will be updated to reflect various business transactions for purposes of establishing the employer's contribution rate under the experience rating provisions of section 8 of the RUIA. The amendments also include changes in the title of the Board official to whom requests for consolidation of employer records should be addressed.

Both the Regulatory Flexibility Act and the Unfunded Mandates Act of 1995 define ''agency'' by referencing the definition of ''agency'' contained in 5 U.S.C. 551(1). Section 551(1)(E) excludes from the term ''agency'' an agency that is composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them. The Railroad Retirement Board falls within this exclusion (45 U.S.C. 231f(a)) and is therefore exempt from the Regulatory Flexibility Act and the Unfunded Mandates Act.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

List of Subjects in 20 CFR Part 345

Electronic filing, Paperwork elimination, Railroad unemployment insurance, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend Title 20, Chapter II, Part 345 of the Code of the Federal Regulations as follows:

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

1. The authority citation for part 345 continues to read as follows:

Authority: 45 U.S.C. 362(l).

2. The text of § 345.202 of subpart C is revised to read as follows:

§ 345.202 Consolidated employer records.

(a) *Establishing a consolidated employer record.* Two or more employers that are under common ownership or control may request the Board to consolidate their individual employer records into a joint individual employer record. Such joint individual employer record shall be treated as though it were a single employer record. A request for such consolidation shall be made to the Director of Assessment and Training, and such consolidation shall be effective commencing with the calendar year following the year of the request.

(b) *Discontinuance of a consolidated employer record.* Two or more employers that have established and maintained a consolidated employer record will be permitted to discontinue such consolidated record only if the individual employers agree to an allocation of the consolidated employer record and such allocation is approved by the Director of Assessment and Training. The discontinuance of the consolidated record shall be effective commencing with the calendar year following the year of the Director of Assessment and Training's approval.

3. The text of § 345.203 of Subpart C is revised to read as follows:

§ 345.203 Merger or combination of employers.

In the event of a merger or combination of two or more employers, or an employer and non-employer, the individual employer record of the employer surviving the merger (or any person that becomes an employer as the result of the merger or combination) shall consist of the combination of the individual employer records of the entities participating in the merger. Where the person surviving the merger is an existing employer under part 202 of subchapter B, the individual employer record for the surviving employer will not be updated to reflect the combined record until the calendar year following the year of the Board's determination. Where the entity surviving the merger becomes an employer under part 202 of subchapter B by virtue of the merger, the individual employer record shall consist of the combined record effective with its employer effective date.

4. Section 345.204(a) of Subpart C is revised to read as follows:

§ 345.204 Sale or transfer of assets.

(a) In the event property of an employer is sold or transferred to another employer (or to a person that becomes an employer as the result of the sale or transfer) or is partitioned among two or more employers or persons, the individual employer record of such employer shall be prorated among the employer or employers that receive the property (including any person that becomes an employer by reason of such transaction or partition), in accordance with any agreement among the respective parties (including an agreement that there shall be no proration of the employer record). Such agreement shall be subject to the approval of the Board. Where the employer acquiring the assets is an existing employer under part 202 of subchapter B, that employer's individual employer record will take into consideration the acquired assets no earlier than the calendar year following the year of the Board's determination, unless an agreement among the respective parties provides otherwise. Where the employer acquiring the assets becomes an employer under part 202 of subchapter B by virtue of such acquisition, the individual employer record for such employer shall consider the acquired assets as of such person's employer effective date, subject to any agreement between the respective parties and the provisions of paragraph (b) of this section.

* * * * *

Dated: June 4, 2004.

By Authority of the Board.

For the Board.

Carolyn Rose,

Staff Assistant, Office of Secretary to the Board.

