

enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan 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.*, EPA 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, EPA 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.

SIP approvals under section 110 and subchapter I, part D of the CAA 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 any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2) and 7410 (k) (3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million

or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 20, 1995.

Patrick M. Tobin,
Acting Regional Administrator.

Part 52 of chapter I, title 40, *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 II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(85) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(85) The VOC revisions to the North Carolina State Implementation Plan which were submitted on March 3, 1995, and on May 24, 1995.

(i) Incorporation by reference.

(A) Regulations 15A NCAC 2D .0955, .0956, and .0957 effective on April 1, 1995.

(B) Regulations 15A NCAC 2D .0950, and .0104 effective on May 1, 1995.

(ii) Other material. None.

* * * * *

[FR Doc. 96-1841 Filed 1-31-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[NC-73-1-7225a; NC-77-2-7726a; FRL-5337-4]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 15, 1994, and May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions include the adoption of new air quality rules and amendments to existing air quality rules.

The major rule changes include the addition of new sections for Vapor Return Piping for Stage II Vapor Recovery and Stage II Vapor Recovery. Other major revisions to the SIP include the amendments of regulation for Sources in Nonattainment Areas, Applicability, Compliance Schedules for Sources in Nonattainment Areas, Alternative Compliance Schedules, Exception from Compliance Schedules, Gasoline Service Stations Stage I, Gasoline Truck Tanks, and Vapor Collection Systems, Petroleum Liquid Storage in External Floating Roof Tanks, and Petition for Alternative Controls.

DATES: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to:

Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection

Agency, 401 M Street, SW,
Washington, DC 20460

Environmental Protection Agency,
Region 4 Air Programs Branch, 345
Courtland Street, NE, Atlanta, Georgia
30365

North Carolina Department of
Environment, Health and Natural
Resources, 512 North Salisbury Street,
Raleigh, North Carolina 27604

FOR FURTHER INFORMATION CONTACT:

Randy Terry, Regulatory Planning and
Development Section, Air Programs
Branch, Air, Pesticides & Toxics
Management Division, Region 4
Environmental Protection Agency, 345
Courtland Street, NE, Atlanta, Georgia
30365. The telephone number is 404/
347-3555 x4212.

SUPPLEMENTARY INFORMATION: On August
15, 1994, the State of North Carolina,
through the North Carolina Department
of Environment, Health and Natural
Resources, submitted revisions covering
the adoption of new air quality rules,
and amendments to existing air quality
rules that were the subject of public
hearings held on February 24, and 28,
1994. This submittal led to several EPA
comments that were addressed in a
second submittal received by EPA on
May 26, 1995. The second submittal was
the subject of a public hearing on
February 1, 1995.

EPA is approving the following new
rules and revisions of existing rules in
the North Carolina SIP. These new rules
and revisions are consistent with the
requirements of the Clean Air Act and
EPA guidance.

.0531 Sources in Nonattainment Areas

This rule has been amended to extend
its coverage to a 1992 ozone
nonattainment area that has been
redesignated attainment if a violation of
the ambient air quality standard occurs
after the redesignation to attainment.
The coverage would be extended by the
Director noticing in the *North Carolina
Register* that the area is in violation of
the ambient air quality standard for
ozone.

.0902 Applicability

This rule has been amended to extend
coverage of section 15A NCAC 2D. .0900
Volatile Organic Compounds, to a 1992
ozone nonattainment area that has been
redesignated attainment if a violation of
the ambient air quality standard occurs
after the redesignation to attainment.
Permitted facilities within the area of
violation that are or may be subject to
this section will also receive written
notification.

*.0907 Compliance Schedules for Source
in Nonattainment Areas*

This rule has been amended to clarify
its applicability.

*.0909 Compliance Schedules for
Sources in New Attainment Areas*

This rule has been amended to
provide compliance schedules by which
sources brought under the rules in
section 15A NCAC 2D .0900, Volatile
Organic Compounds (VOCs), because of
the Director's notice in the *North
Carolina Register*, can come into
compliance.

.0928 Gasoline Service Stations Stage I

This rule has been amended to clarify
Stage I control requirements. The rule
has been clarified to show that it applies
to both the delivery vessels and the
station and that the delivery vessel and
vapor collection system at the station
are to meet the pressure and vacuum
specifications of 15A NCAC 2D .0932
Gasoline Truck Tanks and Vapor
Collections Systems. An exemption has
been added for farm tanks less than
2000 gallons and for tanks used
exclusively to test fuel dispensing
meters.

*.0932 Gasoline Truck Tanks and Vapor
Collection Systems*

This rule has been amended to clarify
that annual testing of vapor collection
systems is required only at bulk gasoline
plants and bulk gasoline terminals.

