This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on June 8, 1994.

Issued in Renton, Washington, on April 26, 1994.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-10507 Filed 5-6-94; 8:45 am]

BILLING CODE 4910-13-U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-33998]

Delegation of Authority to Director of Division of Enforcement

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate authority to the Director of Division of Enforcement to institute subpoena enforcement proceedings in federal court to seek an order compelling the production of documents or an individual's appearance for testimony pursuant to a validly-issued Commission subpoena. This amendment will expedite the investigation process by enabling the staff to more quickly compel individuals or entities to comply with Commission subpoenas.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Emily P. Gordy, Assistant Director, Division of Enforcement, 942-4627, Stephen M. DeTore, Associate Chief Counsel, 942-4593 or Earle B. Wilson, Attorney, 942-4842.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced amendments to its rules governing delegation of authority to the Division of Enforcement ("Division").

The amendment to Rule 30-4 [1] authorizes the Director of Division of Enforcement ("Division Director") to institute subpoena enforcement proceedings in federal court to seek an order compelling individuals or entities to comply with Commission subpoenas. This delegation will expedite the investigation process by enabling the Division to more quickly seek to compel compliance with Commission subpoenas in cases where the entry of a court order is necessary. Notwithstanding this delegation of authority, in instances where potential subpoena enforcement action raises any close or controversial issues, the Division may consult with the Commission before the action is filed in federal court.

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedure Act,[2] that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date is also unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for part 200 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d-1, 78d-2, 78w, 78*ll*(d), 79t, 77sss, 80a-37, 80b-11, unless otherwise noted.

* * * * *

2. Section 200.30-4 is amended by adding paragraph (a)(10) to read as follows:

§ 200.30-4 Delegation of authority to Director of Division of Enforcement.

* * * * *

(a) * * *

(10) To institute subpoena enforcement proceedings in federal court to seek an order compelling the production of documents or an individual's appearance for testimony pursuant to subpoenas issued pursuant to paragraph (a)(1) of this section in connection with investigations pursuant to section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 18(c) of the Public Utilities Holding Company Act of 1935 (15 U.S.C. 79r(c)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

* * * * *

Dated: May 3, 1994.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-11028 Filed 5-6-94; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4 and 123

[T.D. 94-44]

RIN 1515-AB41

Small Vessel Reporting of Arrival in Miami District

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document removes a section of the Customs Regulations which sets forth special requirements for the report of arrival by operators of small vessels whose intended destination is at a point within the Miami, Florida, Customs District. As a result of this change, such small vessels will be subject to the reporting requirements applicable to vessels in general as prescribed by statute and elsewhere in the Customs Regulations. The change will confer a benefit on the public by doing away with procedural requirements which have proven to be cumbersome and inconvenient.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Greg Burns, Office of Inspection and Control (202-927-0381).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1988, T.D. 88-71 was published in the Federal Register (53 FR 46081) to adopt, as a final rule, interim amendments to Part 4 of the Customs Regulations (19 CFR part 4) which included, *inter alia*, the addition of a new § 4.2a (19 CFR 4.2a) setting forth special requirements for the report of arrival by operators of small vessels whose intended destination is at a point within the Miami, Florida, Customs

[1] 17 CFR 200.30-4.

[2] 5 U.S.C. 553(b)(3)(A).

District. Section 4.2a was adopted as part of Customs continuing efforts to prevent smuggling, or other introduction contrary to law, of controlled substances and other merchandise and to enforce the currency reporting laws.

Under § 4.2a, an operator of a small vessel (defined as any vessel of less than 5 net tons, or any private pleasure vessel regardless of displacement) arriving from a foreign port or place, as defined therein, with an intended destination at a point within the limits of the Miami Customs District must immediately report the arrival, by use of a special clearly marked Customs telephone provided for that purpose at that location designated by Customs which is nearest to the vessel destination point, before proceeding to that destination point; the background portion of T.D. 88–71 listed 24 small vessel reporting stations designated by Customs but further stated that the District Director of Customs in Miami would retain authority to change the reporting locations. Section 4.2a also specifies the civil and criminal penalties that may be applied to the master or person in charge of a vessel who fails to report arrival as required under that section.

