November 15, 1996. Severe and extreme areas are subject to even more stringent planning and control requirements, but are also provided more time to attain the ozone standard. Serious nonattainment areas fall in between moderate nonattainment areas and severe nonattainment areas in terms of planning requirements and mandated emission control requirements.

The Metro-East/St. Louis area was classified as moderate nonattainment for ozone, giving it an attainment date of November 15, 1996. This area is defined to contain Madison, Monroe, and St. Clair Counties in Illinois (the Metro-East portion of the nonattainment area), and Franklin, Jefferson, St. Charles, and St. Louis Counties and St. Louis City in Missouri. 40 CFR 81.314 and 81.326.

The Act requires moderate and above ozone nonattainment areas to be addressed in SIPs through ozone attainment demonstrations, including adopted emission control regulations sufficient to achieve the ozone standard by the applicable ozone attainment date. The requirements of the Act for ozone attainment demonstrations for moderate and above ozone nonattainment areas are determined by considering several sections of the Act. Section 172(c)(6) of the Act requires SIPs to include enforceable emission limitations, and such other control measures, means or techniques as well as schedules and timetables for compliance, as may be necessary to provide for attainment by the applicable attainment date. Section 172(c)(1) of the Act requires the implementation of reasonably available control measures (including Reasonably Available Control Technology [RACT]

for stationary industrial sources), and requires the SIP to provide for sufficient annual reductions in emissions of VOC and NO_X as necessary to attain the ozone standard by the applicable attainment date. Section 182(j)(1)(B) requires the use of photochemical grid modeling or other methods judged to be at least as effective to demonstrate attainment of the ozone standard in multi-state moderate ozone nonattainment areas (the Metro-East/St. Louis ozone nonattainment area is such an area). The attainment demonstrations based on photochemical grid modeling address the emission impacts of both VOC and NO_X.

The NO_X emission control regulations (collectively referred to as the NO_X rule) addressed in this final rule are intended to meet the requirements for the ozone attainment demonstration for the Metro-East/St. Louis ozone nonattainment area.

E. What Analyses and EPA Rulemaking Actions Support the Need for the NO_X Emission Control Regulation?

On October 27, 1998, the EPA promulgated a NO_X SIP call (requiring the development of NO_X SIPs and rules) for a number of states, including the State of Illinois. The NO_X SIP call requires the subject States to develop NO_X emission control regulations on a regional basis (generally statewide) of sufficient nature to provide for statewide NO_X emissions at or below prescribed state-wide NO_X emission budgets in 2007. The regional NO_X emission reductions will address ozone formation and transport in the area of the Country primarily east of the Mississippi River, but will also affect the Metro-East/St. Louis area as a whole. Although the NO_X SIP call will impact the Metro-East/St. Louis area, it should be noted that the State of Illinois has not submitted the NO_X rule reviewed here for the purpose of meeting the requirements of the NO_X SIP call. As noted by the Illinois Environmental Protection Agency (IEPA), the IEPA has submitted the NO_X rule reviewed here strictly for the purpose of attaining the one-hour ozone standard in the Metro-East/St. Louis area.

Illinois adopted NO_X rules to address the NO_X SIP call, and has submitted adopted rules for this purpose. The actions reflected in this rule in no way relate to the State's EGU NO_X rule under the NO_X SIP call. The NO_X rule reviewed here is another, separate rule affecting EGUs, and has been supplemented by the NO_X SIP call-based rules.

The State of Illinois has the primary responsibility under the Act for ensuring that all portions of Illinois meet the ozone standard, and is required to submit air quality attainment and maintenance plans that specify emission limitations, control measures, and other measures necessary for attainment, maintenance, and enforcement of the NAAQS within the State. The attainment plan for ozone must meet the CAA requirements discussed above, must be adopted pursuant to notice and comment rulemaking, and must be submitted to the EPA for approval as part of the SIP.

