You may inspect copies of Ohio's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–6524, E-Mail Address: rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean the EPA.

Table of Contents

I. What Actions Are EPA Taking Today?

The EPA is proposing to approve revisions to sulfur dioxide emissions limits for the Lubrizol Corporation facility in Lake County, Ohio. Ohio EPA submitted the revised regulations on November 9, 2000 as an amendment to its SIP. These revisions are the adjustment of six short-term limits (three relaxed and three tightened), the addition of an annual limit, and the requirement of a continuous emission rate monitoring system (CERMS).

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 18, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–14609 Filed 6–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0280b; FRL–6991–5]

Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns the control of emissions of Oxides of Nitrogen (Nox) and sulfur compounds. We are proposing to approve a local rule to regulate these emissions under the Clean Air Act as amended in 1990 (CAA or the Act).

DATE: Any comments on this proposal must arrive by July 12, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Monterey Bay Unified Air Pollution Control District, Rule Development, 24580 Silver Cloud Ct., Monterey, CA 93940–6536.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (Air-4), U.S. Environmental Protection Agency, Region IX, (415) 744–1197.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rule: MBUAPCD 404, Sulfur Compounds and Nitrogen Oxides. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 8, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–14607 Filed 6–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NC–T5–2001–01; FRL–6996–1]

Clean Air Act Proposed Full Approval of Operating Permit Programs; North Carolina, Mecklenburg County, and Western North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval.

SUMMARY: EPA proposes to fully approve the operating permit programs of the North Carolina Department of Environment and Natural Resources, the Mecklenburg County Department of Environmental Protection, and the Western North Carolina Regional Air Quality Agency. These programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On November 15, 1995, EPA granted interim approval to the North Carolina, Mecklenburg County, and Western North Carolina operating permit programs (60 FR 57357). These agencies have revised their programs to satisfy the conditions of the interim approval and this action proposes approval of those revisions and other program changes made since the interim approval was granted.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by July 12, 2001.

ADDRESSES: Written comments on the program revisions discussed in this action should be addressed to Ms. Kim Pierce, Regional Title V Program Manager, Air & Radiation Technology Branch, EPA, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8909. Copies of the North Carolina, Mecklenburg County, and Western North Carolina submittals and other supporting documentation used in developing the proposed full approval are available for inspection during normal business hours at EPA, Air & Radiation Technology Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8909.

FOR FURTHER INFORMATION CONTACT: Kim Pierce, EPA Region 4, at (404) 562–9124 or pierce.kim@epa.gov/.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under the title V program include: ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of VOCs or NO_X.

What Is Being Addressed in This Document?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the North Carolina, Mecklenburg County, and Western North Carolina programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to these programs in a rulemaking (60 FR 57357) published on November 15, 1995. The interim approval notice described the conditions that had to be met in order for the North Carolina, Mecklenburg County, and Western North Carolina programs to receive full approval. North Carolina submitted eight revisions to its interimly approved operating permit program; these revisions were dated March 23, 1995, August 16, 1996, March 19, 1997, July 29, 1998, November 15, 1999, January 21, 2000, June 14, 2000, and August 28, 2000. Mecklenburg County, which adopts the State's rules, submitted five revisions to its interimly approved program; these revisions were dated October 11, 1999, November 2, 1999, December 8, 1999, December 28, 1999, and July 26, 2000. Western North Carolina, which also adopts the State's rules, submitted five revisions to its interimly approved program; these revisions were dated January 23, 1997, September 29, 1999, November 10, 1999, January 5, 2000, and August 17, 2000. This document describes changes that have been made to the North Carolina, Mecklenburg County, and Western North Carolina operating permit programs since interim approval was granted.

What Are the Program Changes That EPA Proposes To Approve?