Experience with the operation of § 4.2a since publication of T.D. 88–71 has demonstrated that the reporting procedures set forth in the regulation are unnecessarily cumbersome and otherwise inconvenient for the general public. In this regard, Customs notes the following specific problems with the § 4.2a reporting requirements: (1) The number of private vessel arrivals in the Miami District exceeds the ability of the telephone reporting system to accommodate the calls in a timely manner, with the result that vessel operators sometimes must wait for more than an hour before getting through to the Customs office; and (2) private marinas, which constitute the majority of the designated reporting stations, have experienced economic hardship, particularly on busy weekends, because vessels trying to report occupy dock space to the exclusion of other private vessels wishing to do business at the marina. Customs believes that these problems are sufficiently significant as to warrant removal of § 4.2a.

Customs notes that removal of § 4.2a, which is primarily procedural in effect, will not have any substantive effect on the basic vessel reporting requirement and the enforcement thereof by Customs. In this regard it is noted that on December 21, 1993, Customs published in the **Federal Register** (58 FR 67312) T.D. 93–96 setting forth, as a final rule effective on the date of publication, amendments to the Customs Regulations concerning reporting requirements for vessels, vehicles and individuals. Included in T.D. 93–96 were: (1) A revised § 4.2(a) which provides, *inter alia*, that, upon arrival of any vessel from a foreign port or place, the master of the vessel shall immediately report that arrival to the nearest Customs facility or other location designated by the district director; (2) transferral of the definition of "foreign port or place" from § 4.2a to a new § 4.2(b); and (3) a new § 4.3a setting forth a general recitation of the penalties for violation of vessel reporting and entry requirements. Accordingly, while removal of § 4.2a will eliminate the burden on the public occasioned by the special reporting procedures contained in that regulatory provision, the basic legal responsibilities of operators of small vessels will remain unchanged: Under § 4.2(a) they will still have to immediately report to Customs upon arrival from a foreign port or place, and they will remain liable for civil and criminal penalties for a failure to do so as outlined in § 4.3a.

In addition to the removal of § 4.2a, this document contains consequential cross-reference amendments to § 4.2(a) and to § 123.1(c) which was also revised by T.D. 93–96 as discussed above.

Inapplicability of Notice and Delayed Effective Date Requirements

Because these amendments confer benefits by reducing burdens and relieving restrictions on the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedures are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d) (1) and (3), a delayed effective date is not required.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Regulatory Flexibility Act

Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 4

Customs duties and inspection, Harbors, Imports, Maritime carriers, Merchandise, Reporting and recordkeeping requirements, Vessels, Yachts.

19 CFR Part 123

Canada, Customs duties and inspection, Imports, International boundaries, Mexico, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

For the reasons stated above, parts 4 and 123, Customs Regulations (19 CFR parts 4 and 123) are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the specific authority citation for § 4.2 are revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.2 also issued under 19 U.S.C. 1441, 1486;

* * * * *

§ 4.2 [Amended]

2. In § 4.2, paragraph (a) is amended by removing from the second sentence the words "prescribed in § 4.2a of this part, or as".

§ 4.2a [Removed]

3. Section 4.2a is removed.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 is revised, and the specific authority citation for § 123.1 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1431, 1433, 1624;

Section 123.1 also issued under 19 U.S.C. 1459.

* * * * *

§ 123.1 [Amended]

2. In § 123.1, paragraph (c) is amended by removing the words "see §§ 4.2 and 4.2a" and adding, in their place, the words "see § 4.2".

Michael H. Lane,
Acting Commissioner of Customs.

Approved: April 15, 1994.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–11004 Filed 5–6–94; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH-11-2-6106; OH-12-2-6107; FRL-4881-3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is giving partial approval, partial disapproval, and partial limited approval/limited disapproval to specified portions of the requested revisions to the Ohio's ozone State Implementation Plan (SIP). The requested revisions consist of amendments to the Ohio Volatile Organic Compound (VOC) Rules. The revisions were submitted by the State of Ohio on June 9, 1988, and August 24, 1990, to satisfy part D requirements of the Clean Air Act as amended in 1990 (CAA). The USEPA has evaluated each revised rule and finds that a number of the regulations are fully approvable, and a number are not approvable, and is partially approving and partially disapproving these portions accordingly. The remainder of the regulations, while deficient in some respects, would nevertheless strengthen the existing SIP if federally approved. Therefore, the USEPA is giving limited approval to these remaining regulations in order to strengthen the SIP. Concurrently, the USEPA is giving limited disapproval to these rules because they still contain deficiencies that were required to be corrected by section 182(a)(2)(A) and, as a result, do not fully meet the part D requirements of the CAA.

EFFECTIVE DATE: This final rule becomes effective June 8, 1994.

