

charge paid. Report only trays, sacks, and pallets subject to the Outside-County container rates under 1.1.4 or 1.2.4.

3. For combined mailings, a summary by individual mailer of the number of each type of bundle and container in the mailing and, optionally, the bundle and container rate paid. Report only bundles, trays, sacks, and pallets subject to the Outside-County bundle and container rates under 1.1.3 or 1.2.3 and 1.1.4 or 1.2.4.

4. A summary of the total number of copies for each zone, including In-County, DDU, SCF, and ADC rates. A separate summary report is not required if a PAVE-certified postage statement facsimile generated by the presort software used to prepare the standardized documentation is presented for each mailing.

5. Additional data if necessary to calculate the amount of postage for the mailing (or additional postage due, or postage to be refunded) if nonidentical-weight pieces that do not bear the correct postage at the rate for which they qualify are included in the mailing, or if different rates of postage are affixed to pieces in the mailing.

\* \* \* \* \*

[Insert new 1.8 as follows:]

### 1.8 Bundle and Container Reports for Periodicals Mail

A publisher must present documentation to support the actual number of bundles and containers of each edition of an issue as explained in 1.8.1 and 1.8.2 below.

#### 1.8.1 Bundle Report

The bundle report must contain, at a minimum, the following elements:

- Container identification number.
- Container type.
- Container presort level.
- Bundle ZIP Code.
- Bundle level.
- Rate category.
- Number of copies by version in the bundle.
- An indicator showing which bundles are subject to the bundle charge.

#### 1.8.2 Container Report

The container report must contain, at a minimum, the following elements:

- Container identification number.
- Container type.
- Container level.
- Container entry level (origin, DDU, DSCF, DADC, or DBMC).
- An indicator showing which containers are subject to the container charge.

\* \* \* \* \*

### 709 Experimental Classifications and Rates

[Delete 3.0, Outside-County Periodicals Copalletization Drop-Ship Classification; and 4.0, Outside-County Periodicals Copalletization Drop-Ship Discounts for High-Editorial, Heavy-Weight, Small-Circulation Publications. *Renumber remaining sections 5.0 and 6.0 as new 3.0 and 4.0. The experimental copalletization discounts expire and are replaced by the new rate structure for Periodicals mail in 707.*]

\* \* \* \* \*

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E7-10139 Filed 5-24-07; 8:45 am]

BILLING CODE 7710-12-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0976; FRL-8318-3]

### Approval and Promulgation of Air Quality Implementation Plans; Ohio; Control of Gasoline Volatility

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Ohio on February 14, 2006, and October 6, 2006, establishing a lower Reid Vapor Pressure (RVP) fuel requirement for gasoline distributed in the Cincinnati and Dayton 8-hour ozone nonattainment areas. Ohio has developed this fuel requirement to reduce emissions of volatile organic compounds (VOC) in accordance with the requirements of the Clean Air Act (CAA). EPA is approving Ohio's fuel requirement into the Ohio SIP because EPA has found that the requirement is necessary for the Cincinnati and Dayton areas to achieve the 8-hour ozone national ambient air quality standard (NAAQS). This action is being taken under section 110 of the CAA. On March 29, 2007, the EPA published a Notice of Proposed Rulemaking (NPRM) proposing to approve the SIP revision. During the comment period EPA received a number of comments both supporting and opposing the approval of the fuel requirement.

This document summarizes the comments received, EPA's responses, and finalizes the approval of Ohio's SIP revision to establish a RVP limit of 7.8 pounds per square inch (psi) for

gasoline sold in the Cincinnati and Dayton 8-hour ozone nonattainment areas.