The States of Illinois and Missouri have worked cooperatively to provide the EPA with ozone attainment demonstrations for this area. Analyses conducted to support the attainment demonstrations for this area indicate that regional reductions in upwind NO_X emissions are needed to reduce the transport of ozone into this area and to support the adopted ozone attainment demonstrations. These regional reductions in NO_X emissions include control of NO_X emissions from EGUs in Illinois and Missouri along with control of NO_X emissions in other upwind States. The ozone attainment demonstration for Illinois (undergoing separate review by the EPA) is based, in part, on limiting NO_X emissions from EGUs throughout Illinois to an emissions rate of no higher than 0.25 pounds NO_X per million British thermal units of heat input (0.25 pounds NO_X/MMBtu of heat input) through Subpart V of Part 217 of the Illinois Pollution Control Board rule. The Missouri EGU NO_X emission rates would be limited to 0.25 pounds NO_X/MMBtu of heat input in the eastern one-third of the State and to 0.35 pounds NO_X/MMBtu of heat input in the western two-thirds of the State. For other impacting upwind States, the Illinois and Missouri ozone attainment demonstration assumes that EGU NO_X emissions would be limited to 0.25 pounds NO_X/MMBtu of heat input.

At the time the original attainment demonstrations were prepared for the Metro-East/St. Louis ozone nonattainment area (the original attainment demonstrations were reviewed by the EPA in a proposed rule on April 17, 2000, 65 FR 20404; a supplemental proposed rule was published on April 13, 2001, 66 FR 17647), the IEPA and the Missouri Department of Natural Resources (MDNR) assumed that the upwind States would be required to achieve the 0.25 pounds NO_X/MMBtu emission rate limits for EGUs (or even tighter NO_X emission limits) by May 1, 2003 based on the October 1998 NO_X SIP call. A subsequent, August 30, 2000, Court decision (*Michigan* v. *EPA, 2000 WL 1341477 (D.C.Cir.)*), supported the NO_X SIP call, but delayed its compliance date to May 31, 2004. The IEPA and MDNR have revised the ozone attainment demonstrations to reflect the delay in the upwind emission reductions and to demonstrate attainment of the one-hour standard by May 31, 2004 (a supplemental proposed rule on the revised attainment demonstrations was published on April 13, 2001 (66 FR 17647). The revised ozone attainment demonstrations continue to support the EGU 0.25 pounds NO_X/MMBtu emission limit for Illinois and the EGU 0.25/0.35 pounds NO_X/MMBtu emission limits for Missouri as being adequate to achieve attainment of the one-hour ozone standard in the Metro-East/St. Louis ozone nonattainment area.

In the April 17, 2000, proposed rule on the Illinois and Missouri ozone attainment demonstrations, the EPA proposed to approve the attainment demonstrations, but proposed to disapprove the attainment demonstrations in the alternative if the States failed to submit a proposed NO_X emission control rule for EGUs by June 2000 and final, adopted regional NO_X emission control rules for EGUs by December 2000 to support the ozone attainment demonstrations. The State of Missouri submitted its state-wide EGU NO_X regulations on June 29, 2000. The EPA proposed to approve these regulations on August 24, 2000 (65 FR 51564). The EPA gave final approval to these regulations on December 28, 2000 (65 FR 82285).

It should be noted that, on August 31, 2000 (65 FR 52967), the EPA proposed rulemaking for NO_X controls under subpart W of part 217 of Illinois' Air Pollution Control Rules. The subpart W rule was developed by the State to comply with EPA's NO_X SIP call, and will also affect sources affected by subpart V.

II. Summary of the State Submittal

A. When Was the NO_X Emission Control Regulation Submitted to the EPA?

The IEPA submitted the draft 0.25 EGU NO_X rule, Subpart V: Electric Power Generation to the EPA on October 20, 2000 and requested parallel processing. A final rule was submitted on May 8, 2001.

B. Has the Regulation Been Adopted by the State?

On October 16, 2000, the IEPA submitted the 0.25 EGU NO_X rule to the Illinois Pollution Control Board (IPCB) for the purposes of adoption by the State. The Final Opinion and Order in the Illinois regulatory proceeding was

adopted by the Illinois Pollution Control Board (IPCB) on April 5, 2001. It became effective on April 17, 2001, when it was filed with the Illinois Secretary of State. It was published in the *Illinois Register* on May 4, 2001 at 25 *Ill. Reg.* 5914. The IPCB held public hearings on this rule on November 28, 2000 and December 14, 2000.

