

Illinois Environmental Protection Act (Illinois Act), section 42(a), states that any person that violates any provision of this Illinois Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any determination or order of the Board pursuant to this Act, shall be liable to a civil penalty not to exceed \$50,000 for the violation and an additional \$10,000 for each day for which the violation continues. In that this submittal is a regulation adopted by the Board, a violation of which subjects the violator to penalties under section 42(a), the submittal contains sufficient enforcement penalties for approval.

IV. Final Rulemaking Action

The USEPA approves the SIP revision submitted by the State of Illinois. The State of Illinois has submitted a SIP revision that includes enforceable state regulations which are consistent with Federal requirements. The State has also committed to perform enforcement inspections on at least 20 percent of the regulated stations during the first year of enforcement. Substantial penalties that will provide an adequate incentive for the regulated industry to comply and are no less than the expected cost of compliance are included in current Pollution Control Board Regulation. USEPA is, therefore, approving this submittal.

Procedural Background

Because USEPA considers this action noncontroversial and routine, the Agency is approving it without prior proposal. The action will become effective on May 22, 1995. However, if the USEPA receives adverse comments by April 24, 1995, then the USEPA will publish a notice that withdraws the action, and will address the comments received in response to this direct final rule in the final rule on the requested SIP revision, which has been proposed for approval in the proposed rules section of this **Federal Register**. The comment period will not be extended or reopened.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

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

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.

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, 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. Environmental Protection Agency*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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 May 22, 1995. 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, Hydrocarbon, Incorporation by reference, Ozone.

Dated: February 23, 1995.

Robert Springer,
Acting Regional Administrator.

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. 7401-7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(109) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(109) On October 25, 1994, Illinois submitted a regulation that reduced the maximum allowable volatility for gasoline sold in the Metro-East St. Louis ozone nonattainment area, which includes Madison, Monroe, and St. Clair Counties, to 7.2 psi during the summer control period. The summer control period is June 1 to September 15 for retail outlets and wholesale consumers, and May 1 to September 15 for all others.

(i) *Incorporation by reference.* Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 219 Organic Material Emission Standards and Limitations for Metro East Area, (A) Section 219.112 Incorporation by Reference. Amended at 18 Ill. Reg. 14987. Effective September 21, 1994.

(B) Section 219.585 Gasoline Volatility Standards. Amended at 18 Ill. Reg. 14987. Effective September 21, 1994.

[FR Doc. 95-7108 Filed 3-22-95; 8:45 am]

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40 CFR Part 52

[OH45-1-5974a; FRL-5169-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving revisions to the Ohio State Implementation Plan (SIP) adopted by the Ohio Environmental Protection Agency (OEPA) on March 15, 1993, and December 30, 1994. The OEPA submitted these revisions to the USEPA on June 7, 1993, and February 17, 1995. The revisions concern Ohio Administrative Code (OAC) Chapter 3745-21, "Carbon Monoxide, Photochemically Reactive Materials,

Hydrocarbons, and Related Materials Standards." The USEPA has evaluated the revisions to Rules 01, 04, 09, and 10 and is approving the requested revisions. The USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act.

DATES: This final rule is effective May 22, 1995 unless adverse or critical comments are received by April 24, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and USEPA's analysis are available for public inspection during normal business hours at the following addresses: (It is recommended that you telephone Bonnie Bush at (312) 353-6684, before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604; Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Bonnie Bush, Air Enforcement Branch, Regulation Development Section (AE-17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353-6684.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, amendments to the 1977 Clean Air Act (CAA) were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Under the pre-amended CAA, ozone nonattainment areas were required to adopt reasonably available control technology (RACT) rules for sources of volatile organic compound (VOC) emissions. VOC's contribute to the production of ground level ozone and smog. These rules were required as part of an effort to achieve the National Ambient Air Quality Standard for ozone.