**DATES:** This final rule is effective on May 31, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0976. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Francisco J. Acevedo, Environmental Protection Specialist, at (312) 886-6061 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Environmental Protection Specialist, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, [acevedo.francisco@epa.gov](mailto:acevedo.francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- What is the background for this action?
- What is our response to comments received on the notice of proposed rulemaking?
- What action is EPA taking?
- Statutory and Executive Order Review

#### I. What is the background for this action?

On April 15, 2004, the EPA designated 5 counties in the Cincinnati, Ohio area (Hamilton, Butler, Clinton, Warren and Clermont counties—Cincinnati-Hamilton, OH-KY-IN) and 4 counties in the Dayton, Ohio area (Clark, Greene, Miami, and Montgomery counties—Dayton-Springfield, OH) as nonattainment for the 8-hour ozone standard. Both areas have been designated Basic nonattainment with respect to the 8-hour ozone standard and they are required to attain the

standard as expeditiously as practicable, but no later than June 2009.

As part of the State of Ohio's (Ohio) efforts to bring these areas into attainment, the State is adopting and implementing a broad range of ozone control measures including control of emissions from auto refinishing operations, the reduction of VOC emission from portable fuel containers, the adoption of industrial solvent degreasing rules, and the implementation of a 7.8 pound per square inch (psi) RVP fuel program.

Ohio originally proposed to replace the State's vehicle inspection and maintenance (I/M) program in Cincinnati and Dayton, which was discontinued by the State on December 31, 2005, with the requirement to supply 7.8 psi RVP gasoline to these areas starting in 2006. However, the State modified its original request and asked that EPA act on the state's fuel waiver request to allow the use of 7.8 psi RVP gasoline in both areas. On February 14, 2006, Ohio submitted the fuel waiver request as a SIP revision. The submittal included adopted amended rules under Ohio Administrative Code Chapter 3745-72 "Low Reid Vapor Pressure Fuel Requirements" to require the use of 7.8 psi RVP gasoline in the Cincinnati and Dayton areas beginning on June 1, 2006.

Soon after the State's February 14, 2006 submittal, the American Petroleum Institute (API) appealed the State's 7.8 psi RVP rule on the basis that there was insufficient time to implement the rule and that EPA had not yet issued a waiver under section 211(c)(4)(C) of the CAA, as amended. EPA conducted an informal survey of gasoline suppliers and determined that there was not enough 7.8 psi RVP gasoline to supply the Cincinnati and Dayton nonattainment areas during the 2006 ozone season. As part of the State's settlement with API on its appeal, Ohio agreed to revise the rule to delay the effective date of the rule until twelve months following the approval of a fuel waiver by EPA in order to ensure that there is sufficient time for the regulated community to prepare for the change.

On July 10, 2006, the Ohio Environmental Protection Agency (OEPA) adopted amended rules under the Ohio Administrative Code Chapter 3745-72 "Low Reid Vapor Pressure Fuel Requirements" to modify the implementation date for the required use of 7.8 psi RVP gasoline in the Cincinnati and Dayton areas to be one year after the approval of a fuel waiver under CAA amendments section 211(c)(4)(C). Public hearings on the amended rules were held on June 2,

2006, in Columbus, Ohio and the rules became effective at the state level on July 17, 2006.

The OEPA submitted these amended low-RVP rules to EPA as a revision to the SIP on October 6, 2006. As part of the October 6, 2006 submittal, OEPA included additional technical support for the SIP revision, including documentation supporting the State's request to waive the CAA preemption of State fuel controls pursuant to section 211(c)(4) of the CAA.

On March 29, 2007, EPA proposed approval of the State's SIP revision to establish a 7.8 psi low-RVP fuel program in the Cincinnati and Dayton 8-hour ozone nonattainment areas. (See 72 FR 14729). As detailed in the proposed approval, EPA found the low-RVP fuel program necessary pursuant to Section 211(c)(4)(C) of the CAA. In addition, EPA also proposed approval of the State's SIP revision as consistent with the provisions of the Energy Policy Act (EPAAct).

## II. What is our response to comments received on the notice of proposed rulemaking?

During the comment period for the March 29, 2007, proposal we received several comments from 16 commenters including the API and the Regional Air Pollution Control Agency (RAPCA) of Dayton, Ohio. Six of the commenters, including RAPCA, were in favor of the proposed fuel and supported EPA approval. A number of commenters also submitted adverse comments that were outside the scope of the proposal (e.g., approval of reformulated gasoline, corn ethanol). A summary of the relevant portions of the adverse comments received on the proposed rule and EPA's response to these comments is presented below. EPA does not view the adverse comments we received as a basis to disapprove the SIP revision. We believe the SIP revision meets the applicable requirements of the CAA, and we are approving it.