C. What Are the Basic Components of the State's Regulation?

The rule reviewed here constitutes subpart V (Electric Power Generation) of part 217 of Illinois' Air Pollution Control Rules. (It should be noted that, on August 31, 2000 (65 FR 52967), the EPA proposed rulemaking for NO_X controls under subpart W: NO_X Trading Program for Electrical Generating Units of part 217 of Illinois' Air Pollution Control Rules (subpart W). The Subpart W rule was developed by the State to comply with EPA's NO_X SIP call, and will also affect sources affected by subpart V. As noted above, the subpart V rule is designed to achieve emission controls consistent with Illinois' and Missouri's ozone attainment demonstration for the Metro-East/St. Louis ozone nonattainment area.) This final rule on the subpart V NO_X control rule must be viewed as being independent of the NO_X SIP call-related rulemakings. In no way is the subpart V rule intended by the State to comply with the requirements of EPA's NO_X SIP call.

The following summarizes various aspects of the subpart V rule.

1. What Geographic Region and Sources Will Be Affected by the Rule?

Section 217.700 of the rule states that the subpart V rule would control the emissions of NO_X from EGUs throughout the State of Illinois during the ozone control period of May 1 through September 30 each year beginning in 2003.

Section 217.704 of the rule defines the fossil fuel-fired stationary boilers, combustion turbines, and combined cycle systems to be considered as EGUs and subject to the subpart V rule. The subject units are defined to be one of the following:

(1) Any unit serving a generator that has a nameplate capacity greater than 25 megawatts of electrical output (25 MWe) and produces electricity for sale, excluding units listed in appendix D of part 217 of the State's air pollution control rule; or

(2) Any unit with a maximum design heat input that is greater than 250 MMBtu per hour that commences operation on or after January 1, 1999, serving at any time a generator that has a nameplate capacity of 25 MWe or less and has the potential to use more than 50 percent of the potential electrical output capacity of the unit. Fifty (50) percent of a unit's potential electrical output capacity shall be determined by multiplying the unit's maximum design heat input by 0.0488 MWe per MMBtu.

2. What Are the Allowable NO_X Emission Rates or Levels for Affected Sources?

Section 217.706 of the subpart V rule specifies the NO_X emission limitations for the affected sources. Following the compliance deadline (see item 4 below), the NO_X emissions from affected sources are limited to 0.25 pounds of NO_X per MMBtu of actual heat input during each control period (May 1 through September 30), based on a control period average for each unit. Any EGU subject to more stringent NO_X emission limitations pursuant to any State or Federal statute, including the State's Clean Air Act, and the Federal Clean Air Act must comply with both the requirements of subpart V and the more stringent limitations.

3. What Are The Compliance Options for the Affected Sources?

The affected sources must meet the emission limitation requirement of this rule through compliance with the emission limit at the sources themselves or, for certain specified sources, may meet the emission limitation requirement through inter-source averaging between various EGUs.

Direct compliance (compliance through the use of emission controls at the EGUs themselves and not through inter-EGU emissions averaging) with the emission limitation would probably entail the use of combustion process modifications, fuel substitutions, or catalytic or non-catalytic reduction technology. (The rule reviewed here does not specify the control techniques to be used, but these are generally the NO_X control techniques employed for EGUs to achieve this emission rate limit.) Direct compliance does include averaging of emission rates at the sources over each control period (May 1 through September 30).

Section 217.708 of the rule specifies the approach and requirements for emissions averaging between specific EGUs within the State of Illinois. Participation in the inter-source (inter-EGU) averaging approach is at the discretion of the source owners or operators themselves. For purposes of compliance with the NO_X SIP call, the State of Illinois is establishing a NO_X emissions trading program. Sources eligible to participate in this program have been specified in appendix F of part 217 of the Illinois air pollution control rule. These sources may participate in inter-source emissions averaging under the subpart V rule. The owner or operator of Soyland Power (an EGU not listed in appendix F) may also choose to comply with subpart V through the inter-source averaging program for any unit at Soyland Power that commenced commercial operation on or before January 1, 2000.

Section 217.708 of subpart V specifies the equation governing the averaging of emissions for units participating in the inter-source averaging program. Compliance through this emissions averaging program must be demonstrated for each EGU by November 30 following each control period beginning in 2003. Averaging of emissions under this rule section must be authorized through federally enforceable permit conditions for each EGU. If inter-source averaging is used to demonstrate compliance with the Subpart V requirements, failure to demonstrate such compliance collectively by all EGUs involved in the inter-source averaging shall result in the subject EGUs each being judged using the 0.25 pounds NO_X per MMBtu of heat input emission limit averaged for each EGU over the emission control period. Only the non-complying EGUs, individually based on this NO_X emission limit, will be the subject of subsequent enforcement and other EGUs involved in the inter-source averaging shall not be held as responsible for the compliance failure based on the inter-source averaging.