RACT, as defined in 40 CFR 51.100(o), means devices, systems

process modifications, or other apparatus or techniques that are reasonably available taking into account (1) the necessity of imposing such controls in order to attain and maintain a national ambient air quality standard, (2) the social, environmental and economic impact of such controls, and (3) alternative means of providing for attainment and maintenance of such standard. The USEPA issued three sets of control technique guidelines (CTGs) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were: (1) Group I, issued before January 1978 (15 CTGs); (2) Group II, issued in 1978 (9 CTGs); and (3) Group III, issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. The USEPA determined that a given nonattainment area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under pre-amended section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that projected attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987, were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Section 182(b)(2) of the amended Act requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG, i.e., a CTG issued prior to the enactment of the Clean Air Act Amendments of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG (note: this includes unregulated emission units within a source if they total more than 100 tons per year in the aggregate). Section 182(b)(2) requires nonattainment areas that previously were exempt from RACT requirements to "catch up" to those nonattainment areas that became subject to those requirements during an earlier period. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas.

Under the pre-amended Act, the USEPA designated the Dayton-Springfield, Cincinnati, Youngstown-Warren, Canton, Toledo, Cleveland, and

Akron areas and Ashtabula County as nonattainment. The Dayton-Springfield area included Clark, Greene, Miami, and Montgomery Counties; the Cincinnati area included Clermont, Hamilton, Warren, and Butler Counties; the Youngstown-Warren area included Mahoning and Trumbull Counties; the Canton area included Stark County; the Toledo area included Lucas County; and the Cleveland and Akron areas included Portage, Summit, Cuyahoga, Geauga, Lake, and Lorain Counties. Ohio established a pre-enactment attainment date of December 31, 1982, for the Dayton-Springfield, Youngstown-Warren, Canton, Toledo and Akron nonattainment areas and December 31, 1987, for the Cleveland and Cincinnati nonattainment areas. Therefore, Dayton-Springfield, Youngstown-Warren, Canton, Toledo, and Akron were required to adopt RACT for Groups I and II sources, and the Cincinnati and Cleveland areas were required to adopt RACT for Groups I, II, III, and major non-CTG sources. Ashtabula County was designated rural nonattainment and was required to adopt RACT for Groups I and II sources.

However, none of the above areas attained the ozone standard by their respective approved attainment dates. On May 26, 1988, and November 8, 1989, the USEPA notified the Governor of Ohio that portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected. These notifications are referred to as USEPA's SIP Calls). In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that pre-enactment ozone nonattainment areas that retained their designation of nonattainment and were classified as marginal or above fix their deficient RACT rules for ozone by May 15, 1991. The Dayton-Springfield, Cincinnati, Cleveland-Akron-Lorain and Toledo areas and Ashtabula County retained their designation of nonattainment and were classified as moderate; the Youngstown-Warren and Canton areas retained their designation of nonattainment and were classified as marginal. 56 FR 56694 (Nov. 6, 1991). The State submitted revisions to meet the RACT fix-up requirement for all the above areas, and the USEPA has taken a final action of partial approval, partial disapproval, and partial limited approval/limited disapproval of that submittal. 59 FR 23796 (May 9, 1994).

In addition to the pre-enactment nonattainment areas retaining their nonattainment designations, the USEPA also extended the boundaries of the Toledo and Cleveland-Akron-Lorain

nonattainment areas to include Wood County in the Toledo area and Ashtabula and Medina Counties in the Cleveland-Akron-Lorain area. 56 FR 56694 and 57 FR 56762 (November 30, 1992). Wood and Medina Counties were previously not subject to CAA RACT requirements. Ashtabula County was previously subject to Groups I and II RACT and to the section 182(a)(2)(A) RACT fix-up requirement. Therefore, these portions of the extended nonattainment area also are subject to the RACT requirements of section 182(b)(2), which requires the State, for these extended portions of the Cleveland-Akron-Lorain and Toledo nonattainment areas, to submit RACT rules covering all pre-enactment CTGs, to identify all sources the State anticipates will be covered by a post-enactment CTG, and to submit non-CTG rules for all remaining major sources (100 tons per year) of VOC emissions (Appendix E to the General Preamble, 57 FR 18077, April 28, 1992).

The following is the USEPA's evaluation and rulemaking action for the submitted revisions to Ohio Administrative Code (OAC) Chapter 3745-21 "Carbon Monoxide Photochemically Reactive Materials, Hydrocarbons, and Related Materials Standards," including the following amendments: 3745-21-01, Definitions; 3745-21-04, Attainment Dates and Compliance Time Schedules; 3745-21-09, Control of Emissions of Volatile Organic Compounds from Stationary Sources; and 3745-21-10, Compliance Test Methods and Procedures.