ADDRESSES: Copies of the SIP revision request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Bonnie Bush at (312) 353-6684, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of this revision request to the Ohio ozone SIP is also available for inspection at the following address:

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, (202) 260-7548.

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

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On June 9, 1988, the Ohio Environmental Protection Agency (OEPA) submitted volatile organic compound (VOC) regulations governing 11 sources not covered by United States Environmental Protection Agency (USEPA) Control Technique Guidelines (CTG) and the associated technical support for these regulations. On August 24, 1990, the OEPA submitted further revisions to the ozone portion of the Ohio State Implementation Plan (SIP), specifically, revisions to Ohio Administrative Code (OAC) Chapter 3745-21, "Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and Related Materials Standards," including amendments to the following rules: OAC 3745-21-01, Definitions; OAC 3745-21-04, Attainment Dates and Compliance Time Schedules; OAC 3745-21-09, Control of Emissions of Volatile Organic Compounds from Stationary Sources; OAC 3745-21-10, Compliance Test Methods and Procedures; and OAC 3745-21-11, Reasonably Available Control Technology Studies for Ozone. On July 23, 1991, the OEPA sent a letter to Region V withdrawing OAC 3745-21-11 from the August 1990 SIP revision request. The USEPA evaluated the remaining revision requests from both the June 1988 and August 1990 submittals as the OEPA's effort to address the reasonably available control technology (RACT) "Fixup" requirements under section 182(a)(2)(A) of the Clean Air Act as amended in 1990 (CAA).

On September 23, 1993, the USEPA published a notice of proposed rulemaking in the **Federal Register** (58 FR 49458), proposing partial approval, partial disapproval, and partial limited approval/limited disapproval of the submittals. Public comments on this proposal were accepted through October 25, 1993. Three comments were received, from: (1) Navistar International Transportation Corporation, commenting on the USEPA's proposed action on OAC 3745-21-09(U); (2) Porter, Wright, Morris & Arthur, attorneys for Armco Steel Company, commenting on the USEPA's proposed action on OAC 3745-21-09(OO); and (3) International Paper, commenting on the USEPA's proposed action on OAC 3745-21-09(II).

II. Public Comment/USEPA Response

The following evaluation summarizes each comment received, along with a summary of the USEPA's proposed action on the portion of the requested revisions that received the comment, and the USEPA's response to the comment. A more detailed discussion of the State submittal and the rationale for the USEPA's proposed actions based on the CAA and cited references, appears in USEPA technical support documents (TSD's) dated October 19, 1988, and March 3, 1993.

A. Navistar International Transportation Corporation

Navistar commented on the USEPA's proposed action on OAC 3745-21-09(U), Ohio's regulation for surface coating of miscellaneous metal parts and products.

1. Proposed Action

The USEPA proposed disapproval of Rule -09(U) because of a number of deficiencies involving inconsistency with RACT as defined by the USEPA, lack of enforceability, and violation of the General Savings Clause of the Clean Air Act. The inconsistencies with RACT include an unjustified emission limit which is less stringent than RACT, an unjustified emission limit which is a relaxation from the approved ozone SIP, an inappropriate, unsupported applicability cutoff, and an inappropriate use of a five percent equivalency demonstration. The unsupported applicability cutoff requested in the revision is 10 gallons or less of coating applied per day. The USEPA has defined the RACT cutoff as 15 lbs or less VOC emitted per day. The enforceability deficiencies include use of vague language and language allowing director's discretion without requiring USEPA approval.

2. Comments on Proposed Action and USEPA Response

a. Comment. Navistar supports the rule's applicability cutoff of 10 gallons or less of coating employed per day. The USEPA's RACT applicability cutoff of 15 lbs VOC emitted or less per day is economically unreasonable. Navistar's Springfield Assembly Plant in Clark County is using coatings with more than 3.5 lbs VOC per gallon, and if these lines were subject to the requirements of this rule, the cost of control would range from $70,016 to $115,093 per ton of VOC removed. Navistar would have to apply for variances, which is wasteful of both time and resources.

b. USEPA Response. The cost of control quoted in the comment is higher than control costs usually associated with RACT, but the comment contains no documentation supporting these control cost figures. There is also no documentation submitted with this comment that demonstrates the unavailability of complying coatings or that this facility cannot use complying coatings as a means of VOC control. Most importantly, even if the commenter had submitted documentation of the quoted control costs, this would apply to Navistar alone; statewide relaxation of this applicability cutoff based on one facility would be unacceptable and insupportable. If Navistar has documented support for the cost control figures, the appropriate step for the company to take would be application for a site-specific SIP revision. If Navistar does not wish to apply for a SIP revision, the use of complying coatings is an acceptable alternative method of compliance.