4. What is the Compliance/Implementation Deadline for the Affected Sources?

All affected sources are subject to the requirements of Subpart V on and after May 1, 2003.

5. What Are the Monitoring, Recordkeeping, and Reporting Requirements for Affected Sources?

Section 217.710 of the rule specifies the monitoring requirements for affected sources. The owner or operator of an affected source must install, calibrate, maintain, and operate continuous emission monitoring systems for NO_X that meet the requirements of 40 CFR part 75, subpart B. The owner or operator of a gas-fired peaking unit or an oil-fired peaking unit, as defined in 40 CFR 72.2 may determine NO_X emissions in accordance with the emission estimation protocol of 40 CFR part 75, subpart E.

Section 217.712 of the rule specifies the reporting and recordkeeping

requirements for affected sources. The owners or operators of affected sources must comply with the recordkeeping and reporting requirements of 40 CFR part 75 applicable to NO_X emissions during the control period.

For sources (owners or operators of subject EGUs) directly complying with the requirements of Subpart V (not complying through inter-source averaging), a report must be submitted to the IEPA by November 30 of each year beginning in 2003 demonstrating that the NO_X emissions from the EGUs have not exceeded the NO_X emission limit (0.25 pounds NO_X per MMBtu of heat input) during the control period based on control period emission rate averages.

For owners or operators of sources choosing to comply through inter-source averaging, by November 30 of each year beginning in 2003, the owners or operators must submit to the IEPA a report that demonstrates or specifies:

(1) For all EGUs participating in the averaging program, the averaged control period NO_X emission rate pursuant to the emission rate averaging equation in section 217.708(b) of subpart V;

(2) The control period average NO_X emission rate of each EGU participating in the averaging program; and

(3) The information required to determine the average NO_X emission rate pursuant to the emission rate averaging equation.

All records and supporting data needed to demonstrate compliance must be kept and maintained by the owners or operators of the subject EGUs for five years. These records and supporting data must be made available for inspection or copying upon the request of the IEPA or the EPA. Requested data and records must also be supplied to the IEPA within 30 days of their written request by the IEPA.

D. What Public Review Opportunities Have Been Provided by the State for This Regulation?

The Illinois Pollution Control Board (IPCB) held public hearings on this rule on November 28, 2000 and December 19, 2000. A public hearing on this rule also occurred on February 27, 2001. The written transcripts of these hearings were submitted to EPA before the submittal of the finally adopted rule on May 8, 2001.

III. EPA Review of the Adopted Regulation

A. Does the Regulation Adequately Support the Attainment of the Ozone Standard in the Metro-East/St. Louis Ozone Nonattainment Area?

This rule is a critical element in the State's plan to attain the ozone standard in the Metro-East/St. Louis nonattainment area. As part of the modeled emissions control strategy considered in ozone modeling for this area, Missouri and Illinois included NO_X emission reductions for certain sources throughout the two States. Full approval of the ozone attainment demonstration SIPs (Illinois and Missouri) for this area are dependent upon the adoption of regional NO_X emissions control rule sufficient to achieve attainment of the ozone standard. (EPA's first proposed rule for the ozone attainment demonstrations was published on April 17, 2000 (65 FR 20404). A supplemental proposed rule was published on April 3, 2001 (66 FR 17647). These proposals include a detailed discussion of the role of regional NO_X emission reductions in attainment of the ozone standard in the Metro-East/St. Louis area.) The NO_X emission limit established in the NO_X rule for Illinois reviewed here is consistent with the attainment year EGU NO_X emission rate modeled in the ozone attainment demonstrations.

B. What Other Criteria Were Considered to Judge the Approvability of the Regulation and Does the Regulation Meet These Criteria?

Besides setting emission limits low enough to support the ozone demonstration attainment, the rule must also meet other criteria before it can be approved as part of the SIP. To be approved by the EPA, the rule must also be permanent and enforceable. To be enforceable, the rule must: (1) Have a defined compliance deadline (this deadline must also require the implementation of the rule to occur in sufficient time to provide for the attainment of the standard by the attainment deadline); (2) have adequate record keeping and reporting requirements sufficient to allow a determination of compliance; (3) specify appropriate compliance methods; and (4) provide for or not circumvent EPA enforcement of the rule.

