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 February 22, 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 2, 1998.

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 52.1320 is amended by adding paragraph (c)(110) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(110) On May 28, 1998, the Missouri Department of Natural Resources submitted revisions to the construction permits rule.

(i) Incorporation by reference.

(A) Missouri Rule 10 CSR 10–6.060, ''Construction Permits Required,'' except Section (9), effective April 30, 1998.

[FR Doc. 98–33835 Filed 12–21–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD068–3037; FRL–6202–6]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound From Sources That Store and Handle JP–4 Jet Fuel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes and requires volatile organic compound (VOC) emission control requirements for sources that store or handle JP–4 jet fuel. The intended effect of this action is to approve revisions to COMAR 26.11.13 into the Maryland SIP in accordance with the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on January 21, 1999.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, 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 the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney at (215) 814–2092, or by e-mail at gaffney.kristeen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On August 26, 1998, EPA published a direct final rule [63 FR 45397] approving Maryland's revisions to COMAR 26.11.13, ''Control of Gasoline and Volatile Organic Compound Storage and Handling.'' The formal SIP revision was submitted by Maryland on March 31, 1998. In the August 26, 1998 direct final rulemaking, EPA stated that if adverse comments were received on the final approval within 30 days of its publication, EPA would publish a document announcing the withdrawal of its direct final rulemaking action. Because EPA received adverse comments on the direct final rulemaking within the prescribed comment period, EPA withdrew the August 26, 1998 final rulemaking action on Maryland's revisions to COMAR 26.11.13. This withdrawal document appeared in the **Federal Register** on October 9, 1998 [63 FR 54355]. A companion proposed rulemaking notice to approve Maryland's revisions to COMAR 26.11.13 was published in the Proposed Rules section of the August 28, 1998 **Federal Register** [63 FR 45443].

Response to Comments

EPA received two letters commenting on the August 26, 1998 direct final rulemaking from Boeing and the Air Transportation Association of America. The letters requested that EPA further clarify the intent of Maryland's regulation and whether Maryland's regulation could be construed to apply to the commercial airline industry. The following discussion summarizes and responds to the comments received.

Comment: Is it the EPA's intent that this regulation apply to all jet fuel storage and handling systems in Maryland, or only those that handle JP–4?

Response: The Technical Support Document (TSD) submitted in support of Maryland's SIP revision request suggests that COMAR 26.11.13 is intended to apply to military installations that handle JP–4 jet fuel. According to the State, ''the purpose of the amendments to COMAR 26.11.13 is to establish reasonably available control technology (RACT) requirements for the storage and handling of JP–4, a jet fuel and volatile organic compound (VOC).'' The State's TSD goes on to state that ''JP–4 is used as a fuel primarily in military aircraft.'' Under the section entitled ''Affected Industry in Maryland'', the TSD notes that the following facilities in Maryland store and handle jet fuels: Andrews Air Force Base, Patuxent Naval Air Station and Steuart Petroleum.

COMAR 26.11.13 does not define the term ''jet fuel'' per se, but does define ''gasoline'' as follows: ''Gasoline means a petroleum distillate or alcohol, or their mixtures, having a true vapor pressure within the range of 1.5 to 11 pounds per square inch absolute (psia) (10.3 to 75.6 kilonewton/square meter) that is used as fuel for internal combustion engines *or aircraft* [emphasis added].'' According to the Maryland Department of Environment, JP°4 jet fuel has a vapor pressure of 1.6 psia at 70oF, and therefore, is defined as a gasoline under the regulation and subject to the rule's

provisions. By its intent, Maryland's regulation is not meant to apply to other jet fuels, whether for commercial or military use.

Comment: EPA's proposed approval mistakenly intimates that JP–4 includes all jet fuel. In so doing, it has effectively misstated the purpose of the amended Maryland regulation noting for example, without qualification, that the SIP revision is intended ''to establish VOC emission control requirements on sources that store and handle jet fuel.'' The approval should be clarified to recognize the distinction in the regulation between JP–4 and those jet fuels which were not intended to be the subject of the SIP revision because they do not possess volatility properties similar to gasoline.

Response: In the SIP submittal, both Maryland's cover letter and TSD that accompanied the revisions to COMAR 26.11.13 state that the amendments establish RACT requirements for the storage and handling of JP–4, a jet fuel. EPA agrees that the statement referenced by the commenter may have been misleading by implying that this regulation applies to jet fuels other than JP–4. EPA agrees with the commenter that jet fuels that do not possess the volatility properties as defined in Maryland's definition of ''gasoline'' are not intended to be subject to the regulation.

Comment: Clarification is requested that this rule does not apply to other jet fuels, specifically, JP–8, JET–A, JET–A1 and other commercially used jet fuels.

Response: According to information supplied by the commenters, the referenced commercial jet fuels do not have vapor pressure properties that fall within the range of vapor pressure defined in Maryland's definition of ''gasoline.'' Based on this information, these fuels would not be subject to the provisions of COMAR 26.11.13. Furthermore, Maryland's TSD clearly states that this regulation applies to the storage and handling of JP–4 and not to JP–8. Other specific jet fuels are not mentioned in Maryland's TSD as being subject to the regulation.

Other specific requirements of Maryland's SIP revision and the rationale for EPA's proposed action are explained in the August 26, 1998 direct final rulemaking and will not be restated here.

Final Action

EPA is approving the revisions to COMAR 26.11.13 into the Maryland SIP.

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. 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.

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 approval of revisions to COMAR 26.11.13 must be filed in the United States Court of Appeals for the appropriate circuit by February 22, 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, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: December 7, 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.*

2. Section 52.1070 is amended by adding paragraph (c)(130) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(130) Revisions to the Maryland State Implementation Plan submitted on March 31, 1998 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of March 31, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's air quality regulation COMAR 26.11.13, pertaining to the control of VOC emissions from sources that store and handle JP–4 jet fuel adopted by the Secretary of the Environment on March 28, 1997 and effective August 11, 1997.

(B) Revisions to COMAR 26.11.13.01(B)(4) the definition of ''gasoline.''

(ii) Additional Material: Remainder of March 31, 1998 Maryland State submittal pertaining to COMAR 26.11.13 control of VOCs from sources that store and handle JP–4 jet fuel.

* * * * *

[FR Doc. 98–33841 Filed 12–21–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–9822; FRL–6204–8]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format of Materials Being Incorporated by Reference for Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by the State of Alabama that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this format change have all been previously submitted by the State agency and approved by EPA.

This format revision will affect the ''Identification of plan'' sections of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, DC, and the Regional Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or State-submitted materials not subject to IBR review remain unchanged.

EFFECTIVE DATE: This is effective December 22, 1998.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303;

Office of Air and Radiation, Docket and Information Center (Air Docket), EPA, 401 M Street, SW, Room M1500, Washington, DC 20460; and

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Schutt, Regional SIP Coordinator at the above Region 4 address or at (404) 562–9033.

SUPPLEMENTARY INFORMATION: The supplementary information is organized in the following order:

What is a SIP?
How EPA enforces SIPs.
How the State and EPA updates the SIP.
How EPA compiles the SIPs.
How EPA organizes the SIP Compilation.
Where you can find a copy of the SIP Compilation.