II. USEPA Evaluation and Action

In determining the approvability of a VOC rule, the USEPA must evaluate the rule for consistency with the requirements of the Act and USEPA regulations, as found in section 110 and Part D of the Act and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The USEPA interpretation of these requirements, which forms the basis for this action, appears in various USEPA policy guidance documents discussed in this Notice.

For the purpose of assisting State and local agencies in developing RACT rules, the USEPA prepared a series of CTG documents. The CTG's are based on the underlying requirements of the Act and specify the presumptive norms for RACT for specific source categories. The USEPA has not yet developed CTG's to cover all sources of VOC emissions. Further interpretations of

USEPA policy are found in those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT (52 FR 45044, November 24, 1987) and "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987, **Federal Register Notice**" (Blue Book). Notice of availability of the Blue Book was published in the **Federal Register** on May 25, 1988. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen the SIP. A detailed analysis of the submittals and discussion of the USEPA's basis for this action is contained in a February 21, 1995, USEPA Technical Support Document (TSD).

This Notice addresses VOC regulations applying to CTG source categories contained in Ohio's June 7, 1993, and February 17, 1995, submittals and one site-specific non-CTG rule applying to the British Petroleum Company, Toledo Refinery (BP Oil). Because of the size of this submittal, a single rulemaking action on the entire submittal would further delay Federal enforceability of any part of it. Therefore, this Notice evaluates and takes action on only that portion of the submittal applying to sources belonging to the following CTG source categories:

- Automobiles and Light-Duty Truck Coating
- Can Coating
- Coil Coating
- Paper Coating
- Fabric Coating
- Vinyl Coating
- Metal Furniture Coating
- Magnet Wire Coating
- Large Appliance Coating
- Bulk Gasoline Plants
- Bulk Gasoline Terminals
- Gasoline Tank Trucks
- Storage of Petroleum Liquids in Fixed Roof Tanks
- Petroleum Refinery Sources
- Cutback and Emulsified Asphalts in Road Construction and Maintenance
- Solvent Metal Cleaning
- Gasoline Dispensing Facilities
- Leaks from Petroleum Refinery Equipment
- Miscellaneous Metal Parts Coating
- Synthesized Pharmaceutical Manufacturing
- Rubber Tire Manufacturing Facilities
- Printing
- Petroleum Liquid Storage in External Floating Roof Tanks
- Petroleum Solvent Dry Cleaning Facilities
- Leaks from Process Units that Produce Organic Chemicals
- Air Oxidation Processes in Organic Chemical Manufacture

The rules in the submittal that apply to non-CTG sources other than BP Oil

are addressed in a separate rulemaking action.

No deficiencies have been identified in the rules subject to this rulemaking action. The February 1995 USEPA TSD discusses the bases for approval of the portions of the submittals subject to this action and lists the references, guidance documents, and correspondence used in the evaluation of the submittals.

Alternative Applicability Cutoff in OAC Rule 3745-21-09(U)

OAC 3745-21-09(U) is Ohio's rule for miscellaneous metals coating facilities. Rule (U), paragraph (2)(e)(i) exempts sources in the Dayton nonattainment area which use eight or less gallons of coating per day per line (gpd/line), and paragraph (2)(e)(ii) exempts sources in the Canton, Toledo, Cleveland, Cincinnati, and Youngstown nonattainment areas which use 10 or less gpd/line. The USEPA CTG document for miscellaneous metal coaters does not define an applicability cutoff specific to the source category, so the general RACT cutoff of 15 lb VOC per day actual emissions before control for all sources in the source category at a given facility, as described in the Blue Book, applies to these facilities. While Rule (U), paragraph (2)(h), includes the USEPA RACT cutoff, the exemptions in (2)(e) make possible the exemption of sources with emissions above the RACT cutoff. The Blue Book provides for approval of alternative applicability cutoffs if the State demonstrates that the allowable emissions under the alternative cutoff are within five percent of the allowable emissions under the USEPA RACT cutoff—a "five percent equivalency demonstration."