Full approval of the North Carolina, Mecklenburg County, and Western North Carolina title V operating permit programs was made contingent upon the following rule changes, as stipulated in EPA's November 15, 1995 rulemaking:

(1) Revise Rule 15A NCAC 2Q.0507 (and the corresponding local regulations) to require the inclusion of all fugitive emissions in permit applications, in accordance with 40 CFR 70.3(d). North Carolina revised Rule 15A NCAC 2Q.0507(b) to specify that applications include all the information described in 40 CFR 70.3(d); the state-effective rule change was submitted to EPA on March 19, 1997. Mecklenburg County adopted the state-effective rule change and submitted documentation of the adoption to EPA on December 8, 1999. Western North Carolina also adopted the state-effective rule change and submitted documentation of the adoption to EPA on January 23, 1997.

(2) Revise Rule 15A NCAC 2Q.0502(c) (and the corresponding local regulations) to ensure that research and development facilities which are collocated with manufacturing facilities and which are under common control and belonging to a single major industrial grouping will be considered as the same facility for determining title V applicability. North Carolina responded by removing Rule 15A NCAC 2Q.0502(c) from its regulations; the state-effective regulatory changes were submitted to EPA on January 21, 2000 and August 28, 2000. Mecklenburg County adopted the State's rule changes and submitted documentation to EPA of the adoption on December 28, 1999. Western North Carolina also adopted the State's rule changes and submitted documentation of the adoption to EPA on January 5, 2000 and August 17, 2000.

(3) Revise Rule 15A NCAC 2Q.0102(b)(2)(B) (and the corresponding local regulations) to adjust the insignificant emission threshold levels downward from potential emissions of 40 tons per year (tpy) to five tpy for criteria pollutants and 1000 pounds per year for HAPs, and to provide that the activities listed in Rule 15A NCAC 2Q.0102(b)(2)(F) are subject to these caps. In addition, EPA notified North Carolina, Mecklenburg County, and Western North Carolina on July 15, 1996, of another deficiency in the insignificant activities provisions that came to light as a result of the court decision in *Western States Petroleum Association* (WSPA) v. *EPA,* 87 F.3d 280 (D.C. Cir. 1996); Rule 15A NCAC 2Q.0102(a) (and the corresponding local regulations) had inadvertently been approved without identifying the exemption of insignificant activities from permit requirements as a program deficiency. In the **Federal Register** document granting final interim approval to the Alaska operating permit program (61 FR 64466, December 5, 1996), EPA acknowledged that its approval of the insignificant activities provisions in the North Carolina programs may have been inconsistent with the WSPA decision. Further review revealed this to be true, which prompted EPA to follow up its July 1996 letter to the North Carolina agencies with a formal notification letter, dated August 14, 1999, that a Notice of Deficiency would be published in the **Federal Register** if the State and local agencies did not address the deficiencies.

North Carolina addressed the deficiencies in its insignificant activities provisions by removing Rule 15A NCAC 2Q.0102 from its operating permit program and revising Rule 15A NCAC 2Q.0503 to define two categories of insignificant activities: ''insignificant activities because of category'' and

''insignificant activities because of size or production rate.'' The activities listed in the first category are identical to the insignificant activities identified by EPA in 40 CFR 71.5(c)(11)(i) except for the addition of new residential wood heaters subject to 40 CFR part 60, subpart AAA, which are exempt from permit requirements (see 40 CFR 70.3(b)(4)(i)).

The second category, ''insignificant activities because of size or production rate,'' is defined as ''any activity whose emissions would not violate any applicable emissions standard and whose potential emission of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., potential uncontrolled emissions, are each no more than five tons per year and whose potential emissions of hazardous air pollutants before air pollution control devices are each below 1000 pounds per year.'' The State also made the following rule changes: (a) Revised Rule 15A NCAC 2Q.0508(f)(3) to remove the exemption from monitoring, recordkeeping, and reporting requirements for insignificant activities; (b) revised Rule 15A NCAC 2Q.0508(z) to eliminate the exemption from permitting for sources that have no applicable requirements; and (c) revised Rule 15A NCAC 2Q.0508(aa) to require the inclusion of insignificant activities in permits. State-effective rule changes that satisfy federal requirements were submitted to EPA on January 21, 2000 and August 28, 2000. Mecklenburg County adopted the State's rule changes and submitted documentation of the adoption to EPA on July 26, 2000. Western North Carolina also adopted the State's rule changes and submitted documentation of the adoption to EPA on January 5, 2000 and August 17, 2000.

