$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Revise temporary § 165.T01–165(c) to read as follows:

§ 165.T01–165 Regulated Navigation Area: New York Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(c) *Effective dates.* This section is effective from September 28, 2001 through December 31, 2002.

* * * * *

3. Revise temporary § 165.T01–166(b) to read as follows:

§ 165.T01–166 Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(b) *Effective dates.* This section is effective from September 28, 2001 through December 31, 2002.

* * * * *

Dated: August 8, 2002.

V.S. Crea,

Rear Admiral, Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–20625 Filed 8–12–02; 3:42 pm]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY 125–200233(a); FRL–7259–7]

Approval and Promulgation of Implementation Plans for Kentucky: Regulatory Limit on Potential To Emit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is conditionally approving a revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky incorporating Kentucky rule 401 KAR 50:080. This rule affects sources whose actual emissions are 50 percent or less of the major source threshold whereas the sources' potential to emit (PTE) exceeds the major source threshold.

DATES: This direct final rule is effective October 15, 2002, without further notice, unless EPA receives adverse comment by September 16, 2002. If adverse comment is received, EPA 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: All comments should be addressed to: Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. (404/562–9031 (phone) or *notarianni.michele@epa.gov* (e-mail)).

Copies of the Commonwealth's submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. (Michele Notarianni, 404/562–9031, *notarianni.michele@epa.gov*)

Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. (502/573–3382)

FOR FURTHER INFORMATION CONTACT: Michele Notarianni at address listed above or 404–562–9031 (phone) or *notarianni.michele@epa.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Today's Action

The EPA is conditionally approving into the Kentucky SIP rule 401 KAR 52:080, ''Regulatory Limit on Potential to Emit'', based upon the Agency's understanding of Kentucky's interpretation of this regulation and Kentucky's commitment to clarify sections 2(3) and 4 of the rule within one year. In a letter to EPA dated April 18, 2002, the Commonwealth outlined its interpretation of the rule and provided a promulgation schedule for

clarifying these two sections by March 1, 2003.

II. Background

Kentucky adopted 401 KAR 50:031 (later amended and recodified to 401 KAR 50:080) in February 1996. This regulation was developed under EPA's title V Transition Policy, which allows states to defer the permitting of sources whose actual emissions are 50 percent or less of the major source threshold. EPA received a letter on July 10, 2001, from Kentucky requesting approval of 401 KAR 52:080 (and four other rules) into the Kentucky SIP.

EPA is conditionally approving this revision to 401 KAR 52:080 based on the Agency's understanding of the Commonwealth of Kentucky's interpretation of this regulation, documented in a letter dated April 18, 2002. In this letter, the Commonwealth noted Section 1(a) does *not* allow a source currently covered under this regulation to increase its actual emissions above 50 percent of a major source threshold under title V of the Clean Air Act by increasing its throughput or hours of operation. If a covered source increased its actual emissions above 50 percent, the source would be immediately subject to title V permitting requirements and violating 401 KAR 52:080 and the applicable permit regulation (*i.e.*, either 401 KAR 51:020 or 401 KAR 52:030).

III. Future Rule Clarifications

The Commonwealth also committed in the April 18, 2002, letter to clarify language in sections 2(3) and (4) during a regulatory amendment according to a projected promulgation schedule included with the letter.

Clarifications to section 2(3) will address the criteria for a source to receive a notice of violation (NOV) for noncompliance with the rule. Because issuance of NOVs is discretionary, a source's actual emissions could potentially exceed 50 percent of a major source threshold, but the source may not necessarily receive an NOV if the exceedance is considered temporary and not repeatable. Thus, the requirement to submit an application for a title V permit may not be triggered. This issue will be addressed.

Clarifications to section 2(3) will also address an issue of enforceability. The Commonwealth has a law prohibiting it from being more stringent than federal rules. If a source receives a NOV for actual emissions exceeding 50 percent of a major source threshold, section 2(3) sets a six month limit for a source to submit a title V application, rather than 12 months as required under part 70.

