precluded from mooring at or getting underway from public or private facilities at Glen Cove or Red Spring Point, NY in the vicinity of this event. Public notifications will be made prior to the event via Local Notice to Mariners, and marine information broadcasts. The Coast Guard limited the comment period for this NPRM to 30 days because the temporary safety zone is only for a one and a half hour long local event and it should have negligible impact on vessel transits.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. No changes were made to the proposed rule.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of Hempstead Harbor during the event, the effect of this regulation will not be significant for several reasons: the minimal time that vessels will be restricted from the area, that vessels are not precluded from getting underway, or mooring at public or private facilities in Glen Cove or Red Spring Point, NY in the vicinity of this event, that vessels may safely transit to the west of the zone, and advance notifications which will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. *Small Entities* include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–6, 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. Add temporary § 165.T01–042 to read as follows:

§ 165.T01–042 Safety Zone: Glen Cove, New York Fireworks, Hempstead Harbor, NY.

(a) *Location.* The following area is a safety zone: All waters of Hempstead Harbor within a 360-yard radius of the fireworks barge in approximate position 40° 51′ 58″ N 073° 39′ 34″ W (NAD 1983), approximately 500 yards northeast of Glen Cove Breakwater Light 5 (LLNR 27065).

(b) *Effective period.* This section is effective from 8:30 p.m. until 10 p.m. on July 4, 1999. If the event is cancelled due to inclement weather, then this section is effective from 8:30 p.m. until 10 p.m. on July 5, 1999.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 11, 1999.

L.M. Brooks,

Captain, U.S. Coast Guard, Acting Captain of the Port, New York.

[FR Doc. 99–15867 Filed 6–21–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 027–3038; FRL–6363–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology Requirements for Major Sources of Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting conditional limited approval of a State

Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes and requires all major sources of nitrogen oxides (NO_X) to implement reasonably available control technology (RACT). This revision was submitted to comply with the NO_X requirements of the Clean Air Act (the Act). Also, Maryland's regulations are being revised by adding and amending definitions. The intended effect of this action is to grant conditional limited approval of Maryland's NO_X RACT regulation and to approve the new and revised definitions submitted by the State of Maryland.

EFFECTIVE DATE: This final rule is effective on July 22, 1999.

ADDRESSES: 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: Carolyn M. Donahue, (215) 814–2095, or by e-mail at donahue.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 18, 1999 (64 FR 8034), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed conditional limited approval of Maryland's NO_X RACT rule, Code of Maryland Regulations (COMAR) 26.11.09.08. The formal SIP revision was submitted by the Maryland Department of the Environment on June 8, 1993 and amended on July 11, 1995.

Also submitted with the NO_X RACT rule were amendments to COMAR 26.11.09.01 and 26.11.01.01, revising the definition of ''fuel burning equipment'' and adding definitions for the terms ''annual combustion analysis,'' ''space heater,'' and ''system'' used in COMAR 26.11.09.08. EPA is fully approving these amendments. Other specific requirements of Maryland's NO_X RACT rule and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

II. Comments Received on EPA's Notice of Proposed Rulemaking

EPA received three letters in response to the February 18, 1999 NPR, all making the same comment. The following discussion summarizes and responds to the comment received.

Comment 1: The commenters oppose submittal of COMAR 26.11.01.11 for inclusion in the Maryland SIP to satisfy the reporting and recordkeeping requirements of Maryland's NO_X RACT rule. The commenters stated that inclusion of this regulation would cause consequences beyond that of using continuous emissions monitoring (CEM) as a NO_X measurement tool. The comment also stated that COMAR 26.11.01.11 should be considered for inclusion in the SIP on its own merits, and the effort to include it ''should initiate at the State level.''

Response 1: In the State's NO_X RACT rule, Maryland established that the monitoring requirements for NO_X facilities would be those set forth in COMAR 26.11.01.10 and .11. COMAR 26.11.01.10 has been approved into the Maryland SIP; however, COMAR 26.11.01.11 has never been submitted to EPA for approval. Maryland's NO_X RACT rule will be federally enforceable only if the regulations cited by this rule are themselves federally enforceable. As pointed out in the second condition in the NPR, EPA left it to the State to decide whether or not to initiate efforts to include COMAR 26.11.01.11 in the SIP. The second condition in the NPR stated that Maryland may submit COMAR 26.11.01.11 or revise the rule to explain the reporting requirements. Maryland is currently in the process of revising its NO_X RACT rule to address the NO_X monitoring requirements and satisfy this condition.

Terms of Conditional Approval

EPA cannot grant full approval of Maryland's NO_X RACT rule because not every major NO_X source is covered by the presumptive limits in § C or RACT provisions in §§ H and J. Maryland has the option to submit individual RACT determinations as SIP revisions, thus the RACT rule will not be approvable until all of its components are approvable. Therefore, EPA is conditionally approving Maryland's NO_X RACT regulations, based on the State's commitment to submit for approval into the SIP, the case-by-case RACT proposals for all sources subject to RACT requirements currently known to MDE. Maryland submitted this commitment in a letter to EPA, dated October 29, 1998.

To fulfill the condition of this approval the State of Maryland must, within 12 months of the effective date of this rulemaking:

1. Certify that it has submitted case-by-case RACT SIPs for all sources subject to the RACT requirements currently known to the Department, or demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions;
2. Either submit COMAR 26.11.01.11 to EPA for approval, or revise § F to clearly explain the reporting and record keeping requirements in COMAR 26.11.09.08;
3. Change COMAR 26.11.09.08D to unambiguously require all emissions trading plans and proposals be submitted as individual SIP revisions, or meet all the requirements of a discretionary EIP.

