requirements at that time. On January 14, 1985, the State of South Carolina through DHEC submitted revisions to their generic bubble regulation, requesting concurrent review by EPA. On June 5, 1985, the State of South Carolina submitted the state-effective version of the bubble regulation (Regulation No. 62.5, Standard No. 6, Alternative Emission Limitation Options ("Bubble"). Subsequently EPA's revised ETPS was published on December 4, 1986. (51 FR 43814). The policy indicates that existing state generic bubble rules should be reviewed and notices published identifying any deficiencies and a means to correct them. It also gives EPA the option to rescind its previous approval of a generic bubble rule. (51 FR 43853) Following enactment of the 1990 Clean Air Act Amendments, EPA promulgated the EIP on April 7, 1994. (59 FR 16690)

EPA has reviewed both the approved and revised generic bubble rules and found them to be deficient with respect to the ETPS, the EIP, and the provisions of the 1990 Amendments. Following is a summary of the review of some of the deficiencies of the revised generic rule.

Section II—Conditions for Approval

The rule does not provide for federal enforceability. To assure that Clean Air Act requirements are met, each transaction which revises any emission limit upward must be approved by the state and be federally enforceable. (e.g., 51 FR 43832, 59 FR 16700) Revised limits can be made federally enforceable through source specific SIP revisions, federally approved generic bubble regulations, federally approved EIPs or construction permits issued through a federally approved permit program.

Emissions prior to and after the bubble from all points involved must be quantifiable, the total emissions resulting from the bubble must show a net decrease, and the procedures for determining the emissions from the bubble must be replicable. Replicability generally means a high likelihood that two decision-makers applying the rule to a given bubble would reach the same conclusion. The South Carolina generic bubble rule does not contain any provisions to ensure that the calculation procedures used to quantify the emissions are replicable. (e.g., 51 FR 43850, 59 FR 16713)

Bubble rules must contain provisions for determining a baseline emissions level beyond which the reductions must occur to be creditable. There are three baseline factors—emission rate, capacity utilization, and hours of operation—which must be used to compute preand post-bubble emission levels.

Baseline factors differ depending on the status of SIP development for the area. The South Carolina rule does not address baseline factors. (e.g., 51 FR 43838, 59 FR 16697)

Section III—Part B.—Emissions of Volatile Organic Compounds

In general, generic bubble rules for volatile organic compounds (VOCs) must require that surface coating emissions be calculated on a solidsapplied basis and specify a maximum time period over which emissions may be averaged in an acceptable compliance demonstration, usually not exceeding 24 hours. Averaging times greater than 24 hours must meet the criteria outlined in Appendix D of the ETPS. (51 FR 48857) The South Carolina rule does not include these requirements. The South Carolina rule also does not include the requirements to meet the extended averaging times provided in the EIP rule. (e.g., 59 FR 16706)

Final Action

EPA is disapproving the May 24, 1985, version of the South Carolina generic bubble rule, Regulation No. 62.5, Standard No. 6, as requested by the State on March 24, 1994, because it does not meet EPA requirements. Additionally, EPA is rescinding its approval of the May 28, 1982, version of the rule as approved in the Federal **Register** on June 7, 1982. (47 FR 38887) This action is being published 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 May 8, 1995 unless, by April 7, 1995, 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 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. 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 May 8, 1995.

The agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action does not conform with the statute as amended and must be disapproved. The Agency has examined the issue of whether this action should be reviewed only under the provisions of the law as it existed on the date of submittal to the Agency (i.e. prior to November 15, 1990) and has determined that the Agency must apply the new law to this revision.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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.

EPA's disapproval of the State request under section 110 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor