

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart LL—Oklahoma

2. Section 52.1920 is amended by adding paragraph (c)(44) to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(44) A revision to the Oklahoma SIP to include Oklahoma Administrative Code, Chapter 310:200, Subchapter 23, entitled, "Control of Emissions From Cotton Gins," submitted by the Governor on May 16, 1994.

(i) Incorporation by reference.

(A) Addition of Oklahoma Administrative Code, Chapter 310:200, Subchapter 23, entitled, "Control of Emissions From Cotton Gins," as adopted by the Oklahoma Air Quality Council on April 30, 1992, and effective June 1, 1993.

(ii) Additional material—None.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[MO 023-1023(a); FRL-5822-9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: By this action the EPA grants final full approval to the State Implementation Plan (SIP) submitted by the state of Missouri for the purpose of meeting the requirements of the EPA's general conformity rule. This fulfills the conditions of the approval granted on March 11, 1996, which became effective May 10, 1996.

DATES: This action is effective July 14, 1997 unless by June 13, 1997 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551-7213.

SUPPLEMENTARY INFORMATION:**I. Background**

The EPA granted conditional approval to Missouri's SIP revision (containing rule 10 CSR 10-6.300), regarding Conformity of General Federal Actions to State Implementation Plans, in a rulemaking dated March 11, 1996 (61 FR 9642-9644). This conditional approval was necessary because the state used a model rule developed by the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) that made two provisions of the Missouri rule more stringent than the Federal general conformity rule. The rationale for the conditional approval and for the EPA's determination regarding these provisions is explained in detail in the Technical Support Document which accompanied the March 11, 1996, conditional approval.

Under section 110(k)(4) of the Act, the EPA granted a conditional approval based on Missouri's commitment to correct the noted deficiencies not later than one year after the date of approval of the plan revision. Missouri committed to correct these deficiencies within one year from December 7, 1995. On November 20, 1996, Missouri submitted a revision to the SIP that corrects the deficiencies and meets the requirements of the conditional approval.

As requested by the EPA, this revised SIP specifically amends sections (3)(C)4 and (9)(B) of 10 CSR 10-6.300 regarding conformity analyses timeframes. Prior to the amendment, these cited sections contained sentences regarded as clarifying language in the STAPPA/ALAPCO model rule.

II. Final Action

The EPA is taking final action to approve revisions submitted on November 20, 1996, which fulfill the conditional approval effective May 10, 1996. This meets the Federal requirements set forth in 40 CFR 51.851 and 93.151.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment 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 or critical comments be filed. This action is effective July 14, 1997 unless, by June 13, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. 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 is effective July 14, 1997.

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 the 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., the 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, the 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 Clean Air Act (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, the Administrator 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 regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

III. 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 Executive Order 12866 review.

B. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the 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 the private sector, of \$100 million or more. Under section 205, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The 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 preexisting 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.

C. 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, the 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 this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

D. Petitions for Judicial Review

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 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 9, 1997.

Michael Sanderson,
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 AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(97) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(97) On November 20, 1996, the Missouri Department of Natural Resources (MDNR) submitted a revised rule which pertains to general conformity.

(i) Incorporation by reference.

(A) Rule 10 CSR 10–6.300, entitled Conformity of General Federal Actions to State Implementation Plans, effective September 30, 1996.

3. Section 52.1323 is amended by adding paragraph (j) to read as follows:

§ 52.1323 Approval status.

* * * * *

(j) The state of Missouri revised 10 CSR 10–6.300 to remove language in paragraphs (3)(C)4 and (9)(B) which made the language more stringent than that contained in the Federal general conformity rule. This fulfills the requirements of the conditional approval granted effective May 10, 1996, as published on March 11, 1996.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH104–1a; FRL–5822–5]

Approval and Promulgation of Implementation Plans; Ohio Ozone Maintenance Plan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA approves a revision submitted on July 9, 1996, and January 31, 1997, to the ozone maintenance plans for the Dayton-Springfield Area (Miami, Montgomery, Clark, and Greene Counties), Toledo Area (Lucas and Wood Counties), Canton Area (Stark County), Ohio portion of the Youngstown-Warren-Sharon Area (Mahoning and Trumbull Counties), Columbus Area (Franklin, Delaware, and Licking Counties), Cleveland-Akron-Lorain Area (Ashtabula, Cuyahoga, Lake, Lorain, Medina, Summit, Portage, and Geauga Counties), Preble County, Jefferson County, Columbiana and Clinton Counties.

The revision is based on a request from the State of Ohio to revise the Federally approved maintenance plan for these areas to provide the State and the affected areas with greater flexibility in choosing an appropriate ozone contingency measure for each area in the event such a measure is needed. This action approves the State's request as a common-sense approach to protecting air quality in Ohio.

In the proposed rule section of this **Federal Register**, USEPA is proposing approval of this revision, and is now soliciting public comments on this action. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a subsequent final rule based on the proposed rule.

EFFECTIVE DATES: This final rule will become effective on July 14, 1997 unless adverse or critical comments are received by June 13, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the requested maintenance plan revision, and other materials