

non-road construction equipment emissions is available at this time and that the current emissions estimate is appropriate. It is additionally noted that the emissions inventory submitted by the IEPA incorporated by reference the documentation of the non-road construction equipment emissions estimates supplied by the USEPA.

Comment: The commenters note that the emissions for railroads and airport lack documentation. In addition, the commenters note that, given that a high speed rail and a third airport are both under consideration for the Chicago area, this lack of documentation is especially troublesome.

Response: Discussion of the estimation procedures used for railroad and airport emissions is contained on pages 196 through 221 of the Chicago emissions inventory documentation submitted to the USEPA. The discussion of railroad emissions includes an estimate of statewide railroad fuel usage, which was apportioned to the nonattainment area counties based on the county to State ratios of railroad track mileage. The county fuel usage figures were then multiplied by a per unit fuel usage emission rate factor. This approach is acceptable to the USEPA.

The method used for airport emissions evaluated commercial aircraft activity at O'Hare and Midway Airports on an aircraft engine-specific basis incorporating modal emission rates. The modal emission rate for each engine is a function of the amount of fuel burned for each of the four modes power settings. The four modes are taxi/idle, takeoff, climbout, and approach. Emissions were estimated for approximately 60 different commercial engine types. Emissions from the remaining aircraft categories, military and general aviation, were estimated based on the number of landing and take-off (LTO) cycles of each aircraft type. These LTO cycles were also the basis of the emissions estimates performed for all of the other airports in the Chicago ozone nonattainment area. These estimation procedures were documented in IEPA's emissions inventory submittal and were found to be acceptable by the USEPA.

III. Final Rulemaking Action

The State of Illinois has met the requirements [section 182(a)(1)] of the Act for the submittal of base year ozone precursor emissions inventories. The USEPA approves the State's 1990 base year ozone precursor emission inventories for the Chicago, Metro-East St. Louis, and Jersey County ozone nonattainment areas.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 15, 1995. 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 section 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, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: February 23, 1995.

Robert Springer,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraph (i) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(i) The base year (1990) ozone emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for the following Illinois ozone nonattainment areas: the Chicago nonattainment area—Cook, DuPage, Kane, Lake, Will and McHenry Counties, Aux Sable and Gooselake Townships in Grundy County, and Oswego Township in Kendall County; the Metro-East St. Louis nonattainment area—Madison, Monroe, and St. Clair Counties; and Jersey County.

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40 CFR Parts 52 and 81

[IL80-3-6838; FRL-5170-4]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On November 25, 1994, USEPA proposed to approve a State Implementation Plan (SIP) request to redesignate the Jersey County, Illinois marginal ozone nonattainment area to attainment of the public health based ozone air quality standard. The USEPA also proposed approval of the accompanying maintenance plan as a SIP revision. The redesignation request and maintenance plan were submitted by the Illinois Environmental Protection Agency (IEPA) on November 12, 1993.

The State has met the requirements for redesignation contained in the Clean Air Act (Act). The redesignation request is based on ambient monitoring data that show no violations for the ozone National Ambient Air Quality Standard during the three-year period from 1990 through 1992. Public comments were solicited on the redesignation request, maintenance plan and on USEPA's proposed action. No public comments were received.

EFFECTIVE DATE: This final rule becomes effective on April 13, 1995.

ADDRESSES: Copies of the SIP revision relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Regulation Development Section (AR-18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 (312) 886-6057.

SUPPLEMENTARY INFORMATION: On November 12, 1993, the IEPA submitted a redesignation and maintenance plan for Jersey County as a requested SIP revisions. The IEPA has requested that Jersey County be redesignated to attainment for ozone.

On November 6, 1991 (56 FR 56694), the USEPA formally designated Jersey County as a marginal ozone nonattainment area. This classification and designation was based on a monitored violation of the ozone National Ambient Air Quality Standard in Jersey County in 1988.

Jersey County is a rural county located approximately 25 miles north of St. Louis, Missouri. Based on the 1990 census, the population of Jersey County is 20,539, with the largest urban population being that of Jerseyville, with a population of approximately 8,000.

On November 25, 1994, (59 FR 60577) the USEPA proposed approval of the

SIP revision request to redesignate the Jersey County, Illinois ozone nonattainment area to attainment and the accompany maintenance plan. Please refer to the November 25, 1994, **Federal Register** (59 FR 60577) and the July 8, 1994, technical support document for additional information on this final rule.

With respect to the requirement of section 172(c)(3), the USEPA notes that the State of Illinois has developed and submitted the required emissions inventory, which section 182(a)(1) required to be submitted by November 15, 1992. On September 13, 1994, USEPA proposed approval of the emissions inventory for Jersey County (59 FR 46920). Elsewhere in this **Federal Register**, the USEPA has taken final action on Illinois' Emissions Inventory SIP revision request, including that portion for Jersey County.

Public Comments

The public comment period for the November 25, 1994 (59 FR 60577), notice of proposed rulemaking to approve the redesignation request for Jersey County closed on December 27, 1994, and no comments were received.

