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 Executive Order 13084 do not apply to this rule.

4. Executive Order 13132

Executive Order 13132, entitled 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 proposed 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 (64 FR 43255, August 10, 1999), 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 Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

5. 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 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).

6. 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.

7. 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.

The EPA believes that VCS are inapplicable to this action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: February 25, 2000.

David P. Howekamp,

Acting Regional Administrator, Region IX.

[FR Doc. 00–5629 Filed 3–8–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[(DE046–1022b); FRL–6548–1]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Regulation 37—NO_X Budget Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a State Implementation Plan (SIP) revision submitted by the State of

Delaware. This revision implements the Ozone Transport Commission's (OTC) memorandum of understanding (MOU) which describes a regional nitrogen oxides (NO_X) cap and trade program that will significantly reduce NO_X emissions generated within the ozone transport region. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 10, 2000.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover, Delaware 19901.

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

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: February 24, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–5615 Filed 3–8–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 010300F]

RIN 0648–AM42

Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program for the Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 4 to the Fishery Management Plan for the Scallop Fishery Off Alaska (FMP) for Secretarial review. Amendment 4 to the FMP would create a license limitation program (scallop LLP) in the Federal scallop fishery off Alaska that would limit the number of participants and reduce fishing capacity in this fishery through a limited access system in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action is proposed to achieve conservation and management goals for the scallop fishery and is intended to further the objectives of the FMP.

DATES: Comments on the amendment must be submitted on or before May 8, 2000.

ADDRESSES: Comments on this amendment should be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK. Copies of Amendment 4 to the FMP, and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for the amendment are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228 or gretchen.harrington@noaa.gov.

SUPPLEMENTARY INFORMATION: The Council prepared the FMP under the authority of the Magnuson-Stevens Act. The FMP delegates to the State of Alaska (State) the authority to manage all aspects of the scallop fishery, except limited access. Federal regulations governing the scallop fishery appear at 50 CFR parts 600 and 679. State regulations governing the scallop fishery appear in the Alaska Administrative Code (AAC) at 5 AAC Chapter 38—Miscellaneous Shellfish. The Magnuson-Stevens Act provides authority for the FMP to delegate to the State management responsibility for the scallop fishery in Federal waters off Alaska.

The Council adopted the scallop LLP as Amendment 4 to the FMP in February 1999. If approved, the proposed LLP would replace the existing Federal moratorium on the entry of new vessels into the scallop fishery. This moratorium is scheduled to expire on June 30, 2000. The scallop fishery off Alaska has been characterized as overcapitalized. In February 1998, the Council reviewed participation and other data from the scallop fishery and developed a problem statement and alternatives for analysis of a scallop LLP to replace the existing vessel moratorium.

The Council developed six alternatives and two options for the scallop LLP. The Council prepared an EA/RIR/IRFA for Amendment 4, which describes the management background, the purpose and need for action, the alternatives and options, and the socio-economic impacts of the alternatives and options. A copy of the EA/RIR/IRFA can be obtained from the Council (see **ADDRESSES**).

The Council's preferred alternative was the most restrictive considered by the Council and would result in the issuance of a total of nine licenses. The Council's intent in adopting the most restrictive alternative and options was to create an LLP that would reduce the size of the fishery and eliminate growth in harvest capacity.

Under the preferred alternative, licenses would be issued to holders of either Federal or State moratorium permits who used their moratorium permits to make legal landings of scallops in each of any 2 calendar years during the period beginning January 1, 1996, through October 9, 1998 (qualifying period). A scallop LLP license would authorize the person named on the license to catch and retain scallops consistent with applicable State regulations in all waters off Alaska that are open for scallop fishing. The license holder would not be required to be on