(4) Revise Rule 15A NCAC 2Q.0514(a) to clarify that: (a) Administrative permit amendments may be used to change test dates or construction dates only as long as no applicable requirements are violated in the process, and (b) an administrative permit amendment may be used to move terms and conditions from the state-enforceable portion of the permit to the state-and federal-enforceable portion of the permit provided that the term being moved is a requirement which has become federally enforceable through sections 110, 111, 112, or other parts of the CAA. North Carolina added language to Rule 15A NCAC 2Q.0514(a)(4) stipulating that changes in test dates or construction dates qualify as administrative permit amendments ''provided that no applicable requirements are violated by the change in test dates or construction dates.'' North Carolina also added language to Rule 15A NCAC 2Q.0514(a)(5) stipulating that administrative permit amendments may be used to move terms and conditions from the state-enforceable portion of the permit to the state-and-federal enforceable portion of the permit ''provided that terms and conditions being moved have become federally enforceable through section 110, 111, or 112 or other parts of the federal Clean Air Act.'' The state-effective rule changes were submitted to EPA on March 19, 1997. Mecklenburg County adopted the State's rule changes and submitted documentation to EPA of the adoption on October 11, 1999. Western North Carolina also adopted the State's rule changes and submitted documentation of the adoption to EPA on January 23, 1997.

(5) Revise Rule 15A NCAC 2Q.0515(f) to stipulate that a permit shield may not be granted for a minor permit modification. North Carolina responded by deleting the language in Rules 15A NCAC 2Q.0512(a)(5) and 15A NCAC 2Q.0515(g) (previously Rule 15A NCAC 2Q.0515(f)) that allowed permit shields for minor permit modifications. The state-effective rule changes were submitted to EPA on March 19, 1997. Mecklenburg County adopted the State's rule changes and submitted documentation to EPA of the adoption on October 11, 1999. Western North Carolina also adopted the State's rule changes and submitted documentation of the adoption to EPA on January 23, 1997.

(6) Revise Rule 15A NCAC 2Q.0515(d) to specify that in the event an applicant submits a single minor permit modification which exceeds the emissions thresholds listed in Rule 15A NCAC 2Q.0515(c), the minor permit modification must be processed within 90 days after receiving the application or 15 days after the end of EPA's 45-day review period, whichever is later. North Carolina responded by adding a new Rule 15A NCAC 2Q.0515(d) to satisfy this part 70 requirement and submitted the state-effective rule change to EPA on March 19, 1997. Mecklenburg County adopted the State's rule change and submitted documentation to EPA of the adoption on October 11, 1999. Western North Carolina also adopted the State's rule change and submitted documentation of the adoption to EPA on January 23, 1997.

(7) Revise Rule 15A NCAC 2Q.0517(b) to provide that: (a) An operating permit shall be reopened and reissued within 18 months after a newly applicable requirement is promulgated; and (b) no reopening is required if the effective date of the newly applicable requirement is after the expiration of the permit, unless the term of the permit was extended based on the fact that it had not been renewed prior to its expiration. North Carolina revised Rule 15A NCAC 2Q.0517(b) to require the completion of permit reopenings within 18 months after newly applicable requirements are promulgated. The rule was also revised to state that ''[n]o reopening is required if the effective date of the requirement is after the expiration of the permit term unless the term of the permit was extended pursuant to Rule .0513(c)...'' The state-effective rule changes were submitted to EPA on March 19, 1997. Mecklenburg County adopted the State's rule changes and submitted documentation to EPA of the adoption on October 11, 1999. Western North Carolina also adopted the State's rule changes and submitted documentation of the adoption to EPA on January 23, 1997.

