

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. *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 September 20, 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: June 29, 1999.

Laura K. Yoshii,

Acting 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 paragraph (c)(202)(i)(B), (c)(254)(i)(H)(2) and (c)(254)(i)(K) to read as follows:

§ 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(202) \* \* \*  
(i) \* \* \*

(B) Kern County Air Pollution Control District.

(I) Rule 425.3, adopted on October 13, 1994.

\* \* \* \* \*

(254) \* \* \*

(i) \* \* \*

(H) \* \* \*

(2) Rule 1158, adopted on February 22, 1995 and amended on August 25, 1997.

\* \* \* \* \*

(K) Ventura County Air Pollution Control District.

(I) Rule 59, adopted on October 6, 1969 and amended on July 15, 1997.

\* \* \* \* \*

[FR Doc. 99-18360 Filed 7-19-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD063-3023a; FRL-6379-6]

Approval and Promulgation of Air Quality Implementation Plans; Maryland—Fuel Burning Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision does not change current requirements. The intended effect of this action is to approve a change in the terms used in the text of a regulation to more accurately reflect its intended purpose to exempt fuel burning equipment, not installations, from certain general requirements pertaining to sulfur oxides (SO<sub>x</sub>). EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on September 20, 1999 without further notice, unless EPA receives adverse written comment by August 19, 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 Makeba Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, 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:** Artra B. Cooper at (215) 814-2096, or by e-mail at cooper.artra@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On February 6, 1998, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a technical amendment to the text of COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment, to more accurately reflect the applicability of the regulation. The amendment changes the term “fuel burning installation” to “fuel burning equipment.”

*Summary of SIP Revision*

The SIP revision consists of a technical amendment that corrects the text of COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment. The correction removes the term “fuel burning installations” and replaces it with “fuel burning equipment.” The intent of the regulation is to exempt fuel burning equipment (boilers) from the provisions found in COMAR 26.11.06.05 because these units are specifically regulated under COMAR 26.11.09—Control of Fuel Burning Equipment, Stationary Internal Combustion Engines and Certain Fuel Burning Installations. This SIP revision simply clarifies the applicability of COMAR 26.11.06.05 and does not change any current emission standards.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the “Proposed Rules” section of today’s **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective on September 20, 1999 without further notice unless the Agency receives adverse comments by August 19, 1999. If EPA receives adverse comment, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action.

Any parties interested in commenting should do so at this time.

**II. Final Action**

EPA is approving administrative amendments to clarify the applicability of COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment, as submitted by the Maryland Department of the Environment on February 6, 1998.

**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 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.

*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 September 20, 1999. Filing a petition for reconsideration by the Administrator of this final rule pertaining to technical amendments to COMAR 26.11.06.05, Sulfur Compounds from Other than Fuel Burning Equipment 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 reference, Sulfur oxides.

Dated: July 8, 1999.

**Thomas 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 52.1070 is amended by adding paragraphs (c)(129) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(129) Revisions to the State of Maryland Regulations COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting amendments to Code of Maryland Administrative Regulations (COMAR) 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment.

(B) Revision to COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment, effective September 22, 1997 to replace the term "installations" with the term "equipment" throughout the regulation.

(ii) Additional Material.—Remainder of February 8, 1998 submittal.

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