

whether the elements of the State's submittal comply with the Federal rule. Interested parties are encouraged to examine the TSD for additional detailed information about the Ohio I/M program.

*Final Action*

The USEPA is approving the I/M SIP for the Cleveland-Akron-Lorain, Cincinnati, and Dayton-Springfield areas and takes no action on the I/M SIP for the Toledo area.

*Precedential Effect*

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

*Executive Order 12866*

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 Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

*Regulatory Flexibility*

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 *et seq.*, USEPA should 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 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. This limited approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The CAA forbids USEPA to base its final limited approval of Ohio's I/M on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (1976).

**List of Subjects in 40 CFR Part 52**

Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 10, 1995.

**Valdas V. Adamkus**,  
*Regional Administrator.*

Title 40 of the Code of Federal Regulations, chapter I, part 52, subpart KK is amended as follows:

**PART 52—[AMENDED]**

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

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

2. Section 52.1870 is amended as follows by adding paragraph (c)(101) to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(101) On November 12, 1993 the Ohio Environmental Protection Agency submitted a vehicle inspection and maintenance program in accordance with section 110 of the Clean Air Act as amended in 1990. The new program replaces I/M programs in operation in the Cleveland and Cincinnati areas and establishes new programs in Dayton and any area designated moderate nonattainment or any area where local planning authorities have requested the State to implement a program.

(i) Incorporation by reference.

(A) Ohio Administrative Code Amended Rules 3745-26-01, 3754-26-02, 3745-26-10, and rules 3745-26-12, 3745-26-13, and 3745-26-14, all made effective on June 13, 1994.

(ii) Other material.

(A) Certification letter from the Director of the Ohio Environmental Protection Agency regarding the State process in developing the I/M rules and the I/M program.

(B) Letter dated June 22, 1994, from the Director of OEPA regarding implementation of an I/M program in the Toledo area in the event the State's request for redesignation to attainment for that area is not approved by USEPA.

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[FR Doc. 95-8221 Filed 4-3-95; 8:45 am]

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**40 CFR Parts 52 and 81**

[IL116-1-6792a; FRL-5182-3]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Illinois**

**AGENCY:** Environmental Protection Agency (USEPA).

**ACTION:** Direct final rule.

**SUMMARY:** The USEPA is approving a November 10, 1994 State Implementation Plan (SIP) revision request to redesignate two sulfur dioxide (SO<sub>2</sub>) nonattainment areas in the State of Illinois to attainment and approving the accompanying maintenance plans as SIP revisions because they satisfy the requirements of the Clean Air Act (Act). The redesignation requests and maintenance plans were submitted by the Illinois Environmental Protection Agency (IEPA) for the following SO<sub>2</sub> nonattainment areas: Peoria County (Hollis and Peoria Townships) and Tazewell County (Groveland Township). The redesignation requests are based on ambient monitoring data and modeling demonstrations that show no violations of the SO<sub>2</sub> National Ambient Air Quality Standard (NAAQS). In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comments on these requested redesignations and SIP revisions. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. Adverse comments received concerning a specific geographic area, Peoria or Tazewell Counties, will only affect this final rule as it pertains to that area and only the portion of this final rule concerning the area receiving adverse comments will be withdrawn.

**DATES:** This final rule is effective June 5, 1995, unless notice is received by May 4, 1995, that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the SIP revision and USEPA's analyses are available for inspection at the following address: (It is recommended that you telephone Fayette Bright at (312) 886-6069 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation

Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments can be mailed to: J. Elmer Bortzer, Chief, 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.

**FOR FURTHER INFORMATION CONTACT:** Fayette Bright, 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, Telephone Number (312) 886-6069.

#### **SUPPLEMENTARY INFORMATION:**

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

The redesignation requests and maintenance plans considered in this rulemaking were submitted by IEPA on November 10, 1994 for the following SO<sub>2</sub> nonattainment areas: Peoria County (Hollis and Peoria Townships) and Tazewell County (Groveland Township). The following discussion represents a historical summary of Illinois' SO<sub>2</sub> SIP.