The OEPA submitted complete five percent demonstrations (summary calculations and supporting documentation) for the Canton, Dayton, Toledo, and Youngstown areas. Review of the complete five percent demonstrations shows that the alternative cutoffs for the Canton, Dayton, Toledo and Youngstown, nonattainment areas are approvable. Based on emissions data for 1990 or earlier, the allowable VOC emissions using the alternative cutoffs are, in each case, within five percent of the allowable VOC emissions using the USEPA RACT cutoff. The calculation of the demonstrations was consistent with USEPA policy, and the calculations were adequately supported by documentation of VOC coating content. The results of the demonstrations are summarized in the following table:

Nonattainment area	Allowable VOC, lb/day, RACT cutoff	Allowable VOC, lb/day, Ohio cutoff	Percent Difference
Canton	2,950.54	3,062.26	+3.79
Dayton	18,751.82	19,615.44	+4.61
Toledo	5,385.85	5,599.37	+3.96
Youngstown	10,158.50	10,490.85	+3.27

The OEPA also submitted summary calculations, without supporting documentation, showing that a three or less gpd/line cutoff for the Cincinnati and Cleveland nonattainment areas results in emissions that are within five percent of the emissions allowed by the RACT cutoff. A three or less gpd/line cutoff has not been adopted by Ohio, and the OEPA has requested that the 10 or less gpd/line cutoff in Rule (U)(2)(e)(ii), contained in the February 1995 submittal, not be made part of the ozone SIP for the Counties of Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit, and Warren, which constitute the Cincinnati and Cleveland nonattainment areas. The OEPA has requested that USEPA delay action on the rule as it applies in Cincinnati and Cleveland because the OEPA intends to adopt a three or less gpd/line cutoff for the Cincinnati and Cleveland nonattainment areas, and submit this cutoff, accompanied by supporting documentation, to the USEPA as a SIP revision request. Therefore, the USEPA is approving this rule only as it applies to Canton, Dayton, Toledo, and Youngstown. The USEPA will take further action on this rule as it applies to Cincinnati and Cleveland when the OEPA submits the revised rule.

The revised Rule (U) also corrects a deficient emission limit, removes vague and unenforceable language, and adds clarifying language necessary for consistency with RACT, thereby strengthening the SIP.

Rubber Tire Manufacturing Exemptions and Technical Support

The June 1993 submittal contains a version of OAC 3745-21-09(X), Ohio's rule for rubber tire manufacturing facilities, which includes new exemptions for two facilities: the Goodyear Tire and Rubber Company facility at 200 S. Martha Avenue, Akron, Ohio, and the Denman Tire Corporation facility in Leavittsburg, Ohio. There are two ways to exempt a facility from applicable RACT requirements: (1) The State can demonstrate that the exemption meets existing USEPA exemption policy for the specific source category, or (2) the State can

demonstrate that RACT as defined by the USEPA is infeasible or unreasonable for the facility being exempted. The USEPA exemption policy for rubber tire manufacturing (the Blue Book) states that RACT "does not apply to the production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs only if these tires are produced on equipment separate from normal production lines for passenger type tires."

While the OEPA included technical documentation for these exemptions in the June 1993 submittal, it did not sufficiently support either of the above demonstrations. The inadequacy of the technical support was communicated to the OEPA in a June 1994 comment letter, and draft paragraphs from the USEPA TSD were sent to the OEPA via facsimile to facilitate subsequent discussions of unresolved issues. During these discussions, the USEPA asked the OEPA to consider the USEPA's draft model VOC rule language pertaining to applicability for rubber tire manufacturing facilities. The OEPA has eliminated the exemptions for Denman and Goodyear and incorporated the model rule applicability language in the February 1995 submittal. The USEPA now finds OAC Rule 3745-21-09(X) to be fully approvable.

