Deputy Secretary, the Under Secretary for Health, the Under Secretary for Benefits, the Under Secretary for Memorial Affairs, and other senior officials who will serve as advisory members on an ad hoc basis when necessary to address specific issues.

The Secretary also is designating the ASRPM as the Department's Regulatory Policy Officer in accordance with Executive Order 12866. Section 6(a) of the Executive Order requires Federal agencies to designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer is to be involved in each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in the Executive Order. With the establishment of ORPM, the ASRPM is assuming those responsibilities from the General Counsel.

This document also makes minor technical amendments to 38 CFR 2.7, which is a delegation of authority that concerns the provision of relief on account of administrative error.

Administrative Procedure Act

This document is being published as a final rule pursuant to 5 U.S.C. 553, which excepts matters pertaining to internal agency management and personnel from its notice, comment, and delayed effective date requirements.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This final rule will have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603–604.

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance program numbers for this rule.

List of Subjects in 38 CFR Part 2

Authority delegations (Government agencies).

Approved: May 2, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, unless otherwise noted.

■ 2. Section 2.6 is amended by adding paragraph (l) and an authority citation at the end of the section to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

* * * * *

(l) *Assistant to the Secretary, Office of Regulation Policy and Management.* The Assistant to the Secretary for Regulation Policy and Management (ASRPM) is delegated authority:

(1) To act on all matters assigned to the Office of Regulation Policy and Management, except such matters as require the personal attention or action of the Secretary or the Secretary's Regulatory Policy Council.

(2) To manage and coordinate the Department's rulemaking activities, including the revision and reorganization of regulations.

(3) To serve as the Regulatory Policy Officer for the Department's rulemaking activities in accordance with Executive Order 12866.

(Authority: 38 U.S.C. 501, 512)

■ 3. Section 2.7 is amended by:

■ A. In the first sentence of paragraph (b), removing ''210(c)(3)'' and adding, in its place, ''503(b)'' and removing ''widow'' and adding, in its place, ''surviving spouse''.

■ B. Adding an authority citation at the end of the section.

The addition reads as follows:

§ 2.7 Delegation of authority to provide relief on account of administrative error.

* * * * *

(Authority: 38 U.S.C. 503, 512)

[FR Doc. 03–11844 Filed 5–12–03; 8:45 am]

BILLING CODE 8320–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL 184–1a; FRL–7481–3]

Approval and Promulgation of Implementation Plan; Illinois New Source Review Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a requested revision to the Illinois State Implementation Plan (SIP), affecting air permit rules, submitted on August 31, 1998. The submittal revises provisions for major modifications to stationary sources to align more closely with the Clean Air Act (CAA).

DATES: This rule is effective on July 14, 2003, without further notice, unless EPA receives written adverse comments by June 12, 2003. If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the proposed approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois 60604. Please contact Steve Marquardt at (312) 353–3214 to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Steve Marquardt, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 353–3214, E-Mail Address: *marquardt.steve@epa.gov.*

SUPPLEMENTARY INFORMATION: This section addresses the following questions:

What does this document address?
What is the legal basis of the changes that EPA is approving?
What is the impact of these changes on the Emission Reductions Market System (ERMS)?
What is involved in this final action?

What Does This Document Address?

Illinois' rules for nonattainment New Source Review (NSR), 35 Ill. Adm. Code 203, are designed to ensure that the

construction of a major new source of air pollution or a large increase of emissions at an existing source does not interfere with the attainment demonstration and does not delay timely achievement of the ambient air quality standards. There are four substantive requirements imposed upon owners or operators of major projects, as set forth in part 203. The first of these is the imposition of Lowest Achievable Emission Rate (LAER) or for certain existing sources, Best Available Control Technology (BACT) on emissions of the nonattainment pollutant from the major project. Appropriate limits are established on a case by case basis in the permitting process. The second requirement is that the emissions of the nonattainment pollutant from a major project must be accompanied by emission offsets from other sources in the nonattainment area. This assures that the total emissions of the nonattainment pollutant will remain within the levels accommodated by the State's attainment demonstration. The third requirement is compliance by other sources in the State which are under common ownership or control with the person proposing the project. The final requirement is an analysis of alternatives to the particular project, to determine whether the benefits of the project outweigh the environmental and social costs.

