specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998)), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation.

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. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. EPA has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because the regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 40 CFR Part 1

Environmental protection, Statement of Organization and General Information.

Dated: December 3, 1998.

Carol M. Browner,

Administrator, Environmental Protection Agency.

For the reasons set forth in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION:

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

Authority: 5 U.S.C. 552.

2. Section 1.25 is amended by revising paragraph (e)(1) to read as follows:

§ 1.25 Staff Offices.

* * * * *

(e)(1) Environmental Appeals Board. The Environmental Appeals Board is a permanent body with continuing functions composed of no more than four Board Members designated by the Administrator. The Board shall decide each matter before it in accordance with applicable statutes and regulations. The Board typically shall sit on matters before it in three-Member panels, and shall decide each matter by a majority vote. In the event that absence or recusal prevents a three-Member panel, the Board shall sit on a matter as a panel of two Members, and two Members shall constitute a quorum under such circumstances. The Board in its sole discretion shall establish panels to consider matters before it. The Board's decisions regarding panel size and composition shall not be reviewable. In the case of a tie vote, the matter shall be referred to the Administrator to break the tie.

* * * * *

[FR Doc. 98–32684 Filed 12–8–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD055–3021; FRL–6199–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Stage II Vapor Recovery Comparability Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision concerns a plan which demonstrates that the emissions reductions of volatile organic compounds (VOC) required in ozone attainment and marginal ozone nonattainment areas in Maryland are comparable to the reductions which would be achieved by Stage II vapor recovery (Stage II) in those same areas. EPA is approving the Stage II comparability plan in the State of Maryland in accordance with the Clean Air Act (the Act).

DATES: This rule is effective on February 8, 1999, without further notice unless EPA receives adverse written comment by January 8, 1999. Should EPA receive 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 A. 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; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, or by e-mail at knapp.ruth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 5, 1997, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a demonstration of how control measures already being implemented are achieving comparable emission reductions as would be achieved by a Stage II vapor recovery program. Section 184(b) of the Act requires states in the Ozone Transport Region (OTR) to implement control measures that achieve emission reductions comparable to implementing Stage II, or to implement a Stage II program. This requirement applies in all areas not already required to implement Stage II based on their ozone nonattainment classification. All areas in Maryland that are classified as serious ozone nonattainment areas or above have already implemented the Stage II program. As the entire State of Maryland is within the OTR, the Stage II comparability requirement applies in all of its ozone attainment areas and marginal ozone nonattainment areas.

Summary of SIP Revision

On November 5, 1997, the State of Maryland submitted a formal revision to its SIP. The SIP revision consists of an explanation of the VOC emission reductions required by control measures comparable to Stage II vapor recovery in Maryland's marginal ozone

nonattainment areas and ozone attainment areas. Therefore, the implementation of Stage II or comparable VOC measures are required in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester Counties.

Maryland projects that implementing Stage II in these areas would result in emission reductions of approximately 3.03 tons per day (Stage II Comparability Study for the Northeast Ozone Transport Region (EPA–452/R–94–011)). However, in a letter to EPA dated March 13, 1997, Maryland opted to satisfy the Act requirements for Stage II by adopting other control strategies to achieve emission reductions comparable to those from implementing Stage II. Maryland has implemented the following regulations to achieve comparable reductions:

1. COMAR 26.11.19.09 Cold and Vapor Degreasing, adopted effective June 5, 1995 (62 FR 41853, August 4, 1997).
2. COMAR 26.11.19.11 Lithographic Printing, adopted effective May 8, 1991 (62 FR 46199, September 2, 1997).
3. COMAR 26.11.19.18 Screen Printing, adopted effective November 7, 1994 (62 FR 53544, October 15, 1997).
4. COMAR 26.11.19.19 Expandable Polystyrene Operations, adopted effective July 3, 1995 (62 FR 53544, October 15, 1997).
5. COMAR 26.11.19.23 Vehicle Refinishing, adopted effective May 22, 1995 (62 FR 41853, August 4, 1997).

The projected VOC emissions reductions from these measures are listed below, and these reductions total more than Maryland's projection for emission reductions from Stage II.

Control strategy	1999 total projected emission reduction (tons/day)
Degreasing	2.08
Auto Refinishing	0.57
Lithographic and Screen Printing	0.47
Expandable Polystyrene Operations	0.27
Total	3.39

EPA is publishing this Stage II comparability plan without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 8, 1999 without further notice unless EPA receives adverse comments by January 8, 1999. If EPA receives adverse comment, 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 must do so at this time.

II. Final Action

EPA is approving the Stage II vapor recovery comparability plan for the State of Maryland for Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester Counties.

III. Administrative Requirements

A. Executive Orders 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. 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 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

Executive Order 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 Executive Order 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 Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 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, E.O. 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, E.O. 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 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 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).)

Approval of this Stage II vapor recovery comparability plan allows the State of Maryland to achieve comparable reductions in VOC emissions from control measures other than Stage II.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone.

Dated: November 30, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart V—Maryland

2. Section 52.1076 is amended by revising the section heading, by designating the existing paragraph as (a), and adding a paragraph (b) to read as follows:

§ 52.1076 Control strategies: ozone

* * * * *

(b) EPA approves as a revision to the Maryland State Implementation Plan, the Stage II vapor recovery comparability plan for the counties of Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester Counties submitted by the Maryland Department of the Environment on November 5, 1997.

[FR Doc. 98–32577 Filed 12–8–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD076–3030a; FRL–6197–3]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland—General Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct action on a State Implementation Plan (SIP) revision submitted by the State of Maryland. The revision includes Maryland's regulation for general conformity, which sets forth policy, criteria and procedures for demonstrating and assuring conformity of non-transportation related Federal projects to all applicable air quality implementation plans. EPA is approving this general conformity regulation as a SIP revision in accordance with the Clean Air Act.

DATES: This direct final rule is effective on February 8, 1999 without further notice unless EPA receives adverse written comment by January 8, 1999. If adverse comment is received, EPA 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: Comments may be mailed to Robert Kramer, Chief; Energy Radiation and Indoor Environment Branch, Mailcode 3AP23, 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: Larry Budney , (215) 814–2184, at the EPA Region III office or via e-mail at budney.larry@.epa.gov.