[FR Doc. 04–13221 Filed 6–10–04; 8:45 am]

BILLING CODE 7905–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD153–3109; FRL–7672–9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revised Major Stationary Source Applicability for Reasonably Available Control Technology and Permitting and Revised Offset Ratios for the Washington Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland on December 1, 2003. This revision pertains to changes in Maryland's regulations for new source permitting for major sources of volatile organic compound (VOC) and nitrogen oxides (NO_X) emissions and regulations requiring reasonably available control technology on major stationary sources of nitrogen oxides in the Washington, DC ozone nonattainment area. The revision modifies the currently approved SIP to make the following

changes applicable in the Washington, DC ozone nonattainment area: modify the emissions offset ratio; lower the applicability threshold of the new source review (NSR) permit program; and, lower the applicability threshold of the NO_X reasonable available control technology (NO_X RACT) rule. Maryland made these changes in response to the reclassification of the Washington, DC ozone nonattainment area to severe nonattainment. The intended effect of this action is to propose approval of these changes to Maryland's NSR permitting program and NO_X RACT regulations for the Washington, DC ozone nonattainment area.

DATES: Written comments must be received on or before July 14, 2004.

ADDRESSES: Submit your comments, identified by MD153–3109 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. E-mail: *morris.makeba@epa.gov*.

C. Mail: Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. MD153–3109. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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; Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or by e-mail at *cripps.christopher@epa.gov*.

SUPPLEMENTARY INFORMATION: On December 1, 2003, the Maryland Department of the Environment submitted a revision (MD SIP Revision Number 03–08) to the Maryland State Implementation Plan (SIP) for the Washington, DC ozone nonattainment area. This revision amends the approved Maryland SIP to: revise the definition of major stationary source in the Code of Maryland Regulations (COMAR) 26.11.17.01B(13); incorporate changes in the general provisions found in COMAR 26.11.17.03B(3) which require proposed new major stationary sources to obtain emission reductions, or offsets, of the same pollutant from existing sources in the area of the proposed source at a ratio of 1.3 tons of existing emissions for every 1 ton of proposed emissions; and change the threshold of applicability of Maryland's NO_X RACT regulation, COMAR 26.11.09.08 to sources with emission of 25 or more tons per year of NO_X.

I. Background

A. What Is Nonattainment NSR?

The major NSR program contained in parts C and D of title I of the Clean Air Act (the Act) is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the Act. In areas not meeting health-based National Ambient Air Quality Standards (NAAQS) and in ozone transport regions (OTR), the program is implemented under the requirements of part D of title I of the Act. We call this program the ''nonattainment NSR'' program. (The other provisions of part C of title I to the Act, that are applicable to areas meeting the NAAQS (''attainment'' areas) or for which there is insufficient information to determine whether they meet the NAAQS (''unclassifiable'' areas), are not the subject of this proposed rule.)

The nonattainment NSR program applies only to new sources if the source is ''major.'' In a serious area a source is considered major if it has the potential to emit 50 or more tons per year of VOC or NO_X emissions. In a severe area a source is considered major if it has the potential to emit 25 or more tons per year of VOC or NO_X emissions. The minimum required offset ratio in a serious area is 1.2 to 1 but is 1.3 to 1 in a severe area.

B. What Is NO_X RACT?

The Act requires SIPs to require existing major stationary sources of VOC emissions to install and implement RACT in ozone nonattainment areas classified as moderate and worse.

Section 182(f) of the Act requires that States impose the same requirements on major stationary sources of NO_X as on major stationary sources of VOC.[1] Section 182(f) specifies that major stationary sources of NO_X are to be defined according to the definitions in sections 302 and 182(c), (d), and (e). In ozone nonattainment areas these definitions for NO_X are the same as for VOC and, as such, vary from 10 to 100 tons per year according to the classification of the ozone nonattainment area. The thresholds for the applicability of rules requiring RACT on existing major stationary sources of NO_X emissions (NO_X RACT) in serious and severe areas are the same as for nonattainment NSR, that is, for serious areas the major source threshold is 50 tons per year potential emissions, and for severe areas the threshold is 25 tons per year potential emissions. (Like the nonattainment NSR requirements, the remainder of the state is subject to a 100 tons per year applicability threshold for NO_X RACT.)