On March 3, 1978 (43 FR 8962), ten townships in Peoria and Tazewell Counties in Illinois were designated by USEPA as not in attainment of the primary SO<sub>2</sub> NAAQS. The determination, which included Hollis and Peoria Townships in Peoria County and Groveland Township in Tazewell County, was based on monitoring data furnished to USEPA by IEPA, and was to have included the entirety of both counties. However, an accompanying IEPA dispersion modeling demonstration justified limiting the nonattainment designation to ten townships.

Further, on January 30, 1980 (45 FR 6786) as a result of IEPA dispersion modeling studies, all ten townships were also designated as not in attainment of the secondary SO<sub>2</sub> NAAQS. Nine of these townships continued to be designated as not in attainment of the primary NAAQS.

Even before the 1978 nonattainment designation, Illinois had adopted regulations to control SO<sub>2</sub> emissions in the Peoria area; however, a 1974 decision of an Illinois Appellate Court invalidated Illinois' SO<sub>2</sub> emissions limitations for coal-fired boilers. Such boilers account for over ninety-five percent of the area's SO<sub>2</sub> emissions. Also, in 1977, the Illinois Air Pollution Control Board (Board) revalidated the SO<sub>2</sub> emission limitations for coal-fired

boilers; however, the revalidations were also determined to be invalid by an Illinois Court, (Ashland Chemical vs. Illinois Pollution Control Board, 64 Ill. App. 3rd 169, 381 N.E. 2nd 56 (3d District, 1978)).

On March 28, 1983, most of the emission limits pertaining to Peoria were revalidated by the Board. These Board regulations were submitted to USEPA and incorporated into the Illinois SO<sub>2</sub> SIP on August 8, 1984 (49 FR 31685 and 49 FR 31587). This SIP revision redesignated all Peoria area Townships except Groveland, Hollis, and Peoria Townships to attainment for SO<sub>2</sub>. (Hollis Township is classified as nonattainment of the primary and secondary standards).

On June 9, 1986, IEPA submitted Final Order R84-28 (35 Illinois Administrative Code 214 (35 IAC 214); Sulfur Limitations) as a SIP revision request revising the SO<sub>2</sub> emission limits for the remaining solid fuel emission sources in the Peoria and Tazewell areas. The SIP revision request could not be approved until the enforcement deficiencies were corrected. However, due to USEPA's approval of 35 IAC 214; Measurement Methods for the Emission of Sulfur Compounds dated June 26, 1992 (57 FR 28617), the enforcement deficiencies previously identified by USEPA were corrected. On September 2, 1992 (57 FR 40126), USEPA approved the June 9, 1986 SIP revision request completing the State's part D plan for the Peoria and Tazewell areas.

The State's part D plan as required by the Act must contain adequate provisions prohibiting any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will contribute significantly to nonattainment, or interfere with the maintenance of the NAAQS. Illinois' SIP includes a compliance test methodology which allows most sources to demonstrate compliance with their emission limits through either a stack test or a 2 month average of the sulfur content of their fuel supply.

##### **II. USEPA Redesignation Policy**

The Act's requirements for redesignation to attainment are contained in section 107(d)(3)(E) of the Act, and discussed in a September 4, 1992, memorandum from the Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions.