The amendments to 35 Ill. Adm. Code 203 are intended to better track the language of sections 182(c)(6), (7), and (8) of the CAA, and to make other revisions consistent with this effort. These changes deal with how one determines whether a proposed change at a source is a major modification. Tracking the language of these sections more closely allows Illinois to better accommodate EPA guidance on interpretation of these provisions of the CAA. In particular, Illinois has amended part 203 so that it does not conflict with EPA's ''Notice of Proposed Rulemaking, Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR),'' 61 FR 38249 (July 23, 1996). One topic addressed by EPA in this 1996 proposed rulemaking was sections 182(c)(6), (7) and (8) of the CAA (61 FR 38298–38302).

When the EPA finalizes its NSR rulemaking establishing guidance on these sections of the CAA, Illinois' NSR rules will have to be reevaluated. The Illinois EPA has committed to undertaking such a review of Illinois' NSR rules upon final EPA NSR rulemaking (Illinois EPA comments filed to the Pollution Control Board, November 6, 1997).

What Is the Legal Basis of the Changes That EPA Is Approving?

The statutory basis for the changes to part 203 is sections 182(c)(6), (7) and (8) of the CAA. These provisions establish criteria for determining the applicability of nonattainment NSR for modifications in serious and severe ozone nonattainment areas.

The De Minimis Rule: Section 182(c)(6) of the CAA

The ''*de minimis* rule,'' section 182(c)(6) of the CAA, specifies the basic approach for determining whether proposed modifications in serious and severe ozone nonattainment areas are subject to nonattainment NSR. In these areas, the determination whether a project at a source is a major modification must consider other projects at the source over the last five calendar years. If the sum of the particular projects' emissions of an ozone precursor, (*e.g.*, volatile organic material), and increases and decreases in emissions from other ''contemporaneous'' projects is significant, *i.e.*, more than a ''*de minimis*'' threshold of 25 tons per year, the particular project is major and subject to the requirements of NSR. The State of Illinois has adopted this provision and is making no changes to it. (Refer to 35 Ill. Adm. Code 203.209(b)).

In addition, Illinois had adopted NSR rules that restricted the role of contemporaneous emission decreases at a source in certain circumstances. In particular, Illinois' NSR rules allowed applicability of NSR to be triggered for a discrete operation, unit or other pollutant emitting activity irrespective of decreases elsewhere at the source, if a proposed project would result in a significant increase in emissions at such operation or unit. For this purpose, other emission increases and decreases at the discrete operation or unit during the contemporaneous time period could be considered, but not decreases elsewhere at the source. As a result, projects with significant increases in emissions at individual units or operations could trigger nonattainment NSR even if the overall net change in emissions at a source was not significant. This was a consequence of Illinois' historic interpretation of the language of sections 182(c)(7) and (8) of the CAA.

The various amendments to 35 Ill. Adm. Code part 203, which EPA is approving, remove provisions that could trigger NSR applicability for individual units or operations in the manner explained above. The amendments also make related changes to the rules. These amendments allow Illinois to follow the proposed interpretation of section 182(c)(6), (7) and (8) of the CAA published by EPA in the **Federal Register** in July 1996. By making the language of 35 Ill. Adm. Code part 203 more consistent with the language of the CAA, Illinois can accommodate EPA's published interpretation. As stated above, the Illinois EPA has committed to reevaluate part 203 upon EPA finalization of its federal rules establishing guidance on these sections of the CAA.

Special Rules for Modifications: Sections 182(c)(7) and (8) of the CAA

Section 182(c)(7) and (8) of the CAA are the ''Special Rule for Modifications of Sources Emitting Less Than 100 Tons'' and the ''Special Rule for Modifications of Sources Emitting 100 Tons or More.'' These provisions contain additional applicability provisions for major modifications in serious and severe ozone nonattainment areas. In general, they provide that a discrete operation, unit, or other pollutant emitting activity at a source with a significant emission increase (*i.e.*, more than a *de minimis* increase) shall be considered a major modification unless the owner or operator of the source elects to offset the emissions from other operations, units, or activities within the source at an internal offset ratio of 1.3 to 1. If a source elects to provide internal offsets, a proposed modification may be excused from some or all of the NSR requirements. Illinois' NSR rules at 35 Ill. Adm. Code 203.207 and 203.301 generally provided and continue to provide the relief offered by sections 182(c)(7) and (8) of the CAA. However, as explained above, provisions were also included in Illinois' NSR rules that allowed a major modification to be triggered by proposed increases in emissions at an individual emission unit.

The interpretation of section 182(c)(7) and (8) of the CAA published by EPA in 1996 recognizes that a source may not have enough emissions decreases to internally ''net out'' an entire proposed modification to 25 tons or less so that the modification is *de minimis*. However, where a proposed modification involves more than one discrete unit, the source may have sufficient creditable internal decreases that could be applied at a 1.3 to 1 offset ratio against the emissions increase at particular units. In such circumstances, sections 182(c)(7) and (8) of the CAA function to allow a source to use creditable internal decreases that are

insufficient to avoid nonattainment NSR for an entire project to still avoid NSR requirements for certain units involved in a major modification. Illinois has made changes to its NSR rules so as to be able to follow this interpretation.

Review of Individual Amendments to Illinois' NSR Rules

The first change made by Illinois was to revise 35 Ill. Adm. Code 203.207(d), the applicability criteria for major modifications in serious and severe ozone nonattainment areas. The amendment better follows the wording of section 182(c)(6) of the CAA. Accordingly, 35 Ill. Adm. Code 203.207(d) no longer provides that changes at a discrete operation or unit can be subject to NSR when the source as a whole would not experience a *de minimis* increase in emissions as a result of the proposed modification.

A related change was made to 35 Ill. Adm. Code 203.206(d), a provision in the applicability criteria for major sources dealing with reconstruction of a source. Illinois deleted this provision, which allowed reconstruction of a source to be treated as a major new source. This provision applied in Illinois when changes at an individual operation or unit could trigger nonattainment NSR independent of emission decreases elsewhere at the source. This provision is no longer considered relevant by Illinois under the amended NSR rules with source-wide netting of contemporaneous emissions increases and decreases available to determine whether a proposed project would be a major modification.

Illinois also made a related change to 35 Ill. Adm. Code 203.207(c)(1), in the applicability criteria for major modifications. Illinois deleted the specific exclusion for replacements since the term reconstruction was no longer available to govern this exclusion.

Illinois added 35 Ill. Adm. Code 203.207(e) and revised 35 Ill. Adm. Code 203.301(e) to better follow the language of section 182(c)(7) of the CAA, the ''Special Rule for Modifications of Sources Emitting Less Than 100 Tons.'' As allowed by this special rule for modifications at smaller sources, Illinois' NSR rules do not apply the requirements of nonattainment NSR to a discrete operation or unit involved in a major modification for which the source elects and is able to provide internal offsets at a ratio of 1.3 to 1. In addition, major modifications at these smaller major sources are only required to comply with Best Available Control Technology, rather than the Lowest Achievable Emission Rate.

Finally, Illinois added 35 Ill. Adm. Code 203.301(f), replacing previous 35 Ill. Adm. Code 203.301(e)(2), to better follow the language of section 182(c)(8) of the CAA, the ''Special Rule for Modifications of Sources Emitting 100 Tons or More.'' As allowed by this special rule, for modifications at larger major sources, Illinois' NSR rules do not apply the LAER requirement of nonattainment NSR to a discrete operation or unit involved in a major modification for which the source elects and is able to provide internal offsets at a ratio of 1.3 to 1.

What Is the Impact of These Changes on the Emissions Reductions Market System (ERMS)?

