Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA 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 EPA 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated 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 preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

C. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

D. Petitions for Judicial Review

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 July 14, 1997. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 9, 1997.

Michael Sanderson,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401—7671q.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(97) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(97) On November 20, 1996, the Missouri Department of Natural Resources (MDNR) submitted a revised rule which pertains to general conformity.

(i) Incorporation by reference.

(A) Rule 10 CSR 10–6.300, entitled Conformity of General Federal Actions to State Implementation Plans, effective September 30, 1996.

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

§ 52.1323 Approval status.

* * * * *

(j) The state of Missouri revised 10 CSR 10–6.300 to remove language in paragraphs (3)(C)4 and (9)(B) which made the language more stringent than that contained in the Federal general conformity rule. This fulfills the requirements of the conditional approval granted effective May 10, 1996, as published on March 11, 1996.

[FR Doc. 97–12553 Filed 5–13–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH104–1a; FRL–5822–5]

Approval and Promulgation of Implementation Plans; Ohio Ozone Maintenance Plan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA approves a revision submitted on July 9, 1996, and January 31, 1997, to the ozone maintenance plans for the Dayton-Springfield Area (Miami, Montgomery, Clark, and Greene Counties), Toledo Area (Lucas and Wood Counties), Canton Area (Stark County), Ohio portion of the Youngstown-Warren-Sharon Area (Mahoning and Trumbull Counties), Columbus Area (Franklin, Delaware, and Licking Counties), Cleveland-Akron-Lorain Area (Ashtabula, Cuyahoga, Lake, Lorain, Medina, Summit, Portage, and Geauga Counties), Preble County, Jefferson County, Columbiana and Clinton Counties.

The revision is based on a request from the State of Ohio to revise the Federally approved maintenance plan for these areas to provide the State and the affected areas with greater flexibility in choosing an appropriate ozone contingency measure for each area in the event such a measure is needed. This action approves the State's request as a common-sense approach to protecting air quality in Ohio.

In the proposed rule section of this **Federal Register**, USEPA is proposing approval of this revision, and is now soliciting public comments on this action. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a subsequent final rule based on the proposed rule.

EFFECTIVE DATES: This final rule will become effective on July 14, 1997 unless adverse or critical comments are received by June 13, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the requested maintenance plan revision, and other materials

relating to this rulemaking are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Environmental Protection Specialist, at (312) 886–6084.

SUPPLEMENTARY INFORMATION:

I. Background

During 1993 and 1994, the State of Ohio made a number of submittals of maintenance plans for areas which have been redesignated to attainment for ozone. All of these plans contained contingency provisions which are required as part of Section 175A(d) of the Clean Air Act (CAA) Amendments. These contingency provisions were addressed in detail in the **Federal Register**s approving the State submittals.[1]

On July 9, 1996, the State submitted a request to revise the contingency measure portion of the maintenance plans contained in the approved redesignations for the various counties. The State requested the revision because of concern that the currently approved provisions may not meet the future needs when circumstances regarding controls or technology have changed. The State cited the example of the Stage II vapor control program (one of the approved contingency measures) which becomes less cost-effective out into the future as the automobile fleet turns over with corresponding installation of improved on-board vapor control technology. While the Stage II control measure was effective at the time of implementation, and continues to be at this time; by the year 2010 a significant portion of the automobile fleet will have on-board controls which are expected to serve the same function (controlling gasoline vapors during refueling) as the Stage II requirement. Therefore, the State believes that it is important to retain a degree of flexibility in selecting the appropriate volatile organic compound (VOC) control technology for the circumstances which exist at such time as additional controls become necessary.

[1] The redesignation request approvals and the accompanying discussion of contingency provisions are found in 60 FR 7453 dated February 8, 1995, 60 FR 22289 dated May 5, 1995, 60 FR 39115 dated August 1, 1995, 61 FR 3319 dated January 31, 1996, 61 FR 3591 dated February 1, 1996, 61 FR 11560 dated March 31, 1996, and 61 FR 20458 dated May 7, 1996. The original State submittals and the USEPA's analyses of each of the submittals are maintained in the docket in the Air and Radiation Division in Chicago.

The State of Ohio submitted the following language as a substitute for the previously approved contingency plans for all of the areas listed in this document:

The maintenance plan contingency measures to be considered will be chosen from the following list or an unspecified emission control measure deemed appropriate, based upon a consideration of cost effectiveness, VOC reduction potential, economic and social factors, as the contingency measure for each of these areas.

a. Lower Reid Vapor Pressure (RVP) for gasoline;

b. Reformulated gasoline program;

c. Application of Reasonably Available Control Technology (RACT) on sources covered by new control technology guidelines;

d. VOC offsets for new or modified major sources;

e. Automobile Inspection and Maintenance (I/M); and,

f. Trip reduction programs, including but not limited to employer-based transportation management programs, area-wide rideshare programs, work schedule changes and telecommuting.

