this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in The CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.

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

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 December 10, 2001. 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, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 5, 2001.

Thomas V. Skinner,

Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I of 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.*

2. Section 52.1919 is amended by adding paragraph(a)(4) to read as follows:

§ 52.1919 Identification of plan-conditional approval.

* * * * *

(a) * * *

(4) On March 1, 1996, Ohio submitted revisions to its Permit to Install rules as a revision to the State implementation plan. The request was supplemented on April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998.

(i) Incorporation by reference.

(A) Rule 3745–31–01 through 3745–31–20, effective September 25, 1998.

[FR Doc. 01–25260 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI85–02–7316; FRL–7076–6]

Approval and Promulgation of Air Quality Plans; Wisconsin; Post-1996 Rate of Progress Plan for the Milwaukee-Racine Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the post-1996 Rate-Of-Progress (ROP) plan submitted by the State of Wisconsin for the Milwaukee-Racine ozone nonattainment area, as a requested revision of the State Implementation Plan (SIP) for ozone. A post-1996 ROP plan is required for the Milwaukee-Racine ozone nonattainment area under the Clean Air Act (Act). The purpose of the post-1996 ROP plan is to incrementally provide for progress toward attainment of the 1-hour ozone standard in the Milwaukee-Racine ozone nonattainment area by reducing ground-level ozone precursor emissions. The submitted plan, which covers the period of 1996 through 1999 and

emission reductions occurring by November 15, 1999, shows that Wisconsin reduced emissions of volatile organic (VOC), ozone-forming pollutants, by the amounts required by the Act. We proposed approval of this SIP revision submittal on June 22, 2001.

DATES: This final rule is effective November 9, 2001.

ADDRESSES: You can access copies of the SIP revision request and the Technical Support Document (TSD) for the proposed rulemaking on the SIP revision request at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Jacqueline Nwia at (312) 886–6081 before visiting the Region 5 Office).

FOR FURTHER INFORMATION CONTACT: Jacqueline Nwia, Environmental Scientist, U.S. Environmental Protection Agency, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6081, nwia.jacqueline@epa.gov.

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

The supplemental information is organized in the following order:

I. What is EPA Approving in This Action?

We are approving the post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area because the plan identifies control measures to achieve a projected 9 percent VOC emission reduction by November 15, 1999. Section 182(c)(2) of the Act required serious and above ozone nonattainment areas to submit plans that would achieve reductions in VOC emissions by at least 3 percent per year, net of growth, averaged over each consecutive 3 year period beginning in 1996 until the area's attainment date. These plans are referred to as rate-of-progress (ROP) plans. Section 182(c)(2) also required such areas to submit a plan that demonstrates attainment of the ozone standard based on photochemical grid modeling or an equally effective method. The attainment demonstration and ROP plans were due to EPA by November 15, 1994.

Many states, however, found it difficult to meet the date for submittal of an attainment demonstration and post-1996 ROP plan due primarily to an inability to address or control transport of ozone. We consequently recognized the efforts made by the states and the challenges in developing technical information and control measures with respect to these submittals in a memorandum entitled ''Ozone Attainment Demonstrations,'' dated March 2, 1995, from Mary D. Nichols, Assistant Administrator for Air and Radiation. The memorandum then allowed new time frames for these SIP submittals and divided the required SIP submittals into two phases. Generally, Phase I consists of: SIP measures providing for ROP reductions due by the end of 1999, an enforceable SIP commitment to submit any remaining required ROP reductions on a specified schedule after 1999, and an enforceable SIP commitment to submit the additional SIP measures needed for attainment. Phase II consists of the remaining ROP SIP measures, the attainment demonstration and additional local rules needed to attain, and any regional controls needed for attainment by all areas in the region.

This action finalizes approval of Wisconsin's post-1996 ROP plan.

II. Are all of the Control Strategies in the Post-1996 ROP Plan Federally Approved or Promulgated?

Our June 22, 2001, proposal identifies all of the control strategies, the emission reduction credits claimed for each control strategy and the status of each control strategy with respect to federal approval or promulgation. Wisconsin's post-1996 ROP plan claims emission reduction credits for 21 control strategies. Our June 22, 2001, proposal stated that 20 of the control strategies had been either federally approved into the SIP or promulgated. Wisconsin's motor vehicle inspection and maintenance (I/M) program SIP was conditionally approved into the SIP on January 12, 1995 (60 FR 2881) with a subsequent revision submitted on December 30, 1998. The proposed rule noted that Wisconsin's motor vehicle I/M program must be fully and finally approved into the SIP before we could finally approve Wisconsin's post-1996 ROP plan. We published a direct final approval of Wisconsin's I/M SIP on August 16, 2001 (66 FR 42949 and 42974), which will become effective on October 15, 2001. Thus, all of the control strategies identified in Wisconsin's post-1996 ROP plan are federally approved into the SIP or promulgated.

III. Were Public Comments Submitted During the Public Comment Period for the Proposed Approval of Wisconsin's Post-1996 ROP Plan for the Milwaukee-Racine Ozone Nonattainment Area?

We published a proposed approval of Wisconsin's post-1996 ROP plan on June 22, 2001 (66 FR 33495), the date the public comment period began. The public comment period concluded on July 23, 2001. We did not receive any public comments on the proposed approval.

IV. Final Rulemaking Action

In this rulemaking action, we are approving Wisconsin's SIP revisions, submitted on December 11, 1997, and supplements submitted on August 5, 1999, January 31, 2000, March 3, 2000, and February 21, 2001, establishing the post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or

on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995, 15 U.S.C. 272 note, 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 VCS are inapplicable to this action, because this action does not require the public to perform activities conducive to the use of VCS.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective November 9, 2001.

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 December 10, 2001. 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, Nitrogen Oxides, Ozone, Volatile Organic Compounds.

Dated: September 26, 2001.

Jerri Anne Garl,

Acting 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 YY—Wisconsin

2. Section 52.2585 is amended by adding paragraph (o) to read as follows:

§ 52.2585 Control Strategy: Ozone.

* * * * *

(o) Approval—On December 11, 1997, Wisconsin submitted a post-1996 Rate Of Progress plan for the Milwaukee-Racine ozone nonattainment area as a requested revision to the Wisconsin State Implementation Plan. Supplements to the December 11, 1997 plan were submitted on August 5, 1999, January 31, 2000, March 3, 2000, and February 21, 2001 establishing the post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area. This plan reduces ozone precursor emissions by 9 percent from 1990 baseline emissions by November 15, 1999.

[FR Doc. 01–25259 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0292c; FRL–7067–2]

Interim Final Determination That the State of California Has Corrected Deficiencies and Stay of Sanctions, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a direct final rulemaking fully approving the State of California's submittal of a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the State Implementation Plan (SIP). We have also published a proposed rulemaking. If a person submits adverse comments on our direct final action, we will withdraw our direct final rule and will consider any comments received before taking final action on the State's submittal. Based on the full approval, we are making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock began on February 14, 2000. This action will stay the imposition of the offset sanction and defer the imposition of the highway sanction. Although this action is effective upon publication, we will take comment. If no comments are received on our approval of the State's submittal and on our interim final determination, the direct final action published in today's **Federal Register** will also finalize our determination that the State has corrected the deficiencies that started the sanctions clock. If comments are received on our approval or on this interim final determination, we will publish a final rule taking into consideration any comments received.

DATES: This interim final determination is effective October 10, 2001. Although this action is effective upon publication, we will take comments which must be received by November 9, 2001. If comments are received on our approval or on this interim final determination, we will publish a final rule taking into consideration any comments received.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revision and EPA's technical support document (TSD) at