As outlined in this memorandum, section 107(d)(3)(E) of the Act requires that the following conditions be met for redesignation to attainment:

1. The USEPA must determine that the areas subject to the redesignation request have attained the NAAQS;

2. The USEPA must have fully approved the applicable SIP for the areas under section 110(k) of the Act;

3. The USEPA must determine that the improvements in air quality are due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable SIP, Federal air pollution control regulations, and other federally enforceable emission reductions;

4. The USEPA must have fully approved maintenance plans for the areas as meeting the requirements of section 175A of the Act. Section 175A of the Act sets forth the maintenance plan requirements for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the area is redesignated. Eight years after the redesignation the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year maintenance period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency provisions that are adequate to assure prompt correction of air quality problems that might develop; and,

5. The State must have met all requirements applicable to the areas under section 110 and part D of the Act.

##### **III. Summary of State Submittal**

The following discussion addresses Illinois' redesignation request for Peoria and Tazewell counties, how the State met the five Act requirements in section 107(d)(3)(E) listed above, and a more detailed discussion of USEPA policy.

###### **A. Attainment of the NAAQS**

USEPA has determined that the Peoria and Tazewell areas have attained the SO<sub>2</sub> NAAQS. The modeling analysis submitted by the state along with the SIP revision that USEPA approved on September 4, 1992, demonstrated attainment of the SO<sub>2</sub> NAAQS through air dispersion modeling. In addition to the modeled attainment demonstration, ambient air monitoring data shows that no violations have occurred since 1977 in Peoria and Tazewell Counties.

USEPA redesignation policy requires that at least eight consecutive quarters with no violations be achieved before an area can be redesignated to attainment. For SO<sub>2</sub>, an area must show no more than one exceedance annually.

The most recent violation of any SO<sub>2</sub> standard in the Peoria and Tazewell

areas occurred in 1977, 1988 was the most recent year in which a single exceedance of SO<sub>2</sub> occurred. This exceedance occurred at the monitoring station located at 272 Derby Street in Pekin in Tazewell County. Inasmuch as the area's other monitoring station, at Hurlburt and MacArthur Streets in Peoria, has no recorded exceedances or violations of the primary or secondary SO<sub>2</sub> NAAQS, Illinois has met the above requirement.

#### B. Fully Approved SIP

The SIP for the area must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply to the area. These requirements include new requirements added by the 1990 Act amendments. The State must meet all requirements of section 110 and part D of the Act that were applicable prior to the submittal of the complete, finally adopted redesignation request. (It should be noted that, based on section 175A of the Act, other requirements of part D of the Act remain in effect until the USEPA approves the maintenance plan and the redesignation to attainment). A SIP which meets the pre-redesignation request submittal requirements (the State's nonattainment SIP) must be fully approved by the USEPA prior to USEPA's approval of the redesignation of the area to attainment of the NAAQS. The requirements of Title I of the Act, which includes section 110 and part D of the Act, are discussed in the General Preamble to Title I (57 FR 13498, April 16, 1992).

On May 31, 1972 (37 FR 10861), USEPA approved Illinois SO<sub>2</sub> Rule 204(c)(1)(A), which established a 1.8 lbs (pounds SO<sub>2</sub> per million British Thermal Units)/MMBTU emission limit for existing fuel combustion sources in the Peoria, East St. Louis, and Chicago major metropolitan areas. This rule was to serve as the State's part D SIP control strategy for the Peoria and Tazewell nonattainment areas. However, Rule 204(c)(1)(A) was invalidated by the Illinois Appellate Court on September 27, 1978. Through several SIP actions (see 47 FR 9479—March 5, 1983; 49 FR 31412, August 7, 1984; and 49 FR 31687, August 8, 1984), SO<sub>2</sub> emission limits have been reestablished for all sources in the Peoria area with the exception of six boilers.

On June 9, 1986, the State submitted Final Order R84-28 which revised emission limits contained in Part 214 Subpart C. The State submittal satisfied an outstanding condition related to federal approval of Illinois' part D SO<sub>2</sub> SIP for the Peoria and Tazewell nonattainment areas which

reestablished emission limits for the remaining six sources mentioned above. As previously discussed, USEPA took rulemaking action on this SIP revision request on September 2, 1992 (57 FR 40126). This action was taken in light of the USEPA approval of a SIP revision request from IEPA revising the State's compliance methodology which satisfactorily corrected several defects in the 1972 SIP. The part D plan for the Peoria and Tazewell SO<sub>2</sub> nonattainment areas is now considered by USEPA to be complete and has been fully approved.