The decision on which program is to be implemented would be made and executed within 12 months after a determination that a violation has been monitored after all VOC emission reduction programs contained in the State implementation plan have been implemented.

Reasonably available controls for sources of oxides of nitrogen (NOx RACT) would be a secondary contingency to be implemented after a violation occurs after the VOC contingency measure has been fully implemented. This contingency would only apply in those redesignated areas formerly designated moderate non-attainment (the Toledo, Dayton and Cleveland-Akron-Lorain Metropolitan areas).

Each of the areas to which this revision applies have approved maintenance plans which include contingency measures. In this revision the State is broadening the number of measures from which the State or planning agency may choose in order to resolve violations of the ozone ambient air quality standard. For every one of the State's maintenance areas, this revision increases the number of measures from which to choose. Certain of these measures have been addressed in the contingency plan portion of previous State maintenance plan submittals which have been approved by USEPA, as noted in footnote number 1.

II. Contingency Plan Requirements

Section 175A of the CAA requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the national ambient air quality standards that occurs after the redesignation of the area.[2] These contingency measures do not have to be fully adopted at the time of redesignation. However, the contingency plan is considered to be an enforceable part of the State implementation plan (SIP) and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specific event. The contingency plan should identify the measures to be adopted and include a trigger mechanism and a schedule for adoption and implementation.

Back-up measures are required for areas which selected low-RVP as the contingency measure in the maintenance plan. However, USEPA has approved contingency measures which do not commit to specific back-up programs. (The Indianapolis redesignation 59 FR 54391, dated October 31, 1994, contained a maintenance plan measure which did not commit to specific programs. The USEPA agreed with Indiana that circumstances may change significantly over time for a select group of back-up measures, thereby rendering the measure(s) less useful or implementable). For example, the selection of a basic I/M program as a back-up measure today would render a certain amount of VOC reduction from the current fleet of autos. However, the use of basic I/M in the future would not yield the reductions from a fleet of high tech automobiles because the basic program is not sophisticated enough to identify emission failures in new technology cars.

III. The Ohio Maintenance Plan

The Director of Ohio EPA, in a letter to USEPA dated July 9, 1996, requested a revision to the ozone maintenance plans for a number of maintenance areas and maintenance counties. This request was followed up with a letter dated January 31, 1997, containing additional information completing the request. Based on a comment from the Mid-Ohio Regional Planning Commission, a minor change to the July 9, 1996, submittal was made and subsequently submitted as final in the Ohio EPA Director's January 31, 1997, letter to the USEPA. This change allows contingency measure decision makers to include the implementation of an automobile inspection and maintenance program as a contingency measure for all areas

[2] Guidance for contingency measures is found in the memoranda ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992; and ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992.

required to implement an air quality maintenance plan. The original July 9, 1996, submittal allowed only the Toledo area (consisting of Wood and Lucas counties) to implement I/M. This change allows I/M, in addition to other measures, to be made available for all counties which select I/M as a contingency measure.

Maintenance plans for ozone in Ohio have been approved for the Cleveland/Akron/Lorain area consisting of Cuyahoga, Lake, Lorain, Medina, Summit, Portage, Geauga and Ashtabula counties; and the Canton area consisting of Stark county; and, the Youngstown area consisting of Mahoning and Trumbull counties; and, the Dayton area consisting of Montgomery, Greene, Miami and Clark counties; the Columbus area consisting of Franklin, Delaware and Licking counties; and, the counties of Preble, Jefferson, Columbiana, and Clinton. The Ohio contingency measures were required as part of the redesignation to attainment for ozone and are part of these maintenance plans submitted by the State for the various nonattainment areas which were redesignated to attainment for ozone. The listing of areas is found in 40 CFR part 52.1885(b). Each of the maintenance plans included one or more contingency measures to be implemented in the event a violation of the ozone standard was recorded. The revision approved here revises the maintenance plan to include a list of measures from which to choose for each of the various areas. This action allows more flexibility in determining an appropriate emission reduction measure, or mix of measures, should additional controls become necessary. Air quality managers in these areas are not required to select all of the measures listed, but are expected to select the appropriate measure or measures which at the time of decision are expected to reduce the emissions of VOC and return the area to attainment of the ozone standard.

Ohio has chosen the use of low-RVP gasoline and reformulated gasoline as two of a variety of possible automobile fuel contingency measures from which to choose to reduce the emissions of VOC. The State has indicated that additional measures would be available as back-ups in the event the USEPA does not allow the use of low-RVP gasoline. However these back-ups would be selected based on future circumstances, not present expectations of such measures.

