overpayment-related records to the overpaid individual.

§ 416.585 Suspension of offset.

If, within 60 days of the date of the notice described in § 416.581 of this subpart, the overpaid individual notifies us that he or she is exercising a right described in § 416.582(a) of this subpart and submits evidence pursuant to § 416.582(b) of this subpart or requests a waiver under § 416.550 of this subpart, we will suspend any notice to the Department of the Treasury until we have issued written findings that affirm that an overpayment is past due and legally enforceable and, if applicable, make a determination that a waiver request cannot be granted.

§ 416.586 Tax refund insufficient to cover amount of overpayment.

If a tax refund is insufficient to recover an overpayment in a given year, the case will remain with the Department of the Treasury for succeeding years, assuming that all criteria for certification are met at that time.

3. The authority citation for subpart N is revised to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); 31 U.S.C. 3720A.

4. Section 416.1403 is amended by deleting the word ''and'' at the end of paragraph (a)(15), replacing the period at the end of paragraph (a)(16) with ''; and'', and adding paragraph (a)(17) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(17) Findings on whether we can collect an overpayment by using the Federal income tax refund offset procedure. (See § 416.583).

* * * * *

[FR Doc. 97–25023 Filed 9–19–97; 8:45 am]

BILLING CODE 4190–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH108–1a; FRL–5894–3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves a State implementation plan (SIP) revision submitted by the State of Ohio on January 3, 1997, which changed the sulfur dioxide limits for the Procter and Gamble Company, Hamilton County, in Ohio Administrative Code (OAC) 3745–18–37. The revised limits provide an actual heat input cap of 922 million British thermal units (BTU) per hour on the combination of all of the Procter and Gamble Company boilers identified in OAC 3745–18–37(GG), to allow for simultaneous operation.

DATES: The direct final approval is effective on November 21, 1997 unless significant adverse or critical comments which have not been previously addressed are received by October 22, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone John Paskevicz at (312) 886–6084 before visiting the Region 5 office.)

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

FOR FURTHER INFORMATION CONTACT: John Paskevicz at (312) 886–6084.

SUPPLEMENTARY INFORMATION:

I. Background

On May 15, 1996, the EPA published a SIP revision completing the approval of the Hamilton County, Ohio sulfur dioxide (SO_2) implementation plan. This plan was approved because it was demonstrated to provide for attainment and maintenance of the SO_2 national ambient air quality standard in Hamilton County. The plan included all major SO_2 sources in the County and listed out each of the appropriate operating parameters in OAC 3745–18–37, as needed to assure attainment and maintenance of the NAAQS as estimated using a rough terrain dispersion model.

On January 3, 1997, Ohio EPA submitted for approval a revision to the Hamilton County SO_2 SIP requesting changes to OAC 3745–18–37(GG), for the air emission sources owned and operated by Procter and Gamble Company. This revision was requested because the original SIP for Procter and Gamble did not provide for the simultaneous operation of the main power boilers while backup boilers are brought on line. The original SIP did not allow for flexibility in operation in the event the main power boilers need to be shut down for maintenance, repaired or operated simultaneously.

The four Procter and Gamble boilers are listed in the documentation to the SIP submittal as having a total maximum heat input capacity of 1098 million BTU/hour. Boiler numbers 1 and 2 are limited to emissions of a maximum of 1.1 pounds of SO_2 per million BTU from each boiler. Boiler number 3 is limited to emissions of a maximum of 1.50 pounds of SO_2 per million BTU actual heat input and average operating rate of 277 million BTU per hour for any calendar day. And boiler number 4 is limited to emissions of a maximum of 2.0 pounds of SO_2 per million BTU using an average operating rate of 450 million BTU per hour for any calendar day.

II. Review of State Submittal

In this submittal, Ohio requests a revision to OAC 3745–18–37(GG) Procter and Gamble sulfur dioxide limits. The revision changes the limits to allow for simultaneous operation of all of the boilers. The submittal provides technical support and includes some of the same material provided for the Hamilton County SIP review submitted in 1993.

In the previous review of the Hamilton County SO_2 SIP, Ohio looked at each of the four boilers at Procter and Gamble individually and made judgments regarding impact at full load of fuel sulfur content on air quality concentrations. Ohio concluded that the two backup boilers could not operate on oil when the main power boilers, using coal, were in operation. Therefore, the backup boilers were not allowed to emit SO_2 and were given a 0.0 pounds of SO_2 per million BTU limit when the main boilers were operating, as presumed, at full load.

