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 (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).

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 must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 14, 1999.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(32)(iv)(F) and (35)(xii)(G) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(32) * * *

(iv) * * *

(F) Previously approved on June 14, 1978 and now deleted without replacement Rule 432.

* * * * *

(35) * * *

(xii) * * *

(G) Previously approved on August 4, 1978 and now deleted without replacement Rules 102 and 408.

* * * * *

[FR Doc. 99–25304 Filed 9–29–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC040–2016; FRL–6448–9]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; GSA Central and West Heating Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving revisions to the District of Columbia State Implementation Plan (SIP). The revisions consist of portions of an

operating permit which reduce sulfur dioxide (SO_2) emissions from two steam-generating facilities located in the District of Columbia. The intent of this action is to approve, as SIP revisions, portions of the operating permit issued by the District of Columbia on October 17, 1997 to the General Services Administration (GSA) for its Central Heating and Refrigeration Plant and West Heating Plant in accordance with the requirements of the Clean Air Act (the Act).

DATES: This rule is effective on November 29, 1999 without further notice, unless EPA receives adverse written comment by November 1, 1999. If EPA receives 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 Walter Wilkie, Acting 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Denis Lohman (215) 814–2192, or by e-mail at lohman.denny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 1997, the District of Columbia submitted a formal revision to its SIP. The SIP revision consisted of an October 17, 1997 operating permit issued by the District of Columbia to GSA for its Central Refrigeration and Heating Plant (CHRP) and West Heating Plant (WHP). On December 16, 1998, the District submitted an amendment intended to clarify the scope of its of October 23, 1997 submittal. The amendment clarified that the District is only requesting that portions of the operating permit be approved and incorporated into the SIP. EPA is approving all of the portions of the permit requested by the District in its December 16, 1998 submittal. While the other provisions of the operating permit are federally enforceable pursuant to Title V of the Act, certain SO_2 provisions are being approved as SIP revisions because they are needed to ensure attainment of the annual National Ambient Air Quality Standards (NAAQS) set for SO_2.

II. Summary of SIP Revision

The operating permit imposes emission limits for SO_2 and establishes restrictions on fuel burning capabilities to minimize SO_2 from the plants. The operating permit requires the combustion of natural gas at all times at GSA's CHRP and WHP. There is, however, a provision for the use of No. 2 ''on-road Diesel'' fuel with a maximum sulfur content of five hundredths weight percent ($0.05\%_{wt}$) during periods of natural gas service interruption by the supplier. In addition to limiting the sulfur content of the fuel that may be combusted during periods of natural gas interruption, the permit also limits the total gallons per calendar year that may be combusted at each facility. These restrictions on fuel type and usage have significantly reduced the SO_2 emissions from these plants to the point where such emissions presents a negligible potential for impact on the surrounding area. Under the existing SIP, the average annual SO_2 emissions for CHRP and WHP were 523 and 626 tons per year, respectively, during the period of 1980 to 1990, inclusively. The provisions of the operating permit, which are the subject of this SIP revision, restrict annual SO_2 emissions to 17 tons per year at CHRP and 12 tons per year at WHP.

The permit provisions being approved as SIP revisions also require GSA to report the necessary information to ensure compliance with the annual emission limits. The principle compliance determination method is the use of continuous emissions monitoring when combusting natural gas or No. 2 ''on-road Diesel'' fuel. In addition, the District requires fuel analysis or fuel certification substantiating the maximum hydrogen sulfide and weight percent sulfur of the gas or oil consumed. GSA must submit quarterly reports for each boiler at CHRP and WHP including; hours of service, types and quantities of fuel combusted, fuel composition and heat content, service interruptions and total tons of SO_2 emitted on a monthly basis and on rolling 12 month basis. Monthly reports are to be prepared demonstrating GSA's maintenance of the NAAQS for SO_2 in the vicinity of the two facilities. Sulfur-in-fuel reports are due each month detailing specific information about fuel oil, if any, that was burned during the month. The level of reporting detailed above provides adequate assurance that the compliance status of GSA can be quickly and accurately tracked at all times.