Final Rulemaking Action

The USEPA is approving the redesignation of Jersey County to attainment for ozone because the State of Illinois has met the requirements of the Act revising the Illinois ozone SIP and is approving the maintenance plan as a revision to the SIP.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: February 23, 1995.

Robert Springer,
Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraph (h) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(h) Approval—On November 12, 1993, the Illinois Environmental Protection Agency submitted an ozone redesignation request and maintenance plan for Jersey County ozone nonattainment area and requested that Jersey County be redesignated to attainment for ozone. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(d) of the Act. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Illinois ozone State Implementation Plan for Jersey County.

* * * * *

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7871q.

2. In § 81.314 the ozone table is amended by revising the entry "Jersey County Area" to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—OZONE

Designated areas	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
Jersey County Area Jersey County	[*]	Attainment.		
* * * * *				

¹ This date is November 15, 1990, unless otherwise noted.

* April 13, 1995.

[FR Doc. 95-6160 Filed 3-13-95; 8:45 am]
BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 5

[ET Docket No. 93-266; FCC 95-80]

Pioneer's Preference Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Second Report and Order, the Commission modifies certain rules regarding its pioneer's preference program. This action is intended to increase the efficiency of the program by making it better comport with competitive bidding authority and the Commission's experience administering it.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 776-1622.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, adopted February 28, 1995, and released March 1, 1995. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Second Report and Order

1. In the Notice of Proposed Rule Making (Notice) in this proceeding, 58 FR 57578 (October 26, 1993), the Commission sought comment on whether and how the pioneer's preference rules could be amended to take into account competitive bidding and its experience administering them, or whether these rules should be repealed. In the Notice, the Commission proposed to eliminate the current policies of issuing public notices specifying pioneer's preference filing deadlines, considering raw experimental license material that relates to preference requests, and making initial determinations on preference requests. The Commission also proposed to limit acceptance of preference requests to services that use new technologies and proposed that preference requests be filed prior to a

notice of inquiry (NOI) in a proceeding that addresses a new service or technology, if such a document is issued in advance of a notice of proposed rulemaking (NPRM), rather than the current policy of allowing requests to be filed after an NOI but prior to an NPRM. In the First Report and Order, 59 FR 8413 (February 22, 1994), the Commission determined that it would not apply amendments to its rules to three proceedings in which tentative pioneer's preference decisions had been issued.

2. In the Second Report and Order, the Commission determined that the pioneer's preference program should be retained, but it decided to eliminate its current policies of issuing public notices specifying filing deadlines, considering raw experimental license material that relates to preference requests, and making initial determinations on preference requests. These requirements were originally imposed to ensure a complete record in all pioneer's preference proceedings, but the Commission said that eliminating them would result in a more efficient process with no detriment to the public. The Commission also adopted its proposal to require that preference requests be filed prior to an NOI, if such a document is issued in advance of an NPRM. The Commission stated that deferring the filing deadline to the NPRM stage in cases in which an NOI has been issued may encourage speculative preference requests. Finally, in response to comments to the Notice, the Commission required that any preference grant be conditioned on use of the technology and system for which the preference was awarded.

3. The Commission did not adopt its proposal to limit acceptance of pioneer's preference requests to services that use new technologies. It said that while a pioneer's preference should not be awarded simply for transferring technologies from existing services in one band to similar services in another band, a significant enhancement of an existing service, under some circumstances, could be achieved by combining existing technologies in new and innovative ways. The Commission also noted that the recently-enacted General Agreement on Tariffs and Trade (GATT) legislation provides that preferences be awarded for significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service.

4. Additionally, the Commission decided that in services in which licenses are assigned by competitive bidding, any parties receiving pioneer's

preferences will be required to pay for their licenses in accord with the payment formula specified in the GATT legislation. The GATT legislation mandates that recipients of preferences in service in which licenses are awarded by competitive bidding and whose requests were accepted for filing after September 1, 1994, pay in a lump sum or in installment payments over a period of not more than five years 85 percent of the average price paid for comparable licenses. The Commission said that it will also use this formula for any future grants of pioneer's preference requests accepted for filing on or before September 1, 1994 and—in accord with the GATT legislation—will determine comparable licenses on a case-by-case basis.

5. Accordingly, *it is ordered* That Parts 1 and 5 of the Commission's Rules are amended as specified below, effective 30 days after publication in the **Federal Register**. This action is taken pursuant to Sections 4(i), 7(a), 303(c), 303(f), 303(g), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), 303(r), and 309(j).

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 5

Radio.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Amendatory Text

Parts 1 and 5 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Implement 5 U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

2. Section 1.402 of this chapter is amended by revising paragraphs (c), (d), (e), and (g), redesignating paragraph (f) as new paragraph (h), and adding new paragraph (f) to read as follows:

§ 1.402 Pioneer's preference.

* * * * *

(c) Pioneer's preference requests relating to a specific new spectrum-based service or technology will not be