EPA's review of the State rule addressed in the April 3, 2001 (64 FR 17642) proposed rule and this final rule shows that the Illinois rule meets these criteria. The compliance requirements (albeit not the specific emission control systems) are specified in the rule. The compliance date is specified and is compatible with the standard attainment date specified in the State's ozone attainment demonstration. The record keeping and reporting requirements are specified and are acceptable. The EPA is not prevented from enforcing the rule. In fact, the emission trading portion of the rule specifically requires federally enforceable permits for the sources involved in the trading. Finally, the rule is permanent. Although the rule will eventually be supplemented by the requirements of the State's NO_X SIP under EPA's NO_X SIP call, the 0.25 pounds NO_X/MMBtu rule will remain in place, assuring the permanence of the rule.

C. Is the Regulation Approvable?

Based on all factors considered above, it is concluded that this regulation is approvable.

IV. Proposed Action Published on April 3, 2001 (64 FR 17641)

What action did EPA propose to take on the State submittal in the April 3, 2001 proposed rule?

The EPA proposed to approve, through parallel processing, a draft statewide rule to control the emissions of NO_X from EGUs in support of the ozone attainment demonstration for the Metro-East/St. Louis ozone nonattainment area.

V. Response to Public Comments Received and Final Rulemaking Action

A. Public Comments Received on the Proposed Rule

Two public comments were received in response to EPA's April 3, 2001 (64 FR 17641) proposed rule. One was from the State of Illinois, the second from the electric utility providing electricity in the St. Louis area. Both commentors supported EPA's proposed approval and discussed how stakeholders had worked to improve air quality in the St. Louis area.

B. Final Rulemaking Action

In consideration of the public comments received on the proposed rule and the fact that the finally adopted State rule was not changed during final adoption in some way that would make it unacceptable to EPA, EPA approves the incorporation of the Illinois rule to control oxides of nitrogen from electric generating units into the Illinois SIP. The specific rule being approved is Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter C: Emission Standards and Limitations for

Stationary Sources; Part 217 Nitrogen Oxides Emissions; Subpart V: Electric Power Generation; Adopted at 25 *Ill. Reg.* 5914, effective April 17, 2001.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 (64 FR 43255, August 10, 1999), because it merely proposes to approve 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. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone.

Dated: June 8, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(156) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(156) On May 8, 2001, the State submitted rules to control Oxides of Nitrogen emissions from electric generating units.

(i) Incorporation by reference. Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter C: Emission Standards and Limitations for Stationary Sources; Part 217 Nitrogen Oxides Emissions; Subpart V: Electric Power Generation. Adopted at 25 *Ill. Reg.* 5914, effective April 17, 2001.

[FR Doc. 01–15285 Filed 6–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–6998–5]

Guidelines Establishing Test Procedures for the Measurement of Mercury in Water (EPA Method 1631, Revision C); Final Rule, Technical Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical corrections.

SUMMARY: EPA is amending the ''Guidelines Establishing Test Procedures for the Analysis of Pollutants'' to make minor technical corrections to clarify the use of field blanks for mercury testing under the Clean Water Act. Specifically, the amendments rectify an omission in the text of the promulgated version of Method 1631: Mercury in Water by Oxidation, Purge and Trap and Cold Vapor Atomic Fluorescence Spectrometry.

DATES: These technical corrections are effective July 18, 2001. The incorporation by reference of the publication listed in today's rule is approved by the Director of the Federal Register as of July 18, 2001. For judicial review purposes, this rule is promulgated as of 1:00 p.m. (Eastern time) on July 2, 2001, as provided in 40 CFR 23.2.

FOR FURTHER INFORMATION CONTACT: For information regarding this rule contact Dr. Maria Gomez-Taylor, Engineering and Analysis Division (4303), USEPA Office of Science and Technology, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460 (e-mail: Gomez-Taylor.Maria@epa.gov).

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

EPA Regions, as well as States, Territories and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits that comply with the technology-based and water quality-based requirements of the Clean Water Act. In doing so, the NPDES permitting authority, including authorized States, Territories, and Tribes, make a number of discretionary choices associated with permit writing, including the selection of pollutants to be measured and, in many cases, limited in permits. If EPA has ''approved'' standardized testing procedures (i.e., promulgated through rulemaking) for a given pollutant, the NPDES permit must include one of the