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 a 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 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 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. 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 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**. 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 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 February 8, 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).)

Approval of this Stage II vapor recovery comparability plan allows the State of Maryland to achieve comparable reductions in VOC emissions from control measures other than Stage II.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone.

Dated: November 30, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 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 V—Maryland

2. Section 52.1076 is amended by revising the section heading, by designating the existing paragraph as (a), and adding a paragraph (b) to read as follows:

§ 52.1076 Control strategies: ozone

* * * * *

(b) EPA approves as a revision to the Maryland State Implementation Plan, the Stage II vapor recovery comparability plan for the counties of Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester Counties submitted by the Maryland Department of the Environment on November 5, 1997.

[FR Doc. 98–32577 Filed 12–8–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD076–3030a; FRL–6197–3]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland—General Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct action on a State Implementation Plan (SIP) revision submitted by the State of Maryland. The revision includes Maryland's regulation for general conformity, which sets forth policy, criteria and procedures for demonstrating and assuring conformity of non-transportation related Federal projects to all applicable air quality implementation plans. EPA is approving this general conformity regulation as a SIP revision in accordance with the Clean Air Act.

DATES: This direct final rule is effective on February 8, 1999 without further notice unless EPA receives adverse written comment by January 8, 1999. 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: Comments may be mailed to Robert Kramer, Chief; Energy Radiation and Indoor Environment Branch, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Larry Budney , (215) 814–2184, at the EPA Region III office or via e-mail at budney.larry@.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 15, 1995, the Maryland Department of the Environment submitted a formal revision to its State Implementation Plan (SIP) to EPA. The SIP revision consists of the State's General Conformity Regulation (COMAR 26.11.26.03), the purpose of which is to meet the requirements of 40 CFR 51.851, State Implementation Plans, found under 40 CFR Part 51, Subpart W, Determining Conformity of General Federal Actions to State and Federal Implementation Plans. Part 51, Subpart W is commonly referred to as the Federal General Conformity Rule. Maryland's SIP revision, which is the subject of this approval action, consists of the State's General Conformity Rule. This action to approve the State's General Conformity Rule as a SIP revision is being taken under Section 110 of the Clean Air Act (CAA).

II. Summary of SIP Revision

The State's General Conformity Rule establishes standards and procedures to follow when evaluating the conformity of non-transportation related Federal projects to all applicable implementation plans developed pursuant to Section 110 and Part D of the CAA.

At 40 CFR Part 51, Subpart W, EPA promulgated the Federal rule for General Conformity to implement section 176(c) of the CAA, as amended (42 U.S.C. 7401 *et seq.*) which requires that all Federal actions conform to applicable air quality implementation plans. This rule only applies to areas designated nonattainment or maintenance areas under the CAA, as amended. This Federal rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of Federal actions to all applicable implementation plans developed pursuant to Section 110 and Part D of the CAA. The rule generally applies to Federal actions except:

(1) Those applicable under the transportation conformity rule (40 CFR Part 93, Subpart A);

(2) Actions with associated emissions below specified de minimis levels; and

(3) Certain other actions which are exempt or presumed to conform to applicable air quality implementation plans.

At 40 CFR 51.851, State Implementation Plans, EPA promulgated the requirements that must be adopted by a State and submitted as a SIP revision to implement the General Conformity provisions. The provisions adopted by the State of Maryland for General Conformity are those contained in and required by the Federal rule. EPA has reviewed the State's General Conformity Rule and has determined that it satisfies the requirements of 40 CFR 51.851. A Technical Support Document (TSD) has been prepared which details the EPA's evaluation of the State's General Conformity Rule. Interested parties may obtain a copy of the TSD by contacting the EPA Regional Office listed in the **ADDRESSES** section of this document.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment 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 or critical comments be filed. This rule will be effective February 8, 1999 without further notice unless the Agency receives adverse comments by January 8, 1999.

If EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule 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. EPA will not institute a second comment period on this rule. Only parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 8, 1999 and no further action will be taken on the proposed rule.

III. Final Action

EPA is approving the State of Maryland's General Conformity Rule SIP revision submitted by the Maryland Department of the Environment on May 15, 1998.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

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 EPA complies by consulting, E.O. 12875 requires EPA to 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.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has 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 final 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. 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 EPA complies by consulting, Executive Order 13084 requires EPA to 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, Executive Order 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. 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

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 a 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. 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 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**. 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 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 February 8, 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 to approve the Maryland General Conformity Rule may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone.

Dated: November 24, 1998.

Thomas Voltaggio,

Regional Administrator, Region III.

40 CFR part 52 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 V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(136) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(136) Revisions to the Maryland State Implementation Plan submitted on May 15, 1995 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of May 15, 1995 from the Maryland Department of the Environment transmitting Maryland Regulation COMAR 26.11.26.03, regarding General Conformity, for approval as a SIP revision.

(B) Maryland Regulation COMAR 26.11.26.03, effective June 5, 1995.

(ii) Additional material—Remainder of the May 15, 1995 state submittal pertaining to General Conformity.

[FR Doc. 98–32572 Filed 12–8–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–198–0058; FRL–6195–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District, San Diego County Air Pollution Control District, and Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the California State Implementation Plan (SIP) which primarily concern the control of particulate matter (PM) emissions. The intended effect of these SIP revisions is principally to regulate PM emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final approval of these revisions incorporates them into the federally