The ERMS, which is codified in 35 Ill. Adm. Code Part 205, is a program adopted by Illinois for the Northeastern Illinois ozone nonattainment area to reduce emissions of volatile organic material (VOM) from major stationary sources. Illinois' amendments to 35 Ill. Adm. Code 203 may have an effect on the calculation of certain sources' baselines and allocations of allotment trading units (ATUs) under the ERMS. ERMS required subject sources to determine their baseline levels of volatile organic material emissions. Generally, sources receive annual allotments of ATUs equivalent to their baseline emissions less 12%. At the end of each calendar year, sources ''turn in'' ATUs in an amount not less that their volatile organic material emissions during the preceding ozone season. When a sources' emissions exceed its allotment of ATUs, the source must buy ATUs from other sources that have been able to reduce their emissions below their allotments.

Under the amendments to 35 Ill. Adm. Code 203, a source that has a modification to a discrete unit would have the option to net out on a source-wide basis which would mean that the modification would not be subject to requirements of NSR. This would allow sources to potentially have a larger baseline under ERMS because they are now subject to less stringent requirements pursuant to nonattainment NSR.

This final rule is not anticipated to significantly effect the ERMS baselines that have already been set. Those baselines were set generally using the average of the two seasonal allotments periods with the highest VOM emissions during 1994, 1995, and 1996. The sources that set their baselines under this requirement did so prior to the approval of this rule change and were processed according to the rules that applied at that time. Any change requested by a source to its baseline would entail a significant revision to the source's CAAPP permit and can be evaluated on an individual basis.

What Is Involved in This Final Action?

EPA is approving a requested revision to Illinois SIP affecting the nonattainment NSR rules at 35 Ill. Adm. Code 203, submitted on August 31, 1998. The amendments to 35 Ill. Adm. Code 203 are intended to better track the language of sections 182(c)(6), (7) and (8) of the CAA, and to make other revisions consistent with this effort. Tracking of these sections more closely allows Illinois to accommodate EPA guidance these provisions of the CAA.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 (Pub. L. 104–4).

This rule also does not have tribal implications because it will 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). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 July 14, 2003. 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

Air pollution control, Environmental protection, Incorporation by reference, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: April 2, 2003.

Bharat Mathur,

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)(167) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(167) On August 31, 1998, Illinois submitted revisions to its major stationary sources construction and modification rules (NSR Rules) as a State Implementation Plan revision request. These revisions apply only in areas in Illinois that have been designated as being in serious or severe nonattainment with the national ambient air quality standards for ozone.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter A: Permits and General Provisions, Part 203 Major Stationary Sources Construction and Modification, Subpart B: Major Stationary Sources in Nonattainment Areas, Section 203.206 Major Stationary Source and Section 203.207 Major Modification of a Source; and, Subpart C: Requirements for Major Stationary Sources in Nonattainment Areas, Section 203.301 Lowest Achievable Emissions Rate. Amended in R98–10 at 22 Ill. Reg. 5674, effective March 10, 1998.

[FR Doc. 03–11749 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[FRL–7497–4]

Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the Federal Operating Permits Program under title V of the Clean Air Act (Act) to extend the date by which State-exempt major agricultural sources in California must pay fees and to allow their permit applications to be considered complete even though fees may not have been paid on or before the date that applications are due. This action allows EPA to process the applications and issue permits while the Agency computes a fee amount based on the cost of administering the permits program for these sources. The amendments extend the due date for submitting operating permit fees to EPA until May 14, 2004, for agricultural sources that are major sources subject to title V but are not being permitted by 35 local air districts in the State of California. We are issuing the amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments.

DATES: This direct final rule will be effective on June 27, 2003 unless significant adverse comments are received by June 12, 2003. If significant adverse comments are received, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be submitted by mail to: EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR–2003–0047. By hand delivery/courier, comments may be submitted to EPA Docket Center, Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW., Washington, DC, 20460, Attention Docket ID No. OAR–2003–00047.

FOR FURTHER INFORMATION CONTACT: For further information, contact Ms. Candace Carraway, U.S. EPA, Information Transfer and Program