

aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

#### Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This Rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This Rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This Rule meets applicable standards in section 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This Rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

#### PART 117—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.147(b) is revised to read as follows:

#### § 117.147 Cerritos Channel.

\* \* \* \* \*

(b) The opening signal for the draw of the Henry Ford Avenue railroad bridge, mile 4.8 at Long Beach, is two short blasts followed by one prolonged blast. The acknowledging signal is two short blasts followed by one prolonged blast when the draw will open immediately

and five short blasts when the draw will not open immediately. Channel 13 (156.65 MHz) or other assigned frequencies may be used.

Dated: September 22, 1999.

**T.H. Collins,**

*Vice Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.*

[FR Doc. 99–26530 Filed 10–8–99; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[DE027–1027b; FRL–6453–6]

#### Approval and Promulgation of Air Quality Implementation Plans; Delaware; 15 Percent Rate of Progress Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to convert our conditional approval of Delaware's State Implementation Plan (SIP) revision to achieve a 15 percent reduction in volatile organic compound emissions (the 15% plan) in its portion of the Philadelphia-Wilmington-Trenton (namely Kent and New Castle Counties) ozone nonattainment area to a full approval. In the "Rules and Regulations" section of this **Federal Register**, we are converting our conditional approval of Delaware's 15% plan SIP revision to a full approval as a direct final rule because we view this as a noncontroversial amendment and because we anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments, we will not undertake further action on this proposed rule. If we receive adverse comments, we will withdraw the direct final rule, and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Anyone interested in providing comments on this action should do so at this time.

**DATES:** Comments must be received in writing by November 12, 1999.

**ADDRESSES:** Written comments should be addressed to David L. Arnold, Chief, Ozone and 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 and 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](mailto: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: September 23, 1999.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

[FR Doc. 99–26196 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[CA–232–0176, FRL–6454–7]

#### Transportation Conformity Budget Adequacy Determination and Status of Maintenance Demonstration and Associated Budgets; San Francisco Bay Area Ozone Attainment Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is today proposing that the motor vehicle emissions budgets contained in the 1999 ozone attainment plan for the San Francisco Bay Area are adequate for transportation conformity purposes. EPA is also proposing that the Bay Area's existing maintenance demonstration and associated budgets are no longer applicable and should be replaced by the new budgets upon a final determination of adequacy. The attainment plan includes a budget of 175.2 tons per day (tpd) for VOC and 247.1 tpd for NO<sub>x</sub>, both for the year 2000. If, after public comment, EPA finalizes this adequacy determination of the new budgets, and the determination that the maintenance demonstration is no longer applicable, the new budgets would apply to the attainment year of 2000 and beyond and become the sole 1-hour ozone standard VOC and NO<sub>x</sub> budgets in the Bay Area for transportation conformity.

**DATES:** Comments on this proposed action must be received in writing by November 12, 1999. Comments should be addressed to the contact listed below.

**ADDRESSES:** A copy of the proposed rule is available in the air programs section of EPA Region 9's website, <http://www.epa.gov/region09/air>, and the EPA's Office of Mobile Sources' conformity website, <http://www.epa.gov/oms/traq> (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity"). A copy of the attainment plan can be obtained from the Bay Area Air Quality Management District's website, <http://sparc2.baaqmd.gov/sip/>. A copy of the plan is also included in the docket for this rulemaking and is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 744-1249 for assistance.

**FOR FURTHER INFORMATION CONTACT:** Celia Bloomfield (415) 744-1249, Planning Office (AIR-2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

**SUPPLEMENTARY INFORMATION:**

**I. The Bay Area's 1999 Ozone Attainment Plan Contains New On-Road Motor Vehicle Emissions Budgets ("Attainment Budgets") for Transportation Conformity Purposes**

On August 13, 1999, the California Air Resources Board (CARB) submitted to EPA on behalf of the San Francisco Bay Area (Bay Area) a plan designed to bring the Bay Area into attainment with the federal 1-hour national ambient air quality standard (NAAQS) for ozone. This plan has an attainment year of 2000. The 2000 attainment year anticipates specific emissions levels for on-road motor vehicles: 175.2 tpd for VOC and 247.1 tpd for NO<sub>x</sub>. Upon a final determination of adequacy, these emissions levels will become the transportation conformity motor vehicle emissions budgets for the Bay Area.

The role of transportation conformity, a requirement set out in section 176(c) of the Clean Air Act, is to ensure that motor vehicle emissions from transportation activities will not exceed the levels being relied on in the plan to achieve attainment. In other words, emissions from the implementation of transportation plans and programs must be "consistent with estimates of emissions from motor vehicles and necessary emission reductions contained in the applicable

implementation plan" (CAA section 176(c)(2)(A)). Since the 2000 budgets in the ozone attainment plan are attainment budgets, they will apply to conformity determinations for the attainment year 2000 and for every year after 2000.