B. Porter, Wright, Morris & Arthur

Porter, Wright, Morris & Arthur commented on OAC Rule 3745–21–09(OO), a non-CTG rule for the Armco Steel Company in Middletown, Ohio.

1. Proposed Action

The USEPA proposed concurrent limited approval (based on the SIP strengthening effect of the rule) and limited disapproval of Rule –09(OO) (based on lack of enforceability and inconsistency with RACT). The SIP strengthening effect of the rule stems from the fact that this rule provides some regulation for this source where no federally enforceable regulation exists now. The enforceability deficiency stems from a lack of recordkeeping requirements for the facility, and the rule contains an unjustified VOC content limit for a coating operation which is inconsistent with RACT recommendations. The rule also lacks consideration of all non-CTG VOC sources at the plant, and rule development for VOC emissions from volatile organic liquid (VOL) storage tanks has been omitted.

2. Comments on Proposed Action and USEPA Response

a. Comment 1. Armco objects to limited approval of rules submitted in 1988 and 1990. The emission limit of 0.3 lb VOC per gallon of rolling oil excluding water in Rule –09(OO)(1) is an error. Armco perfected an appeal of Ohio's adoption of this rule to the Ohio Environmental Board of Review. Ohio subsequently adopted a new limit for rolling oil, which is contained in the OEPA's June 7, 1993, submittal to the USEPA. The USEPA should address only the new limit.

b. USEPA Response. The USEPA has had discussions with the OEPA about the emission limit for rolling oil and understands that the 0.3 lb VOC per gallon limit was issued in error. The USEPA acknowledges that this error has been addressed in Ohio's VOC rules submittal of June 7, 1993; nonetheless, under section 110(k) of the CAA, the USEPA is required to take action on the June 1988 and August 1990 submittals. The USEPA agrees that it is inappropriate to approve into the SIP a limit which is unreasonable and in error. The USEPA also believes that the SIP strengthening effect of the remainder of this rule is relatively insignificant. Therefore, the USEPA is disapproving Rule –09(OO), rather than granting limited approval/limited disapproval. The VOC rules package submitted on June 7, 1993, including a revised rule for Armco Steel, is under review, and will be addressed in a subsequent separate rulemaking action.

c. Comment 2. The recordkeeping inadequacies cited in the proposed action have been corrected with Ohio's June 7, 1993, submittal.

d. USEPA Response. This rulemaking action addresses only the June 1988 and August 1990 submittals, which lack the necessary recordkeeping and reporting requirements for Armco Steel. Under section 110(k) of the CAA, the USEPA is required to take action on the June 1988 and August 1990 submittals. The VOC rule package submitted on June 7, 1993, including a revised rule for Armco Steel, is under review, and will be addressed in a subsequent separate rulemaking action.

e. Comment 3. Armco believes that the emission limit for anti-galling material of 6.4 lb VOC per gallon, cited as deficient in the March 3, 1993, USEPA TSD supporting the proposed action, constitutes RACT as of the time of Ohio's most recent rulemaking action. Armco is converting to a much lower VOC material, and this could form the basis for a lower VOC limit, which should resolve any continuing concern with this particular rule.

f. USEPA Response. As discussed in the notice of proposed rulemaking, the State did not submit any demonstration that a lower VOC content material was not available. The comment also lacks a demonstration that a lower VOC content material was unavailable at the time the rule was developed. However, the comment states that such a material is available now; therefore, the 6.4 lbs VOC per gallon emission limit clearly does not constitute RACT for this source. As discussed above in the responses to Comments 1 and 2, this rulemaking action addresses the June 1988 and August 1990 submittals only. The most recent rule revision is under review, and will be addressed in a subsequent separate rulemaking.

g. Comment 4. The USEPA's position that VOL storage tank emissions must be addressed is inconsistent with a January 16, 1992, letter from the USEPA to the OEPA which states that rule development is unnecessary.

h. USEPA Response. The January 16, 1992, letter states, "*** Ohio is not required to develop a rule for this category at this time." Any major source not covered by a CTG is subject to non-CTG RACT, as required by sections 172(c), 182(a)(2)(A), and 182(b)(2) of the CAA. The USEPA's March 1993 TSD and the notice of proposed rulemaking indicate that the State is required to develop a rule for VOL storage. However, lack of such rule development was not cited as the sole deficiency for Rule 3745–21–09(OO) and was not the basis for disapproval. The appropriate action on Rule –09(OO) remains disapproval based on lack of recordkeeping requirements and a VOC content limit which is inconsistent with RACT (see USEPA Responses to Comments 1, 2, and 3).

