

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: April 23, 1997.

Valdas V. Adamkus,
Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

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

§ 52.1885 Control strategy: Ozone.

(a) * * *

(5) On July 9, 1996, and on January 31, 1997, the Ohio Environmental Protection Agency submitted a revision to the State's maintenance plan for

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

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

(A) Lower Reid Vapor Pressure for gasoline;

(B) Reformulated gasoline program;

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

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

(E) Automobile Inspection and Maintenance; and,

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

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

(iii) Reasonably available controls for sources of oxides of nitrogen (NO_x RACT) would be a secondary contingency to be implemented after a violation occurs after the VOC contingency measure has been fully implemented. This contingency would only apply in those redesignated areas

formerly designated moderate non-attainment (the Toledo, Dayton and Cleveland/Akron/Lorain Metropolitan areas).

* * * * *

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

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE026-1005; FRL-5820-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Background

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

The revision consisted of amendments to Delaware Regulation 24—Control of Volatile Organic Compound Emissions which added RACT requirements to control emissions of VOCs from eight source categories. The entire State of Delaware is designated nonattainment for ozone. Kent and New Castle Counties are classified as “severe,” and Sussex County is classified as “marginal.” The entire State of Delaware is contained within the Ozone Transport Region (OTR). Pursuant to section 184(b)(1)(B) of the CAA, for purposes of controlling VOCs from stationary sources, the Delaware SIP must require that sources in Sussex County meet, as a minimum, the requirements for areas classified as “moderate.” Delaware is required to impose RACT on a statewide basis on all major stationary sources of VOC. On January 26, 1996 (61 FR 2419), EPA published a direct final rulemaking approving Delaware’s amendments to Regulation 24—Control of Volatile Organic Compound Emissions, as RACT for all eight source categories. On January 26, 1996 (61 FR 2464), EPA simultaneously published a Notice of Proposed Rulemaking (NPR) proposing approval of the amendments to Regulation 24 which provided the opportunity for public comment. On February 26, 1996, EPA received adverse comments on its approval of one section of Delaware Regulation 24 pertaining to one source category, namely, Section 47—Offset Lithographic Printing. In accordance with federal rulemaking procedures, EPA withdrew its final approval of Section 47 in a notice published on March 26, 1996 (61 FR 13101). EPA stated it would prepare a separate final rule for Section 47 of Regulation 24 wherein it would address the comments received on its January 26, 1996 proposal.

EPA’s Review of Section 47 of Delaware Regulation 24

EPA reviewed Section 47 of the Delaware’s VOC rule using EPA policy guidance documents: Alternative Control Techniques (ACT) Document—Offset Lithographic Printing, June 1994, EPA-453/R-94-054; and Draft Control Techniques Guideline (CTG)—Control of Volatile Organic Compound Emissions from Offset Lithographic Printing, September 1993, EPA-453/D-95-001. EPA has determined that Section 47 of Delaware Regulation 24 is approvable for the purposes of imposing RACT on Offset Lithographic Printing operations in Delaware.

Response to Public Comments

EPA received one letter of comment on its proposed approval of Delaware Regulation 24—Section 47 from the Graphics Arts Association. Those comments are summarized below and EPA responses are provided:

Comment: The commenter states that EPA has not finalized a CTG for this source category or included a model rule in its ACT. The commenter includes a history of the Graphic Arts industry’s comments on EPA’s ACT and draft CTG, and points to instances where Delaware’s regulation differs from those documents.

Response: Delaware was required by section 182(b)(2)(C) of the CAA to revise its SIP to impose RACT on all major sources of VOCs irrespective of the fact that EPA had not issued a final CTG and did not include a model rule in its ACT for this source category. Although there may be instances where Delaware’s regulation differs from EPA’s guidance documents, EPA has determined that Delaware’s regulation satisfies its obligation under Title I of the CAA to impose RACT on major sources of VOC.

Comment: The commenter takes issue with the Delaware regulation’s applicability threshold of 15 pounds/day and requests it be amended to 50 tons/year. The commenter argues that while EPA’s ACT suggested an applicability threshold of 15 pounds/day, no justification was provided by EPA in its ACT.