C. When Were Maryland's Regulations for Nonattainment NSR and NO_X RACT for the Washington, DC Area Approved?

On February 8, 2001 (66 FR 9522), EPA approved Maryland's NO_X RACT rule COMAR 26.11.0.08. On February 12, 2001 (66 FR 9766) EPA approved a revision to the Maryland State Implementation Plan (SIP) that consisted of Maryland's nonattainment NSR permitting requirements. At the time of these final actions, the Washington, DC area was classified as a serious ozone nonattainment area.

[1] Section 182(f) establishes conditions for the only exceptions to this requirement, none of which apply in the case of the Washington, DC area.

D. What Changes Were Necessary to Maryland's Nonattainment NSR and NO_X RACT Rules as a Result of the Reclassification of the Washington, DC Area to Severe Nonattainment?

On January 24, 2003 (68 FR 3410), EPA reclassified the Washington, DC ozone nonattainment area from serious nonattainment to severe nonattainment. Among the new requirements mandated by section 182(d) of the Act are the requirements to make the following changes to the Maryland SIP for the Washington, DC ozone nonattainment area:

(1) Lower to 25 tons per year the threshold for applicability of new source review permitting requirements for major stationary sources of VOC and NO_X from the 50 tons per year level required in serious areas,

(2) Increase the offset ratio to 1.3 to 1 from the 1.2 to 1 ratio required in serious areas, and,

(3) Lower to 25 tons per year the threshold for application of RACT on existing major stationary sources of NO_X from the 50 tons per year level required in serious areas.

On December 1, 2003, the Maryland Department of the Environment submitted a revision (MD SIP Revision Number 03–08) to the Maryland State Implementation Plan (SIP) to amend the approved Maryland SIP to meet these new requirements. The revision consists of a revised definition of major stationary source in COMAR 26.11.17.01B(13), a change in the general provisions found in COMAR 26.11.17.03B(3) which require proposed new major stationary sources to obtain emission reductions, or offsets, of the same pollutant from existing sources in the area of the proposed source at a ratio of 1.3 tons of existing emissions for every 1 ton of proposed emissions, and change the threshold of applicability of Maryland's NO_X RACT regulation, COMAR 26.11.09.08 to sources with emission of 25 or more tons per year of NO_X.

II. New Source Permitting Requirements

A. What Were the Nonattainment NSR Applicability Threshold and Offset Ratio in the Maryland SIP Prior To Adoption of the December 1, 2003, SIP Revision?

On February 12, 2001 (66 FR 9766) EPA approved a revision to the Maryland State Implementation Plan (SIP) that consisted of Maryland's nonattainment NSR permitting requirements. This revision required major new sources and major modifications to existing sources of VOC or NO_X emissions to meet nonattainment NSR permitting requirements if they are proposing to locate or are located within the State of Maryland. These nonattainment NSR requirements apply not only in those portions of Maryland designated as ozone nonattainment areas, but throughout the State of Maryland because the entire state is located within the Ozone Transport Region (OTR).[2] As a result of the 1990 amendments to the Act, Maryland's permitting programs for major new source and major modifications had to cover serious and severe ozone nonattainment areas, the OTR requirements and requirements for carbon monoxide (CO) nonattainment areas.[3]

The requirements that are pertinent to this proposed rule are the new source review permitting requirements for serious and severe ozone nonattainment areas. Specifically, among the numerous requirements for nonattainment NSR permitting requirements the pertinent requirements are those relating to the thresholds for applicability of the regulations and offset ratios. The following table compares these requirements for OTR, serious and severe areas.

