

28071, for Everglades National Park is corrected as follows:

1. In the rule document 94-28071 appearing on page 58784 in the issue of Tuesday, November 15, 1994, in the first column, fifth line "areas of emergency" is corrected to read "areas of emergent".

#### § 7.45 [Corrected]

2. In the rule document 94-28071 appearing on page 58785 in the issue of Tuesday, November 15, 1994, in the third column, under § 7.45 Everglades National Park, paragraph (b) *Prohibited conveyances*, line three, "upon those areas of emergency" is corrected to read "upon those areas of emergent".

Dated: January 26, 1995.

**Pete Hart,**

*Acting Chief, Ranger Activities Division.*

[FR Doc. 95-2371 Filed 1-31-95; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WV19-1-6210a, WV11-1-5888a; FRL-5139-3]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Title 45 Legislative Rules, Series 21, Regulation To Prevent and Control Air Pollution From Emission of Volatile Organic Compounds

**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 on August 10, 1993. The revision concerns West Virginia title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds, sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41, 42 to 48, and appendix A, which were adopted May 26, 1993 and effective July 7, 1993. These sections of Series 21 establishes emission standards that represent the application of reasonably available control technology (RACT) to twenty categories of stationary sources of volatile organic compounds (VOCs), and establish associated testing, monitoring, recordkeeping, compliance certification, and permit requirements. This revision was submitted to comply with the RACT "Catch-up" provisions of the Clean Air Act (the Act). There are two intended effects of this action. The first is to approve these sections of Series 21

as a revision to the West Virginia SIP in accordance with the SIP submittal and revision provisions of the Act. And the SIP submittal and revision provisions of the Act. And the second is to simultaneously update the West Virginia SIP by replacing three regulations codified at 40 CFR 52.2520(c)(26) by portions of the revision submitted on August 10, 1993. This action is being taken under section 110 of the Act.

**DATES:** This final rule is effective April 3, 1995 unless notice is received on or before March 3, 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 Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, 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:** Christopher Cripps, (215) 597-0545, at the EPA Regional Office address listed.

**SUPPLEMENTARY INFORMATION:** On August 10, 1993, the State of West Virginia submitted a formal revision to its SIP. The SIP revision consists of Title 45, Series 21 (45CSR21), "Regulations to Control Air Pollution from the Emission of Volatile Organic Compounds" (Series 21), and four other regulations—45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations", 45CSR12 "Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution from the Prevention of Significant Deterioration", 45CSR19 "Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrastate Pollutants", and 45CSR29 "Rule Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions and Oxides of Nitrogen Emissions". This

action concerns only sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A to Series 21. The other parts—45CSR5, 45CSR19, 45CSR12, 45CSR29 and sections 10, 13, 20, 30, 32 to 35, 37, 38 and 40 to series 21—of the August 10, 1993 submittal will be subject of separate rulemaking.

### I. Background

The Clean Air Act Amendments of 1990 were enacted on November 15, 1990. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Under the amended Act, EPA and the States were required to review the designation of areas and to redesignate areas as nonattainment for ozone if the air quality data from 1987, 1988, and 1989 indicated that the area was violating the ozone standard. On November 6, 1991, EPA issued those designations (56 FR 56694 and 57 FR 56762, November 30, 1992). The Parkersburg—Marietta (Wood County), Huntington—Ashland (Cabell and Wayne Counties) and Charleston Metropolitan Statistical Area (Kanawha and Putnam Counties) areas, which were designated unclassifiable prior to enactment, were redesignated to nonattainment and classified as moderate. Under the pre-amended Act, these areas were not required to meet the RACT requirement for nonattainment areas. Under the RACT catch-up provision of section 182(b)(2) of the Act, the State was required to submit RACT rules for these areas covering any remaining pre-enactment Control Technique Guideline (CTG) documents and to submit rules for all remaining major sources of VOC emissions.

West Virginia had adopted RACT rules for the following three categories of sources: storage of petroleum liquids in fixed roof tanks, bulk gasoline terminals and petroleum refinery sources. These rules were Series 21, 23 and 24, respectively. EPA approved these as RACT on September 17, 1992 (57 FR 42895). The current Series 21 submitted on August 10, 1993 completely supersedes the previous Series 21 (45CSR21) and Series 23 and 24 (45CSR23 and 45CSR24) which were effective in Wood, Cabell, Wayne, Kanawha and Putnam counties. The RACT requirements contained in the superseded Series 21, 23 and 24 are contained in sections 28, 25 and 22, respectively, in combination with the applicable portions of sections 1 to 9 and 41 to 48 of the current Series 21.

VOCs contribute to the production of ground level ozone and smog. These rules were adopted as part of an effort

to achieve the National Ambient Air Quality Standard (NAAQS) for ozone.

## II. EPA Evaluation and Action

The following is EPA's evaluation of and action on sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A of West Virginia Title 45, Series 21. Detailed descriptions of the sections of Series 21 addressed in this document, and EPA's evaluation of these sections, are contained in the technical support document (TSD) prepared for this revision. Copies of the TSD are available from the EPA Regional office listed in the ADDRESSES section of this document.

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in section 110 and Part D of the Act and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents. For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for RACT for specific source categories. The CTGs applicable to sections 11, 12, 14 to 19, 21 to 29, 31, 36, and 39 of West Virginia Title 45, Series 21 are entitled, Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles and Light Duty Trucks, EPA-450/2-77-008, May 1977; Surface Coating of Metal Furniture, EPA-450/2-77-032, Dec. 1977; Surface Coating of Large Appliances, EPA-450/2-77-034, Dec. 1977; Surface Coating for Insulation of Magnet Wire, EPA-450/2-77-033, Dec. 1977; Surface Coating of Miscellaneous Parts and Products, EPA-450/2-78-015, June 1978; Bulk Gasoline Plants, EPA-450/2-77-035, Dec. 1977, Tank Truck Loading Terminals, EPA-450/2-77-026, Dec. 1977; Design Criteria Document—Gasoline Dispensing Facilities—Stage I, Nov. 1975; Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA-450/2-78-051, Dec. 1978; Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds, EPA-450/2-77-025, Oct. 1977; Petroleum Refinery Equipment, EPA-450/2-78-036, June 1978, Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450/2-78-047, Dec. 1978; Storage of Petroleum Liquids in Fixed Roof Tanks, EPA-450/2-77-036, Dec. 1977; Leaks from Natural Gas/Gasoline Processing Plants, EPA-450/3-83-007, Dec. 1983; Cutback

Asphalt, EPA-450/2-77-037, Dec. 1977; Perchloroethylene Dry Cleaning Systems, EPA-450/2-78-050, Dec. 1978; Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry, EPA-450/2-83-006, March 1984. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987) and "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988). In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen the SIP.

*State Submittal:* Sections 1 through 9 of Series 21 include general applicability, monitoring, recordkeeping, compliance certification, and permit requirements and include definitions and other provisions common to more than one section. Series 21 applies sources located in Putnam, Kanawha, Cabell, Wayne and Wood counties. Sources that exceed any applicability threshold of Series 21 remain subject to the provisions even if the source's throughput or emissions later fall below the applicability. Alternative control plans must be approved by the Chief of the West Virginia Office of Air Quality (the Chief) and the U.S. EPA. By May 31, 1994, owners or operators of sources claiming exemption from the surface coating provisions of sections 10 to 19 must certify to the Chief that they are exempt and after May 31, 1994 are required to keep daily records documenting the daily VOC emissions and are required to report to the Chief if any combined daily VOC emissions exceeds 6.8 kilograms (15 pounds). By May 31, 1994 owners or operators of sources subject to the surface coating provisions of sections 10 to 19 must certify to the Chief the method of compliance—complying coatings, daily weighted averaging, or control devices—to be used for each affected coating line or operation and are required to keep daily records demonstrating compliance and to report any excess emissions. By May 31, 1994 owners and operators of sources subject to the provisions of sections 20 to 40 must certify to the Chief the method of compliance—control system equipment specification, leak detection and repair, coating