Reconsideration of Previously Noted Deficiencies

Pursuant to discussions between the OEPA and the USEPA, the USEPA has reconsidered its position on some of the deficiencies cited in the Notice of Final Rulemaking (NFR) on two earlier VOC rules submittals from Ohio (May 9, 1994, 59 FR 23796). All but two of the retractions are described in a July 22, 1994, USEPA memorandum to the files; the remaining two reconsiderations warrant more detailed explanations, as follows:

1. Rule 3745-21-09(B), General provisions, paragraph (3)(f): The deficiency originally cited was that the rule must provide for daily, not monthly, recordkeeping to be consistent with RACT as defined by the USEPA and must be fully enforceable. The OEPA stated that an Ohio VOC source,

Champion International, contacted USEPA Headquarters (HQ) on this issue, and HQ agreed that monthly recordkeeping is acceptable in this situation. This was not documented in the OEPA's June 1993 technical support, and Region 5 staff were not aware of this policy. The OEPA subsequently submitted a November 24, 1992, letter from John Calcagni, Director of the Air Quality Management Division, USEPA, to Robert A. Meyer, Jr., of a Columbus, Ohio, law firm, which supports the monthly recordkeeping requirement.

2. Rule 3745-21-09(EE), Air oxidation processes that produce organic chemicals: The deficiency originally cited was that the phrase "good engineering practices" in the exemption in paragraph (2)(a) is vague and unenforceable. The OEPA stated that the exemption language in paragraph (2)(a) was taken from the USEPA Control Techniques Guideline document on air oxidation processes. This was confirmed by USEPA staff, and we informed the OEPA that the final disapproval of this paragraph in the May 9, 1994, NFR (59 FR 23796) was an error, which is corrected by this action.

All of the other regulations cited as deficient in the May 9, 1994, NFR (59 FR 23796), have either been revised by the OEPA to correct the deficiency or reconsidered by the USEPA as discussed above, and all such regulations are now fully approvable.

Non-CTG Regulation for BP Oil

BP Oil, Toledo Refinery, is located in Lucas County, which is designated as moderate nonattainment for ozone. Prior to enactment of the CAA amendments, Lucas County was part of an area that had projected attainment by December 31, 1982, and therefore was subject to Group I and II CTG's only. Under section 182(b)(2), Lucas County is now subject to Group III CTG's and non-CTG RACT for major sources. BP Oil was identified by the OEPA as a major source, already subject to OAC 3745-21-09(L), (M), (T), and (Z), which regulate the source categories Fixed Roof Petroleum Tanks, Miscellaneous Refinery Sources, Leaks from Petroleum Refineries, and External Floating Roof Petroleum Tanks. On January 10, 1991,

the OEPA sent BP a letter requesting submittal by August 22, 1991, of a RACT study of all VOC sources not regulated by OAC 3745-21-09. BP hired ENSR Consulting and Engineering (ENSR) to perform this RACT study, which has been included in the technical support submitted by the OEPA for Rule 09(UU), the non-CTG rule for BP Oil.

A detailed description of the RACT study, a discussion of issues and their resolution, and the verbatim non-CTG rule language can be found in the February 1995 USEPA TSD. The control requirements established by OAC Rule 3745-21-09(UU) are acceptable and found to constitute RACT for the sources they control. The compliance deadlines for these controls as specified in OAC Rule 3745-21-04(C)(55) meet the section 182(b)(2) requirement; the latest compliance deadline is May 1, 1995. The RACT study and other technical support was reviewed in great detail by USEPA staff, and during the review process, many issues arose. These issues were resolved through discussions with OEPA staff and submittal of further technical support by the OEPA.

In an attempt to clarify the emissions picture at BP Oil, USEPA staff performed a detailed comparison between Ohio's 1990 base year inventory (currently under USEPA review) and the "de minimis," "negligible," and "minor" sources described in the RACT study. This comparison resulted in the identification of a number of sources in the inventory which appeared to require RACT evaluation. These sources were discussed one by one with OEPA staff, who, in summary, stated that most of the sources were subject to CTG regulations in Chapter 09. The USEPA accepts the State's assessment of these sources regarding their being subject to CTG regulations, and, therefore, USEPA staff did no further investigation of these sources. Ultimately, only the sources discussed in the USEPA's November 7, 1994, comments for the public record remained unresolved. On November 8, 1994, the USEPA received a letter from the OEPA stating that the 1990 base year inventory is in error in that the sources in question are not really VOC sources; therefore, no RACT evaluation is necessary. USEPA staff reviewing the inventory were notified of the errors and given a copy of the OEPA letter.

The USEPA finds Rule 09(UU) to be approvable.