EPA has determined that the portions of GSA's operating permit which the District of Columbia has requested be approved as SIP revisions serve to strengthen the District of Columbia SO_2 SIP, and EPA is therefore approving the District's request.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. 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 District's SIP revision if adverse comments are filed. This rule will be effective on November 29, 1999 without further notice unless EPA receives adverse comment by November 1, 1999. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. 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.

III. Final Action

EPA is approving, as a revision to the District of Columbia SIP, the District's December 16, 1998 submittal (amending its October 23, 1997 submittal) consisting of portions of the operating permit issued by the District on October 17, 1997 to GSA for its Central and West Heating Plants.

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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act does 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 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and 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 particular applicability pertaining only to the General Services Administration's (GSA) Central Heating and Refrigeration Plant and West Heating Plant located in the District of Columbia.

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 November 29, 1999. Filing a petition for reconsideration by the Administrator of this final rule, pertaining to GSA's operating permit for its Central and West heating plants, 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 approving portions of the District's operating permit issued to GSA for its Central and West heating plants 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 20, 1999.

W. Michael McCabe,

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 J—District of Columbia

2. In Section 52.470, the entry for GSA permit-to-operate fuel-burning equipment in the ''EPA Approved District of Columbia Source-specific requirements'' table in paragraph (d) is added and the entry ''None'' is removed to read as follows:

§ 52.470 Identification of plan.

* * * * *

(d) EPA-Approved District of Columbia Source-Specific Requirements

EPA-APPROVED DISTRICT OF COLUMBIA SOURCE-SPECIFIC REQUIREMENTS

Name of Source	Permit number	State effective date	EPA approval date	Comments
General Services Administration Central Heating and Refrigeration Plant and West Heating Plant.	N/A—it is the operating permit issued to GSA by the District of Columbia on October 17, 1997.	Oct 17, 1997.	Sept 30, 1999 [page cite.].	The following portions of GSA's operating permit are not included in the SIP: The portion of Condition 3 referring to Table 1, Table 1, Condition 4, Table 3, and Condition 17.

[FR Doc. 99–25422 Filed 9–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE039–1026; FRL–6449–2]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Enhanced Motor Vehicle Inspection and Maintenance (I/M) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program in the counties of Kent and New Castle. The intended effect of this action is to approve the Delaware enhanced motor vehicle I/M program as a SIP revision under the Clean Air Act (the Act).

EFFECTIVE DATE: This final rule is effective on November 1, 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; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Jill Webster, (215) 814–2033, or by e-mail at Webster.Jill@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 7, 1999 (64 FR 36635), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of revisions to the SIP for an enhanced motor vehicle I/M program. The formal SIP revision was submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) on June 16, 1998 and additional revisions were submitted on May 24, 1999. A description of Delaware's submittals and EPA's rationale for our proposed action were presented in the NPR and will not be restated here. No public comments were received on the NPR.

Additionally, EPA is not requiring the State of Delaware to implement section 40 CFR 51.356 (a)(4) dealing with federal installations within I/M areas at this time. The Department of Justice has recommended to EPA that these provisions of the federal I/M regulation be revised since it appears to grant states authority to regulate federal installations in circumstances where the federal government has not waived sovereign immunity. Federally owned vehicles operated in Delaware are required to meet the same requirements as Delaware registered vehicles, but it would not be appropriate to require compliance with this regulation if it is not constitutionally authorized. EPA will be revising these provisions in the future. EPA will review state I/M SIPs with respect to this issue when the revised rule is final. EPA is neither approving nor disapproving requirements which apply to federal facilities at this time.

EPA believes that approval of Delaware's I/M program was sufficiently proposed in the rulemaking process and that omitting its requirements pursuant to section 40 CFR 51.356(a)(4) from this approval would not warrant further comment, because responsibility for compliance with those requirements rests with the Federal government. For this reason, EPA invokes the ''good cause'' clause of the Administrative Procedure Act section 553(b)(B) to make this change in this final notice. It would be contrary to the public interest to take final action on these provisions which may be unconstitutional and which EPA is currently revising.

II. Final Action

EPA is approving Delaware's low enhanced I/M program as a revision to the Delaware SIP, with the exception of its provisions for federal facilities.

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 Orders on Federalism

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon