Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 20, 1999.

William Rice,

Acting Regional Administrator, Region VII.

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 *et seq.*

Subpart AA—Missouri

2. Section 52.1319 is added to read as follows:

§ 52.1319 Identification of plan—Conditional approval.

(a) Elements of the maintenance plan revision to the State Implementation Plan (SIP) submitted by the Governor's designee on March 23, 1998, which address contingency measures for the Kansas City Ozone Maintenance Area are conditionally approved. This includes a commitment to implement the additional reductions as expeditiously as practicable.

(b) Full approval of the SIP is conditioned upon receipt of one of the following by June 28, 1999: a letter from the Governor of Missouri requesting that EPA require the sale of Federal reformulated gasoline within the Missouri portion of the KCMA beginning April 15, 2000; an equivalent alternative state fuel regulation; or a regulation requiring Stage II vapor recovery systems at retail gasoline stations in the Missouri portion of the KCMA. If the state fails to submit one of the above requirements within the time specified, the conditional approval automatically converts to a disapproval without further regulatory action.

[FR Doc. 99–13381 Filed 5–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 072–1072; FRL–6350–4]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is conditionally approving the 1998 revisions to the Kansas City ozone maintenance plan as a revision to the Kansas State Implementation Plan (SIP). Full approval is contingent upon Kansas' submission of additional, enforceable control measures.

The Kansas City ozone maintenance area experienced a violation of the National Ambient Air Quality Standard (NAAQS) for ozone in 1995. In response to this violation, Kansas submitted revisions to its ozone maintenance plan. These revisions pertain to the implementation of control strategies to achieve reductions in volatile organic compound (VOC) emissions within the Kansas portion of the Kansas City ozone maintenance area. A major purpose of these revisions is to provide a more flexible approach to maintenance of acceptable air quality levels in Kansas City, while achieving emission reductions equivalent to those required by the previously approved plan.

In a separate **Federal Register** document published today, EPA is also conditionally approving a similar plan submitted by the Missouri Department of Natural Resources (MDNR) to address the Missouri portions of the ozone maintenance area.

EFFECTIVE DATE: This rule will be effective June 28, 1999.

ADDRESSES: Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Royan W. Teter, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. (913) 551–7609.

SUPPLEMENTARY INFORMATION:

I. Background

The Kansas City metropolitan area (KCMA), consisting of Clay, Platte, and Jackson Counties in Missouri, and Johnson and Wyandotte Counties in Kansas, was designated nonattainment for ozone in 1978. The Clean Air Act (CAA) provides for areas with a prescribed amount of air quality data showing attainment of the standard to be redesignated from nonattainment to attainment, if the requirements of section 107(d)(3)(E) are met. One of these requirements is for the area to adopt a maintenance plan consistent with the requirements of section 175A. This plan must demonstrate attainment of the NAAQS with a margin of safety sufficient to remain in attainment for ten years. Also, the plan must contain a contingency plan to be implemented if the area once again violates the standard.

Ozone monitoring data from 1987 through 1991 demonstrated that the Kansas City nonattainment area had attained the ozone NAAQS. In accordance with the CAA, the Kansas Department of Health and Environment (KDHE) revised the ozone SIP for the Kansas portion of the Kansas City area to recognize the area's attainment status. EPA published final approval of the Kansas SIP on June 23, 1992. The SIP became effective on July 23, 1992 (57 FR 27939). This action effected the redesignation of the area to attainment.

The contingency plan approved as part of the 1992 SIP identified four measures which were to be implemented upon subsequent violation of the standard in the Kansas City area. These contingency measures required: (1) certain new or expanding sources of ozone precursors to acquire emissions offsets; (2) the installation of Stage II vapor recovery systems at retail gasoline stations or the implementation of an enhanced inspection and maintenance (I/M) program for motor vehicles; (3) the implementation of transportation control measures achieving a 0.5 percent reduction in areawide VOC emissions; and (4) the completion of a comprehensive emissions inventory.