(8) Revise Rule 15A NCAC 2Q.0518(f) to remove the condition ''subject to adjudication'' from the requirement to take action on a complete permit application. North Carolina deleted Rule 15A NCAC 2Q.0518(f) and submitted the state-effective rule revision to EPA on March 23, 1995. Mecklenburg County adopted the State's rule change and submitted documentation to EPA of the adoption on December 8, 1999. Western North Carolina also adopted the State's rule change and submitted documentation of the adoption to EPA on January 23, 1997.

North Carolina made several additional program changes after EPA granted interim approval on November 15, 1995. The operating permit application processing schedule in Rule 15A NCAC 2Q.0507(f) was deleted and replaced with a new application processing schedule in Rule 15A NCAC 2Q.0525. The new schedule established time frames for the State to complete various aspects of permit issuance, including acknowledging receipt of the application, the completeness check, the technical review, mailing the public notice, and holding a public hearing if one is requested. Rule 15A NCAC 2Q.0525 was initially submitted to EPA on March 23, 1995 and then the State amended it to ensure that final action on permit applications would be taken within 18 months of being deemed complete, as stipulated in 40 CFR 70.7(a)(2). The amended rule was submitted to EPA on July 29, 1998. Mecklenburg County adopted the State's rule changes and submitted documentation to EPA of the adoption on October 11, 1999. Western North Carolina also adopted the State's rule

change and submitted documentation of the adoption to EPA on January 5, 2000.

The State also revised the permit content provisions in Rule 15A NCAC 2Q.0508(g) to further delineate the requirements for facilities subject to the Risk Management Program in section 112(r) of the CAA. The revised rule was submitted to EPA on January 21, 2000. Mecklenburg County did not adopt this rule revision, but Western North Carolina did adopt the revision and submitted documentation to EPA on November 10, 1999.

Pursuant to 40 CFR 70.9(c), the State, Mecklenburg County, and Western North Carolina submitted fee program updates demonstrating that their title V programs are adequately funded by operating permit fees. These updates were submitted on November 15, 1999, November 2, 1999, and September 29, 1999, respectively. The State also submitted a Title V Air Quality Permit Program Accountability Report on June 14, 2000 showing the aggregate fee payments collected from title V sources and a summary of the reasonable direct and indirect expenditures required to develop and administer the title V program. Rule 15A NCAC 2Q.0206(f) requires the State to prepare an annual accountability report and make it publicly available.

What Is Involved in This Proposed Action?

North Carolina, Mecklenburg County, and Western North Carolina have fulfilled the conditions of the interim approval granted on November 15, 1995, and EPA proposes full approval of their title V operating permit programs. EPA also proposes approval of other program changes made since the interim approval was granted. The regulations in North Carolina's federally approved title V program include Rules 15A NCAC 2Q.0201 through 2Q.0206 (fees), 2Q.0401 and 2Q.0402 (acid rain), and 2Q.0501 through 2Q.0525 (title V permitting procedures). Mecklenburg County's title V program includes Mecklenburg County Air Pollution Control Ordinance (MAPCO) Regulations 1.5231 (fees), 1.5302 through 1.5304 (enforcement), 1.5401 and 1.5402 (acid rain), and 1.5501 through 1.5525 (title V permitting procedures). Western North Carolina's title V program includes Western North Carolina Regional Air Quality Agency (WNCRAQA) Code Chapter 17 .0200 (fees), .0400 (acid rain), and .0501 through .0525 (title V permitting procedures).

Administrative Requirements

A. Request for Public Comments

EPA requests comments on the program revisions discussed in this proposed action. Copies of the North Carolina, Mecklenburg County, and Western North Carolina submittals and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by July 12, 2001.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

C. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

D. 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 Executive Order 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 Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

E. 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 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, 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

F. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include

regulations that have ''substantial direct effects on the 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the 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 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

G. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act 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 rule will not have a significant impact on a substantial number of small entities because part 70 approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this 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 CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. [See *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).]

H. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995, 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 the 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 proposed 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.

I. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

J. 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 August 13, 2001. 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) of the CAA.)

K. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 4, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–14769 Filed 6–11–01; 8:45 am]

BILLING CODE 6560–50–U