TABLE OF MAJOR SOURCE APPLICABILITY THRESHOLDS AND OFFSET RATIOS

Requirement	Type of Area		
	OTR	Serious	Severe
Major new source threshold for VOC sources.	50 tons per year.	50 tons per year.	25 tons per year
Major new source threshold for NO_X sources.	100 tons per year.	50 tons per year.	25 tons per year
Offset ratio	1.15 to 1.	1.2 to 1	1.3 to 1

Prior to the reclassification, Maryland's new source permitting rules contained both the serious and severe ozone nonattainment area requirements as well as the ozone transport region requirements that were applicable in portions of the State that were not classified as serious or severe.[4] The serious ozone nonattainment area requirements were applicable in the Maryland portion—Calvert, Charles, Frederick, Montgomery, and Prince George's counties—of the Washington, DC serious ozone nonattainment area. The severe ozone nonattainment area requirements were applicable in the Baltimore area—Baltimore City, and, Anne Arundel, Baltimore, Carroll, Cecil, Harford, and Howard counties, and, applicable in the Maryland portion, Cecil County, of the Philadelphia-Wilmington-Trenton severe ozone nonattainment areas.

B. How Did Maryland Change the Applicability Threshold for Major Stationary Sources and What Is EPA's Evaluation of the Changes?

Maryland's regulations set the threshold for major stationary sources by listing which counties were subject to the 100 tons per year of NO_X threshold for those areas subject only to the OTR requirement, which counties are subject to the 50 tons per year VOC threshold applicable in serious areas and the OTR, and which counties are subject to the 25 tons per year of NO_X or VOC threshold applicable in severe areas. In Maryland's regulations this is done through the definition of ''major stationary source'' in COMAR 26.11.17.01B(13)(a). Prior to adoption of the December 1, 2003, SIP revision, this section B(13)(a) read as follows:

(a) ''Major stationary source'' means any stationary source of air pollution which emits or has the potential to emit:

(i) 25 tons or more per year of VOC or NO_X for sources located in Baltimore City or Anne Arundel, Baltimore, Carroll, Cecil, Harford, or Howard counties;

(ii) 50 tons or more per year of VOC for sources located in Allegany, Calvert, Caroline, Charles, Dorchester, Frederick, Garrett, Kent, Montgomery, Prince George's Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties;

(iii) 50 tons or more per year of NO_X for sources located in Calvert, Charles, Frederick, Harford, Howard, Montgomery, or Prince George's counties;

(iv) 100 tons or more per year of NO_X for sources located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties; or

(v) 100 tons or more per year of carbon monoxide for sources located in the areas designated as nonattainment for carbon monoxide in 40 CFR 81.321, 1991 edition, as amended on page 56733 of the **Federal Register**, Vol. 56, No. 215, dated November 6, 1991.

[2] The Act imposes the OTR requirements on the entire State, but those portions of the State that are classified as serious or severe nonattainment must implement the more stringent serious or severe requirements.

[3] Neither the OTR nor CO requirements would be impacted by this proposed rule. These requirements are noted to provide background and context for excerpts of the pertinent COMAR test in which the OTR and CO requirements to be found elsewhere in this document.

[4] And the Maryland Regulations also covered carbon monoxide nonattainment area requirements as well.

(The inclusion of the thresholds for NO_X and VOC sources located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties is due the OTR requirements of section 184 of the Act.)

On December 1, 2003, Maryland submitted a revision to the definition of ''major stationary source'' in COMAR 26.11.17.01B that added: (1) The Washington area counties of Calvert, Charles, Frederick, Montgomery, and Prince George's to section B(13)(a)(i) thus making 25 tons per year or more of VOC or NO_X for sources the major source threshold in this area, deleted section B(13)(iii) that contained the 50 tons per year threshold for NO_X sources applicable to only serious areas, deleted the Washington area counties of Calvert, Charles, Frederick, Montgomery, and Prince George's from section (13)(a)(ii), and renumbered sections B(13)(a)(c)(iv) and (v) to section B(13)(A)(iii) and (iv). The revised section B(13)(a) now reads:

