adopted by Maricopa County on April 6, 1992 (Rules 337, 350, and 351) and November 16, 1992 (Rule 352). These rules were submitted by the Arizona Department of Environmental Quality to EPA on June 29, 1992 (Rules 337, 350, and 351) and February 4, 1993 (Rule 352). These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the Notice of Proposed Rulemaking (NPRM) cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and with EPA's regulations and interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable requirements. A detailed discussion of the rule provisions and evaluations has been provided in 59 FR 11228 and in technical support documents (TSDs) available at EPA's Region IX office. These TSDs are dated: June 23, 1993 (Rule 337) and July 30, 1993 (Rules 350, 351, and 352).

Response to Public Comments

A 30-day public comment period was provided in 59 FR 11228. EPA did not receive comments on any of the rules.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the Arizona SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

On June 12, 1991 EPA notified Maricopa County that required elements of the SIP had not been submitted to EPA, thus beginning a FIP clock (under section 110(c) of the CAA) and a sanction clock (under section 179(a) of the CAA). These missing elements included the following source categories: Fixed Roof Storage (Rule 350), Gasoline Bulk Plants and Loading Terminals (Rule 351), Stage I: Service Stations Gasoline Transfer (Rule 353), and Graphic Arts (337). The section 179(a) sanction clock associated with these elements was terminated upon submittal of the rules to EPA. This Final Rule permanently terminates the section 110(c) FIP clock that commenced upon Maricopa County's failure to submit rules 337, 350, and 351.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Regulatory Process

The OMB has exempted this action from review under Executive Order 12866.

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.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 8, 1995.

Felicia Marcus,

Regional Administrator.

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. 7401–7671q.

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c) (70) and (78) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(70) New and amended regulations for the Maricopa County Environmental Services Department—Air Pollution Control were submitted on June 29, 1992, by the Governor's designee.

(i) Incorporation by reference.

(A) New Rules 337, 350, and 351, adopted on April 6, 1992.

* * * * *

(78) New and amended regulations for the Maricopa County Environmental Services Department—Air Pollution Control were submitted on February 4, 1993, by the Governor's designee.

(i) Incorporation by reference.

(A) New Rule 352, adopted on November 16, 1992.

* * * * *

[FR Doc. 95–21883 Filed 9–1–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OR–31–1–5932a; FRL–5283–4]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves the State of Oregon Implementation Plan (SIP) revision submitted by the State of Oregon for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The implementation plan was submitted by the State to satisfy the Federal mandate, found in Section 507 of the Clean Air Act (CAA or the Act), to ensure that small businesses have access to the

technical assistance and regulatory information necessary to comply with the CAA. The rationale for the approval is set forth in this notice; additional information is available at the address indicated below.

DATES: This final rule is effective November 6, 1995 unless notice is received by unless adverse or critical comments are received by October 5, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, OR–31–1–5932, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 SW. Sixth Avenue, Portland, OR 97204.

FOR FURTHER INFORMATION CONTACT: David J. Dellarco, Air and Radiation Branch (AT–082), EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–4978.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the Clean Air Act (CAA or Act), as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the Federally approved SIP. In addition, the CAA directs the Environmental Protection Agency (EPA) to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in Section 507 of Title V of the CAA. In January 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments,* in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

The State of Oregon has submitted a SIP revision to EPA in order to satisfy the requirements of Section 507. Section 468.330 of the Oregon Revised Statutes establishes a Small Business Stationary Source Technical and Environmental Compliance Assistance Program and requires the Program to include each element specified in section 507(a) of the Act. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) the establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel to determine and report on the overall effectiveness of the SBAP.

II. Analysis

1. Small Business Assistance Program

Section 507(a) sets forth six requirements[1] that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act. The State has met this requirement through participation in a Pacific Northwest regional effort designed to ensure collection and development of compliance methods and technologies for small businesses. In addition, Oregon's SBAP has an information component and a technical assistance component. The information component advises small business about air quality regulations that may affect them, through education, outreach, and toll-free telephone access. The technical assistance component helps small businesses through direct consultation and site visits.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. The State has met this requirement by coordinating and integrating SBAP activities with its pollution prevention activities, in particular the toxics use and waste reduction program. In addition, Oregon's SBAP will coordinate with the State Fire Marshal, Oregon-OSHA, and local emergency response programs in order to ensure small businesses receive assistance and information on accidental release detection and prevention.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner. The State has met this requirement by training staff in regulatory and permitting requirements, informing small businesses of their responsibilities through outreach, and providing compliance assistance through the SBAP.

