

limitations set forth in § 1.515 of this part.

■ 3. Section 1.515 is redesignated as § 1.523 and a new § 1.515 is added to read as follows:

**§ 1.515 Disclosure of information to participate in state prescription drug monitoring programs.**

(a) *General.* Information covered by §§ 1.500 through 1.527 of this part may be disclosed to State Prescription Drug Monitoring Programs pursuant to the limitations set forth in paragraph (c) of this section.

(b) *Definitions.* For the purposes of this section:

*Controlled substance* means any substance identified in 21 CFR part 1308 as a schedule II, III, IV, or V controlled substance.

*State Prescription Drug Monitoring Program (PDMP)* means a State controlled substance monitoring program, including a program approved by the Secretary of Health and Human Services under section 3990 of the Public Health Service Act (42 U.S.C. 280g-3).

(c) *Participation in PDMPs.* VA may disclose to PDMPs any of the following information concerning the prescription of controlled substances:

(1) Demographic information of veterans and dependents of veterans who are prescribed a controlled substance. Examples include name, address, and telephone number.

(2) Information about the prescribed controlled substances. Examples include the identification of the substance by a national drug code number, quantity dispensed, number of refills ordered, whether the substances were dispensed as a refill of a prescription or as a first-time request, and date of origin of the prescription.

(3) Prescriber information. Examples include the prescriber's United States Drug Enforcement Administration-issued identification number authorizing the individual to prescribe controlled substances and United States Department of Health and Human Services-issued National Provider Identifier number.

(Authority: 5 U.S.C. 552a; 38 U.S.C. 5701, 7332; 45 CFR 164.512(b))

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2012-0982; FRL-9777-2]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Maryland's Ambient Air Quality Standards**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the State of Maryland State Implementation Plan (SIP). The revisions pertain to adoption through incorporation by reference of the national ambient air quality standards (NAAQS) by the State of Maryland. EPA is approving these revisions that adopt the NAAQS for ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), lead (Pb), particulate matter (PM) and carbon monoxide (CO) as well as the relevant reference and equivalent monitoring methods through incorporation by reference into the Code of Maryland regulations (COMAR) on an "as amended" basis which will prospectively incorporate all future revisions and additions to the NAAQS in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on April 12, 2013 without further notice, unless EPA receives adverse written comment by March 13, 2013. 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:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2012-0982 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email:* [Mastro.Donna@epa.gov](mailto:Mastro.Donna@epa.gov).

C. *Mail:* EPA-R03-OAR-2012-0982, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, 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. EPA-R03-OAR-2012-

0982. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), 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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email 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.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Christopher Cripps, (215) 814-2179, or by email at [Cripps.Christopher@epa.gov](mailto:Cripps.Christopher@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Background

On November 15, 2012, the State of Maryland submitted a formal revision (SIP Revision #12-07) to its SIP. The SIP revision consists of the adoption of the revisions since 2006 of the following NAAQS along with the associated definitions, reference conditions, and methods of measurement associated with these NAAQS: PM, SO<sub>2</sub>, NO<sub>2</sub>, Pb and O<sub>3</sub>.

## II. Summary of SIP Revision

This SIP revision updates Maryland's SIP to incorporate the following revisions to the NAAQS which were promulgated since 2006:

(1) The revised NAAQS for PM (71 FR 61224, Oct. 17, 2006) and the applicable definitions, reference conditions, and methods of measurement as specified in 40 CFR parts 50, 53, and 58;

(2) the NAAQS for Pb (73 FR 67052, Nov. 12, 2008) and the applicable definitions, reference conditions, and methods of measurement as specified in 40 CFR parts 50, 51, 53 and 58;

(3) the revised NAAQS for O<sub>3</sub> (73 FR 16511, Mar. 27, 2008) and the applicable definitions, reference conditions, and methods of measurement as specified in 40 CFR parts 50 and 58;

(4) the revised NAAQS for NO<sub>2</sub> (75 FR 6531, Feb. 9, 2010) and the applicable definitions, reference conditions, and methods of measurement as specified in 40 CFR parts 50 and 58; and