In a letter from Dennis Grams, EPA Region VII Administrator, to James J. O'Connell, KDHE Secretary, on January 31, 1996, EPA informed the KDHE of a violation of the ozone NAAQS. Quality-assured air quality monitoring data indicated measured exceedances of the ozone standard on July 11, 12, and 13, 1995, at the Liberty monitoring site in Kansas City. The highest recorded value for each day was 0.128 ppm, 0.161 ppm, and 0.131 ppm, respectively. These exceedances, in combination with the measured exceedance of 0.128 ppm recorded on July 29, 1993, constitute a violation of the standard.

As a result of this violation, Kansas was required to implement the contingency measures identified in the approved SIP. However, in response to a request by Roger Randolph (Missouri Air Pollution Control Program Director) to William Spratlin (Air, RCRA, and Toxics Division Director), EPA stated in an August 17, 1995, letter that Missouri and Kansas could substitute other

contingency measures for those in the approved SIP, provided that the substitute measures were submitted through the SIP revision process, were designed to achieve substantially equivalent emission reductions, and were implemented expeditiously to address the violation. It must be emphasized that this flexibility was extended to both Kansas and Missouri.

To address the short-term need to control emissions, Kansas promulgated a rule to limit the Reid Vapor Pressure (RVP) of the gasoline sold during the summer months in the KCMA to 7.2 pounds per square inch (psi) (K.A.R. 28–19–79). This regulation became effective May 2, 1997. EPA published final approval of Kansas' RVP rule on July 7, 1997 (62 FR 36212). The approval became effective on August 6, 1997.

To address the longer-term need to reduce VOC and nitrogen oxides (NO_X) emissions, the Mid-America Regional Council's Air Quality Forum (AQF), comprised of representatives from local governments, business, health, and environmental organizations, agreed to examine various alternative control strategies and recommend a suite of viable measures to Missouri and Kansas. The AQF recommended: (1) expanding public education efforts; (2) low RVP gasoline; (3) motor vehicle I/M, (4) seasonal no-fare public transit; (5) a voluntary clean fuel fleets program; and (6) additional transportation control measures. The AQF also recommended a group of supplemental measures aimed at reducing ozone levels. The emissions reductions associated with the voluntary measures, specifically clean fuel fleets and transportation control, cannot be quantified due to their voluntary nature.

While Kansas was developing its plan revisions, the MDNR presented a maintenance SIP, with the AQF recommendations, to the Missouri Air Conservation Commission (MACC) on June 24, 1997. At that time, the MACC recommended inclusion of a more timely and less politically sensitive control measure in place of the I/M provision. As a result, on October 7, 1997, the AQF recommended the implementation of a reformulated gasoline (RFG) program in the KCMA. In response, Kansas intends to include RFG as a control measure option, which, if selected, would be in place prior to the beginning of the 2001 ozone season. Kansas reserves the option to use gasoline blends other than the Federal RFG blend or other equivalent measures, provided their use achieves similar VOC and NO_X emission reductions.

The final state submittal includes an emissions inventory; the two creditable control strategies—7.2 RVP gasoline, RFG; additional unquantifiable measures including voluntary clean fuel fleets and seasonal low-fare transit; continued monitoring; verification of continued attainment; and a contingency plan.

According to state estimates, limiting the summertime RVP of gasoline to 7.2 psi achieves VOC emissions reductions of only 4.0 tons per day. As such, additional reductions are necessary to provide for reductions substantially equivalent to those (8.4 tons per day) obtainable by implementing the contingency measures approved in the 1992 maintenance plan SIP. The implementation of an RFG or equivalent emission reduction program is therefore critical to meeting Missouri's obligation to achieve the reductions called for in the maintenance plan.

II. Evaluation Criteria

To evaluate the maintenance plan revision, EPA referred to requirements of section 175A of the Act. EPA also reviewed guidance issued specifically to address applicable procedures for handling redesignation requests, including maintenance plan provisions entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, to EPA Regional Division Directors, dated September 4, 1992. In addition, EPA reviewed the revised maintenance plan for evidence that the substitute control measures provide for emissions reductions which are substantially equivalent to those approved in the 1992 SIP, pursuant to guidance given in the August 17, 1995, letter, from William Spratlin to Roger Randolph. Finally, EPA evaluated the revised maintenance plan with respect to the ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM_{10} NAAQS'' from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators.