#### C. Permanent and Enforceable Air Quality Improvement

The State must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable.

Implementation of SO<sub>2</sub> emission controls in the Peoria and Tazewell areas which are contained in Illinois' part D SO<sub>2</sub> SIP has led to permanent, enforceable emission reductions in the ambient SO<sub>2</sub> levels in the Peoria and Tazewell areas. In addition, there are three source closures in Peoria County: Westinghouse Air Brake (WABCO); Celotex; and Midland Coal Mine. Although Bemis Company (Peoria County) is still operating, this source no longer emits SO<sub>2</sub>; it only emits volatile organic compounds. Cilco-Wallace Station in Tazewell County has also closed. These sources can only be reopened under the State's Prevention of Significant Deterioration (PSD) program and the State must demonstrate that the sources will not violate the SO<sub>2</sub> NAAQS. Although there is a possibility that Midland Coal Mine may reopen, there will be no increase, in SO<sub>2</sub> emissions.

Actual SO<sub>2</sub> emissions in 1993 from point sources remained at less than twenty-three percent of the allowable emissions that were modeled in the attainment demonstration in the 1986 Illinois SIP submittal. The 1986 attainment demonstration and SIP revision showed that, if SO<sub>2</sub> emissions were low enough to meet the 24-hour primary attainment standard in both Peoria and Tazewell Counties, the 3-hour secondary standards as well as the annual primary standards would also be maintained.

In addition, there has been an overall reduction of thirty-two percent in allowable SO<sub>2</sub> emissions at the four Caterpillar plants attributable to the shut-down of various emission units. Thus, the emission reductions achieved are the result of the above mentioned federally enforceable rules and permanent source closures.

#### D. A Fully Approved Maintenance Plan

Section 175A of the Act sets forth the maintenance plan requirements for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the area is redesignated. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year maintenance period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency provisions that are adequate to assure prompt correction of air quality problems that might develop.

There are five provisions that USEPA believes need to be considered in an acceptable maintenance plan. The following is a description of how the State's request has fulfilled each of these five requirements.

##### 1. Attainment Inventory

The State is required to develop an attainment inventory to identify the level of emissions in the area at the time of attainment. The plan submitted by IEPA lists the actual emissions for the thirteen sources emitting 25 tons/year or more of SO<sub>2</sub> in the Peoria and Tazewell areas for 1989 through 1993. As previously discussed, the actual emissions in 1993 from point sources remained at less than twenty-three percent of the allowable emissions that were modeled in the attainment demonstration in the 1986 Illinois SIP revision request.

Further, actual emissions may decrease even more significantly should implementation of the Title IV, Act Acid Deposition Control Program reductions be employed by Commonwealth Edison at its Powerton electric generating station and by Central Illinois Light Company at its Edwards Station. Even small percentage reductions at these stations will result in large overall percentage reductions, as the two stations account for approximately sixty-eight percent of the nonattainment area's SO<sub>2</sub> emissions from stationary sources.

##### 2. Maintenance Demonstration

The State is required to demonstrate future maintenance of the NAAQS by either showing that (a) future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory or (b) by modeling, that the future mix of sources and emission rates will not cause a violation of the NAAQS. This demonstration will

require the State to project emissions for the 10 year period following the redesignation.

Illinois' plan projects that the emissions will not change substantially from the attainment inventory within the next ten years. The modeling analysis submitted by IEPA with the 1986 SIP revision request sufficiently demonstrates maintenance of the NAAQS for 10 years following the redesignation. The actual emissions from point sources are less than twenty-three percent of allowable emissions modeled in the 1986 submittal and, emissions cannot increase due to the restrictions of 35 IAC part 214, Sulfur Limitations and Part 203, Major Stationary Source Construction Modification contained in the SIP. Also, Illinois predicts that, due to the implementation of Title IV of the Act, actual emissions are expected to decrease. Further, new stationary sources will be subject to the Prevention of Significant Deterioration (PSD) requirements. IEPA was delegated authority to administer the USEPA PSD regulations on January 29, 1981, at 46 FR 9584.