formulation, work practice, etc.—to be used and are required to keep records for control devices and report excess emissions. Owners and operators of any coating line complying by the use of a control device are required to operate the capture and control device whenever the coating line is in use and are required to ensure the required monitoring system is installed, maintained and calibrated and in use whenever the control device is operated. Owners or operators of facilities, subject to sections 11 to 20 and section 34, are prohibited from using open containers to store or dispose cloth or paper impregnated with VOC or to store spent or fresh VOC used for surface preparation, cleanup or removal of coatings and are prohibited from using VOC to clean spray equipment unless equipment is used to collect the cleaning compounds. Owners and operators of sources subject to Series 21 that must make major process changes or major capital expenditures to comply must submit to the Chief a compliance schedule within 180 days of May 31, 1993. Compliance must be as expeditious as practical but not later than May 31, 1995. The general provisions also define that references to the Chief of the West Virginia Office of Air Quality also mean the U.S. EPA.

*EPA's Evaluation:* The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act.

*State Submittal:* Sections 11, 12, 14, 15, 16, 17, 18, and 19 cover coating operations or lines in the following source categories, respectively: Can, coil, fabric, vinyl, metal furniture, large appliance, magnet wire, and miscellaneous metal parts and products.

### A. Common Provisions

A coating line or operation is subject to the emission limits of a section if the daily facility-wide emissions from coating lines in that source category exceed 6.8 kilograms (15 pounds) prior to control devices. Each section requires that compliance be demonstrated in one of three ways: use of coatings that comply with the VOC content limits of each section; use of coatings on a coating line whose daily weighted average comply with the VOC content for that coating line; or use of a capture and control system that provides an overall emission reduction that is the lesser of the reduction needed to be equivalent to the VOC content of complying coatings on a "solids basis" (mass VOC per volume of solids) or 95 percent. The VOC content limits in mass per volume of coating, minus water and

exempt compounds, as applied, are the same as those contained in the applicable CTG. Section 17 exempts from the VOC content limits the use of up to 0.95 liter (0.25 gallon), in any 8-hour period, of quick-drying lacquers used for repair of nicks or scratches on large appliances. Section 19 also sets a standard of 0.52 kilogram per liter (4.3 lb/gal) of coating less water and exempt compounds for drum and pail interior coatings. The calculation procedures for daily weighted averaging and for required control device efficiency are provided in section 43. Calculations are required daily to demonstrate daily compliance.

#### *B. Coverage of Section 19, Miscellaneous Metal Parts and Products*

Section 19 does apply to coatings applied to small and large farm machinery, small appliances, commercial machinery, industrial machinery, fabricated metal products, coating applications at automobile and light-duty truck assembly plants other than prime, primer surfacer, topcoat and final repair, and any other industrial category that coats metal parts or products under Standard Industrial Classification (SIC) Codes of Major Groups 33 to 39. Section 19 does not apply to the application of coatings regulated under sections 11, 12, 16, 17, and 18, exteriors of completely assembled aircraft, automobile or truck refinishing, and customized topcoating of automobiles and trucks where the daily production is less than 35 vehicles per day. Section 19 does not apply to primer, primer surfacer, topcoat and final repair operations at automobile and light-duty truck assembly plants covered under section 10. Manufacture of lamps and light fixtures falls under SIC Codes 3645 and 3646. Coatings applied to lamps and light fixtures are regulated under section 19 and are not included in the product mix regulated under section 16.

*EPA's Evaluation:* The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG and that the standards for coating of metal lamps and light fixtures established under section 19 are no different than that which would have been required under section 16. EPA has determined that the standards for coating of drum and pail interiors represent RACT given the extreme conditions to which these coatings are often exposed.

*State Submittal:* Sections 21, 22, 23, and 24 cover bulk gasoline plants, bulk gasoline terminals, gasoline dispensing facilities and gasoline tank trucks.

A. Section 21 requires bulk gasoline plants of between 4,000 and 20,000 gallons per day throughput to install a vapor balance system between incoming/outgoing tank trucks and stationary storage tanks, to fill storage vessels by submerged filling, and to incorporate design and operational practices to minimize leaks from storage tanks, loading racks, tank trucks and loading operations.

B. Section 22 requires bulk gasoline terminals, facilities of greater than 20,000 gallons per day throughput, to equip each loading rack with a vapor collection system to control VOC vapors displaced from gasoline tank trucks during product loading. The vapor control system is limited to emissions of 80 milligrams or less of VOC per liter of gasoline loaded.

C. Both bulk plants and terminals are required to inspect vapor balance or loading racks and VOC collection systems monthly for leaks and to repair leaks within 15 days of discovery. Both bulk plants and terminals are restricted to loading only vapor-tight gasoline tank trucks and to loading tank trucks by submerged filling.

D. Section 23 requires gasoline dispensing facilities to install a vapor balance system, submerged drop tubes for gauge well, vapor tight caps and submerged fill loading on all storage vessels. Both sections 21 and 23 prohibit the transfer of gasoline into a storage tank or into a tank truck unless vapor balance systems are properly used.

E. Section 24 requires gasoline tank trucks equipped for vapor collection be tested at least annually for vapor-tightness and display a sticker near the DOT certification plate that shows the date the truck passed the vapor-tightness test, that shows the truck identification number and that does not expire not more than 1 year after the date of the test.

F. Sections 21, 22 and 23 also set standards for smaller facilities and tanks: Bulk plants of less than 4,000 gallons per month are only required to fill storage tanks or tank trucks by submerged filling and to discontinue transfer operations if any leaks are observed. A vapor balance system is not required on any tank with a capacity of 550 gallons or less at a bulk plant. However, such tanks are still subject to the requirement that these tanks be filled by submerged filling. Under section 23, dispensing facilities of less than 10,000 gallons per month

throughput and certain small storage tanks are required to be loaded by submerged fill. These smaller storage tanks are those of less than 2,000 gallon capacity constructed prior to January 1, 1979, of less than 250 gallons capacity constructed after December 31, 1978, and of less than 550 gallons capacity if used solely for fueling implements of agriculture.

*EPA's Evaluation:* The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG and other EPA guidance. Because the standards set under section 22 are RACT, section 22 in combination with the applicable portions of sections 1 to 9 and 41 to 48 is approvable to replace Series 24 in the West Virginia SIP.

*State Submittal:* Section 25 applies to any vacuum-producing system, wastewater separator and process unit turnaround at petroleum refineries. Uncondensed vapors from vacuum-producing systems must be piped to a firebox or incinerator or compressed and added to the refinery fuel gas. Wastewater separators must be equipped with covers and seals on all separators and forebays. Lids and seals are required on all openings in separators, forebays and their covers and must be kept closed except when in use. During a process unit turnaround the process unit must be vented to a vapor recovery system, flare or firebox. No emissions are allowed from a process unit until the internal pressure reaches 19.7 psia.

*EPA's valuation:* The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

*State Submittal:* Sections 26 and 29 regulate leaks from equipment in VOC service at any process unit at a petroleum refinery or at any natural gas/gasoline processing facility, respectively. Both require open ended lines and valves to be sealed with a second valve, blind flange, cap or plug except during operations requiring process fluid flow. Both require quarterly leak monitoring of pumps in light liquid service, valves, and compressors and require first attempt to repair the leak within five calendar days of discovery and with final repair within 15 calendar days. Both sections reference the leak detection method found in section 46. Both allow less frequent monitoring of unsafe-to-

monitor and difficult-to-monitor valves if a written plan that requires, respectively, monitoring of unsafe-to-monitor as frequently as practicable during safe to monitor periods and at least annual leak monitoring of difficult-to-monitor valves. Under both sections, valves in gas/vapor service and in light liquid service may be monitored less frequently if the criteria of the skip period leak detection and repair provisions are met and maintained. Both sections allow certain equipment be exempt from the leak monitoring program. These are: any pressure relief valve connected to a flare header or operating vapor recovery device, any equipment in vacuum service, any compressor with a degassing vent connected to an operating VOC control device. Also exempted from a leak detection and repair is any pump with dual seals at a natural gas/gasoline processing facility and any pump with dual mechanical seals with a barrier fluid system at refineries. Under section 26 pumps in heavy liquid service at refineries must be leak checked using the method of section 46 only if evidence of a leak is found by sight, sound or smell. Under section 29 pumps in heavy liquid service are exempted from the leak detection and repair provisions. Under section 26 pressure relief valves at refineries must be leak checked after each overpressure relief. Under section 29 pressure relief valves must be leak checked within 5 days unless monitored by non-plant personnel. In the latter case, monitoring must be done the next time monitoring personnel are on site or within 30 days whichever is less.

