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]

BILLING CODE 6560–50–P

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

approved SIP for the South Coast Air Quality Management District (SCAQMD), San Diego County Air Pollution Control District (SDCAPCD), and the Kern County Air Pollution Control District (KCAPCD). EPA has evaluated each of the revisions and is approving them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas. EPA is granting simultaneous limited approval and limited disapproval of SCAQMD Rule 403 because, while it strengthens the SIP, it also does not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

EFFECTIVE DATE: This approval is effective on January 8, 1999.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report of the rules are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA

Kern County Air Pollution Control District, 2700 ''M'' Street, Suite 302, Bakersfield, CA

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1288.

SUPPLEMENTARY INFORMATION:

I. Background

A. SIP Revisions

EPA is finalizing approval of the following rules into the California SIP: SCAQMD Rule 403, *Fugitive Dust* (as amended on February 14, 1997); SCAQMD Rule 403.1, *Wind Entrainment of Fugitive Dust* (adopted on January 15, 1993); SCAQMD Rule 1186, *PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations* (adopted on February 14, 1997); San Diego Rule 52, *Particulate Matter* (as amended on January 22, 1997); San Diego Rule 53, *Specific Air Contaminants* (as amended on January 22, 1997); San Diego Rule 54, *Dust and Fumes* (as amended on January 22, 1997); and KCAPCD Rule 405, *Particulate Matter—Emission Rate* (as amended on May 1, 1997). These new and amended rules were submitted to EPA as SIP revisions by the California Air Resources Board (CARB) on August 1, 1997, with the exception of SCAQMD Rule 403.1, which was submitted on November 18, 1993.

EPA is also approving into the California SIP the following local ordinances for the control of fugitive dust in the Coachella Valley Planning Area: City of Cathedral City Ordinance No. 377 (2/18/93), City of Coachella Ordinance No. 715 (10/6/93), City of Desert Hot Springs Ordinance No. 93–2 (5/18/93), City of Indian Wells Ordinance No. 313 (2/4/93), City of Indio Ordinance No. 1138 (3/17/93), City of La Quinta Ordinance No. 219 (12/15/92), City of Palm Desert Ordinance No. 701 (1/14/93), City of Palm Springs Ordinance No. 1439 (4/21/93), City of Rancho Mirage Ordinance No. 575 (8/5/93), and County of Riverside Ordinance No. 742 (1/4/94). These ordinances were submitted as SIP revisions on February 16, 1995.

This approval was proposed on August 11, 1998 (63 FR 42786–42792). The reader is referred to that notice for additional detail on the affected areas and the SIP submittals, as well as a summary of relevant CAA requirements and EPA interpretations of those requirements. EPA received no comments on the proposal.

B. Specific Approval Provisions Relating to SCAQMD Rule 403—Fugitive Dust, and SCAQMD Rule 403.1—Wind Entrainment of Fugitive Dust

As discussed in the notice of proposed rulemaking, EPA is not approving into the SIP section (i) of Rule 403, which establishes fees which are enforced locally only, and which are not integral to the rule requirements.

As requested by CARB and SCAQMD, EPA is approving the following sections of the ''Rule 403 Implementation Handbook,'' which was included as part of the SIP revision and which is incorporated by reference:

(1) ''Soil Moisture Testing Methods''—ASTM Standard Test Method D 2216 for Laboratory Determination of Water (Moisture) Content of Soil, Rock, and Soil-Aggregate Mixtures, and ASTM Standard Test Method 1557 for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lb/^{ft} (2,700 kN-m/m^3));

(2) ''Storage Piles''—Surface-Area Calculations and ASTM Standard Method C–136 for Sieve Analysis of Fine and Coarse Aggregates;

(3) ''Best Available Control Measures'';

(4) ''Reasonably Available Control Measures'';

(5) ''Guidance for Large Operations.''

EPA's proposed approval notes that Rule 403 strengthens the SIP but also contains a deficiency, in allowing the SCAQMD Executive Officer and CARB the discretion to approve equivalent test methods for determining soil moisture content and soil compaction characteristics (Rule 403, Table 2, paragraphs (1a) and (1b)). This discretion could result in enforceability problems and is therefore not consistent with CAA section 172(c)(6). Because of this deficiency, EPA cannot grant full approval of Rule 403 under section 110(k)(3) and part D. Also, because the rule is not composed of separable parts that meet all the applicable CAA requirements, EPA cannot grant partial approval of Rule 403 under section 110(k)(3). However, EPA may grant a limited approval of Rule 403 under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP.

At the same time, EPA is also finalizing a limited disapproval of Rule 403 because it contains the ''director's discretion'' deficiency. The potential sanctions that might result from this disapproval are set forth in section II. However, as discussed below in section I.C., EPA expects that future revisions to Rule 403 will resolve this issue by requiring that equivalent test methods receive EPA approval.