Sections 2(3) and 4 will be clarified to address reporting exceedances of the 50 percent limit. The rule currently does not require such exceedances to be reported. While section 11 requires covered sources to annually certify and submit an emissions inventory report, a source could potentially violate the rule within the first month after the required annual certification report is submitted, allowing 11 months to pass without the permitting authority knowing the source violated the rule. Further, clarifications to section 4 will address the possibility of a source increasing its actual emissions over the 50 percent threshold without a modification or reconstruction. A source may, for example, increase emissions through better ways to estimate emissions or conduct a stack test. However, no requirement exists to report an increase over the 50 percent threshold. The reporting requirement in section 4(2) to notify the permitting authority and submit a permit application is triggered only if a source is making a modification or reconstruction.

IV. Effects of This Action

Approximately 60–70 sources in Kentucky meet the requirements of and are complying with 401 KAR 52:080. These sources will not have to apply for and receive a title V permit should this rule be approved into the Kentucky SIP. Section 1(a) of 401 KAR 52:080 states that the rule applies only to sources ''whose actual emissions during any consecutive twelve (12) month period of operation after January 1, 1996, are less than fifty (50) percent of the major source threshold for Title V.''

V. Final Action

The EPA is conditionally approving Kentucky regulation 401 KAR 50:080 into the Kentucky SIP. If clarifications to the rule are not completed one year from the effective date of this notice, the EPA will publish a disapproval notice for this regulation.

EPA is approving the aforementioned changes to the SIP. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 15, 2002, without further notice unless the Agency receives adverse comments by September 16, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 15, 2002, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Administrative Requirements

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. For this reason, 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). 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.*). 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 (Public Law 104–4).

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). 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. 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.

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. 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.*).

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 October 15, 2002. 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *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 S—Kentucky

2. A new § 52.919 is added to read as follows:

§ 52.919 Identification of plan-conditional approval.

EPA is conditionally approving Rule 401 KAR 50:080, ''Regulatory Limit on Potential to Emit,'' effective January 15, 2001, into the Kentucky SIP contingent on the Commonwealth clarifying language in sections 2(3) and (4) according to a projected promulgation schedule committed to in a letter dated April 18, 2002, from the Commonwealth of Kentucky to EPA Region 4.

[FR Doc. 02–20747 Filed 8–14–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–85–1–200107a; FRL–7259–6]

Approval and Promulgation of Implementation Plans; Florida: Approval of Revisions to the Florida State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Florida State Implementation Plan (SIP) submitted on August 29, 2000, by the State of Florida through the Florida Department of Environmental Protection (FDEP). This submittal consists of revisions to the ozone air quality maintenance plan for the Tampa area (Hillsborough and Pinellas Counties) to remove the emission reduction credits attributable to the Motor Vehicle Inspection Program (MVIP) from the future year emission projections contained in those plans. This revision updates the control strategy for the Tampa maintenance area by removing emissions credit for the MVIP, and as such, transportation conformity must be redetermined by the Metropolitan Planning Organizations (MPOs) within 18 months of the final approval of this document.

DATES: This direct final rule is effective October 15, 2002, without further notice, unless EPA receives relevant adverse comment by September 16, 2002. If relevant adverse comment is received, EPA 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: All comments should be addressed to Joey LeVasseur at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur at 404/562–9035 (e-mail: *levasseur.joey@epa.gov).*

SUPPLEMENTARY INFORMATION: The following sections: Background, Analysis of the State's Submittal, and Final action, provide additional information concerning the revision to the ozone air quality maintenance plan for the Tampa area to remove the emission reduction credits attributable to the MVIP from the future year emission projections contained in that plan.

I. Background

Upon enactment of the Clean Air Act Amendments of 1990, the Tampa, Florida area was designated as nonattainment for the one-hour ozone national ambient air quality standard (NAAQS) and classified as marginal. On November 16, 1992, the State of Florida submitted comprehensive inventories for volatile organic compound (VOC), oxides of nitrogen (NO_X), and carbon monoxide emissions from the Tampa area. The inventories include biogenic,