*EPA's Evaluation:* The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG. Because the standards set under section 25 are RACT, section 25 in combination with the applicable portions of sections 1 to 9 and 41 to 48 is approvable to replace Series 23 in the West Virginia SIP.

*State Submittal:* Sections 27 and 28 regulate storage of petroleum liquids. Both sections apply to any petroleum liquid storage tank over 40,000 gallons capacity. Section 27 applies to such tanks that are equipped with an external floating roof. Section 28 applies to such tanks that are of fixed roof construction. Section 27 prohibits storage of petroleum liquid in an external floating roof tank unless the tank is equipped a continuous secondary seal from the floating roof to the tank wall, the seals

are maintained so that there are no visible holes or tears and the seals are intact and uniformly in place. Section 27 also sets design and operation and maintenance criteria for openings in the external floating roof and for gaps in vapor-mounted primary seals. Section 27 requires routine, semi-annual inspections of the roof and seal and requires annual measurement of the seal gap in vapor-mounted primary seals. Section 28 prohibits storage of petroleum liquid in a fixed roof tank unless the tank is equipped an internal floating roof equipped with closure seal(s) between the roof edge and tank wall, and the seal(s) are maintained so that there are no visible holes or tears. Section 28 also sets design, operational and maintenance criteria for openings, drains and vents.

*EPA's Evaluation:* The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG and other EPA guidance. Because the standards set under section 28 are RACT, section 28 in combination with the applicable portions of sections 1 to 9 and 41 to 48 is approvable to replace Series 21 in the West Virginia SIP.

*State Submittal:* Section 31 prohibits the manufacturing, storage, mixing, storage, use and application of cutback asphalt during the period from April 1 to October 31 of every year. Exemptions for long-life stockpiling or use solely as a penetrating prime coat may be granted by the Chief of the West Virginia Office of Air Quality. Section 31 also prohibits the manufacturing, storage, mixing, storage, use and application of emulsified asphalt containing VOC during the period from April 1 to October 31 of every year.

*EPA's Evaluation:* The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

*State Submittal:* Section 36 covers drycleaning facilities using perchloroethylene. Section 36 requires a carbon adsorption system for the dryer exhaust. An emission limit of 100 parts per million (volumetric) of VOC is established for the exhaust of this control device. Coin-operated facilities, and facilities with inadequate space or inadequate steam capacity to desorb adsorbers are exempt from the requirement for a carbon adsorption system. Section 36 sets the standards

recommended in the CTG to minimize VOC emissions from leaks, from treatment, handling and disposal of filters, and from wet wastes from solvent stills.

*EPA's Evaluation:* The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

*State Submittal:* Section 39 covers air oxidation processes in the synthetic organic chemical manufacturing industry (SOCMI). SOCMI is defined as production, either as a final product or as an intermediate, of any of the chemicals listed in 40 CFR 60.489. Covered are vent streams from air oxidation reactors and from combinations of air oxidation reactors and recovery systems. Section 39 requires VOC emissions from these vent streams be no more than 20 parts per million (volumetric, dry basis corrected to 3 percent oxygen) or be reduced by 98 percent whichever is less stringent or be burned in a flare that meets the requirements of 40 CFR 60.18. Vent streams that have a total resource effectiveness (TRE) index value greater than 1.0 are required only to maintain the TRE index value greater than 1.0, to recalculate the TRE index value after any process change and to install monitoring devices on the final recovery device.

*EPA's Evaluation:* The regulation listed above is approvable as SIP revisions because it conforms to EPA guidance and complies with the requirements of the Act. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

*State Submittal:* Sections 41 to 48 comprise the test and compliance methods applicable to more than one of the source categories of sections 10 to 40. Section 48 specifies the quality control procedures for continuous emission monitors. Each section requires that adaptations to specified methods or alternative test methods must be approved by the Chief of the West Virginia Office of Air Quality (the Chief) and the U.S. EPA.