III. Review of Submittal

According to the September 4, 1992, memo from John Calcagni regarding ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' a maintenance plan must provide for maintenance of the ozone NAAQS for at least ten years after redesignation. Section 175A of the CAA defines the general framework of a maintenance plan. The Calcagni memo identifies the following list of core provisions necessary to ensure maintenance of the ozone NAAQS: emissions inventory, maintenance demonstration (including control measures), air monitoring network, verification of continued attainment, and a contingency plan. Kansas' revised maintenance plan adequately addresses each of the required core measures as detailed in EPA's January 26, 1999, proposed rule (64 FR 3896).

IV. Response to Comments

The KDHE and the American Petroleum Institute (API) submitted written comments regarding the Agency's January 26, 1999, notice of proposed rulemaking (64 FR 3896). These comments and EPA's responses are discussed below.

KDHE

Comment: In section VI, Proposed Action, of the **Federal Register** document, EPA proposes to establish a deadline of one year from the effective date of the final conditional rule within which Kansas is to submit one of the options upon which final approval is conditioned. EPA stated it was seeking comment on whether a shorter deadline should be established. Due to the length of time required to fully evaluate the listed alternatives, develop draft regulations, ensure effective public participation, provide the required public notice, hold public hearings and respond to public comments, adopt the necessary rules, and develop and submit the SIP revision to EPA, the state of Kansas submits that a shorter time period would be inappropriate. Any lesser period would have the primary impact of limiting public involvement to the legal minimum. For the reasons specified and to ensure a SIP revision which accomplishes its intended purpose with the thorough involvement of all stakeholders, Kansas requests that EPA not shorten the deadline in its final rulemaking.

Response: Pursuant to section 110(k)(4) of the CAA, the Administrator may approve a SIP revision based on a commitment of the state to adopt specific enforceable measures by a date certain, but not later than one year after the approval of the revised SIP. In consideration of the state's concerns and having received no comments requesting that the statutory time frame be shortened, EPA has determined that a one-year deadline for meeting the condition is appropriate. Kansas must meet the conditions set forth in this rule within one year of its effective date.

Comment: Kansas wishes to point out that much of the planning referred to in section I, Background, of the **Federal Register** document (64 FR 3896) was

conducted prior to the Western portion of Missouri being included in the NO_X SIP call. The ramifications of this unexpected turn of events relating to control strategies and timing need to be fully explored to ensure effective control strategies are developed to address ozone in Kansas City.

Response: EPA agrees that much of the planning occurred prior to promulgation of the NO_X SIP call which requires substantial NO_X reductions in the western portion of Missouri; however, these reductions will not be fully realized until mid 2002. As such, the control measures in the amended plan will provide for critical air quality improvements during the interim. In addition, these control measures, as explained previously, are a substitute for control measures previously required to be implemented, and they are needed regardless of the outcome of future planning activities. EPA's review of the measures is limited to a determination that they will achieve emission reductions and equivalent to those from the preexisting measures, and that they will be implemented expeditiously.

Comment: Finally, even though EPA states that the 1996 through 1998 data demonstrating attainment with the 1-hour standard do not relieve Kansas of the need to implement RFG or one of the other conditional contingency measures, Kansas would remind EPA that 7.2 RVP gasoline has been required in the Kansas City area in response to the 1995 1-hour violation, that the Kansas City area has demonstrated compliance with the 1-hour standard as of 1998, that the 1-hour standard has been revoked in other areas which have demonstrated compliance with the 1-hour standard during that same period, and those areas are free to concentrate on attaining the new 8-hour standard. The Kansas City area now needs to close the books on the 1-hour standard and, with the rest of the country, move forward and concentrate on meeting the new 8-hour standard.

