disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities, because it does not remove existing state requirements or substitute a new Federal requirement.

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 has exempted this regulatory action from E.O. 12866 review.

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 SIP, the state has elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. The 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 or local governments in the aggregate or to the private sector. EPA has determined that these rules result in no additional costs to tribal government.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 6, 1996.

Dennis Grams,

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 AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(93) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(93) On February 14, 1995, the Missouri Department of Natural Resources (MDNR) submitted a new rule which pertains to general conformity.

(i) Incorporation by reference.

(A) New rule 10 CSR 10–6.300, entitled Conformity of General Federal Actions to State Implementation Plans, effective May 28, 1995.

3. Section 52.1323 is amended by adding paragraph (h) to read as follows:

§ 52.1323 Approval Status.

* * * * *

(h) The state of Missouri commits to revise 10 CSR 6.300 to remove language in paragraphs (3)(C)4. and (9)(B) which is more stringent than the language in the Federal General Conformity rule. In a letter to Mr. Dennis Grams, Regional Administrator, EPA, dated December 7, 1995, Mr. David Shorr, Director, MDNR, stated:

> We commit to initiating a change in the wording in the above paragraphs [paragraphs (3)(C)4. and (9)(B)] of Missouri rule 10 CSR 10–6.300, and to submit the change to EPA within one year from the date of this letter [December 7, 1995]. We intend that the change will give our rule the same stringency as the General Conformity Rule.

[FR Doc. 96–5733 Filed 3–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[OH89–1–7254a; FRL–5434–7]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: This document approves a State Implementation Plan (SIP) revision for the State of Ohio for the general conformity rules. The general conformity SIP revisions enable the State of Ohio to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level. General Conformity assures that federal actions conform to the State plan to attain and maintain the public health based air quality standards. The rationale for the approval and other information is provided in this document.

DATES: This action is effective May 10, 1996 unless adverse comments are received by April 10, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the SIP revision are available for inspection at the following address: (It is recommended that you telephone Patricia Morris at (312) 353–8656 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–8656.

SUPPLEMENTARY INFORMATION:

I. Background

Conformity provisions first appeared in the Clean Air Act (CAA) amendments of 1977 (Pub. L. 95–95). Although these provisions did not define the term conformity, they provided that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP that has been approved or promulgated for the nonattainment or maintenance areas.

The CAA Amendments of 1990 expanded the scope and content of the

conformity provisions by defining conformity to an implementation plan. Conformity is defined in Section 176(c) of the CAA as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA requires USEPA to promulgate criteria and procedures for determining conformity of all other Federal actions in the nonattainment or maintenance areas (actions other than those under Title 23 U.S.C. or the Federal Transit Act) to a SIP. The criteria and procedures developed for this purpose are called ''general conformity'' rules. The actions under Title 23 U.S.C. or the Federal Transit Act will be addressed in a separate Federal Register document. The USEPA published the final general conformity rules in the November 30, 1993, Federal Register and codified them at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The general conformity rules require the States and local air quality agencies (where applicable) to adopt and submit a general conformity SIP revision to the USEPA not later than November 30, 1994.

II. Evaluation of State Submittal

Pursuant to the requirements under Section 176(c)(4)(C) of the CAA, as amended November 15, 1990, the Ohio Environmental Protection Agency (OEPA) submitted a State Implementation Plan (SIP) revision to the USEPA on August 17, 1995. The submittal was found complete on October 5, 1995. In its submittal, the State adopted rules (Ohio Administrative Code OAC 3745–102–01,-02,-03,-04,-05,-06,-07) which repeat verbatim the USEPA general conformity rule (40 CFR Part 93 Subpart B) with only minor clarifications. General conformity is required for all areas which are designated nonattainment or maintenance for any of the six National Ambient Air Quality Standard (NAAQS) criteria pollutants (ozone, carbon monoxide, sulfer dioxide, nitrogen dioxide, lead, and particulate matter).

The OEPA held a public hearing on the general conformity submittal on May 25, 1995. No comments were received by OEPA during the public comment period. Before the public comment period, the OEPA also mailed a copy of the rules to government agencies located in Ohio which would be affected by the rules and requested comments on the rules.

III. USEPA Action

The USEPA is approving the general conformity SIP revision for the State of Ohio. The EPA has evaluated this SIP revision and has determined that the State has fully adopted regulations which meet the provisions of the Federal general conformity rules in accordance with 40 CFR Part 93 Subpart B. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this rule by the OEPA. As stated earlier, the OEPA held a public hearing on the general conformity submittal on May 25, 1995. No comments were received by OEPA during the public comment period.

The USEPA considers this action noncontroversial and routine. Therefore, we are approving it without prior proposal. This action will become effective on May 10, 1996 unless USEPA receives adverse comments by April 10, 1996. However, if USEPA receives adverse comments by April 10, 1996, USEPA will publish a document that withdraws this action.

IV. Miscellaneous

A. *Applicability to Future SIP Decisions*

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.

B. *Executive Order 12866*

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 has exempted this regulatory action from E.O. 12866 review.