Response: EPA has determined that the applicability levels in Delaware’s regulation are approvable for offset lithographic printers. As enacted in 1977, the RACT requirement of the CAA applied to stationary sources and was not limited in application to “major” stationary sources. Hence, many of the CTGs developed under the 1977 CAA include a recommendation that states apply RACT to sources of VOC that are below the definition of “major” sources. A general lower size cutoff of 15 pounds/day actual VOC emissions without control devices from all activities in a particular CTG category was suggested by EPA in other related guidance and adopted into many state regulations. As amended in 1990, the CAA still requires major and non-major sources to comply with RACT in accordance with CTGs issued by EPA. With respect to sources for which EPA has not issued a CTG, the CAA requires RACT at such major “non-CTG” sources. However, States have the authority to establish limits more stringent than those required by the CAA. See CAA section 116. Therefore, Delaware may define its applicability

thresholds as it seems necessary and appropriate. As the relevant CAA’s requirements are met by Section 47 of Regulation 24, EPA has no basis to disapprove Delaware’s applicability thresholds. Moreover, the commenter’s request that EPA amend the applicability threshold to 50 tons/year raises a more fundamental issue. In taking action to approve Delaware’s request that it approve Section 47 of Regulation 24 as a SIP revision, EPA is exercising its authority under section 110 of the CAA. Section 110 of the CAA authorizes EPA to approve, disapprove or conditionally approve a state’s submittal to amend its SIP. EPA must act upon the state submittal as received, and has no authority to amend the state’s request. Lastly it is worth noting that in ozone nonattainment areas classified as severe, such as Kent and New Castle Counties, a major stationary source of VOC is defined as a stationary source which emits 25 tons/year. Therefore, if Delaware had selected a 50 ton/year threshold as the commenter suggests, its RACT regulation for Lithographic Printers would not satisfy the CAA.

Comment: The commenter suggested deletions and additions to the Delaware Offset Lithographic Printing Rule on the following sections: Applicability, Definitions, Standards, Control Devices, Test Methods and Procedures, and Recordkeeping and Reporting, and Calculations.

Response: EPA has determined that Delaware’s rule is consistent with EPA guidance and policies. Furthermore, as provided above, EPA must act upon a state submittal as received and has no authority to amend the state’s request.

Other specific requirements of Section 47 and the rationale for EPA’s proposed action are explained in the NPR and will not be restated here.

Final Action

EPA is approving Delaware’s Regulation 24, Section 47—Offset Lithographic Printing, as a revision to the Delaware SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements**A. Executive Order 12866**

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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 subchapter I, part D of the CAA does 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, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. versus 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 ("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 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 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.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the 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 July 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action on the Delaware Regulation 24, Section 47—Offset Lithographic Printing, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 22, 1997.

Stanley Laskowski,

Acting Regional Administrator, Region III.

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 I—Delaware

2. Section 52.420 is amended by adding paragraph (c)(55) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(55) Revisions to the Delaware Regulations, Regulation 24, Section 47—Offset Lithographic Printing submitted on December 19, 1994 by the Delaware Department of Natural Resources & Environmental Control (DNREC):

(i) Incorporation by reference.

(A) Letter of December 19, 1994 from the Delaware DNREC transmitting Regulation 24, Section 47—Offset Lithographic Printing, effective November 29, 1994.

(B) Regulation 24, Section 47—Offset Lithographic Printing, effective November 29, 1994.

(ii) Additional Material from Delaware's December 19, 1994 submittal pertaining to Section 47 of Regulation 24.

[FR Doc. 97-12630 Filed 5-13-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[Region II Docket No. NJ23-1-164, FRL-5823-9]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is granting conditional interim approval of a State Implementation Plan (SIP) revision submitted by New Jersey. This revision establishes and requires the implementation of an enhanced inspection and maintenance (I/M) program in the State. There are two intended effects of this action. One effect is to give conditional approval to the State's proposed enhanced I/M program under section 110 of the Clean Air Act. The other intended effect is to grant interim approval incorporating provisions authorized by section 348 of the National Highway System