In developing this new revision, the approach was to develop a limit for boiler operation in a worst case situation by operating all boilers at the maximum level. The backup boilers with short stacks were operated fully on and then the main boilers, with taller stacks, were brought on. From the State's analysis, Ohio established an allowable cap for all four boilers, based on a concentration to capacity ratio to an operating rate of 922 million BTU per hour daily average. Thus, when in operation, boilers number 1 and 2 are to be limited to a maximum of 1.1 pounds of SO_2 per million BTU actual heat input from each boiler; Boiler number 3 is to be limited to a maximum of 1.50 pounds of SO_2 per million BTU actual heat input at an average operating rate

of 277 million BTU per hour; Boiler number 4 is to be limited to a maximum of 2.0 pounds of SO_2 per million BTU actual heat input at an average operating rate of 450 million BTU per hour.

In addition, boiler number 4 shall use a stack no lower than 213 feet above ground level.

As a result of its analysis of Procter and Gamble's emissions, Ohio believes that by capping the limit for all four boilers in any combination of rate configurations, to 922 million BTU per hour the result will continue to maintain air quality concentrations in areas of maximum impact to below the short-term SO_2 standards.

The material submitted by the State in support of this SIP revision contained numerous references regarding the reason for the revision. In addition to the stated need for operational flexibility, it was reported that this revision was needed because the approved rule did not allow for simultaneous operation during start-up and shut-down of boilers during a maintenance or repair scenario. Throughout the submittal there are references to ''* * * simultaneous operation of the main power boilers while back-up boilers are brought on line * * *'', or ''* * * simultaneous operation of boilers during start-ups while maintaining an overall operational cap * * *'', or ''* * * ramping up of the back-up boilers while main power boilers are shutting down for maintenance or repair.'' In a letter to EPA dated February 25, 1994, the apparent intent of the revision expressed by the State is more explicit, ''* * * where boilers 3 and 4 are being taken off-line and boilers 1 and 2 are being brought on line it is imperative for production purposes that there be some degree of simultaneous operation of the four boilers during the transition period * * *.'' It appears from this material that the intent of the revision was for temporary operation at the 922 million BTU per hour cap. However, the rule submitted in this revision allows Procter and Gamble to operate the boilers on a continual basis up to the 922 million BTU per hour cap. This represents a substantial increase in sulfur dioxide emissions over the originally approved rule in the Hamilton County SIP. EPA estimates the emissions increase to be approximately 900 tons of sulfur dioxide per year more under a scenario of continuous operation at the 922 million BTU per hour cap.

The State submits that the air quality analysis, performed by Procter and Gamble and reviewed by Ohio EPA, while operating the boilers at a 922 million BTU per hour cap, shows that the increase in emissions will not affect the short-term air quality. The culpability analysis for this revision, which was based on the original Hamilton County SIP revision, shows that the air quality will not be adversely affected in the short-term for sulfur dioxide. This analysis looked at both the 3-hour and 24-hour standard. EPA had agreed, in the Hamilton County modeling, that the short-term analysis was most critical for this type of evaluation and that the culpability analysis submitted for this revision appears to demonstrate protection of air quality.

III. Final Rulemaking Action

The EPA has reviewed the State's request to cap the operating heat input capacity of the four boilers at Procter and Gamble to 922 million BTU per hour daily average, and has reviewed the materials provided by the State as part of the request. EPA agrees that restricting the total overall capacity to 922 million BTU per hour is shown by modeling to achieve the original ambient air quality goal of the Hamilton County sulfur dioxide implementation plan yet provides the operator total operating flexibility beneath the 922 million BTU per hour cap. Therefore, EPA approves this revision to the Hamilton County plan.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from review under Executive Order 12866.

B. Regulatory Flexibility Act

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 301, subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (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 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 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 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 November 21, 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).)

E. Audit Privilege SIP Disclaimer

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (Section 3745.70–3745.73 of the Ohio Revised Code). EPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the Clean Air Act, and taking appropriate action(s), if any, after through review and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. Today's action does not indicate or imply that the regulations at issue would not be affected by the audit privilege and immunity law, and, after review of the effects of the law, the regulations at issue may be disapproved, federal

approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur dioxide.

Dated: September 9, 1997.