RACT Studies

In response to the non-CTG RACT requirements of sections 182(a)(2)(A) and 182(b)(2) of the amended CAA, Ohio submitted RACT studies for ten facilities for which no rule development was performed. The OEPA concluded that the existing controls at these facilities constitute RACT and are federally enforceable. Two of the ten RACT studies were evaluated for the current rulemaking action: (1) the Sun Refining and Marketing Company in the Toledo nonattainment area, and (2) the General Motors Company (GMC) Delco Chassis Division in the Dayton nonattainment area. The evaluations and recommendations for these studies can be found in two USEPA TSDs, dated August 23, 1994 (Sun), and September 7, 1994 (GMC Delco). In summary, for Sun Oil, the USEPA believes that the existing controls at Sun Oil are federally enforceable and that they constitute RACT for this facility. For GMC Delco, the USEPA believes that the existing controls constitute RACT; however, at the time of the June 1993 submittal, they were not federally enforceable. The OEPA was made aware of this deficiency through several letters cited in the list of references in the February 1995 USEPA TSD. The February 1995 submittal includes a modified permit-to-install, which upon approval by the USEPA into the Ohio ozone SIP, fulfills the requirements of section 182(b)(2) of the amended CAA. The USEPA is approving the modified permit-to-install into the Dayton area ozone SIP as RACT.

General Preamble Issues

The General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13497, April 16, 1992) gives guidance for implementation of Title I. For section 182(b)(2), the General Preamble states that States must submit negative declarations for those source categories for which they are not adopting CTG-based regulations, even if such negative declarations have been made for an earlier SIP (57 FR 13512). A negative declaration is a statement that, for a given source category, there are no facilities with sources in that source category in any of the Counties subject to the requirement. Ohio's June 7, 1993, submittal contains negative declarations for the source categories of polypropylene or high density polyethylene resin manufacturing, natural gas/gasoline processing plants, and surface coating of flat wood paneling. Ohio previously submitted negative declarations for the resin manufacturing and gas processing

categories in 1986. The OEPA has resubmitted those declarations and reconfirmed that there are no facilities in Ohio subject to RACT in these categories. There is one plant in Ohio with a hardboard paneling finishing line, which was constructed after the issuance of the CTG for surface coating of flat wood paneling. The source, Abitibi-Price Corporation, is subject to a federally enforceable permit-to-install with requirements that are equivalent to the CTG requirements. The USEPA is approving that permit-to-install into the ozone SIP as RACT.

States must include in the section 182(b)(2) submittal a list of major sources that the State has identified as being potentially subject to post-enactment CTG documents to be issued for the source categories listed in Appendix E to the General Preamble, Supplement to the General Preamble (57 FR 18070, 18077, April 28, 1992). The State was again notified of this necessity in a January 15, 1993, letter from Valdas Adamkus, Regional Administrator, to Governor George Voinovich. This source list was not included in the June 7, 1993, submittal to the USEPA. The omission of the list from the June 1993 submittal was communicated to Ohio in an August 26, 1993, letter. On July 27, 1994, the USEPA Region 5 office received by facsimile a list of facilities, the source categories to which they belong, with the year of any RACT study that has been done. On February 21, 1995, the State submitted an updated list. The USEPA considers this list to satisfy the Appendix E guidelines pertaining to the list of sources due November 15, 1992.

Stage II

On October 20, 1994, a direct final rulemaking notice was published (59 FR 52911) partially approving the Stage II rule submitted on June 7, 1993. That rulemaking codified OAC 3745-21-09(DDD), the emissions standards portion of the rule. While the October 1994 notice discussed the compliance schedule and the test methods for Stage II, codification of these portions of the rule was inadvertently omitted. The USEPA is now approving OAC 3745-21-04(C)(64), the Stage II compliance schedule, and OAC 3745-21-10 (Q), (R), (S), and Appendices A, B, and C, the Stage II test methods, as submitted on June 7, 1993, into the Ohio ozone SIP.

III. Rulemaking Action

The USEPA has evaluated the State's submittal for consistency with the Act, USEPA regulations, and USEPA policy.

The USEPA has determined that the submitted CTG rules meet the Act's

requirements, and with this action approves, under section 110(k)(3), the following rules:

OAC 3745-21-01: (D)(6), (D)(8), (D)(45), (M)(8).