A. Section 41 requires that the methods of sections 42 to 47 be used and sets the general requirements for test plans and testing quality assurance programs. Test plans must be submitted to the Chief at least 30 days prior to the testing, preliminary results within 30 days after completion and the final report within 60 days of the completion of the testing.

B. Section 42 specifies the methods to be used for sampling and analyzing coatings and inks for VOC content. Specified methods for determining VOC content are Method 24 of 40 CFR Part 60, Appendix A for coatings and Method 24A of 40 CFR Part 60, Appendix A for inks.

C. Section 43 specifies the methods to be used by coating sources for calculation of daily weighted average, of required overall emission reduction efficiency and of equivalent emission limitations. Section 43.1 provides the formula for calculating the daily weighted average VOC content. Section 43.2 specifies how the daily required control efficiency is to be calculated. Provided are procedures: (1) to convert the complying coating, emission limits from a mass VOC per gallon of coating (less water and exempt solvent) basis to a solids basis, mass VOC per gallon solids; (2) to calculate the required overall emission reduction efficiency using the complying coating emission limit on a solids basis and either the maximum actual VOC content (solids basis) or the actual, daily-weighted average VOC (on a solids basis); (3) to calculate the actual, daily-weighted average VOC (on a solids basis) of the coatings used.

D. Section 44 and Appendix A specify the methods for measuring capture efficiency and for calculating control device destruction or removal efficiency.

#### 1. Capture Efficiency

Four capture efficiency testing and calculation protocols are used: Gas/gas methods using either a temporary total enclosure (TTE) or a building enclosure (BE) as a TTE. Liquid/gas methods using either a BE as a TTE or a TTE. The procedures in Appendix A to Series 21 are specified for measuring the liquid input to the process, the mass of gaseous, fugitive VOC that escapes and the mass of gaseous VOC collected by the capture system. Procedure T of Appendix A to Series 21 contains the criteria for determining if a building or temporary enclosure is a TTE. Procedure T also contains the criteria for determining if a permanent enclosure is a Permanent Total Enclosure (PTE). Section 44 exempts any PTE from capture efficiency testing.

#### 2. Control Device Destruction or Removal Efficiency

Section 44.2 requires that the methods specified in Section 45 be used for determining the flows and VOC concentrations in the inlets and outlets of VOC control devices. Section 44 stipulates the formula for calculating

control device destruction or removal efficiency. Section 44.2 also requires continuous monitoring on carbon adsorption systems and incinerators and specifies the requirements for such monitoring systems.

#### 3. Overall Capture and Control Efficiency

Section 44.3 requires that overall capture and control efficiency be calculated as the product of the capture efficiency and the control device efficiency.

E. Section 45 adopts reference methods found in 40 CFR Part 60, Appendix A. The methods adopted are: Method 18, 25 or 25A for determining VOC concentrations at the inlet and outlet of a control device; only Method 25 is allowed for determining destruction efficiency of thermal or catalytic incinerators. Method 1 or 1A for velocity traverse. Method 2, 2A, 2B, 2C, or 2D for measuring velocity and flow rates. Method 3 or 3A for determining oxygen and carbon dioxide analysis. Method 4 for stack gas moisture. Section 45 also specifies the number and length of tests.

F. Section 46 specifies leak detection methods. Method 21 of 40 CFR Part 60, Appendix A is adopted.

G. Section 47 sets the performance specifications of systems for the continuous emissions monitoring of total hydrocarbons as a surrogate for measuring the total gaseous organic concentration in a combustion gas stream.

H. Section 48 requires each owner or operator of a continuous emissions monitor system (CEMS) to develop and implement a CEMS quality control program. Section 48 defines the minimum requirements for such a program.

*EPA's Evaluation:* The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the Act. EPA has determined that the test methods and compliance procedures are no less stringent than that required by the applicable CTG and pertinent EPA guidance.