(5) the revised NAAQS for SO<sub>2</sub> (75 FR 35592, June 22, 2010) and the definitions, reference conditions, and methods of measurement as specified in 40 CFR parts 50, 53 and 58;

In addition, Maryland's SIP revision submittal seeks to incorporate by reference the NAAQS of 40 CFR part 50 *prospectively* in order for Maryland's ambient air quality standards to be identical at all times to the NAAQS as well as the pertinent definitions, ambient air monitoring reference and equivalent methods in 40 CFR parts 51, 53 and 58. Therefore, whenever EPA promulgates a new or revised NAAQS in 40 CFR part 50 or revisions to the applicable definitions, ambient air monitoring reference and equivalent methods in 40 CFR parts 51, 53 and 58, the Maryland SIP will automatically reflect such additions and revisions without further action by the State of Maryland or EPA.

Specifically, this revision includes the following changes to Title 26—Department of The Environment, Subtitle 11—Air Quality, Chapter 04 Ambient Air Quality Standards (COMAR 26.11.04):

(1) The deletion of Regulation .04 (COMAR 26.11.04.04) relating to ambient air quality standards for PM;

(2) the deletion of Regulation .05 (COMAR 26.11.04.05) relating to ambient air quality standards for SO<sub>2</sub>;

(3) the deletion of Regulation .06 (COMAR 26.11.04.06) relating to ambient air quality standards for CO;

(4) the deletion of Regulation .07 (COMAR 26.11.04.07) relating to ambient air quality standards for O<sub>3</sub>;

(5) the deletion of Regulation .08 (COMAR 26.11.04.08) relating to ambient air quality standards for NO<sub>2</sub>;

(6) the deletion of Regulation .09 (COMAR 26.11.04.09) relating to ambient air quality standards for Pb;

(7) the deletion of Regulation .02 (COMAR 26.11.04.02) relating to definitions, reference conditions, and methods of measurement as those specified in 40 CFR parts 50, 53, and 58 of the 2003 edition;

(8) the deletion of Regulation 02 (COMAR 26.11.04.02) which stated that “Regulations .03–.09 [COMAR 26.11.04.3–.09] of this chapter contain State-adopted National Ambient Air Quality Standards” which no longer has any substantive value because the regulations it cites have been repealed; and

(9) the addition of a new Regulation .02 (COMAR 26.11.04.02) which specifies that the ambient air quality standards, definitions, reference conditions, and methods of measurement are those specified in 40 CFR parts 50, 51, 53, and 58, “as amended.” Maryland uses the phrase “as amended” in COMAR 26.11.01.02 so that future versions of these regulations are adopted prospectively. See Maryland's “Incorporation By Reference (IBR) Manual,” (Revised 7/2009) (available at <http://www.dsd.state.md.us/mdregister/IBRManual.pdf>).

EPA finds that Maryland has adequately incorporated by reference the NAAQS and related definitions, reference conditions, and methods of measurement as specified in 40 CFR parts 50, 51, 53, and 58, and, through the use of the phrase “as amended” in the COMAR regulatory text, is incorporating by reference future amendments to the NAAQS and related definitions, reference conditions, and methods of measurement specified in 40 CFR parts 50, 51, 53, and 58.

## III. Final Action

EPA is approving the November 15, 2012 SIP revision which includes amendments to COMAR 26.11.04 into the State of Maryland SIP. EPA is publishing this rule without prior

proposal because EPA 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 12, 2013 without further notice unless EPA receives adverse comment by March 13, 2013. 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.

## IV. Statutory and Executive Order Reviews

### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

*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 action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action to approve amendments to COMAR 26.11.04 Ambient Air Quality Standards 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 25, 2013.

**W. C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart V—Maryland**

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.04.02 and by removing the existing entries for COMARS 26.11.04.03 through 26.11.04.09 to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP**

Code of Maryland Administrative Regulations (COMAR) citation	Title/Subject	State effective date	EPA Approval date	Additional explanation/citation at 40 CFR 52.1100
*	*	*	*	*
<b>26.11.04 Ambient Air Quality Standards</b>				
26.11.04.02 .....	Ambient Air Quality Standards, Definitions, Reference Conditions, and Methods of Measurement.	9/17/12	2/11/13 [Insert page number where the document begins].	
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