State regulation	State effective date	EPA approved date	Explanation
* *	*	*	* * *
Subchapter 26, ''Ozone Transport Commission—Low Emission Vehicles Program''.	March 1, 1999	Nov. 3, 1999	Provides that for the duration of New Jersey's participation in National Low Emission Vehicle (LEV), manufacturers may comply with National LEV or equally stringent mandatory federal standards in lieu of compliance with the California LEV program adopted pursuant to section 177. The regulations accept National LEV as a compliance alternative for requirements applicable to passenger cars, light light-duty trucks, and light-duty trucks designed to operate on gasoline.
* *	*	*	* * *

[FR Doc. 99–27793 Filed 11–2–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN106–1a; FRL–6446–5]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving an Indiana request to amend the Stage II Vapor Recovery rule as a revision to the State Implementation Plan (SIP). Indiana submitted the SIP revision request on April 6, 1999. The revision affects gasoline dispensing facilities in Clark, Floyd, Lake, and Porter Counties. Stage II Vapor Recovery systems lower Volatile Organic Compound (VOC) emissions from vehicle refueling operations. VOC emissions are a precursor of ground-level ozone, commonly known as smog.

DATES: This rule is effective on January 3, 2000, unless EPA receives adverse written comments by December 3, 1999. If adverse written comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: 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. Copies of the revision request for this rulemaking action 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 Francisco J. Acevedo at (312) 886–6061 before visiting the Region 5 Office).

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Protection Specialist, at (312) 886–6061.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'', or ''our'' are used we mean EPA.

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I. What Action Is EPA Proposing in This Rulemaking?

We are approving Indiana's April 6, 1999, SIP revision request to amend the Stage II Vapor Recovery rules promulgated by Indiana in 1993 and approved by us on April 28, 1994. The amendments we are approving clarify the applicability of definitions pertaining to gasoline dispensing facilities.

II. Why Are the Amendments to the Stage II Vapor Recovery Rule Approvable?

This SIP revision does not impact the stringency of the SIP. The definitions specific to the Stage II Vapor Recovery rules promulgated by Indiana in 1993 and approved by us on April 28, 1994 were incorrectly incorporated into the general provisions for all of the volatile organic compound rules contained in Indiana rule 326 IAC Article 8. To rectify this error and avoid future confusion, Indiana amended the Stage II rules and relocated the definitions specific to gasoline dispensing facilities from 326 IAC 8–1–0.5 to 326 IAC 8–4–6. Indiana did not make any other substantive changes to the Stage II rule; and this revision does not change the requirements of the Stage II program originally approved. For these reasons, the amendments to the Stage II Vapor Recovery rule are approvable.

III. Where Are the Rules for This SIP Revision Codified?

The Stage II Vapor Recovery rule amendments are codified under 326 IAC 8–1–0.5: Definitions, and 326 IAC 8–4–6: Gasoline dispensing facilities.

The rules were published in the Indiana Register on November 1, 1995 (19 In. Reg. 202). The effective date of the rules is October 18, 1995.

IV. What Public Hearing Opportunities Were Provided for This SIP Revision?

Indiana held public hearings on March 1, 1995, and on May 3, 1995, in Indianapolis, Indiana.

V. Final Rulemaking Action

In this rulemaking action, we are approving the April 6, 1999, SIP revision request, which includes technical amendments to the Stage II Vapor recovery rule affecting gasoline dispensing facilities.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision 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 written comments be received. This action will be effective without further notice unless EPA receives relevant adverse written comment by December 3, 1999. Should the Agency receive such comments, it will publish a timely withdrawal informing the public that this action will not take effect. 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 on January 3, 2000.

VI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids 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).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act

(NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 January 3, 2000. 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, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 17, 1999.

Francis X. Lyons,

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 P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(125) to read as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(125) On April 6, 1999, Indiana submitted amended rules for the control of volatile organic compound emissions from vehicle refueling in Clark, Floyd, Lake, and Porter Counties as a revision to the State Implementation Plan.

(i) Incorporation by reference.

326 Indiana Administrative Code 8–1: General Provisions, Section 0.5: Definitions and 326 Indiana Administrative Code 8–4: Petroleum Sources, Section 6: Gasoline Dispensing Facilities. Adopted by the Indiana Air Pollution Control Board May 3, 1995. Filed with the Secretary of State September 18, 1995. Published at Indiana Register, Volume 19, Number 2, November 1, 1995. Effective October 18, 1995.

[FR Doc. 99–28039 Filed 11–2–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–75–1–9910a; KY–97–1–9911a; FRL–6465–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; Withdrawal.

SUMMARY: On September 13, 1999, EPA published a direct final rule (64 FR 49404) approving, and an accompanying proposed rule (64 FR 4925) proposing to approve the Louisville 15 Percent Rate-of-Progress Plan (15 percent plan) which was submitted on November 12, 1993, and amended on June 30, 1997. As stated in the **Federal Register** document, if adverse or critical comments were received by October 13, 1999, the effective date would be delayed and timely notice would be published in the **Federal Register**. Therefore, due to receiving adverse comments within the comment period, EPA is withdrawing the direct final rule and will address all public comments received in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this document.

DATE: The direct final rule published on September 13, 1999 (64 FR 49404) is withdrawn as of November 3, 1999.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. The telephone number is (404) 562–9036.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the September 13, 1999, **Federal Register** (64 FR 49404).

List of Subjects in 40 CFR Part 52

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

Dated: October 19, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–28390 Filed 11–2–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[OH 129–1a; FRL–6464–5]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: USEPA is approving an August 19, 1999, request from Ohio for a State Implementation Plan (SIP) revision of the Columbiana County ozone maintenance plan. The maintenance plan revision establishes a new transportation conformity mobile source emissions budget for the year 2005. USEPA is approving the allocation of a portion of the safety margin for oxides of nitrogen (NO_X) to the area's 2005 mobile source emissions budget for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. The transportation conformity budget for volatile organic compounds will remain the same as previously approved in the maintenance plan.

DATES: This rule is effective on January 3, 2000, unless USEPA receives adverse written comments by December 3, 1999. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West