David A. Ullrich,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of 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 52.1870 is amended as follows by adding paragraph (c)(115) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(115) On January 3, 1997, the Ohio EPA submitted a revision to the Hamilton County sulfur dioxide implementation plan for the Procter and Gamble Company, Ohio Administrative Code 3745–18–37(GG)(2), which limits combined average operating rate of all boilers (B001, B008, B021, and B022) to a maximum of 922 million BTU per hour for any calendar day. Boilers B001 and B008 are each allowed to emit 1.1 pounds of sulfur dioxide per million BTU actual heat input. Boiler B021 is limited to 1.50 pounds of sulfur dioxide per million BTU; and boiler B022 is limited to 2.0 pounds of sulfur dioxide per million BTU average heat input.

(I) Incorporation by reference.

(A) Ohio Administrative Code (OAC) Rule 3745–18–37(GG)(2), Hamilton County emission limits, dated December 17, 1996, for Procter and Gamble Company.

(B) Director's Findings and Orders in the matter of the adoption of amended Rule 3745–18–37 of the Ohio Administrative Code, dated December 17, 1996.

(ii) Additional Materials.

(A) Letter from Ohio EPA Director Donald R. Schregardus to Regional Administrator Valdas Adamkus, dated January 3, 1997.

(B) Letter from Ohio EPA Air Pollution Control Division Chief, Robert Hodanbosi to EPA dated August 11, 1997.

[FR Doc. 97–25105 Filed 9–19–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA 13–6–6121; WA 55–7130; and WA 57–7132; FRL–5889–5]

Approval and Promulgation of State Implementation Plans: State of Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving parts of four revisions to the Washington State Implementation Plan (SIP) which were submitted by the Washington Department of Ecology (Washington) on January 22, 1993; September 14, 1993; and April 30, 1996 (two revisions), to address the attainment of the National Ambient Air Quality Standard (NAAQS) for carbon monoxide (CO) in the Spokane, Washington urbanized area. In addition, EPA is deferring action on several parts of the SIP revisions and not addressing other parts in this action because they have been superseded by subsequent revisions and were or will be addressed in separate actions. The SIP revisions were submitted by Washington to satisfy certain Federal requirements for an approvable nonattainment area CO SIP for the Spokane nonattainment area in the State of Washington.

EFFECTIVE DATE: October 22, 1997.

ADDRESSES: Copies of Washington's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101; and the Washington Department of Ecology, Attention: Tami Dahlgren, Olympia, Washington 98504–7600, telephone (360) 407–6830; and the Spokane County Air Pollution Control Authority, West 1101 College, suite 403, Spokane, Washington 99201, telephone (509) 456–4727.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460, as well as the above addresses.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

A. January 22, 1993, Submittal, Docket # WA 13–6–6121

On January 22, 1993, Washington submitted a SIP revision consisting of a plan for the attainment of the CO NAAQS in the Spokane area. This included a demonstration of attainment by December 31, 1995, of the CO NAAQS and provisions for forecasting and tracking vehicle miles traveled (VMT) in the Spokane area, with contingency measures to be implemented if any estimate of actual VMT in the nonattainment area, or any updated forecast of VMT contained in an annual report for any year prior to attainment, exceeds the number predicted in the most recent VMT forecast. Also included were provisions which have been superseded by subsequent SIP revisions: Reasonably Available Control Measures for residential wood combustion; Reasonably Available Control Technology for point sources; New Source Review; Vehicle Emission Inspection and Maintenance Program; oxygenated fuel; and transportation conformity. On September 14, 1993, Washington submitted a revision to the January 22, 1993, SIP submittal consisting of the 1990 base year emissions inventory and the 1995 projected year emissions inventory. Washington also submitted, on September 29, 1995, a 1993 updated (periodic) emissions inventory for the Spokane area, to meet the requirement of section 187(a)(5) of the CAA for periodic inventories.

B. April 30, 1996, Submittal, Docket # WA 57–7132 (Re VMT, Emissions Estimates, and Oxygenated Fuel Contingency Measure)

On April 30, 1996, Washington submitted a SIP revision consisting of revisions to the previously submitted vehicle emission estimates portion of the 1990 base year emissions inventory and of the 1995 projected year inventory; the emissions budget; VMT estimates and forecasts; and the attainment demonstration. The revision also added a contingency measure (3.5% oxygenated fuel) for failure to attain the NAAQS.

C. April 30, 1996, Submittal (Removal of Two Transportation Control Measures (TCMs)), Docket # WA 55–7130

On April 30, 1996, Washington submitted a SIP revision consisting of