*Comment:* API states "API supports Ohio's revision to the rule," providing for low RVP gasoline as of one year after EPA approval of the rule. API then states, "However, it would be unlawful for USEPA to approve this SIP revision." API thus implicitly recommends that EPA not approve Ohio's rule.

*Response:* EPA appreciates API's support for Ohio's rule change allowing one year lead time from EPA final approval. However, EPA disagrees with API's contention that approving Ohio's rule would be unlawful, and EPA disagrees with API's recommendation that EPA not approve Ohio's rule. The

discussion below addresses API's more specific comments.

*Comment:* API repeats some of the modeling uncertainties that EPA noted in its proposed rulemaking, and concludes that "EPA should require that States seeking approval under 211(c)(4)(C) submit accurate modeling and back-up analysis as part of the waiver request. Providing it later with an attainment demonstration is too late to be useful for EPA's fuel waiver analysis."

*Response:* EPA must make judgments as to whether it has the best available modeling information and whether the information is of adequate quality to support the conclusion being reached. "EPA has undoubted power to use predictive models so long as it explains the assumptions and methodology used in preparing the model and provides a complete analytic defense should the model be challenged." *Appalachian Power Company v. EPA*, 251 F.3d 1026, 1051 (D.C. Cir. 2001) (internal citations omitted). EPA also recognizes that any modeling analysis, and any projection of future conditions, inherently has uncertainties. "That a model is limited or imperfect is not, in itself a reason to remand agency decisions based upon it." *Id.* "It is only when the model bears no rational relationship to the characteristics of the data to which it is applied that [courts] will hold that the use of the model is arbitrary and capricious." *Appalachian Power Company v. EPA*, 135 F.3d 791, 802 (D.C. Cir. 1998) (internal citations omitted). Thus, in this instance EPA believes that it is using the best available modeling information, that the information is of adequate quality to find low RVP fuel necessary, and that the commenter has provided no rationale for EPA to believe otherwise. Further, regardless of what information the state provides, directly or indirectly, EPA's obligation is to use available information to judge whether a fuel program is necessary. EPA agrees that information that Ohio is preparing for submittal with its attainment demonstration will not be available for EPA's fuel waiver analysis, but notes that such information is not required for purposes of making a necessity finding under either section 211(c)(4)(C)(i) or EPA's August 1997 "Guidance on Use of Opt-in to RFG and Low RVP Requirements in Ozone SIPs." EPA believes that the modeling information already available is adequate for finding low RVP fuel necessary.

*Comment:* API states that the State of Ohio has not made its "necessity" showing because there are non-fuel measures (e.g., E-check) that are

reasonable and practicable. API points out that OEPA has already adopted and implemented E-check for Dayton-Cincinnati, thus, proving that this control measure is both reasonable and practicable. API also contends that EPA provides no independent analysis or review of the non-fuel measures and that "it appears that EPA did not review the reasons OEPA gives for why E-check is not reasonable or practicable, as they do not comment in their proposal on OEPA's rationale".

*Response:* EPA agrees with API's conclusion that E-check is a reasonable and practical control measure. However, EPA views the issue of whether E-check is reasonable or practicable as irrelevant in making a "necessity" determination because Cincinnati and Dayton's E-check program is currently part of the existing SIP and, thus, is still a required control measure in both areas regardless of whether the program is currently operating or not. In addition, the modeling analysis used in demonstrating "necessity" reflects the emission reductions associated with the E-check as if the program was still operating. EPA has concluded that even with the implementation of all non-fuel control measures determined to be reasonable and practicable, including E-check, additional VOC reductions are necessary to achieve the ozone NAAQS. Further, EPA concluded, based on the information available to us, that no other reasonable and practicable non-fuel measures were available to the State that would achieve these needed emission reductions in a timely manner. Thus the Agency concludes that the 7.8 psi RVP fuel program is necessary for attainment of the applicable ozone NAAQS.