OAC 3745-21-04: (B); (C)(3)(c), (C)(4)(b), (C)(5)(b), (C)(6)(b), (C)(8)(b) and (c), (C)(9)(b), (C)(10)(b), (C)(19)(b), (c) and (d), (C)(28)(b), (C)(38), (C)(39), (C)(42), (C)(43), (C)(44), (C)(45), (C)(47), (C)(55), (C)(64) as submitted on June 7, 1993, (C)(65).

OAC 3745-21-09: (A), (C) through (L), (N) through (T), (X), (Y), (Z), (BB), (CC), (DD), (UU), Appendix A; (B) with the exception of (B)(3)(d) and (e) for the Cincinnati and Cleveland nonattainment areas; (U) with the exception of (U)(1)(h) statewide and (U)(2)(e)(ii) for the Cincinnati and Cleveland nonattainment areas.

OAC 3745-21-10: (A), (B), (C), (E), (O), as submitted in February 1995, and (Q), (R), (S), and Appendices A, B, and C as submitted in June 1993.

The Cincinnati and Cleveland nonattainment areas include the Ohio Counties of Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit, and Warren.

OAC 3745-21-01 (H), (Q), and (T); 3745-21-04(C) (38), (39), (42), (44), (45), (47), (49), (51) through (63), and (66), and (64) as submitted in June 1993; 3745-21-09 (FF) through (TT) and (VV) through (DDD); and 3745-21-10 (Q), (R), (S), and Appendices A and B as submitted in February 1995 are being addressed in separate rulemaking actions. Ohio requested that the USEPA not consider certain paragraphs for approval into the ozone SIP, including OAC 3745-21-09(B)(3)(d) and (e) and 09(U)(2)(e)(ii) for the Cleveland and Cincinnati nonattainment areas and 09(U)(1)(h) statewide. For these paragraphs, the appropriate previously approved rules stand as the federally approved SIP. The State included non-revised existing rules in the submittal, and such rules remain part of the current federally approved Ohio ozone SIP as they stand; therefore, no Federal rulemaking action is necessary.

The submitted permit-to-install for GMC Delco is approved into the Ohio ozone SIP.

The negative declarations made by Ohio for the source categories of high density polyethylene or polypropylene resin manufacturing, natural gas/gasoline processing plants, and surface coating of flat wood paneling are approved into the Ohio ozone SIP. The submitted permit-to-install for the Abitibi-Price Corporation is approved into the Ohio ozone SIP.

Submittal of a list of major stationary sources which will be subject to post-enactment CTG's for the source categories listed in Appendix E to the General Preamble are a necessary part of any submittal intended to satisfy section 182(b)(2) of the CAA. The USEPA is approving into the Ohio ozone SIP the list of facilities submitted on February 21, 1995.

IV. Comment and Approval Procedure

The USEPA is publishing this action without prior proposal because the USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, the 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 May 22, 1995, unless the USEPA receives adverse or critical comments by April 24, 1995.

If the USEPA receives comments adverse to or critical of the approval discussed above, the USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** notice which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking notice. Please be aware that the USEPA will institute a second comment period on this action only if warranted by revisions to the rulemaking based on the comments received.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, the USEPA hereby advises the public that this action will be effective on May 22, 1995.

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.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the 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.

SIP approvals under section 110 and subchapter I, Part D of the CAA 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 small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

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 May 22, 1995. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 23, 1995.

Robert Springer,

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 KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(103) and revising paragraph (c)(104) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(103) On June 7, 1993, and February 17, 1995, the Ohio Environmental Protection Agency (OEPA) submitted revisions to the State Implementation Plan (SIP) for ozone. The revisions include one new non-Control Technique Guideline volatile organic compound (VOC) rule, corrections to existing VOC rules, and two permits-to-install.

(i) Incorporation by reference.

(A) OEPA Ohio Administrative Code (OAC) Rule 3745-21-01, Definitions, Paragraphs (B)(1), (B)(2), (B)(6), (D)(6), (D)(8), (D)(22), (D)(45), (D)(48), (D)(58), (M)(8); effective January 17, 1995.