### 3. Ambient Monitoring

In accordance with 40 CFR part 58, once an area has been redesignated, the State must continue to operate an appropriate air quality network to verify the attainment status of the area.

The IEPA operates two National Air Monitoring Stations (NAMS) SO<sub>2</sub> monitors at two sites in the nonattainment areas. The Peoria monitoring station is located at Hurlburt and MacArthur Streets in Peoria County and the Tazewell County monitoring station is located at 272 Derby Street in Pekin in Tazewell County. Since their incorporation into the NAMS Network, these sites have been annually approved by USEPA in accordance with the requirements of 40 Code of Federal Registers (CFR) 58 Subpart D. Because of USEPA's SIP requirements regarding the maintenance of an adequate network, the IEPA will continue operation of these monitors and cannot shut down either monitor without USEPA concurrence of a revision to the NAMS program.

### 4. Verification of Continued Attainment

Each State must ensure that it has the legal authority to implement and enforce all measures necessary to attain and to maintain the NAAQS. IEPA has authority, through the Illinois Environmental Protection Act, to ascertain information from any air containment source which may cause or contribute to air pollution. In addition,

IEPA developed administrative rules which require annual reporting of SO<sub>2</sub> emissions as well as all other regulated contaminants from all sources required to have permits (35 IAC Sections 254.204 and 254.403).

Illinois' primary means for updating the emissions inventory is the conducting of periodic source inspection by the IEPA's Field Operations Section (FOS). FOS inspects all major sources and many minor sources with a frequency that depends on the amount of emissions emitted by the source and its history of compliance with emission limitations. Major sources are inspected at least annually and all permitted sources at a lower frequency. If inspections indicate a need for enforcement or for more stringent emission limits, the IEPA refers such matters to the Board, which has the authority to execute enforcement actions.

Because of this ongoing procedure, the emission inventory is updated more frequently than annually. In fact, it is updated each time an inspection indicates the need for a revision and entered into the Aerometric Information Retrieval System (AIRS).

### 5. Contingency Plan

Section 175A of the Act also requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. The contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are implemented expeditiously once they are triggered.

In Illinois, all SO<sub>2</sub> monitoring data are read daily, and IEPA continues its ongoing practice of routine source inspection for emission compliance status at a frequency determined by emissions magnitude, taking prompt actions should any exceedance, or near exceedance, i.e. ninety percent of the SO<sub>2</sub> NAAQS in the area. (The primary SO<sub>2</sub> NAAQS is 0.14 parts per million (ppm) and the secondary NAAQS is 0.50 ppm. These standards are not to be exceeded more than once per year.) These actions include a determination of the source(s) causing such an exceedance or near exceedance based on the meteorological conditions prevailing at the time of the exceedance or near exceedance. In such a case, the IEPA will immediately contact the affected source(s) to ascertain the possible causes, including whether malfunctions or other unusual operating conditions have occurred.

The results of such contact will dictate what further actions IEPA will

then take, such as an inspection leading to enforcement action as authorized by Section 4 of the Illinois Environmental Protection Act, requiring stack testing as authorized by 35 IAC Section 201.282 and Measurement Methods in accordance with Section 201.282, or proposing to the Board that more stringent SO<sub>2</sub> emission limitations may be necessary.