EPA disagrees with API's assertion that EPA did not review and take into consideration the reasons OEPA outlined in the State's submittal regarding why the State considered E-check to be unreasonable or impracticable. As provided above, EPA reviewed OEPA's rationale but determined that it was irrelevant in making the necessity demonstration because E-check is a required program in Ohio's SIP. Regarding API's concern that EPA did not provide an independent analysis or review of the non-fuel measures, EPA provided the opportunity for the public to review and comment on all aspects of Ohio's submittal including the evaluation of the non-fuel measures considered by the State. EPA did not receive any specific comments questioning either the list of non-fuel measures considered or the results of the State's analysis. EPA believes that the State's assessment

adequately identifies and evaluates non-fuel measures.

*Comment:* An anonymous commenter urges that EPA not approve the 7.8 RVP gasoline requirement due to deficiencies in the showing that low RVP fuel is necessary. First, the commenter objects to the estimation of the emission reduction between 2008 and 2009 by calculating one seventh of the emission reduction between 2002 and 2009, since commenter believes that an "analysis of whether [pertinent emission reductions are] linear" would show that emission reductions occur disproportionately in early years of control programs and only minimally later. Second, the commenter observes that the Dayton and Cincinnati nonattainment areas are subject to a requirement "to submit an attainment demonstration that relies on photochemical grid modeling," and the commenter believes that "a completed attainment demonstration seems to be necessary" to "properly determine whether a low-RVP fuel is necessary." Third, the commenter believes that "a 'weight of evidence' analysis is needed with such modeling." The commenter concludes that "USEPA should fully evaluate the necessity of such lower RVP fuel in accordance with section 211(c)(4)(C) of the Clean Air Act."

*Response:* EPA used the best available information to evaluate whether Ohio's low RVP fuel program is necessary. First, the most significant VOC emission reductions between 2002 and 2009 are from mobile sources, which are yielding relatively linear emission reductions resulting from a steady rate of replacement of old dirtier vehicles with new cleaner vehicles. (Emissions for NO<sub>x</sub> declined more than the average 2002 to 2009 rate in the early days of the NO<sub>x</sub> SIP Call program and can be expected to decline at less than that rate in the future, but EPA's approximation of necessary emission reductions applied only to VOC emissions.) EPA considered this situation in deciding to apply an assumption of approximately linear reductions, and EPA continues to believe that the best available information is based on an assumption that VOC emissions are undergoing a basically linear decline.

Second, Dayton and Cincinnati are indeed subject to a requirement for attainment demonstrations, for which EPA recommends use of photochemical grid modeling, but, under section 211(c)(4)(C)(i), EPA may make a necessity finding "even if the plan for the area does not contain an approved demonstration of timely attainment." The attainment plans are not due until June 15, 2007, and even though this requirement applies in the relatively

near future, EPA has no obligation to delay action on Ohio's fuel request waiting for either that date or Ohio's actual submittal. EPA believes it has adequate information already to evaluate the necessity of the fuel restrictions requested by Ohio.

Third, EPA indeed recommends "weight of evidence" analyses as a supplement to attainment demonstrations in some cases. However, just as section 211(c)(4)(C) provides that an approved attainment demonstration is not a prerequisite for making necessity findings, EPA believes that complete "weight of evidence" analyses are not a prerequisite for making necessity findings. EPA expects that Ohio will submit weight of evidence analyses at the same time it submits its attainment demonstrations. In the meantime, in the absence of a complete submittal by Ohio addressing the potential for model under-prediction as well as over-prediction, EPA believes that the best assessment of the necessity of a low RVP fuel program in Southwest Ohio is based directly on the available modeling information. In summary, EPA concludes that an evaluation in accordance with section 211(c)(4)(C) using the best available information indicates that Ohio's requested low RVP fuel is necessary in Southwest Ohio.

