

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area.	Birmingham Ozone Nonattainment Area 1.	2/01/00	11/07/01 66 FR 56224	

[FR Doc. 03–2172 Filed 1–31–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD129/130–3089a; FRL–7437–7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Volatile Organic Compound Requirements From Specific Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revisions consist of two (2) amendments to Maryland's air pollution control regulations governing specific processes on volatile organic compound (VOC) requirements. The revisions pertain to alternative method of compliance and good operating practices. EPA is fully approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on April 4, 2003 without further notice, unless EPA receives adverse written comments by March 5, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Walter K. Wilkie, Acting Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Washington, DC 20460;

and Maryland Department of the Environment, 1800 Washington Blvd., Suite 730, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT:

Betty Harris at (215) 814–2168, or by e-mail at harris.betty@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

On November 20, 2001 and December 6, 2001, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision submitted by the Maryland Department of the Environment (MDE) consists of amended volatile organic compound (VOC) requirements to specific processes in the Code of Maryland Administrative Regulations (COMAR 26.11.19).

II. Summary of SIP Revision

A. On November 20, 2001, MDE submitted an amendment to COMAR 26.11.19.02B(2)(d). This amendment provides an alternative method for a source to achieve compliance with VOC requirements. The amendment allows sources that are subject to VOC limits in coatings or inks or other similar products, to reduce emissions by using water-based coatings, resins, inks, or similar products that contain less than twenty-five percent VOC by volume of the volatile portion of the product. This amendment was published in the MDE Register on January 30, 1998, and a public hearing was held on March 4, 1998. The amendment was adopted on April 9, 1998, and became effective on May 4, 1998.

B. On December 6, 2001, MDE submitted COMAR 26.11.19.02I. MDE expanded this rule to include good operating practices, equipment cleanup procedures and VOC storage tank vapor control requirements to reduce VOC emissions from any source presently subject to any VOC emission standard, limitation or requirement. The expanded rule was published in MDE Register on September 21, 2001, and a public hearing was held on October 23, 2001. The rule was adopted on

November 6, 2001 and became effective on December 10, 2001.

III. Final Action

EPA is approving SIP revisions submitted by MDE on November 20, 2001 and December 6, 2001, respectively, the amendments to the VOC requirements [COMAR 26.11.19.02B(2)(d), COMAR 26.11.19.02I] concerning an alternative method of compliance for specific VOC processes; good operating practices, equipment cleanup, and VOC storage. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on April 4, 2003 without further notice unless EPA receives adverse comment by March 5, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Regulatory Assessment

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 approves state law as meeting Federal

requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action merely approves 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 rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (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. This rule does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 4, 2003. 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 pertains to Maryland's amendments to volatile organic compound requirements from specific processes and 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 31, 2002.

Thomas C. 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)(174) and (c)(175) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(174) Revisions to the Maryland State Implementation Plan submitted on November 20, 2001, by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter dated November 20, 2001 from the Maryland Department of the Environment transmitting a revision to Maryland State Implementation Plan concerning an alternative method for a source to achieve compliance with volatile organic compound (VOC) requirements for specific processes.

(B) Revisions to Code of Maryland Administrative Regulation (COMAR) 26.11.19.02B (Applicability, Determining Compliance, Reporting and General Requirements—Method of Compliance), effective May 4, 1998, which revises paragraph .02B(2)(c), adds a new paragraph .02B(2)(d), and renumbers former paragraph .02B(2)(d) as .02B(2)(e).

(ii) Additional Material.—Remainder of the State submittal pertaining to the revision listed in paragraph (c)(174)(i) of this section.

(175) Revisions to the Maryland State Implementation Plan submitted on December 6, 2001, by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter dated December 6, 2001 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan, concerning good operating practices, equipment cleanup procedures, and volatile organic compound (VOC) storage tank vapor control requirements for specific processes.

(B) Addition of Code of Maryland Administrative Regulation (COMAR) 26.11.19.02I—(Applicability, Determining Compliance, Reporting and General Requirements—Good Operating Practices, Cleanup, and VOC Storage), effective December 10, 2001.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revision listed in paragraph (c)(175)(i) of this section.

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