### E. SIP Meets Relevant Requirements Under Section 110 and Part D

Before the Peoria and Tazewell areas may be redesignated to attainment, they must have fulfilled the applicable requirements of section 110 and part D. USEPA interprets section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that became applicable to the subject area prior to or at the time of the submission of the redesignation request. As the redesignation requests were submitted to USEPA in November 1994, requirements that came due prior to that time must be met for the request to be approved. Any requirements of the Act that come due subsequent to the submission of the redesignation requests continue to be applicable to the area (see section 175A(c)) and, if the redesignation is disapproved, the State remains obligated to fulfill those requirements.

USEPA has determined that the State has met the requirements of section 110 and Part D that were applicable prior to submittal of the complete redesignation request.

i. *Part D Plan.* As noted above, in section III(b) of this document, USEPA approved the Illinois SO<sub>2</sub> SIP for the Peoria and Tazewell areas on September 2, 1992. As previously discussed, this action was approved after Illinois revised its compliance methodology satisfactorily correcting several defects in the 1972 SO<sub>2</sub> SIP (57 FR 2817, June 26, 1992). Illinois' SIP includes enforceable emission limitations and provides for the operation of air quality monitors and a program to provide for the enforcement of the emission limits. Approval of this plan also means that the State has a SIP satisfying the applicable requirements of section 110.

ii. *New Source Review.* Section 172(c)(5) of the Act requires the State to submit a SIP revision to require source permits in accordance with section 173 of the Act for the construction and operation of each new or modified major source.

Illinois has submitted a SIP revision request to comply with the requirements of section 172(c)(5). The USEPA has reviewed this SIP revision request and has proposed to approve it (September

23, 1994, 59 FR 48839). Although the USEPA has not taken final rulemaking action on this SIP revision, it should be noted that USEPA does not consider compliance with these requirements to be a prerequisite to the redesignation of an area to attainment of the sulfur dioxide NAAQS.

USEPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. For more information, refer to the memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment. The rationale for this view is described fully in that memorandum, and is based on the Agency's authority to establish *de minimis* exceptions to statutory requirements. See *Alabama Power Co. v. Costle*, 636 F. 2d 323, 360-61 (D.C. Cir. 1979). As discussed above, the State of Illinois has demonstrated that the Peoria and Tazewell areas will be able to maintain the standard without part D NSR in effect and, therefore, the State need not have a fully-approved part D NSR program prior to approval of the redesignation requests for those areas.

iii. *Conformity*. Section 176(c) of the Act requires the States to revise their SIPs to establish criteria and procedures to ensure that before Federal actions are taken, they conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by the States be consistent with Federal conformity regulations that the Act required USEPA to promulgate. Congress provided for the State revisions to be submitted 1-year after the date for promulgation of final USEPA conformity regulations. When that date passed without such promulgation, USEPA's General Preamble for the Implementation of Title I informed the States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557, April 16, 1992).

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188). The transportation conformity regulations do

not apply to the SO<sub>2</sub> pollutant because SO<sub>2</sub> is not emitted by transportation sources. However, the general conformity regulations do encompass SO<sub>2</sub> nonattainment and maintenance areas.

The USEPA promulgated final general conformity regulations on November 30, 1993 (58 FR 63214). These conformity regulations require the States to adopt general conformity provisions in the SIPs for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. Pursuant to section 51.851 of the general conformity rule, the State of Illinois is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadline for this submittal did not become due until after the Peoria and Tazewell redesignation request (November 10, 1994), it is not an applicable requirement under section 107(d)(3)(E)(V) and, thus does not affect approval of the redesignation request. It should be noted, however, that regardless of the attainment status of Peoria and Tazewell Counties, Illinois is obligated under the general conformity rule to submit the conformity SIP revision, including covering Peoria and Tazewell Counties by the deadlines discussed here, because they will be maintenance areas. Therefore, the attainment status of Peoria and Tazewell Counties should not be an issue in this case. It is further noted that the Illinois redesignation request for Peoria and Tazewell Counties indicates that the State of Illinois will submit a SIP revision to meet USEPA's conformity requirements after Illinois has had sufficient time to review and act on USEPA's final conformity regulations.