The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act. The State has met this requirement by ensuring that small business rights are included in education and outreach materials and activities, as well as during the delivery of technical assistance. Oregon follows a policy of providing the regulated community with at least 30 calendar days advance notice before applicable requirements take effect.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act. The State has met this requirement through a policy of providing the regulated community with at least 30 calendar days advanced notice of their obligations under state law, developing a program for qualified outside auditors

[1] A seventh requirement of Section 507(a), establishment of an Ombudsman office, is discussed in the next section.

to provide compliance assessments upon request, and providing compliance assistance through the Compliance Assessment Program.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. The State has met this requirement by developing standardized criteria and administrative procedures for considering such requests.

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by establishing and filling a new technical assistance coordinator position located in the administration section of the Department's Regional Operations Division. The technical assistance coordinator is assigned the responsibilities of the Small Business Ombudsman.

3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has met this requirement by establishing a Compliance Advisory Panel comprised of these individuals. *See* ORS 468A.330(3).

In addition to establishing the minimum membership of the CAP, the CAA delineates four responsibilities of the Panel: (1) to render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act;[2] (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has met these requirements by authorizing its CAP to address these responsibilities. *See* ORS 468A.330(2).

4. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals;

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

The State of Oregon has established a mechanism for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in Section 507(c)(1) of the CAA.

The State of Oregon has provided for public notice and comment on grants of eligibility to sources that do not meet the provisions of Sections 507(c)(1) (C), (D), and (E) of the CAA but do not emit more than 100 tpy of all regulated pollutants.

The State of Oregon has provided for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

5. Onsite Technical Assistance

The statute establishing the Oregon Small Business Program, ORS 468A.330, provides that onsite technical assistance for the development and implementation of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program shall not result in inspections or enforcement actions except where there is reasonable cause to believe that a clear and immediate danger to the public health and safety or to the environment exists. *See* ORS 468A.330(4)(a). On August 12, 1994, EPA issued a guidance memorandum entitled "Enforcement Response Policy for Treatment of Information Obtained Through Clean Air Act Section 507 Small Business Assistance Programs" signed by Steven A. Herman (herein referred to as the "SBA Enforcement Guidance"), which sets forth EPA's enforcement response policy on the treatment of violations detected during compliance assistance visits under State Small Business Assistance Programs. The SBA Enforcement Guidance endorses State PROGRAMS that either (1) voluntarily seek compliance assistance a limited period to correct violations observed or revealed as a result of compliance assistance or (2) if the PROGRAM is independent of the delegated State air enforcement program, keep confidential information that identifies the names and locations of specific small businesses with violations revealed through compliance assistance.

The Oregon statute does not satisfy the requirements of the first option of the SBA Enforcement Guidance in that ORS 468A.330(4)(a) does not simply give sources that receive onsite technical assistance a limited opportunity to correct a violation, but instead prohibits further enforcement inspections and enforcement actions that result from onsite technical assistance. On May 16, 1995, the State or Oregon submitted to EPA a guidance document entitled "Air Quality Guidance: Restriction of Information Obtained by the AQ Small Business Assistance Program" (hereinafter, "Oregon's SBAP Confidentiality Guidance"). This document requires the PROGRAM to be operated independently of Oregon's air program enforcement efforts and requires the PROGRAM to restrict access by Oregon air enforcement staff to information regarding violations detected through onsite technical assistance visits to small businesses.

EPA has reviewed Oregon's SBAP Confidentiality Guidance and believes that it meets the conditions that apply to State's choosing the confidentiality option. Specifically, Oregon's SBAP Confidentiality Guidance is an official policy that establishes independence between the PROGRAM and the Oregon air enforcement program; it restricts access by Oregon air enforcement staff to information regarding violations detected through onsite technical assistance visits to small businesses; it requires the PROGRAM to report general statistical and other information about small business compliance to the Department of Environmental Quality and requires the PROGRAM to track

[2] Section 507(e)(1)(B) requires the CAP to report on the *compliance* of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

compliance progress where it identifies violations during onsite technical assistance; the Department retains full discretion to take enforcement action against violations documented independently of onsite technical assistance visits; and Oregon's PROGRAM is subject to the eligibility requirements of Section 507(c) of the Clean Air Act. In summary, EPA believes that ORS 468A.330(4)(a), when implemented in accordance with Oregon's SBA Confidentiality Guidance, is consistent with EPA's SBA Enforcement Guidance.

