ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD067–3025a; FRL–6012–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Definition of the Term ''Major Stationary Source of VOC''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to amendments to Maryland's definition of the term major stationary source of volatile organic compounds (VOC). This action is being taken in accordance with the SIP submittal and revision provisions of the Act.

DATES: This final rule is effective July 13, 1998 unless on or before June 12, 1998, adverse or critical comments are received. If adverse comments are received EPA will publish a timely withdrawal in the **Federal Register** and inform the public that the rule did not take effect.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Section, Mailcode 3AP21, 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 Protection Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 566–2181, at the EPA Region III address above, or via e-mail at pino.maria@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

Description of the State's Submittal

On July 12, 1995, the Maryland Department of the Environment submitted amendments to its air quality regulations to EPA as a SIP revision. The July 12, 1995 submittal contains amendments to the definition of the term ''major stationary source of VOC'' and Maryland's major source VOC reasonably available control technology (RACT) regulation, COMAR 26.11.19.01B(4) and 26.11.19.02G, respectively. Maryland revised its definition by lowering the major source size ''threshold'' in the Maryland portion of the Washington, DC ozone nonattainment area, Calvert, Charles, Frederick, Montgomery, and Prince George's Counties, and by requiring RACT on these newly defined major sources. This action pertains only to Maryland's revisions to COMAR 26.11.19.01B(4), the definition of the term ''major stationary source of VOC.'' Revisions to Maryland's major source VOC RACT regulation are the subject of a separate rulemaking action.

Maryland's July 1995 submittal lowers the major source size ''threshold'' in the Maryland portion of the Washington, DC ozone nonattainment area from 50 to 25 tons per year (TPY) of VOC as is already required in the Baltimore ozone nonattainment area. The term ''major stationary source of VOC,'' COMAR 26.11.19.01B(4), has been amended, therefore, to mean any stationary source with the potential to emit: (a) 25 TPY of VOC or more in the City of Baltimore and Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montogomery, and Prince George's Counties, and (b) 50 TPY in the remainder of the State.

As required by 40 CFR 51.102, the State of Maryland has certified that public hearings with regard to these proposed revisions were held in Maryland on December 15, 1994 in Baltimore, Maryland.

EPA's Evaluation

Maryland's July 12, 1995 SIP revision submittal contains revisions to lower the major source size ''threshold'' for the Maryland portion of the Washington, DC serious ozone nonattainment area, Calvert, Charles, Frederick, Montgomery, and Prince George's Counties, and required RACT on these newly defined major sources. These revisions are needed as part of Maryland's plan to meet the Clean Air Act's rate-of-progress (ROP) requirements in the Maryland portion of the Washington, DC ozone nonattainment area. Under the Clean Air Act's ROP provisions, in section 182, any ozone nonattainment area classified as serious or worse is required to reduce emissions of VOCs by three percent per year from 1990 until the area's attainment date for the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone. One of the control measures Maryland is using to reduce VOC emissions in the Washington, DC nonattainment area is RACT on VOC sources with the potential to emit between 25 and 50 TPY.

This revision strengthens the Maryland SIP and will result in VOC emission reductions. EPA is, therefore, approving this revision to the Maryland SIP.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse or critical comments be filed. This rule will be effective July 13, 1998 without further notice unless the Agency receives relevant adverse comments by June 12, 1998.

If EPA receives such comments, then EPA will publish a timely withdrawal of the final rule and inform the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Only 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 rule will be effective on July 13, 1998 and no further action will be taken on the proposed rule.

Final Action

EPA is approving Maryland's July 12, 1995 revisions to the definition of the term ''major stationary source of VOC,'' COMAR 26.11.19.01B(4), and incorporating those revisions into the Maryland SIP.

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.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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 CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to revisions to Maryland's definition of the term ''major stationary source of VOC,'' must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 1998. 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.

Dated: April 24, 1998.

Thomas Voltaggio,

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 *et seq.*

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(128) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(128) Revisions to the Maryland State Implementation Plan submitted on July 12, 1995 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of July 12, 1995 from the Maryland Department of the Environment transmitting additions and deletions to Maryland's State Implementation Plan, pertaining to volatile organic compound regulations in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR) 26.11.

(B) Revisions to COMAR 26.11.19.01B(4), definition of the term ''Major stationary source of VOC,'' adopted by the Secretary of the Environment on April 13, 1995, and effective on May 8, 1995.

(ii) Additional material.

(A) Remainder of the July 12, 1995 Maryland State submittal pertaining to COMAR 26.11.19.01B(4), definition of the term ''Major stationary source of VOC.''

[FR Doc. 98–12719 Filed 5–12–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6001–3]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of California; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA) and through the California Air Resources Board, the South Coast Air Quality Management District (SCAQMD) requested approval to implement and enforce its ''Rule 1421: Control of Perchloroethylene Emissions from Dry Cleaning Systems'' (Rule 1421) in place of the ''National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities'' (dry cleaning NESHAP) for area sources under SCAQMD's jurisdiction. The Environmental Protection Agency (EPA) has reviewed this request and has found that it satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting SCAQMD the authority to implement and enforce Rule 1421 in place of the dry cleaning NESHAP for area sources under SCAQMD's jurisdiction.

DATES: This rule is effective on July 13, 1998 without further notice, unless EPA receives relevant adverse comments by June 12, 1998. If EPA receives such