(a) ''Major stationary source'' means any stationary source of air pollution which emits or has the potential to emit:

(i) 25 tons or more per year of VOC or NO_X for sources located in Baltimore City or Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, or Prince George's counties;

(ii) 50 tons or more per year of VOC for sources located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties;

(iii) 100 tons or more per year of NO_X for sources located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties; or

(iv) 100 tons or more per year of carbon monoxide for sources located in the areas designated as nonattainment for carbon monoxide in 40 CFR 81.321, 1991 edition, as amended on page 56733 of the **Federal Register**, Vol. 56, No. 215, dated November 6, 1991.

EPA has concluded that the December 1, 2003, SIP revision has properly implemented the necessary change in the applicability threshold for the Washington, DC ozone nonattainment area necessitated by the January 24, 2003, reclassification action. The changes to the definition of ''major stationary source'' in COMAR 26.11.17.01B now requires that all new stationary sources whose potential emissions of VOC or NO_X emissions are 25 tons per year or greater are now classified as major sources subject to the provisions of COMAR 26.11.1.7.

C. How Did Maryland Change the Offset Ratio and What Is EPA's Evaluation of the Changes?

In a manner similar to the nonattainment NSR applicability threshold for major stationary sources, Maryland's regulations set the offset ratio by listing which counties were subject to the 1.15 to 1 OTR requirement, which to the 1.2 to 1 ratio for serious areas, and which to the 1.3 to 1 ratio for severe areas. This is found at COMAR 26.11.17.03B(3). Prior to adoption of the December 1, 2003, SIP revision, this section read as follows:

(3) The applicant has met the reasonable further progress requirements in section 173(a)(1)(A) of the Clean Air Act by obtaining emission reductions (offsets) of the same pollutant from existing sources in the area of the proposed source, whether or not under the same ownership, in accordance with the following ratios, at a minimum:

(a) 1.3 to 1 for sources of VOC or NO_X in Baltimore City, or Anne Arundel, Baltimore, Carroll, Cecil, Harford, or Howard counties,

(b) 1.2 to 1 for sources of VOC or NO_X in Calvert, Charles, Frederick, Montgomery, or Prince George's counties,

(c) 1.15 to 1 for sources of VOC or NO_X in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, or Worcester counties,

(d) 1.1 to 1 for sources of CO in CO nonattainment areas specified in Regulation .01B(13) of this chapter;

On December 1, 2003, Maryland submitted a revision to COMAR 26.11.17.03B(3) that added the Washington area counties to section B(3)(a), deleted section B(3)(b) and renumbered the remaining sections to result in a section B(3) that reads as follows:

(3) The applicant has met the reasonable further progress requirements in section 173(a)(1)(A) of the Clean Air Act by obtaining emission reductions (offsets) of the same pollutant from existing sources in the area of the proposed source, whether or not under the same ownership, in accordance with the following ratios, at a minimum:

(a) 1.3 to 1 for sources of VOC or NO_X in Baltimore City, or Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, or Prince George's counties,

(b) 1.15 to 1 for sources of VOC or NO_X in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, or Worcester counties,

(c) 1.1 to 1 for sources of CO in CO nonattainment areas specified in Regulation .01B(13) of this chapter;

EPA has concluded that the December 1, 2003, SIP revision has properly implemented the necessary change in the offset ratio for the Washington, DC ozone nonattainment area necessitated by the January 24, 2003, reclassification action. The changes to COMAR 26.11.17.03B(3) now require that the 1.3 to 1 offset ratio be applied in the Washington, DC area.