It should be noted that Rule 403 has been adopted by SCAQMD and is currently in effect. EPA's final limited approval/limited disapproval action will not prevent SCAQMD or EPA from enforcing the rule.

As requested by CARB and SCAQMD, EPA is approving with Rule 403.1 the following sections of the ''Rule 403.1 Implementation Handbook,'' which was included as part of the SIP revision and which is incorporated by reference:

(1) ''Wind Monitoring''—performance standards for wind monitoring equipment; and

(2) ''Storage Piles''—Surface-Area Calculations and ASTM Standard Method C–136 for Sieve Analysis of Fine and Coarse Aggregates.

C. Pending SCAQMD Amendments to Rules 403 and 1186

SCAQMD has recently issued for public review proposed revisions to Rules 403 and 1186. The proposed revisions to Rule 403 include a

correction to the ''director's discretion'' provision (e.g., in Table 2, paragraphs (1a) and (1b)), to add a requirement for EPA approval of alternative test methods. If these corrections are adopted and submitted as a SIP revision, EPA intends to propose approval of the amended provision fully, thus superseding the limited disapproval.

SCAQMD has also proposed changes to Rule 403 to minimize the impact of the agricultural provisions in Rule 403 while continuing to meet the rule's air quality objectives. In order to allow time to implement an outreach program, the District also proposes to delay by 6 months the compliance date for agricultural operations. If adopted and submitted as a SIP revision and supported by SCAQMD showings that the changes will not interfere with attainment, progress, or any other applicable CAA requirements, EPA intends to propose approval of these amendments.

Because of the need for more time to complete specific technical street sweeper certification protocols, SCAQMD has proposed to amend Rule 1186 to delay by 1 year the effective date for procurement of PM_{10}-efficient sweepers. As in the case of the proposed revisions to Rule 403, EPA intends to propose to approve the revision to Rule 1186 if adopted and submitted as a SIP revision and supported by SCAQMD showing that the revisions will not interfere with attainment, progress, or any other applicable CAA requirements.

II. Final EPA Action

Except for the director's discretion provisions of SCAQMD Rule 403, discussed above, the submitted rules and ordinances clarify and strengthen the existing SIP. EPA takes final action to approve the rules and ordinances under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

As mentioned in section I.B., EPA proposes a limited approval of SCAQMD Rule 403 under CAA sections 110(k)(3) and 301(a), and a limited disapproval of Rule 403, because the rule contains enforceability deficiencies inconsistent with CAA section 172(c)(6). Under CAA section 179(a)(2), if EPA disapproves a submission under section 110(k) for an area designated as nonattainment, based on the submission's failure to meet CAA requirements, EPA must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval.

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

III. Administrative 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 Order 12875

Under Executive Order 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, Executive Order 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 any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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

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 Executive Order 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, 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 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. 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 and disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve and disapprove requirements that the State is already imposing. Therefore, because the Federal SIP approval and disapproval 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 and disapproval 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 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 references, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Note: Incorporation by reference of the State Implementation Plan for California was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 13, 1998.

Laura Yoshii,

Regional Administrator, Region IX.

Part 52, 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(194)(i)(H); (c)(248)(i)(A)(*3*); (c)(248)(i)(B)(*2*); and (c)(257) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(194) * * *

(i) * * *

(H) South Coast Air Quality Management District.

(*1*) Rule 403.1, adopted on January 15, 1993.

* * * * *

(248) * * *

(i) * * *

(A) * * *

(*3*) Rules 52, 53, 54, amended on January 27, 1997.

(B) * * *

(*2*) Rule 403, amended on February 14, 1997, and Rule 1186, adopted on February 14, 1997.

* * * * *

(257) Plan revisions for the Coachella Valley Planning Area were submitted on February 16, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Fugitive dust control ordinances for: City of Cathedral City Ordinance No. 377, adopted on February 18, 1993; City of Coachella Ordinance No. 715, adopted on October 6, 1993; City of Desert Hot Springs Ordinance No. 93–2, adopted on May 18, 1993; City of Indian Wells Ordinance No. 313, adopted on February 4, 1993; City of Indio Ordinance No. 1138, adopted on March 17, 1993; City of La Quinta Ordinance No. 219, adopted on December 15, 1992; City of Palm Desert Ordinance No. 701, adopted on January 14, 1993; City of Palm Springs Ordinance No. 1439, adopted on April 21, 1993; City of Rancho Mirage Ordinance No. 575, adopted on August 5, 1993; and County of Riverside Ordinance No. 742, adopted on January 4, 1994.

* * * * *

[FR Doc. 98–32563 Filed 12–8–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6197–8]

RIN 2060–AC19

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks; Rule Clarifications; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule: Correction.

SUMMARY: On January 17, 1997, the EPA amended certain portions of the ''National Emission Standards for