Response: The issue of the potential for revocation of the 1-hour standard in the KCMA is not the subject of this action. In 1992, Kansas submitted and EPA approved a maintenance plan pursuant to section 175A(a) of the CAA. This plan was to provide for maintenance of the 1-hour NAAQS for ozone for ten years following the redesignation of the KCMA from nonattainment to attainment. As required by section 175A(d)of the Act, the approved plan provided for the implementation of specific contingency measures to promptly correct any violation that occurred after the redesignation of the area as an attainment area. These measures were designed to achieve a minimum VOC reduction of 8.4 tons per day. A violation of the standard was recorded in 1995, triggering the implementation of these measures. A second violation was recorded in 1997, the first year that 7.2 RVP gasoline was required in the Kansas City area. This action conditionally approves amendments to the plan to ensure that the required reductions are achieved. As explained previously, Kansas is obligated to address implementation of contingency measures which have previously been triggered with respect to the 1-hour standard.

API

API stated that despite EPA's September 29, 1998, rule which allows former nonattainment areas to opt in to the Federal RFG program, EPA does not have the authority to allow Kansas to opt in for the Kansas City area. API contends that section 211(k)(6) of the CAA authorizes opt-ins for currently classified nonattainment areas, and does not allow attainment areas to opt in. API also submitted its comments on the proposal for the September 1998 rule. API stated that the rule is contrary to the plain language of the Act, and is currently being challenged in the Court of Appeals for the District of Columbia. Finally, API stated that Kansas and EPA ''should wait until the court rules on EPA's rule before moving forward with an effort to opt the Kansas City area into the RFG program.''

Response: EPA's authority to promulgate the underlying opt-in rule is not at issue in this action. EPA fully responded to comments regarding the agency's authority to promulgate the revisions to the opt-in rule in the September 29, 1998, rulemaking, and the issues raised in that rulemaking are not raised in today's action on the KCMA maintenance plan revisions. The rule is in effect, notwithstanding the pending petition for review. In addition, this conditional approval of the revised maintenance plan will not necessarily result in Kansas opting into the RFG program. Kansas could fulfill the condition by adopting and submitting appropriate alternative regulations which ensure that VOC emissions are reduced by an amount that is substantially equivalent to that required under the 1992 SIP.

When Kansas submits a SIP revision to comply with the condition of this approval, EPA will act on that submission through notice-and-comment rulemaking. At that time, EPA will consider comments on what action it should take on the specific alternative selected by Kansas.

V. Conclusion

In today's document, EPA conditionally approves Kansas' 1998 revisions to the Kansas City Ozone Maintenance Plan. This includes the VOC control measures described above, the associated emissions reductions, and the commitment to implement the additional reductions as expeditiously as practicable. Full approval of the SIP is conditioned upon receipt of one of the following within one year of final conditional approval: (1) a request from the Governor of Kansas to require the sale of Federal RFG within the Kansas portion of the KCMA; (2) adopted regulations implementing the contingency measures identified in the 1992 maintenance plan, i.e., Stage II Vapor Recovery or an Enhanced Inspection and Maintenance Program; or (3) any combination of adopted regulations that will achieve the minimum VOC reductions (8.4 tons per day) required by the contingency measures identified in the 1992 SIP. In the case of options 2 or 3, upon receipt of regulations implementing these provisions and a request to amend the maintenance plan accordingly, EPA will initiate a rulemaking on this subsequent revision. If the state fails to submit one of the above, the conditional approval converts to a disapproval one year from the effective date of the final rule conditionally approving the state's 1998 submittal.

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

VI. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled ''Regulatory Planning and Review.''

B. E.O. 12875

Under E.O. 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If

EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments; a summary of the nature of their concerns; copies of any written communications from the governments; and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local, or tribal governments. This rule does not impose any enforceable duties on these entities. The rule merely approves submissions made by the state, and establishes a schedule for submitting additional measures. However, the schedule is not judicially enforceable. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. E.O. 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. E.O. 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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. Also, EPA will evaluate the RFA implications of any requirements which may be established by subsequent state submissions in response to the conditional approval, when EPA takes rulemaking action on those submissions. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analyses would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the state's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect the applicability of state requirements. Moreover, EPA's disapproval of the submittal would not impose a new Federal requirement. Therefore, I certify that this conditional approval will not have a significant economic impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new Federal requirement.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. The schedule established by the conditional approval is not judicially enforceable, and any subsequent state submissions to meet the conditions will be analyzed at that time to determine applicability of the Unfunded Mandates Act. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. In addition, Section 203 does not apply to this action because it affects only the state of Kansas, which is not a small government.