III. This Action

In this action, EPA approves the SIP revision submitted by the State of Oregon. The State of Oregon has submitted a SIP revision implementing each of the required PROGRAM elements required by Section 507 of the CAA. The Program is currently being implemented. EPA is therefore approving this submittal.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

By this action, the EPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved in this action does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small business entities affected.

SIP approvals under section 110 and subchapter I, Part D of the CAA 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, I certify 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 CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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 the 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 6, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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. If no such comments are received, the public is advised that this action will be effective November 6, 1995.

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 6, 1995. 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), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Small Business Assistance Program.

Dated: August 8, 1995.

Charles Findley,

Acting Regional Administrator.

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. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c) (112) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(112) On November 16, 1992, the Director for the Oregon Department of Environmental Quality (ODEQ) submitted the Oregon State Small Business Stationary Source Technical and Environmental Compliance Assistance Program and on May 16, 1995, the Administrator for ODEQ submitted the Small Business Assistance Program Confidentiality Option as revisions to the Oregon State Implementation Plan.

(i) Incorporation by reference.

(A) The November 16, 1992 letter from the Director of the Oregon Department of Environmental Quality submitting the Small Business Stationary Source Technical and Environmental Compliance Assistance Program to EPA; The Oregon Air Quality Small Business Assistance Program State Implementation Plan Revision adopted on October 16, 1992, and evidence that the State has the necessary legal authority, Oregon Revised Statutes 468A.330 (Small Business Stationary Source Technical and Environmental Compliance Assistance Program).

(B) The May 16, 1995 letter from the Administrator of the Oregon Department of Environmental Quality, Air Quality Division, submitting the Small Business Assistance Program confidentiality option to EPA; The Air Quality Guidance, Restriction of Information Obtained by the AQ Small Business Assistance Program adopted on May 16, 1995.

[FR Doc. 95–21884 Filed 9–1–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WV31–1–7063a; FRL–5278–9]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia, 45CSR35, Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. The rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to all applicable implementation plans developed pursuant to Section 110 and Part D of the Clean Air Act (CAA). The intended effect of this action is to approve the SIP revision of West Virginia General Conformity Rule. This action is being taken under section 110 of the CAA.

DATES: This final rule is effective November 6, 1995 unless notice is received on or before October 5, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: On November 23, 1994, the State of West Virginia submitted a formal revision to its State Implementation Plan (SIP) to EPA for the purpose of meeting the requirements of 40 CFR 51.851, General Conformity. West Virginia had adopted an emergency rule (45CSR35) that adopts the provisions of federal General Conformity Rule (40 CFR Part 93, Subpart B), which was effective on November 16, 1994. The exact same version of 45CSR35, the General Conformity Rule, was submitted to the West Virginia legislature for permanent authorization. On May 16, 1995, the State of West Virginia submitted the final SIP revision of 45CSR35 to EPA, promulgated as final legislative rule in accordance to West Virginia law, that became effective on May 1, 1995. (Note: The Transportation Conformity Rule submitted on May 16, 1995 is the subject of a separate rulemaking action.)

Summary of SIP Revision

West Virginia's rule 45CSR35, Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity), adopts the requirements of 40 CFR Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans by incorporating these federal regulations by reference. The federal rule was promulgated by EPA to implement Section 176(c) of the CAA, as amended (42 U.S.C. 7401 et seq.) which requires that all federal actions conform to applicable air quality implementation plans. This rule only applies to areas designated nonattainment or maintenance areas under the CAA, as amended.

This rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to all applicable implementation plans developed pursuant to Section 110 and Part D of the CAA. The rule generally applies to federal actions except: (1) Those required under the transportation conformity rule (40 CFR Part 93, Subpart A); (2) Actions with associated emissions below specified de minimis levels; and (3) Certain other actions which are exempt or presumed to conform to applicable air quality implementation plans.

Some examples of federal actions requiring conformity determination include: Airport Construction/Modification grants; Leasing of Federal Land; Granting a Permit; Construction of Federal Office Buildings; Private Construction on Federal Land; Prescribed Burning; Reuse of Military Bases; and Water Treatment Plants.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document elsewhere in this **Federal Register**, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 6, 1995 unless, by 30 days of October 5, 1995 adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action.