*Comment:* A commenter questions whether the benefits of low RVP gasoline will be significant. The commenter observes that there are 130 billion tons of air above the Cincinnati/Dayton area, so that an emission reduction of 5.2 tons per day would only reduce concentrations by 0.000000004 percent. Finally, the commenter recommends use of a "Grease Gator", marketed by Solvent Systems, for cleaning parts without emitting VOC.

*Response:* Human health is impaired even at very low air pollutant concentrations. The ozone standard is 0.08 parts per million, or 0.000008 percent of the molecules in ambient air. EPA set the air quality standard at this "trace" level based on studies showing that even seemingly negligible concentrations of ozone can adversely affect human health. Typical VOC concentrations sufficient to cause violations of this standard are in the same fraction of a part per million range, attributable in the Cincinnati/Dayton area to emissions of about 300 tons per day. Given the low concentrations at which ozone impairs health, the implementation of low RVP gasoline will provide a significant fraction of the reduction of VOC emissions needed in this area. It should be noted, however, that in reviewing

this SIP revision EPA is limited to determining whether the legal criteria for approval are met. The issue before us here is whether the criteria for approval in 211(c)(4)(C) are met, and we have determined they have been met. EPA appreciates the recommendation of a parts cleaning system with zero VOC emissions.

*Comment:* Several commenters raised concerns with the concept of further expanding the use of boutique fuels. One commenter goes on to say that such expansion will further reduce refinery capacity/efficiency, is likely to cost consumers more, and has the potential to cause the Ohio areas to face a gasoline shortage in the event of a fuel disruption scenario. Another commenter is concerned that having special blends in different parts of the country will cause shortages.

*Response:* Due to the heightened concern over supply and price issues and the potential for boutique fuel programs to exacerbate these issues, Congress directly addressed the issue of boutique fuels in several ways in the Energy Policy Act of 2005 (EPAAct). EPAAct placed further restrictions on EPA's authority to approve a state fuel program in the SIP. Under EPAAct, EPA may approve a state fuel program for a SIP only if a fuel is already approved in a SIP for a state in that Petroleum Administration for Defense Districts (PADD), and the approval does not increase the total number of state fuels on EPA's list of fuels. Further, where there is room on the list, prior to approval of a new fuel, EPA, with Department of Energy consultation, must find no adverse impact on fuel supply and distribution in either the affected area or contiguous areas. The 7.8 psi RVP fuel that we are approving today is not a new fuel because it is already approved in at least one SIP (Indiana, (61 FR 4895, (February 9, 1996)) in the PADD where Ohio is located. EPA therefore, does not believe that it is required to make a finding of no adverse impact effects of a 7.8 psi RVP fuel on fuel supply and distribution in either Dayton and Cincinnati or the contiguous areas. EPA also believes that this rule fully complies with the applicable EPAAct requirements. Further, although we received comments from API on this action, none of the comments received from the industry side raise any concerns with the industry's ability to adequately and efficiently supply the 7.8 psi RVP fuel to the affected areas. Further, API's comments state that "API and OEPA reached an agreement on April 4, 2006, that 7.8 RVP fuel will not be required in Dayton-Cincinnati until

one year after final approval by U.S.EPA. API supports this revised rule as in the best interest of the State of Ohio and its citizens".

### III. What action is EPA taking?

EPA is approving a SIP revision submitted by the State of Ohio on February 14, 2006, and October 6, 2006, establishing a 7.8 psi RVP fuel requirement for gasoline distributed in the Cincinnati and Dayton 8-hour ozone nonattainment areas. This action is effective on May 31, 2007. EPA is approving Ohio's fuel requirement into the SIP because EPA has found that the requirement is necessary for Southwest Ohio to achieve the 8-hour NAAQS for ozone. EPA's approval is consistent with the boutique fuel provisions of section 211(c)(4)(C) enacted in EPAAct.

EPA finds that there is good cause for this action to become effective by May 31, 2007. The May 31, 2007 effective date for this action is authorized under 5 U.S.C. 553(d)(3) which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, approves Ohio's SIP revision requiring the use of 7.8 psi RVP gasoline in the Cincinnati and Dayton areas one year after EPA approval of the fuel waiver request under section 211(c)(4)(C) of the CAA. RVP control requirements are summer control programs that are generally implemented during the summer ozone season beginning on June 1. Making this rule effective before the beginning of the summer ozone season, will allow the regulated industry to avoid having to address multiple RVP requirements during the 2008 ozone season. In addition, as noted above, the regulated industry has had advance notice of this requirement, and the API has agreed to a settlement with provisions for the 7.8 psi RVP fuel in these areas twelve months following the approval of a fuel waiver by EPA. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on May 31, 2007.

### IV. Statutory and Executive Order Reviews

#### *Executive Order 12866: Regulatory Planning and Review*

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.

#### *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant regulatory action," 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).

#### *Regulatory Flexibility Act*

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.*).

#### *Unfunded Mandates Reform Act*

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).

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will 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).

#### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does not 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). This action 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.

*Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

*National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act. 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.

*Paperwork Reduction Act*

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.*).

*Congressional Review Act*

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 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 24, 2007. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 18, 2007.

**Gary Gulezian,**

*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.*

**Subpart KK—Ohio**

■ 2. Section 52.1870 is amended by adding paragraph (c)(138) to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(138) On February 14, 2006, and October 6, 2006, the State of Ohio submitted a revision to the Ohio State Implementation Plan. This revision is for the purpose of establishing a gasoline Reid vapor pressure (RVP) limit of 7.8 pounds per square inch (psi) for gasoline sold in the Cincinnati and Dayton 8-hour ozone nonattainment areas which includes Hamilton, Butler, Clinton, Warren, Clermont, Clark, Greene, Miami, and Montgomery counties.

(i) Incorporation by reference. The following sections of the Ohio Administrative Code (OAC) are incorporated by reference.

(A) OAC Rule 3745-72-01: "Applicability", effective July 17, 2006 except for 3745-72-01(E).

(B) OAC Rule 3745-72-02: "Definitions", effective July 17, 2006.

(C) OAC Rule 3745-72-03: "Gasoline volatility standards and general provisions", effective January 16, 2006.

(D) OAC Rule 3745-72-04: "Transfer documentation and recordkeeping", effective January 16, 2006.

(E) OAC Rule 3745-72-05: "Liability", effective January 16, 2006.

(F) OAC Rule 3745-72-06: "Defenses", effective January 16, 2006.

(G) OAC Rule 3745-72-07: "Special provisions for alcohol blends", effective January 16, 2006.

(H) OAC Rule 3745-72-08: "Quality assurance and test methods", effective January 16, 2006.

(ii) Additional materials.

(A) Letter from Ohio EPA Director Joseph P. Koncelik to Regional Administrator Thomas Skinner, dated February 14, 2006.

(B) Letter from Ohio EPA Director Joseph P. Koncelik to Regional Administrator Mary Gade, dated October 6, 2006.

[FR Doc. E7-10054 Filed 5-24-07; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2006-0130-200714(a); FRL-8317-8]

**Approval and Promulgation of Implementation Plans: State of Florida; Prevention of Significant Deterioration Requirements for Power Plants Subject to the Florida Power Plant Siting Act**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On February 3, 2006, the State of Florida, through a State Implementation Plan (SIP) submittal addressing New Source Review (NSR) Reform requirements, requested that EPA grant it full approval to implement the State's Clean Air Act (CAA or Act) Prevention of Significant Deterioration (PSD) program for electric power plants subject to the Florida Electrical Power Plant Siting Act. EPA is proposing to approve this specific request under section 110 of the Act. EPA intends to take action on all other portions of Florida's February 3, 2006, NSR Reform SIP submittal in a future rulemaking.

**DATES:** This direct final rule is effective July 24, 2007 without further notice, unless EPA receives adverse comment by June 25, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2006-0130, by one of the following methods: