warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this regulation on non-participating small entities is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will only be in effect for several days and the impacts on small entities are expected to be minimal.

List of Subjects in 33 CFR Part 165

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

Regulation: In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 1605; 49 CFR 1.46.

2. A new § 165.T08–038 is added to read as follows:

§ 165T08–038 Safety Zone: Lower Mississippi River.

(a) *Location.* The following areas is a safety zone: Lower Mississippi river from mile 94.0 to mile 96.0 Above head of Passes, in the vicinity of Algiers Point extending the entire width of the river.

(b) *Effective date.* This section will become effective on October 1, 1999 at 6 P.M. CDT. It will be terminated on October 13, 1999, at 6 P.M. CDR. The Captain of the Port will notify the public of changes in the status of this zone by Marine Radio Safety Broadcasts on VH Marine Band radio, Channel 22 (157.1 MHZ).

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone by any vessel, with the exception of towing vessels operating without tows, is prohibited unless authorized by the Captain of the Port New Orleans.

Dated: September 22, 1999.

S. W. Rochon,

Captain, U.S. Coast Guard Captain of the Port.

[FR Doc. 99–26679 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE027–1027a; FRL–6453–5]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; 15 Percent Rate of Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is converting its conditional approval of the Delaware's State Implementation Plan (SIP) revision to achieve a 15 percent reduction in volatile organic compound (VOC) emissions to a full approval. This SIP revision is commonly referred to as the 15% Rate of Progress Plan (the 15% plan). Delaware fulfilled the condition listed in EPA's conditional approval published on May 19, 1997. The intent effect of this action is to convert the conditional approval of Delaware's 15% plan to a full approval.

DATES: This rule is effective on December 13, 1999 without further notice, unless EPA receives adverse written comment by November 12, 1999. If EPA receives such comments, it 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: Written comments should 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; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, at the EPA Region III address above, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Clean Air Act, the State of Delaware submitted a 15% plan for its portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. EPA is now converting its conditional approval of the Delaware's 15% plan SIP revision to a full approval. In a rule published on May 19, 1997 (62 FR 27198), EPA granted a conditional approval to the Delaware's 15% plan because the State's enhanced inspection and maintenance (I/M) program, one of many control measures adopted by Delaware to achieve the 15% reduction in VOC emissions, had only been conditionally approved at the time.

On July 7, 1999 (64 FR 36635), EPA proposed full approval of Delaware's enhanced I/M SIP. No comments were received during the public comment period. EPA has recently published its final rule fully approving Delaware's enhanced I/M SIP. Because Delaware's enhanced I/M SIP is fully approved, EPA is now fully approving the 15% plan and associated contingency measures for Delaware. The effective date of EPA's final rule fully approving Delaware's enhanced I/M SIP will precede the effective date of this direct final rule to grant full approval of Delaware's 15% plan.

II. EPA Action

EPA is converting its conditional approval of the Delaware's 15% plan and associated contingency measures to a full approval. An extensive discussion of the Delaware 15% plan and EPA's rationale for its approval were provided in the previous final rule which conditionally approved the 15% plan (see 62 FR 27198) and shall not be restated here. This action to convert our conditional approval to a full approval is being published without prior proposal because we view this as a noncontroversial amendment and because we anticipate no adverse comments. In a separate document in the ''Proposed Rules'' section of this **Federal Register** publication, we are proposing to fully approve the Delaware's 15% plan SIP revision if adverse comments are filed. This action will be effective without further notice unless we receive relevant adverse

comment by November 12, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. Any parties interested in commenting must do so at this time. If no such comments are received by November 12, 1999, you are advised that this action will be effective on December 13, 1999.

III. 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 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 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.

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, the 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

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 to fully approve the State of Delaware's 15% plan must be filed in the United States Court of Appeals for the appropriate circuit by December 13, 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, Intergovernmental relations, Ozone.

Dated: September 23, 1999.

W. Michael McCabe,

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. 7401–7671q.

Subpart I—Delaware

2. Section 52.426 is added to read as follows:

§ 52.426 Control strategy: ozone.

EPA fully approves, as a revision to the Delaware State Implementation Plan, the 15 Percent Rate of Progress Plan for the Delaware portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment, namely Kent and New Castle Counties, submitted by the Secretary of Delaware Department of Natural Resources and Environmental Control on February 17, 1995.

3. Section 52.424(a) is removed and reserved.

[FR Doc. 99–26195 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN96–2; FRL–6452–6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On July 26, 1999, the EPA published a direct final rule approving as amendments to the Indiana State Implementation Plan, temporary revised opacity limits for two processes at ALCOA Warrick Operations, which were submitted by the Indiana Department of Environmental Management on December 8, 1998. The preamble of that direct final rule incorrectly identified some of the subject sources. This action corrects this inadvertent error.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used, we mean EPA. In the July 26, 1999, **Federal Register** document (64 FR 40287) in both the **SUMMARY** in the second column on page 40287 and in section I. What Is the EPA Approving? of the **SUPPLEMENTARY INFORMATION** in the third column on page 40287, we incorrectly identified some of the subject sources. Specifically, we stated that the revised limits allow for higher opacity emissions during fluxing operations at two furnaces. In fact, the revised limits allow for higher opacity emissions during fluxing operations at two complexes—each of which contains two furnaces. We correctly stated this information in section III. What Are the Provisions of the Temporary Opacity Limits? of the **SUPPLEMENTARY INFORMATION** which begins at the top of the first column on page 40288. We regret any inconvenience this inadvertent error may have caused.

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

Dated: September 23, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 99–26071 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

Approval and Promulgation of State Plans for Designated Facilities and Pollutants

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 61 to 62, revised as of July 1, 1999, page 296, the authority citation for part 62 is correctly revised to read ''42 U.S.C. 7401–7671q''.

[FR Doc. 99–55534 Filed 10–8–99; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 201

Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 190 to 259, revised as of July 1, 1999, page 68, § 201.24 is corrected by removing the formula at the end of the section and reinstating Figure 1 in its place as follows:

§ 201.24 Procedures for measurement at a 30 meter (100 feet) distance of the noise from locomotive and rail car operations and locomotive load cell test stands.

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