This is consistent with USEPA policy regarding approval of low-RVP fuel controls under section 175A of the Clean Air Act.[3] Also, under this policy, USEPA approved the maintenance plan for Preble County, Ohio, on September 21, 1994 (59 FR 48395) which identified low-RVP without requiring a necessity finding at the time of approval of the plan. The finding of necessity would be made at the time the trigger event occurs, and at that time, the State must commit to adopt a back-up measure in the event the USEPA does not agree with the State's submittal of a study to demonstrate that low-RVP gasoline is necessary.

The State will be required to submit an implementation plan revision adopting State fuel control and request a waiver from federal preemption. The waiver request must indicate the quantity of VOC reductions needed to attain the standard, identify and quantify other control measures, provide background information giving the reason why non-fuel measures are not practicable, and show that these non-fuel measures are not sufficient to achieve timely attainment.

IV. Final Action

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on July 14, 1997, unless USEPA receives adverse or critical comments (which have not been previously addressed) by June 13, 1997.

If USEPA receives such comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date, and publish a subsequent **Federal Register** document which withdraws this final action. Public comments received will then be addressed in a subsequent rule.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on July 14, 1997.

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 the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

[3] See memorandum ''Requirements for Reduced RVP in State Maintenance Plans,'' from Michael Horowitz, Office of General Counsel, USEPA, to William L. MacDowell, Air and Radiation Division, Region 5, USEPA, November 8, 1993.

Administrative Requirements

A. 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 D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

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 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, the Administrator certifies 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with 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. This Federal action approves pre-existing requirements under state or

local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

E. 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 July 14, 1997. 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, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: April 23, 1997.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter 1, 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 KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(5) to read as follows:

§ 52.1885 Control strategy: Ozone.

(a) * * *

(5) On July 9, 1996, and on January 31, 1997, the Ohio Environmental Protection Agency submitted a revision to the State's maintenance plan for ozone. This revision affects the contingency measures contained in the maintenance plan for a number of counties throughout the State. (These areas include: in the Dayton area, Montgomery, Greene, Miami, and Clark Counties, in the Toledo area, Lucas and Wood Counties, the Canton area, Stark County, the Youngstown area, Mahoning and Trumbull Counties, the Columbus area, Franklin, Delaware, and Licking Counties, the Cleveland/Akron/Lorain area, Cuyahoga, Lake, Lorain, Medina, Summit, Portage, Geauga and Ashtabula Counties, and also Preble, Jefferson, Columbiana, and Clinton Counties. It provides for greater flexibility in selecting the appropriate control technology for the circumstances which exist at that point in the future if additional controls become necessary. The State of Ohio identified the following language as a substitute for the previously approved contingency plans for all of the areas listed in the ozone maintenance plan (see 40 CFR 52.1885(b)):

(i) The maintenance plan contingency measures to be considered will be chosen from the following list or an unspecified emission control measure deemed appropriate, based upon a consideration of cost effectiveness, VOC reduction potential, economic and social factors, as the contingency measure for each of these areas:

(A) Lower Reid Vapor Pressure for gasoline;

(B) Reformulated gasoline program;

(C) Application of Reasonably Available Control Technology (RACT) on sources covered by new control technology guidelines;

(D) VOC offsets for new or modified major sources;

(E) Automobile Inspection and Maintenance; and,

(F) Trip reduction programs, including but not limited to employer-based transportation management programs, area-wide rideshare programs, work schedule changes and telecommuting.

(ii) The decision on which program is to be implemented would be made and executed within 12 months after a determination that a violation has been monitored after all VOC emission reduction programs contained in the State implementation plan have been implemented.

(iii) Reasonably available controls for sources of oxides of nitrogen (NO_X RACT) would be a secondary contingency to be implemented after a violation occurs after the VOC contingency measure has been fully implemented. This contingency would only apply in those redesignated areas formerly designated moderate non-attainment (the Toledo, Dayton and Cleveland/Akron/Lorain Metropolitan areas).

* * * * *

[FR Doc. 97–12633 Filed 5–13–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE026–1005; FRL–5820–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware—Regulation 24—Control of Volatile Organic Compound Emissions, Section 47—Offset Lithographic Printing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision pertains to Regulation 24, Control of Volatile Organic Compound Emissions, Section 47—Offset Lithographic Printing. This section establishes volatile organic compounds (VOCs) emission standards that represent the reasonably available control technology (RACT) for offset lithographic printing operations. This action is being taken under section 110 of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on June 13, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 566–2182, at the EPA Region III office.

SUPPLEMENTARY INFORMATION:

Background

The Delaware Department of Natural Resources & Environmental Control (DNREC) submitted a revision to the Delaware SIP on December 19, 1994.