III. How Did Maryland Change the Applicability Threshold for NO_X RACT and What Is EPA's Evaluation of the Changes?

On February 8, 2001 (66 FR 9522), EPA approved Maryland's NO_X RACT rule COMAR 26.11.0.08. As is done for the nonattainment NSR applicability threshold, Maryland's regulations set the applicability threshold for NO_X RACT by listing which counties were subject to the 100 tons per year threshold for those areas subject only to the OTR requirement, which counties are subject to the 50 tons per year threshold for serious areas, and which counties are subject to the 25 tons per year threshold for severe areas. These provisions are found in COMAR 26.11.09.08A(1). Prior to adoption of the December 1, 2003, SIP revision, COMAR 26.11.09.08A(1) read as follows:

(1) This regulation applies to a person who owns or operates an installation that causes emissions of NO_X and is located at premises that have total potential to emit:

(a) 25 tons or more per year of NO_X and is located in Baltimore City, or Anne Arundel, Baltimore, Carroll, Cecil, Harford, or Howard counties; or

(b) 50 tons or more per year of NO_X and is located in Calvert, Charles, Frederick, Montgomery, or Prince George's counties; or

(c) 100 tons or more per year of NO_X and is located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties.

On December 1, 2003, Maryland submitted a revision to COMAR 26.11.09.08A(1) that added the Washington area counties to section A(1)(a), deleted section A(1)(b) and renumbered the remaining section to result in a section A(1) that reads as follows:

(1) This regulation applies to a person who owns or operates an installation that causes emissions of NO_X and is located at premises that have total potential to emit:

(a) 25 tons or more per year of NO_X and is located in Baltimore City, or Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, or Prince George's counties; or

(b) 100 tons or more per year of NO_X and is located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties.

EPA has concluded that the December 1, 2003, SIP revision has properly implemented the necessary change in the applicability threshold for the

Washington, DC ozone nonattainment area necessitated by the January 24, 2003, reclassification action. The revised COMAR 26.11.09.08A(1) now requires that all stationary sources in the Washington, DC area of NO_X emissions be subject to Maryland's NO_X RACT rule if the emissions of NO_X are 25 tons or more per year.

IV. Proposed Action

EPA's review of this submittal indicates that Maryland has revised its nonattainment NSR rules and its NO_X RACT rules as required by the reclassification of the Washington DC area to severe ozone nonattainment. EPA is proposing to approve the Maryland SIP revision, which was submitted on December 1, 2003, that revised definition of major stationary source found in COMAR 26.11.17.01B(13), that changed the general emission offset provisions found in COMAR 26.11.17.03B(3), and, that changed COMAR 26.11.09.08A(1) to add the Washington area counties to the areas where NO_X RACT is required on stationary sources emitting 25 tons or more per year. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule to approve Maryland's December 1, 2003, SIP revision that changes its approved SIP pertaining to new source review permitting and NO_X RACT for the Washington, DC area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: June 3, 2004.

Abraham Ferdas,

Acting Regional Administrator, Region III.

[FR Doc. 04–13285 Filed 6–10–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 563

[Docket No. NHTSA–2004–18029]

RIN 2127–AI72

Event Data Recorders

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal addresses event data recorders (EDRs), *i.e.*, devices that record safety information about motor vehicles involved in crashes. Manufacturers have been voluntarily installing EDRs as standard equipment in increasingly larger numbers of light vehicles in recent years. They are now being installed in the vast majority of new vehicles. The information collected by EDRs aids investigations of the causes of crashes and injuries, and makes it possible to better define and address safety problems. The information can be used to improve motor vehicle safety systems and standards. As the use and capabilities of EDRs increase, opportunities for additional safety benefits, especially with regard to emergency medical treatment, may become available.

We are not presently proposing to require the installation of EDRs in any motor vehicles. We are proposing to (1) require that the EDRs voluntarily installed in light vehicles record a minimum set of specified data elements useful for crash investigations, analysis of the performance of safety equipment, *e.g.*, advanced restraint systems, and automatic collision notification systems; (2) specify requirements for data format; (3) increase the survivability of the EDRs and their data by requiring that the EDRs function during and after the front, side and rear vehicle crash tests