C. International Paper

International Paper commented on OAC Rule 3745–21–09(II), a non-CTG rule for the International Paper Company facility in Springdale, Ohio.

1. Proposed Action

The USEPA proposed concurrent limited approval/limited disapproval of this rule. The SIP strengthening effect of the rule stems from the fact that this rule provides some regulation for this source where no federally enforceable regulation exists now. The proposal of limited disapproval is based on deficiencies which include lack of enforceability due to the absence of recordkeeping requirements for the facility and a VOC content limit for fountain solution which is inconsistent with RACT. The State submittal contains no demonstration that a lower VOC content material is unavailable.

2. Comments on Proposed Action and USEPA Response

a. Comment. International Paper supports the OEPA's position as set forth in the June 7, 1993, submittal. The

June 1988 and August 1990 version of International Paper's rule "specified limitations which were erroneously developed and derived, and which have been corrected in subsequent rulemakings." The USEPA should act only on the June 7, 1993, package.

b. USEPA Response. International Paper did not specify which limitations they believe are in error, nor did they include in the comments any information substantiating the error. International Paper had opportunity to comment on this rule prior to its adoption by the State during Ohio's public comment period. However, the record of comments submitted into the Public Hearing Record included in Ohio's June 1988 submittal contains no comments from International Paper. Under section 110(k) of the CAA, the USEPA is required to take action on the June 1988 and August 1990 submittals. The VOC rule package submitted on June 7, 1993, including a revised rule for International Paper, is under review, and will be addressed in a subsequent separate rulemaking action.

III. Rulemaking Action

The comments were found to warrant one change from proposed to final action on this SIP revision request. The USEPA has reconsidered its position on OAC Rule 3745–21–09(OO): rather than giving concurrent limited approval/limited disapproval, the USEPA is disapproving Rule –09(OO).

In summary, the USEPA is disapproving the following rules: OAC 3745–21–01 (D)(6), (D)(8); OAC 3745–21–09 (I), (L), (N), (O), (Q), (R), (U), (W), (Z), (DD), (EE), (OO); OAC 3745–21–10 (A), (C), (E), (O). The USEPA is giving concurrent limited approval/limited disapproval to the following rules: OAC 3745–21–01 (D)(45); OAC 3745–21–09 (A), (B), (C) through (H), (J), (K), (S), (T), (X), (Y), (FF) through (NN), (PP); OAC 3745–21–10 (B). The USEPA is approving the following rules: OAC 3745–21–01 (A), (B), (C), remainder of (D), (E) through (S); OAC 3745–21–04 (A), (B), (C); OAC 3745–21–09 (M), (P), (V), (BB), (CC); OAC 3745–21–10 (D), (F), (G), (I) through (N), (P).

Under section 179(a)(2), if the Administrator disapproves a required submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, one of the sanctions set forth in section 179(b) will apply, as selected by the Administrator, unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides for two types of sanctions: highway funding and offsets. The 18 month period referred to in section 179(a) will begin to run for those provisions that the USEPA is disapproving (in full or in a limited manner) as of the date the USEPA publishes this final action. Moreover, this disapproval triggers the Federal Implementation Plan (FIP) requirement under section 110(c). The sanctions and FIP clocks are not started for Wood and Medina Counties by this final action because the State was not required to submit RACT fix-up rules for these areas.

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.

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB 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 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The USEPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, the USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, the USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new Federal requirements.

The Agency has reviewed this request for revision of the federally-approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that the approved portions of this action conform with those requirements irrespective of the fact that the submittal preceded the date of enactment. The Agency has determined that other portions of this action do not conform with the statute as amended and must be disapproved. The Agency has examined the issue of whether this action should be reviewed only under the provisions of the law as it existed on the date of submittal to the Agency (i.e., prior to November 15, 1990) and has determined that the Agency must apply the new law to this revision.

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 8, 1994. 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, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 22, 1994.

Valdas V. Adamkus,

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)(96) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(96) On June 9, 1988, and August 24, 1990, the Ohio Environmental Protection Agency (OEPA) submitted revisions to the State Implementation Plan for ozone. The revisions consist of new non-Control Technique Guideline volatile organic compound (VOC) rules and corrections to existing VOC rules.