*.0933 Petroleum Liquid Storage in
External Floating Roof Tanks*

This rule has been amended to
exempt external floating tanks of
welded construction equipped with a
metallic type shoe primary seal and a
shoe mounted secondary seal from the
secondary seal requirement and not
from the entire rule.

.0952 Petition for Alternative Controls

This rule has been amended to extend
it to areas that become subject to section
15A NCAC 2D .0900, VOCs, because of
notice that the area is in violation of
the ambient air quality standard for ozone.

*.0953 Vapor Return Piping for Stage II
Vapor Recovery*

This rule has been adopted to require
piping for Stage II vapor recovery
controls to be installed at new gasoline
service stations and tanks in the 1992
ozone nonattainment areas. This rule
contains the specifications for Stage II
vapor recovery piping.

.0954 Stage II Vapor Recovery

This rule has been adopted because it
contains the specifications for stage II

vapor recovery controls. This rule is a
contingency measure that applies to all
facilities, in areas that are or will be
designated nonattainment for ozone,
that dispense gasoline unless the facility
has met the criteria to be exempted. The
following gasoline dispensing facilities
are exempt from this rule.

1. Any facility which dispenses
10,000 gallons or less of gasoline during
calendar month;

2. Any facility which dispenses
50,000 gallons or less during calendar
month and is an independent small
business marketer of gasoline;

3. Any facility which dispenses
gasoline exclusively for refueling
marine vehicles, aircraft, farm
equipment, and emergency vehicles; or

4. Any tanks used exclusively to test
the fuel dispensing meters.

In addition to the above revisions EPA
is approving a revision applicable to the
following Sections: 15A NCAC 2D
.0902, .0907, .0910, .0911, .0952,
and .0954. This revision adjusts final
compliance dates, for VOC sources
located in nonattainment areas, to allow
reasonable time frames for
implementation.

Final Action

EPA is approving the above
referenced revisions to the North
Carolina SIP. This action is being taken
without prior proposal because the EPA
views this as a noncontroversial
amendment and anticipates no adverse
comments. However, in a separate
document in this Federal Register
publication, the EPA is proposing to
approve the SIP revision should adverse
or critical comments be filed. This
action will be effective April 1, 1996
unless, March 4, 1996, adverse or
critical comments are received.

If the EPA receives such comments,
this action will be withdrawn before the
effective date by publishing a
subsequent document that will
withdraw the final action. All public
comments received will then be
addressed in a subsequent final rule
based on the separate proposed rule.
The EPA will not institute a second
comment period on this action. Any
parties interested in commenting on this
action should do so at this time. If no
such comments are received, the public
is advised that this action will be
effective April 1, 1996.

Under section 307(b)(1) of the CAA,
42 U.S.C. 7607 (b)(1), petitions for
judicial review of this action must be
filed in the United States Court of
Appeals for the appropriate circuit by
April 1, 1996. Filing a petition for
reconsideration by the Administrator of
this final rule does not affect the finality

of this rule for 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) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan 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., EPA 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, EPA 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.

SIP approvals under 110 and subchapter I, part D of the CAA 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 any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 3, 1995.
Patrick M. Tobin,
Acting Regional Administrator.

Part 52 of chapter I, title 40, *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 II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(88) to read as follows:

§ 52.1770 Identification of plan.

* * * * *
(c) * * *

(88) The VOC RACT regulations, NSR regulations, and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on August 15, 1994. The Stage II regulations and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on May 24, 1995.

(i) Incorporation by reference.
(A) Regulations 15A NCAC 2D .0531, .0909, .0928, .0932, .0933, and .0953 effective on July 1, 1994.

(B) Regulations 15A NCAC 2D .0902, .0907, .0910, .0911, .0952, and .0954 effective on May 1, 1995.

(ii) Other material. None.

* * * * *

[FR Doc. 96-1939 Filed 1-31-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[OH60-1-6377a; FRL-5410-1]

Approval and Promulgation of Air Quality Implementation Plans, and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving the ozone State Implementation Plan (SIP) revision and redesignation requests submitted by the State of Ohio for the purpose of redesignating Franklin, Delaware, and Licking Counties (Columbus area) from marginal nonattainment to attainment for ozone; and revising Ohio's SIP to include a 1990 base-year ozone precursor emissions inventory for the Columbus ozone nonattainment area. Ground-level ozone, commonly known as smog, is an air pollutant which forms on hot summer days which harmfully affects lung tissue and breathing passages. The redesignation to attainment of the health-based ozone air quality standard is based on a request from the State of Ohio to redesignate this area and approve its maintenance plan, and on the supporting data the State submitted in support of the requests. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change, and a maintenance plan is put in place which is designed to ensure the area maintains the ozone air quality standard for the next ten years. The emissions inventory was submitted to satisfy a Federal requirement that States containing ozone nonattainment areas submit