#### IV. Final Rulemaking Action

The State of Illinois has met the requirements of the Act. The USEPA approves the redesignation of Peoria County (Hollis and Peoria Townships) and Tazewell County (Groveland Township) to attainment of the SO<sub>2</sub> primary and secondary NAAQS.

Because USEPA considers this action to be noncontroversial and routine, the USEPA is approving it without prior approval. This action will become effective on June 5, 1995. However, if the USEPA receives adverse comments by May 4, 1995, then the USEPA will publish a document that withdraws the action, and will address these comments in the final rule on the requested redesignation and SIP revision which has been proposed for approval in the

proposed rules section of this **Federal Register**.

The comment period will not be extended or reopened. This withdrawal will be done on a geographic basis if the adverse comments received do not concern the two geographic 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 affected. 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 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 June 5, 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 action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Parts 52 and 81**

Environmental protection, Air pollution control, Sulfur dioxide.

Dated: March 22, 1995.

David A. Ullrich,

Acting Regional Administrator.

**PART 52—[AMENDED]**

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

Authority: 42 U.S.C. 7402-7671q.

**Subpart O—Illinois**

2. Section 52.724 is amended by adding paragraph (h) to read as follows:

**§ 52.724 Control strategy: Sulfur dioxide.**  
\* \* \* \* \*

(h) Approval—On November 10, 1994, the Illinois Environmental Protection Agency submitted a sulfur dioxide redesignation request and maintenance plan for Peoria and Hollis Townships in Peoria County and Groveland Township in Tazewell County to redesignate the townships to attainment for sulfur dioxide. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(d) of

the Clean Air Act (Act) as amended in 1990.

**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 Illinois SO<sub>2</sub> table is amended by revising the entries for Peoria County and Tazewell County to read as follows:

**§ 81.314 Illinois.**

\* \* \* \* \*

ILLINOIS—SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standard	Cannot be classified	Better than national standards
Peoria County	*	*	*	X
Tazewell County	*	*	*	X

\* \* \* \* \*  
[FR Doc. 95-8213 Filed 4-3-95; 8:45 am]  
BILLING CODE 6560-50-P

**40 CFR Part 260**

[FRL-5183-5]

**Hazardous Waste Management System; Testing and Monitoring Activities**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is amending its hazardous waste regulations under subtitle C of the Resource Conservation and Recovery Act (RCRA) for testing and monitoring activities. This amendment clarifies the temperature requirement for pH measurements of highly alkaline wastes and adds Method 9040B (pH Electrometric Measurement) and Method 9045C (Soil and Waste pH) to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846. This amendment will provide a better and more complete analytical technology for

RCRA testing in support of hazardous waste identification under the corrosivity characteristic (40 CFR 261.22).

EFFECTIVE DATE: April 4, 1995. The incorporation by reference of the publication listed in the regulations is approved by the Director of the Federal Register as of April 4, 1995.

ADDRESSES: The official record for this rulemaking (Docket No. F-95-W2TF-FFFF) is located at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (room M-2616), and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. The public may copy a maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost \$0.15 per page.

Copies of the Third Edition of SW-846 as amended by Updates I, II, IIA, and IIB are part of the official docket for this rulemaking, and also are available from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402, (202) 512-1800. The GPO document number is 955-001-

0000-1. New subscriptions to SW-846 may be ordered from GPO at a cost of \$319.00 (subject to change). There is a 25% surcharge for foreign subscriptions and renewals.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424-9346 (toll free) or call (703) 920-9810; or, for hearing impaired, call TDD (800) 553-7672 or (703) 486-3323. For technical information, contact Oliver Fordham, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260-4761.

**SUPPLEMENTARY INFORMATION:**

**I. Authority**

These regulations are being promulgated under the authority of sections 1006, 2002(a), 3001-3007, 3010, 3013, 3014, 3016 through 3018, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974].