(i) Incorporation by reference.

(A) OEPA Ohio Administrative Code (OAC) Rule 3745–21–01, Definitions, Paragraphs (A), (B), (C), (D)(1) through (5), (D)(7), (D)(9) through (62), (E) through (S); effective August 22, 1990.

(B) OEPA OAC Rule 3745–21–04, Attainment Dates and Compliance Time Schedules, Paragraphs (A), (B), (C); effective August 22, 1990.

(C) OEPA OAC Rule 3745–21–09, Control of Emissions of Volatile Organic Compounds from Stationary Sources, Paragraphs (A), (B), (C) through (H), (J), (K), (M), (P), (S), (T), (V), (X), (Y), (BB), (CC), (FF) through (NN), (PP), effective August 22, 1990.

(D) OEPA OAC Rule 3745–21–10, Compliance Test Methods and Procedures, Paragraphs (B), (D), (F), (G), (I) through (N), (P); effective August 22, 1990.

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40 CFR Part 185

[OPP–300238B; FRL–4780–8]

RIN 2070–AB78

Pesticides; Stay of Effective Date for Order Revoking Food Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Stay of effective date.

SUMMARY: EPA is staying the effective date of a final rule revoking the food additive regulation for dicofol (1,1-*bis*[*p*-chlorophenyl]-2,2,2-trichloroethanol) in or on dried tea, which was published in the **Federal Register** of March 9, 1994. EPA received petitions to stay the May 9, 1994 effective date for the stated final rule. As allowed in the March 9, 1994 final rule, EPA is staying the effective date indefinitely in order to review the petition and determine whether to grant the petition for a stay and if so, for what length of time. EPA is allowing 15 days for public comment on the petition requesting a stay of the effective date, which is available in the OPP public docket and is summarized in this document. Any decision associated with this action will be published in the **Federal Register**.

DATES: This stay is effective May 9, 1994. Any affected person may submit comments on the stay request summarized in this document on or before May 24, 1994.

ADDRESSES: Comments, identified by the document control number, [OPP–300238B], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Niloufar Nazmi, Special Review Branch (7508W), Special Review and Reregistration Division, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 3rd Floor, Westfield Building, 2800 Crystal Drive, Arlington, VA, Telephone: (703) 308–8208.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 9, 1994 (59 FR 10993), EPA issued a final rule revoking the food additive regulation for dicofol on dried tea (hereinafter referred to as the "final rule") based on the determination that this food additive regulation is inconsistent with the Delaney Clause in section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA). In the final rule, EPA set an expiration date of May 9, 1994.

Any person adversely affected was given a 30-day opportunity to: (1) file written objections to the order, (2) file a written request for an evidentiary hearing on the objection, and (3) file a petition for a stay of the effective date. EPA stated that if any petition for a stay were received, the Agency would stay the May 9, 1994 effective date of the final rule for such time as is required to review and make a determination on the stay petition. If the stay petition is denied, the final rule will be effective 30 days after date of publication of the petition denial in the **Federal Register**.

Makhteshim-Agan of North America, Inc., and Rohm and Haas Co. (together "the Dicofol Task Force") filed an objection to the final rule, a request for an evidentiary hearing on the factual issues raised in the objections, and a stay of the final rule pending final resolution of the issues. In addition, the National Agricultural Chemical Association (NACA) submitted a separate objection.

Outlined below are summaries of the petition to stay the effective date of the March 9, 1994 final rule and other objections which EPA has received. Full copies of the stay requests or objections may be viewed or ordered from the OPP Docket under the document control number, OPP-300238B]. The OPP Docket is located in Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, telephone (703)–305–5805.

The basis for the stay petition is that the Dicofol Task Force will allegedly suffer irreparable injury if a stay is not granted. They contend they have satisfied the four criteria outlined in the final rule for granting a stay.

First, according to the Task Force, not only will there be impacts from the loss of dicofol on tea, other uses of dicofol will suffer because products containing dicofol will be tarnished by being labeled "carcinogenic."

Second, the Task Force asserts that their case is not frivolous and is being pursued in good faith since EPA's decision to revoke the food additive regulation for dicofol on dried tea is insupportable on factual and legal grounds.

They cite the following reasons. The Task Force argues that EPA has failed to apply the appropriate standard for determining whether dicofol "induces cancer" within the meaning of the Delaney Clause because EPA has not followed the Food and Drug Administration's rigorous standard in determining whether a substance induces cancer. In addition, the Task Force asserts that a proper evaluation of all the relevant biological and statistical