As required by 40 CFR 51.102, the State of West Virginia has certified that public hearings with regard to these proposed revisions were held in Charleston, West Virginia on September 12, 1991.

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 in this **Federal Register**

publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective April 3, 1995 unless, by March 3, 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 the companion proposed rule. 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 on April 3, 1995.

#### Final Action

EPA is approving sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A to West Virginia's Title 45, Series 21 as a revision to the West Virginia SIP. The State of West Virginia submitted these amendments to EPA as a SIP revision on August 10, 1993.

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.

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.

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 impose any new requirements, the Administrator certifies 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 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 SIP's on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 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 an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action approving twenty VOC RACT regulations for West Virginia must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 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).)

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: November 10, 1994.  
**Stanley L. Laskowski,**  
*Acting 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. 7401-7671q.

**Subpart XX—West Virginia**

2. Section 52.2520 is amended by adding a sentence to the beginning of paragraph (c)(25) introductory text, and by adding paragraph (c)(33) to read as follows:

**§ 52.2520 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(25) As of July 7, 1993 the rules in this paragraph (c)(25) are superseded by the

rules contained in paragraph (c)(33) of this section. \* \* \*

\* \* \* \* \*

(33) Revisions to the West Virginia State Implementation Plan submitted on August 12, 1993 by the West Virginia Department of Commerce, Labor & Environmental Resources.

(i) Incorporation by reference.

(A) Letter of August 10, 1993 from the West Virginia Department of Commerce, Labor & Environmental Resources transmitting Title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds.

(B) Title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds, sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 36, 39, 41, 42, 43, 44, 45, 46, 47, and 48, and Appendix A, which were adopted May 26, 1993 and effective July 7, 1993.

(ii) Additional material.

(A) Remainder of August 10, 1993 State submittal pertaining to the rules referenced in paragraph (c)(33)(i) of this section.

(iii) Additional information.

(A) The rules in this paragraph (c)(33) supersede the rules contained in paragraph (c)(25) of this section.

[FR Doc. 95-2399 Filed 1-31-95; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[MA39-1-6772a; A-1-FRL-5136-7]

**Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Massachusetts; Substitution of the California Low Emission Vehicle Program for the Clean Fuel Fleet Program (Opt Out)**

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

**ACTION:** Direct final rule.

**SUMMARY:** In this action, the Environmental Protection Agency is announcing approval of the State Implementation Plan submitted by the Commonwealth of Massachusetts for the purpose of meeting the requirement to submit the Clean Fuel Fleet Program or a substitute program that meets the requirements of the Clean Air Act. EPA is approving the State's plans for implementing a substitute program to opt out of the Clean Fuel Fleet program. On November 15, 1993, the Commonwealth of Massachusetts formally submitted a revision to their SIP to require the sale of California

certified low emitting vehicles in Massachusetts beginning with model year 1995. Further, on May 11, 1994, the Commonwealth formally notified EPA of its decision to substitute Massachusetts' version of the California Low Emission Vehicle (MA LEV) Program for the Clean Fuel Fleet (CFF) Program as provided for in section 182(c)(4)(B) of the Clean Air Act (CAA).

**DATES:** This final rule is effective on April 3, 1995 unless adverse or critical comments are received by March 3, 1995, in which case the rule will be withdrawn. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA 02203; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW, (LE-131), Washington, DC 20460; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Damien Houlihan, (617) 565-3266.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 182(c)(4)(A) of the Clean Air Act requires certain States, including Massachusetts, to submit a State Implementation Plan (SIP) revision that includes measures to implement the Clean Fuel Fleet Program (CFFP). Under this program, a certain specified percentage of vehicles purchased by fleet operators for covered fleets must meet emission standards that are more stringent than those that apply to conventional vehicles. Covered fleets are defined as fleets of 10 or more vehicles that are centrally fueled or capable of being centrally fueled. The program applies to 1998 and later model year vehicles in the entire Commonwealth of Massachusetts which is comprised of two separate nonattainment areas. Section 182(c)(4)(B) of the Act allows states to "opt out" of the Clean Fuel Fleet Program by submitting for EPA approval a SIP revision consisting of a program or programs that will result in at least