C. *Regulatory Flexibility*

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 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 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 Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids 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 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

D. *Petitions for Judicial Review*

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 10, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and

shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, General conformity.

Dated: February 12, 1996.

David A. Ullrich,

Acting Regional Administrator.

40 CFR part 52, 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 KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c) (107) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(107) Approval—On August 17, 1995, the Ohio Environmental Protection Agency submitted a revision to the State Implementation Plan for general conformity rules. The general conformity rules enable the State of Ohio to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(i) *Incorporation by reference.* August 1, 1995, Ohio Administrative Code Chapter 3745–102, effective August 21, 1995.

[FR Doc. 96–5737 Filed 3–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 112, 114, and 117

[FRL–5432–9]

Oil Discharge Program; Removal of Legally Obsolete Rules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today removing from the Code of Federal Regulations (CFR) rules pertaining to the oil and hazardous substances discharge program promulgated under the Clean Water Act (''CWA'') which apply only to violations that occurred prior to enactment of the Oil Pollution Act of 1990 (''OPA''). Because EPA is unaware of any on-going penalty actions for pre-OPA violations, it is deleting these rules from the CFR.

EFFECTIVE DATE: This final rule takes effect on March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Kevin Mould, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, mail code 5202G, phone (703) 603–8728; or the RCRA/Superfund Hotline, phone (800) 424–9346 or (703) 603–9232 in the Washington, DC metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995 the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995 to identify those rules that are obsolete or unduly burdensome. EPA has conducted a review of all of its rules, including rules issued under the CWA. 33 U.S.C. 1251 *et seq.* Based upon this review, EPA is today eliminating the following obsolete CWA rules from the CFR: 40 CFR section 112.6, Part 114, and section 117.22.

II. Obsolete Rules

Civil Penalties for Violation of the Oil Pollution Prevention Regulations (Section 112.6 and Part 114)

The civil penalty provision of the oil pollution prevention regulations (40 CFR 112.6), and the related civil penalty provisions and procedures at 40 CFR part 114 were promulgated in 1974 pursuant to section 311(j) of the CWA. 39 FR 31602, August 29, 1974. Part 112 sets out, for onshore and offshore non-transportation-related facilities, requirements designed to prevent discharges of oil into or upon ''navigable waters and adjoining shorelines.'' 40 CFR 112.6 and 114.1 each provide that violations of the oil pollution prevention regulations may result in the assessment of an administrative penalty of not more than $5,000 per day of violation. 40 CFR 112.6 and 114.1 are based on authority in CWA section 311(j)(2), which, before its amendment by the Oil Pollution Act of 1990 (OPA), limited civil penalties assessed for violations of regulations issued under section 311(j) to ''not more than $5,000 for each such violation.''

OPA repealed CWA section 311(j)(2) and amended CWA section 311(b)(6) to provide that violators of CWA section 311(j) may be assessed a Class I penalty of up to $10,000 per violation (up to a maximum assessment of $25,000), or a Class II penalty of up to $10,000 per day of violation (up to a maximum assessment of $125,000). Further, section 311(b)(6) now provides for different administrative proceedings for these two classes of penalties. Respondents in Class I cases are given a reasonable opportunity to be heard and to present evidence, but the hearing need not meet the requirements of the Administrative Procedure Act (APA) for formal adjudications (5 U.S.C. 554). Class II hearings, however, are on the record and subject to 5 U.S.C. 554.

As a result of these OPA-enacted changes in both the penalty amounts and the procedures needed to be followed in issuing penalties, EPA amended section 112.6 and Part 114 to ensure that the provisions would be applicable only to violations of the Oil Pollution Prevention regulations contained in 40 CFR Part 112 which occurred prior to enactment of OPA (August 18, 1990). 57 FR 52704 (Nov. 4, 1992). At the present time—more than five years after enactment of OPA—EPA is unaware on any on-going penalty actions for violations of the Part 112 regulations which occurred prior to August 18, 1990. EPA is therefore deleting section 112.6 and Part 114 from the CFR.

As explained in a prior Federal Register notice, EPA will use two sets of procedures for assessing administrative penalties for violations of CWA section 311(b)(3) occurring after August 18, 1990. 57 FR 52704 (Nov. 4, 1992). For Class I penalties, the Agency follows generally the procedures set forth in the proposed 40 CFR 28, Non-APA Consolidated Rules of Practice for Administrative Assessment of Civil Penalties. 56 FR 29996 (July 1, 1991). For the assessment of CWA section 311 Class II penalties, the Agency uses as guidance the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits at 40 CFR 22.

Notification of Hazardous Substances Discharge(s) and Prohibition Against Unauthorized Discharges

40 CFR 117 generally establishes the reportable quantities for CWA hazardous substances designated under 40 CFR 116 for purposes of CWA section 311. 40 CFR 117.21 sets out the notification requirement for discharges of designated hazardous substances pursuant to CWA section 311(b)(5). 40 CFR 117.22(b) provides that violation(s) of the notification requirement may result in a fine of not more than $10,000