action 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, 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 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.

The EPA has determined that the approval action proposed 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 proposes to approve preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this proposed action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 6, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 99–28215 Filed 10–27–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH 103–1a; FRL–6464–7]

Approval and Promulgation of Implementation Plans; Ohio Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to redesignate Coshocton, Gallia, and Lorain Counties to the status of areas in attainment of the National Ambient Air Quality Standards (NAAQS)for sulfur dioxide (SO_2). Ohio requested this action on October 26, 1995, and provided supplemental supporting material to EPA in a letter dated September 14, 1999.

EPA is also proposing to approve the maintenance plans for Coshocton, Gallia, and Lorain Counties. The plans are intended to ensure maintenance of the NAAQS, and were submitted with the redesignation requests.

In conjunction with these actions, EPA is proposing to approve State-adopted emission limits for the following facilities: in Coshocton County: Columbus and Southern Ohio Electric—Conesville plant; in Gallia County: Ohio Valley Electric Company—Kyger Creek plant and Ohio Power—Gavin Plant; and in Lorain County: CEI—Avon Lake plant, Ohio Edison—Edgewater Plant, U.S. Steel—Lorain plant, and B.F. Goodrich Company—Lorain County plant. These limits would replace equivalent limits in the Federal Implementation Plan (FIP) for these three Counties.

EPA is ''parallel processing'' Ohio's request to redesignate the three counties to attainment while Ohio finalizes its rule revisions. If Ohio's final submittal is the same as the submittal on which this proposal is made and EPA receives no persuasive adverse comments then EPA will take final action to approve the redesignation requests. Otherwise, EPA will repropose this action.

DATES: Comments on this proposed action must be received by November 29, 1999.

ADDRESSES: You may send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Program Branch (AR–18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the revision request are available for inspection at the following address: Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Phuong Nguyen, Environmental Scientist, at (312) 886–6701 before visiting the region 5 office.)

FOR FURTHER INFORMATION CONTACT: Phuong Nguyen at (312) 886–6701.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. General Information:

1. What action is EPA proposing to take today?
2. Why is EPA proposing to take this action?
3. What is the background for this action?

II. Background on Ohio Submittal

1. What information did Ohio submit, and what were its requests?
2. What guidance documents did EPA use in this rulemaking to evaluate Ohio's request?

III. State Implementation Plan (SIP)

1. How do these emission limits compare to the FIP limits?
2. What are the sources and emission limits that will be affected by EPA's action?

IV. Maintenance Plan

1. How does the maintenance plan apply in these three counties?
2. What are the reduction requirements?

V. Redesignation Evaluation

1. What five criteria did EPA use to review the redesignation request?
2. Are these criteria satisfied for Coshocton, Gallia, and Lorain counties?

I. General Information

1. What Action Is EPA Proposing To Take Today?

In this action, EPA proposes to approve three SO_2 redesignation requests submitted by the State of Ohio for Coshocton, Gallia, and Lorain Counties. EPA also proposes to approve the maintenance plans for these counties. Finally, EPA proposes to approve State-adopted emission limits for the remaining sources in these three counties.

This action applies parallel processing, in which EPA proposes action on proposed State rules based on the expectation that the State will finalize its rules as proposed. If the State's final rules differs significantly from the proposed rules, then EPA will repropose action.

2. Why Is EPA Proposing To Take This Action?

EPA is proposing to take this action because the redesignation requests meet the five criteria all redesignation requests must meet. The emission limits

in the submittal are equivalent to those allowed by the FIP limits. Coshocton, Gallia, Lorain Counties have been designated as nonattainment areas for sulfur dioxide but now meet the sulfur dioxide NAAQS. The three counties have plans for keeping their sulfur dioxide levels within the health-based standard for the next 10 years and beyond. The plans require the three counties to consider impacts of future activities on air quality and to manage those activities.

3. What Is the Background for This Action?

EPA promulgated the applicable FIP in 1976. The FIP requires significant emission reductions at specific facilities throughout the State to attain and maintain the NAAQS for SO2.

On October 5, 1978, Coshocton, Gallia, and Lorain Counties (among others) were designated as nonattainment areas for the primary sulfur dioxide standards. The State adopted its own regulations in 1979, generally imposing limits similar to those promulgated in the FIP. The State submitted these regulations for EPA approval in 1980, including regulations for Coshocton, Gallia, and Lorain Counties.

The State then withdrew its submittal for selected sources. These sources are:

1. Coshocton County:
   —Columbus and Southern Ohio Electric—Conesville plant.
2. Gallia County:
   —Ohio Valley Electric Company—Kyger Creek plant,
   —Ohio Power—Gavin plant.
3. Lorain County:
   —Cleveland Electric Illuminating (CEI)—Avon Lake plant,
   —Ohio Edison—Edgewater plant.
   —U.S. Steel—Lorain plant.
   —B.F. Goodrich Company.

EPA approved this SIP regulation on January 27, 1981, for Coshocton, Gallia, and Lorain counties (46 FR 8481) except for the source limits withdrawn by the State. The federally promulgated FIP regulations, therefore, have remained in effect for the above sources.

On October 26, 1995, Governor George Voinovich requested that EPA redesignate to attainment all remaining SO_2 nonattainment areas within the State of Ohio, including Coshocton, Gallia, and Lorain Counties.

On May 28, 1996, EPA Administrator Browner sent a letter to Governor Voinovich informing him that the redesignation request depended on EPA approval of State-adopted rules in place of FIP rules.

II. Background on Ohio Submittal

1. What Information Did Ohio Submit and What Were its Requests?

In June 1999, Ohio e-mailed copies of proposed rule revisions for Coshocton, Gallia, and Lorain Counties to EPA. On September 14, 1999, Ohio submitted additional material requested by EPA to support the State's requests to redesignate these Counties to attainment with respect to SO_2. The state requested parallel processing by EPA to approve SIP limits for the specific facilities named above in these three counties in place of federal promulgated limits. In addition, the State requested approval for the SO_2 maintenance plans for Coshocton, Gallia, and Lorain Counties. Finally, the State requested approval of its request to redesignate these three counties to attainment status for sulfur dioxide.

2. What Guidance Documents Did EPA Use in This Rulemaking To Evaluate Ohio's Requests?

Guidance for these requests includes a September 28, 1994, memorandum from the Director, Air Quality Management Division, Office of Air Quality Planning and Standards, EPA, to the Director, Air and Radiation Division, Region 5, entitled, ''Response to Request for Guidance on Issues with Ohio Sulfur Dioxide Federal Implementation Plan''.

This memorandum sets forth three criteria to be met for the approval of State limits that are equivalent to existing FIP limits without new modeling. Under the first two criteria, there must be no known inadequacy in the original attainment demonstration. Under the third criterion, the State limits must reflect no relaxation of existing emission limits.

All three of these criteria are met by the State-promulgated SIP limits. Therefore, the revised limits, if adopted and submitted as proposed, can be considered to be adequate to assure attainment without further modeling.

Another guidance document relevant to this rulemaking is an April 21, 1983 memorandum entitled ''Section 107 Designation Policy Summary'' from the Director of the EPA Office of Air Quality Planning and Standards, which requires eight consecutive quarters of data showing SO_2 NAAQS attainment before an area can be redesignated. A county violates the NAAQS when its SO_2 level exceeds the NAAQS more than once in any year. Coshocton, Gallia, and Lorain Counties have eight consecutive quarters of data showing SO_2 NAAQS attainment.

Finally, a September 4, 1992, EPA policy memorandum on ''Procedures for Processing Requests to Redesignate Areas to Attainment'' was also relevant to this rulemaking. This memorandum explains that additional dispersion modeling is not required in support of an SO_2 redesignation request if an adequate modeled attainment demonstration was previously submitted and approved as part of the implemented SIP, and no indication of an existing air quality deficiency exists. These conditions are met here.

III. SIP Approval

1. How Do These Emission Limits Compare to the FIP Limits?

The proposed emission limits are equivalent to the FIP limits for Coshocton, Gallia, and Lorain Counties, respectively. As a result of these limits, attainment in Coshocton, Gallia, and Lorain counties is assured on the basis of State-adopted, EPA-approved limits. Consequently, there is no further need for federally promulgated limits, and the corresponding FIP limits for these sources in all three counties can be rescinded.

2. What Are the Sources and Emission Limits That Will Be Affected by the SIP Approval?

The table below shows the sources and state emission limits that will be affected by the SIP approval.

County names	State emission limits	Source names
Coshocton County	—OAC 3745–18–22 (B)	—Columbus and Southern Ohio Electric; Conesville.
Gallia County	—OAC 3745–18–33 (B)	—Ohio Valley Electric Company; Kyger Creek.
	—OAC 3745–18–33 (D)	—Ohio Power-Gavin.
Lorain County	—OAC 3745–18–53 (B)	—CEI-Avon Lake.
	—OAC 3745–18–53 (D)	—Ohio Edision; Edgewater Plant.
	—OAC 3745–18–53 (E)	—U.S. Steel.
	—OAC 3745–18–53 (G)	—B.F. Goodrich.

IV. Maintenance Plan Approval

1. How Does the Maintenance Plan Apply in These Three Counties?

Ohio's attainment plan for sulfur dioxide provides for attainment even with major sources emitting their maximum allowable emissions. Therefore, maintenance is provided by assuring that minor source impacts do not increase significantly. The principal minor sources are distant point sources and diesel vehicles.

2. What Are the Reduction Requirements?

Title IV reductions and the required national conversion to low sulfur diesel fuel were the identified maintenance plan provisions contained in the approved redesignation for Washington and Morgan Counties in 1994 (59 FR 48403). These reductions will also be realized in the other nonattainment counties such as Coshocton, Gallia, and Lorain.

V. Redesignation Evaluation Criteria

1. What Five Criteria Did EPA Use To Review the Redesignation Requests?

Section 107(d)(3)(E) of the Clean Air Act (Act), as amended in 1990, establishes requirements to be met before an area may be redesignated from nonattainment to attainment. The criteria used to review redesignation requests are derived from the Act. An area can be redesignated to attainment if the following five conditions are met:

(A) The area has attained the applicable NAAQS.

(B) The area has a fully approved SIP under section 110(k) of the Act.

(C) The EPA has determined that the improvement in air quality in the area is due to permanent and enforceable emission reductions.

(D) The EPA has determined that the maintenance plan for the area has met all of the requirements of section 175A of the Act.

(E) The State has met all requirements applicable to the area under section 110 and part D of the Act.

2. Are These Five Criteria Satisfied for Coshocton, Gallia, and Lorain Counties?

A. Demonstrated Attainment of the NAAQS

Relevant Agency guidance is provided in both the April 21, 1983, and September 4, 1992 guidance documents cited above. The April 21, 1983 memorandum explains that eight consecutive quarters of data showing SO_2 NAAQS attainment are required for redesignation. The September 4, 1992 guidance explains that the area must have no more than one exceedance per year.

Ohio's September 14, 1999, submittal provides ambient monitoring data showing that Coshocton, Gallia, and Lorain counties have met the NAAQS for the years 1980–1995.

Dispersion modeling is commonly used to demonstrate attainment of the SO_2 NAAQS. A modeling analysis was done in 1976 to show that, under all allowed operating scenarios, the emission limits in these three counties' SO_2 SIPs would lead to attainment and maintenance of the SO_2 standards. According to the September 4, 1992 memorandum, no further dispersion modeling is needed for the counties' redesignation. Ohio has provided evidence that sources in these counties are complying with these limits.

Based on this evidence, EPA concludes that emissions are sufficiently low to assure attainment throughout these areas currently designated nonattainment.

B. Fully Approved SIP

The SIP for the area at issue must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply.

EPA's guidance for implementing section 110 of the Act is discussed in the General Preamble to Title I (44 FR 20372, April 14, 1979; and 57 FR 13498, April 16, 1992). The SO_2 SIP for Coshocton, Gallia, and Lorain counties met the requirements of section 110 of the Act, and EPA approved the SIP on January 27, 1981, except that EPA did not take action for a limited set of sources.

State limits for the remaining set of specific sources in Coshocton, Gallia, and Lorain Counties are being proposed for approval in this rulemaking.

C. Permanent and Enforceable Reductions in Emissions

Coshocton, Gallia, Lorain Counties attained the SO_2 standards by implementing the SO_2 SIP controls.

The reductions in SO_2 emissions primarily come from converting some fuel-burning sources to lower sulfur content fuels, and to shutting down various types of sources. The use of lower-sulfur ''cleaner'' fuels is ensured by the facilities'' air emission permits and federally enforceable SIP regulations.

D. Fully Approved Maintenance Plan

EPA has concluded that the combination of limitations on maximum allowable emissions from major point sources and implementation of programs that will yield reductions in minor source emissions will assure maintenance of the standards. Approval of the maintenance plan is being proposed in today's action.

E. Part D and Other Section 110 Requirements

With the approval of limits proposed today, along with the approval of limits and attainment demonstration published January 27, 1981 (46 FR 8481), Ohio has met the relevant requirements.

VI. Proposed Rulemaking Action

In summary, EPA is proposing to approve State-adopted emission limits for 7 sources in Coshocton, Gallia, and Lorain Counties. In addition, EPA is proposing to approve the SO_2 maintenance plan for Coshocton, Gallia, and Lorain Counties as adequately ensuring that attainment will be maintained. We are proposing to rescind the FIP limits for Coshocton, Gallia, and Lorain Counties because we are also proposing to replace these FIP limits with the State limits. Finally, EPA is proposing to approve redesignation requests from the State of Ohio which were submitted on September 14, 1999.

VII. Administration Requirements

A. Executive Order 12866

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

B. Executive Orders on Federalism

Under E.O. 12875, 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. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of 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.

The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)], which will take effect on November 2, 1999. In the interim, current Executive Order 12612 [52 FR 41685 (October 30, 1987)] on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

This Order regarding *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 does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, 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 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. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (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 Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act 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).

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 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 pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, sulfur dioxide.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: October 20, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 99–28042 Filed 10–27–99; 8:45 am]

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