G. Submission to Congress and the Comptroller General

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 United States Senate, the United States House of Representatives, and the United States Comptroller General prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 26, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 20, 1999.

William Rice,

Acting Regional Administrator, Region VII.

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 *et seq.*

Subpart R—Kansas

2. Section 52.869 is added to read as follows:

§ 52.869 Identification of plan—Conditional approval.

Elements of the maintenance plan revision to the State Implementation Plan (SIP) submitted by the Governor's designee on May 21, 1998, which address contingency measures for the Kansas City Ozone Maintenance Area are conditionally approved. This includes a commitment to implement the additional reductions as expeditiously as practicable. Full approval of the SIP is conditioned upon receipt of one of the following by June 28, 1999: a request from the Governor of Kansas to require the sale of Federal reformulated gasoline within the Kansas portion of the Kansas City Maintenance Area; adopted regulations implementing the contingency measures identified in the 1992 maintenance plan, i.e., Stage II Vapor Recovery or an Enhanced Inspection and Maintenance Program; or any combination of adopted regulations that will achieve the minimum volatile organic compound reductions (8.4 tons per day) required by the contingency measures identified in the 1992 SIP. In the case of options 2 or 3, upon receipt of regulations implementing these provisions and a request to amend the maintenance plan accordingly, EPA will initiate a rulemaking on this subsequent revision. If the state fails to submit one of the above requirements within the time specified, the conditional approval automatically converts to a disapproval without further regulatory action.

[FR Doc. 99–13382 Filed 5–26–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No.950427117–9138–08; I.D.051999A]

RIN 0648–AH97

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: NMFS is closing for 2 weeks all inshore waters and offshore waters out to 10 nautical miles (nm) (18.5 km) seaward of the COLREGS demarcation line (as defined at 33 CFR part 80), bounded by 33° N. lat. and 34° N. lat. within the leatherback conservation zone, to fishing by shrimp trawlers required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, unless the TED has an NMFS' approved escape opening large enough to exclude leatherbacks. This action is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from May 21, 1999 through 11:59 p.m. (local time) on June 4, 1999.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, (727) 570–5312, or Barbara A. Schroeder (301) 713–1401. For assistance in modifying TED escape openings to exclude leatherback sea turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS, laboratory by phone (228) 762–4591 or by fax (228) 769–8699.

SUPPLEMENTARY INFORMATION: The taking of sea turtles is governed by regulations implementing the Endangered Species Act (ESA) at 50 CFR parts 222 and 223 (see 64 FR 14051, March 23, 1999, final rule consolidating and reorganizing ESA regulations). Generally, the taking of sea turtles is prohibited. However, the incidental take of turtles during shrimp fishing in the Atlantic Ocean off the coast of the southeastern United States and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 223.206, which include a requirement that shrimp trawlers have a NMFS-approved TED installed in each net rigged for fishing. The use of TEDs significantly reduces mortality of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because leatherback turtles are larger than the escape openings of most NMFS-approved TEDs, use of these TEDs is not an effective means of protecting leatherback turtles.

Through a final rule (60 FR 47713, September 14, 1995), NMFS established regulations to protect leatherback turtles when they occur in locally high densities during their annual, spring northward migration along the Atlantic seaboard. Within the leatherback conservation zone, NMFS is required to close an area for 2 weeks when leatherback sightings exceed 10 animals per 50 nm (92.6 km) during repeated aerial surveys pursuant to 50 CFR 223.206(d)(2)(iv)(A) through (C).

NMFS announced a 2-week closure on May 7, 1999 (64 FR 25460, May 12, 1999), affecting the portion of the leatherback conservation zone between 32° N. lat. and 33° N. lat. The boundaries of the closure correspond to those of shrimp fishery statistical zone