(B) OEPA OAC Rule 3745-21-04, Attainment Dates and Compliance Time Schedules, Paragraphs (B), (C)(3)(c), (C)(4)(b), (C)(5)(b), (C)(6)(b), (C)(8)(b) and (c), (C)(9)(b), (C)(10)(b), (C)(19)(b), (c), and (d), (C)(28)(b), (C)(38), (C)(39), (C)(42), (C)(43), (C)(44), (C)(45), (C)(47), (C)(55), (C)(65); effective January 17, 1995.

(C) OEPA OAC Rule 3745-21-09, Control of Emissions of Volatile Organic Compounds from Stationary Sources, Paragraphs (A), (C) through (L), (N) through (T), (X), (Y), (Z), (BB), (CC), (DD), (UU), Appendix A; effective January 17, 1995.

(D) OEPA OAC Rule 3745-21-09, Control of Emissions of Volatile Organic Compounds from Stationary Sources, Paragraph (B) except (B)(3)(d) and (e) for the Ohio Counties of Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit, and Warren; effective January 17, 1995.

(E) OEPA OAC Rule 3745-21-09, Control of Emissions of Volatile Organic Compounds from Stationary Sources, Paragraph (U) except (U)(1)(h) statewide and (U)(2)(e)(ii) for the Ohio Counties of Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit, and Warren; effective January 17, 1995.

(F) OEPA OAC Rule 3745-21-10, Compliance Test Methods and Procedures, Paragraphs (A), (B), (C), (E), (O); effective January 17, 1995.

(G) Permit to Install, Application Number 04-204, for Abitibi-Price Corporation, APS Premise Number 0448011192. The date of issuance is July 7, 1983.

(H) Permit to Install, Application Number 08-3273, for General Motors

Corporation Delco Chassis Division, APS Premise Number 0857040935. The date of issuance is February 13, 1995.

(ii) Additional material.

(A) On June 7, 1993, the OEPA submitted negative declarations for the source categories of polypropylene or high density polyethylene resin manufacturing, natural gas/gasoline processing plants, and surface coating of flat wood paneling. These negative declarations are approved into the Ohio ozone SIP.

(B) On February 21, 1995, the OEPA submitted a list of facilities subject to the post-enactment source categories listed in Appendix E to the General Preamble. 57 FR 18070, 18077 (April 28, 1992). This list is approved into the Ohio ozone SIP.

(104) On June 7, 1993, the Ohio Environmental Protection Agency (OEPA) submitted a revision request to Ohio's ozone SIP for approval of the State's Stage II vapor recovery program. The Stage II program requirements apply to sources in the following areas: Cincinnati-Hamilton; Cleveland-Akron-Lorain; and Dayton-Springfield.

(i) Incorporation by reference.

(A) OEPA Ohio Administrative Code (OAC) Rule 3745-21-04, Attainment Dates and Compliance Time Schedules, Paragraph (C)(64); effective date March 31, 1993.

(B) OEPA OAC Rule 3745-21-10, Compliance Test Methods and Procedures, Paragraphs (Q), (R), (S), Appendices A, B, C; effective date March 31, 1993.

§ 52.1885 [Amended]

3. Section 52.1885 is amended by removing and reserving paragraph (b).

[FR Doc. 95-7100 Filed 3-22-95; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 52

[CA 102-3-6902; FRL-5173-3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Placer County Air Pollution Control District and San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on January 10, 1995. The revisions concern rules from the Placer County Air Pollution Control District (PCAPCD) and the San Diego County Air Pollution Control District

(SDCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from metal can and coil coating operations and establish recordkeeping requirements for sources emitting VOCs. Thus, EPA is finalizing the approval of these revisions to the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on April 24, 1995.

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.

FOR FURTHER INFORMATION CONTACT: Nikole Reaksecker, Rulemaking Section, Air and Toxics Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744-1187.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 1995 in 60 FR 2563, EPA proposed to approve the following rules into the California SIP: PCAPCD's Rule 223, Metal Container Coating; PCAPCD Rule 410, Recordkeeping for Volatile Organic Compound Emissions; and SDCAPCD Rule 67.4, Metal Container, Metal Closure, and Metal Coil Coating Operations. Rules 223 and 410 were adopted by PCAPCD on October 6, 1994 and November 3, 1994, respectively. Rule 67.4 was adopted by SDCAPCD on September 27, 1994. The rules were submitted by the State of California to EPA on November 30,