Once EPA has determined that the State has met these conditions, EPA shall remove the conditional nature of its approval and the Maryland NO_X regulation SIP revision will, at that time, retain limited approval status. Should the State fail to meet the conditions specified above, the final conditional limited approval of the Maryland NO_X RACT regulation SIP revision shall convert to a disapproval.

Terms of Limited Approval

While EPA does not believe that the Maryland generic NO_X RACT regulation satisfies the Act's RACT requirements as discussed previously in this notice, EPA is also granting limited approval of the Maryland generic RACT regulation on the basis that it strengthens the Maryland SIP. After Maryland has fulfilled the conditions of this rule and once EPA has approved all of the case-by-case RACT proposals as SIP revisions, the limited approval will convert to full approval.

III. Final Action

EPA is granting conditional limited approval to Maryland's NO_X RACT rule, COMAR 26.11.09.08, as a revision to the Maryland SIP, and is approving amendments to COMAR 26.11.01.01.

IV. 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 conditional and limited approvals of SIP submittals under sections 110 and 301, and subchapter I, part D of the 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 impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. 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.* versus *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

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, pertaining to Maryland's

generic NO_X RACT regulation, must be filed in the United States Court of Appeals for the appropriate circuit by August 23, 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 reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 2, 1999.

Thomas Maslany,

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)(143) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(143) Revisions to the Code of Maryland Air Regulations (COMAR) 26.11.01.01 and 26.11.09.01, and limited approval of revisions to COMAR 26.11.09.08, submitted on June 8, 1993 and July 11, 1995 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of June 8, 1993 from the Maryland Department of the Environment transmitting COMAR 26.11.09.08, Control of NO_X Emissions from Major Stationary Sources and amendments to COMAR 26.11.09.01, Definitions.

(B) COMAR 26.11.09.08, Control of NO_X Emissions from Major Stationary Sources, effective on May 10, 1993, replacing the existing COMAR 26.11.09.08.

(C) Amendment to COMAR 26.11.09.01, Definitions, effective on May 10, 1993.

(D) Letter of July 11, 1995 from the Maryland Department of the Environment transmitting amendments to COMAR 26.11.09.08, Control of NO_X Emissions from Major Stationary Sources, amendments to COMAR 26.11.01.01, Definitions and COMAR 26.11.09.01, Definitions.

(E) Amendments to COMAR 26.11.09.08, Control of NO_X Emissions from Major Stationary Sources, effective on June 20, 1994 and May 8, 1995.

(F) Amendment to COMAR 26.11.01.01, Definitions, effective on June 20, 1994.

(G) Amendments to COMAR 26.11.09.01, Definitions, effective on June 20, 1994 and on May 8, 1995.

(ii) Additional material.

(A) Remainder of June 8, 1993 and July 11, 1995 State submittals.

(B) Letter of October 29, 1998 from the Maryland Department of the Environment agreeing to meet certain conditions by no later than 12 months after July 22, 1999.

3. Section 52.1072 is amended by adding paragraph (e) to read as follows:

§ 52.1072 Conditional approval.

* * * * *

(e) Revisions to the Code of Maryland Air Regulations (COMAR), rule 26.11.09.08, pertaining to NO_X RACT submitted on June 8, 1993 and amended on July 11, 1995 by the Maryland Department of the Environment, is conditionally approved based on certain contingencies. Maryland must meet the following conditions by no later than 12 months after July 22, 1999. These conditions are that Maryland must:

(1) Certify that it has submitted case-by-case RACT SIPs for all sources subject to the RACT requirements currently known to the Department, or demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions;

(2) Either submit COMAR 26.11.01.11 to EPA for approval, or revise COMAR 26.11.09.08F to clearly explain the reporting and record keeping requirements in COMAR 26.11.09.08;

(3) Change COMAR 26.11.09.08D to unambiguously require all emissions trading plans and proposals be submitted as individual SIP revisions, or meet all the requirements of a discretionary EIP.

[FR Doc. 99–15713 Filed 6–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6363–5]

Final Determination To Extend Deadline for Promulgation of Action on Section 126 Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final determination.

SUMMARY: The EPA is extending by six months the deadline for taking final action on petitions that three States have submitted to require EPA to make findings that sources upwind of those States contribute significantly to ozone nonattainment problems in those States. Under the Clean Air Act (CAA or Act), EPA is authorized to grant this time extension if EPA determines that the extension is necessary, among other things, to meet the purposes of the Act's rulemaking requirements. By this document, EPA is making that determination. The three States that have submitted the petitions are Delaware, Maryland and New Jersey.

EFFECTIVE DATE: This action is effective as of June 14, 1999.

FOR FURTHER INFORMATION CONTACT: Howard J. Hoffman, Office of General Counsel, MC 2344, 401 M St. SW, Washington, DC 20460, (202) 260–5892, hoffman.howard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Today's action is procedural, and is set in the context of a series of actions EPA is taking to address the problem of the transport of tropospheric ozone and its precursors—especially oxides of nitrogen (NO_X)—across the eastern region of the United States.

By a document dated May 25, 1999, 64 FR 28250, EPA promulgated a final rulemaking concerning petitions submitted by eight northeastern States under section 126(b), which authorizes States or political subdivisions to petition EPA for a finding that major stationary sources in upwind states emit in violation of the prohibition of section 110(a)(2)(D), by contributing significantly to nonattainment problems in downwind States. The eight States submitting the petitions were Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.

EPA has recently received additional petitions under section 126 from the States of Delaware (received on June 11,