**II. The New Attainment Budgets Are Adequate**

The new attainment budgets are based on current motor vehicle emissions information and represent the best estimates of motor vehicle emissions levels needed for attainment of the federal 1-hour ozone standard. EPA believes the budgets meet the criteria for adequacy as set out in section 93.118(e)(4) (62 FR 43811, August 15, 1997) and should be deemed adequate for transportation conformity purposes.

There are six criteria for adequacy listed in section 93.118(e)(4). The first, a requirement that the budgets be endorsed by the governor or his designee and be subject to a State public hearing (section 93.118(e)(4)(I)), was satisfied by CARB's normal plan approval and submittal process. On July 22, 1999, the CARB board held a hearing to approve the Bay Area attainment plan. On August 13, 1999, CARB officially submitted the plan to EPA with a request from the Governor's designee that EPA approve the plan.

The second criterion requires that prior to plan submittal, there be "consultation among federal, State, and local agencies \* \* \*; full implementation plan documentation \* \* \*"; and resolution of EPA's comments (section 93.118(e)(4)(ii)). The budgets, which were calculated and added to the plan after consultation among federal, State, and local agencies and in response to EPA comments, meet EPA's second criterion as well.

In compliance with the third, fourth, and fifth adequacy criteria, the motor vehicle emissions budgets are clearly identified and precisely quantified (section 93.118(e)(4)(iii)) in Section 4 of the submitted attainment plan; the budgets are consistent with the modeling results from the attainment assessment, which define the emissions levels needed for attainment (section 93.118(e)(4)(iv)); and the budgets are not only "consistent with" and "related to the emissions inventory and the control measures in the submitted \* \* \* plan," (section 93.118(e)(4)(v)) but are specifically derived from the motor vehicle emissions information projected for the year 2000 taking into account emissions reductions that will be achieved by the plan's control measures.

Finally, the sixth criterion relating to revisions of previously submitted plans

(section 93.118(e)(4)(vi)) does not apply because the ozone attainment plan is an initial submission, not a revision to a previously submitted control strategy plan for the same Clean Air Act purpose and time frame. It is a new attainment plan triggered by EPA's redesignation of the Bay Area from maintenance to nonattainment on July 10, 1998 (63 FR 37258).

**III. The 1995 Maintenance Budgets Are No Longer Applicable**

On May 22, 1995, EPA redesignated the Bay Area to attainment and approved the Bay Area's maintenance plan, which was submitted as part of its redesignation request. 60 FR 27028. Such a plan is required by the redesignation provisions of sections 107(d)(3)(E)(iv) and 175A of the Act for maintenance areas—areas that are redesignated to attainment from nonattainment. The Bay Area is no longer a maintenance area. While its maintenance plan was designed to maintain compliance with the federal 1-hour ozone standard, the plan failed. During the first two years implementing the maintenance plan (1995–1996), the Bay Area experienced 43 exceedances and 17 violations of the federal standard. As a result, the Bay Area was redesignated back to nonattainment on July 10, 1998 (63 FR 37258). Because the Bay Area is now a nonattainment area subject to the attainment plan requirements of section 172, rather than the maintenance requirements of section 175A, we are finding through rulemaking that the maintenance demonstration is no longer relevant and is not an applicable requirement under section 110(l).<sup>1</sup> As part of the obsolete maintenance demonstration, the maintenance budgets are also no longer an applicable requirement of the Act. The maintenance demonstration and associated budgets were not eliminated when the Bay Area was redesignated back to nonattainment. The maintenance requirements can only be eliminated through rulemaking and if the new attainment budgets are deemed adequate. If this adequacy determination and determination that the maintenance budgets are no longer applicable are finalized, the VOC and NO<sub>x</sub> transportation conformity budgets for the Bay Area contained in the new attainment plan submitted by CARB on August 13, 1999 will become the only

<sup>1</sup> Unlike the maintenance demonstration, the measures approved into the SIP as part of the maintenance plan remain in full force and effect and cannot be removed from the SIP without equivalent replacement because such removal would interfere with attainment pursuant to section 110(l).

applicable 1-hour ozone standard budgets for the Bay Area.

#### IV. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

##### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 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 any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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

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 E.O. 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 E.O. 13045 because it does not involve decisions intended to

mitigate environmental health or safety risks.

##### D. 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 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. 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 of 1990 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA).

EPA has determined that today's regulation will not have a significant impact on a substantial number of small entities. This regulation affects federal agencies and metropolitan planning organizations, which by definition are designated only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

##### 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.

##### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

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

Dated: September 27, 1999.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 99-26556 Filed 10-8-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-6449-7]

### Washington: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Washington has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We propose to