

**Subpart F—California**

2. Section 52.220 is amended by adding paragraph (c)(169) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(169) New and amended regulations submitted on June 4, 1986 by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(I) Rules 404 and 405 adopted on May 7, 1976 and amended on February 7, 1986. Rule 1112.1 adopted on February 7, 1986.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[MD 061-3028a, MD 065-3028a; FRL-6148-1]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to VOC Regulations for Dry Cleaning and Stage I Vapor Recovery**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving two State Implementation Plan (SIP) revisions submitted by the State of Maryland. The first revision amends Maryland's dry cleaning regulation such that its volatile organic compound (VOC) requirements no longer apply to dry cleaning operations using perchloroethylene. The second revision amends Maryland's Stage I Vapor Recovery regulation such that it is no longer applicable to gasoline storage tanks with a capacity of less than 2000 gallons. The intended effect of this action is to approve these revisions to Maryland's SIP in accordance with the Clean Air Act (the Act).

**DATES:** This final rule is effective November 2, 1998 unless within October 2, 1998, adverse or critical comments are received. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources 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, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

**FOR FURTHER INFORMATION CONTACT:**

Carolyn M. Donahue, (215) 814-2095, or by e-mail at donahue.carolyn@epa.gov.

**SUPPLEMENTARY INFORMATION:****I. Background**

On February 6, 1998, the Maryland Department of the Environment (MDE) submitted two formal revisions to its State Implementation Plan (SIP). The first SIP revision amends *COMAR 26.11.19.12: Control of VOCs from Dry Cleaning Installations* such that its VOC control requirements no longer apply to dry cleaning operations using perchloroethylene. EPA has determined that the compound perchloroethylene has minimal photochemical reactivity and, therefore, does not contribute significantly to the formation of ground level ozone. The second SIP revision amends *COMAR 26.11.13.04: Control of VOCs from Gasoline Storage/Loading Operations* such that it no longer applies to gasoline storage tanks with a capacity of less than 2000 gallons.

**II. Summary of the SIP Revisions**

*COMAR 26.11.19.12: Control of VOCs From Dry Cleaning Installations*

In revising this regulation, Maryland removed the VOC requirements for dry cleaning operations using perchloroethylene. EPA has determined that perchloroethylene is not a compound which significantly contributes to the formation of ground level ozone (61 FR 4588, February 7, 1996). This revision removes sections B(1), C, D from *COMAR 26.11.19.12* and renumbers the remaining sections accordingly. Dry cleaners that use perchloroethylene are still subject to state and federal toxic and hazardous air pollutant requirements.

*COMAR 26.11.13.04: Control of VOCs From Gasoline Storage/Loading Operations*

Maryland amended this regulation to eliminate the Stage I Vapor Recovery

requirements for gasoline storage tanks with a capacity of less than 2000 gallons. Through a survey conducted in August 1995 of Maryland service stations, MDE concluded that less than 2% of the total gasoline throughput was from tanks with a capacity between 250 and 2000 gallons. This revision removes sections C(1)(b), C(2), and C(4) and renumbers the remaining sections accordingly.

EPA is approving this rule without prior proposal because the Agency views these as noncontroversial amendments 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 revisions should adverse or critical comments be filed. This rule will be effective November 2, 1998 without further notice unless the Agency receives relevant adverse comments by October 2, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will 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 this rule. 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 November 2, 1998 and no further action will be taken on the proposed rule. If adverse comments are received that do not pertain to both approval actions taken in this rule, the action not affected by the adverse comments will be finalized in the manner described here. Only those actions which receive adverse comments will be withdrawn in the manner described here.

**III. Final Actions**

EPA is approving revisions to *COMAR 26.11.19.12: Control of VOCs from Dry Cleaning Installations*. EPA is also approving the revisions to *COMAR 26.11.13.04: Control of VOCs from Gasoline Storage/Loading Operations*.

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.

#### IV. Administrative Requirements

##### A. Executive Order 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review. The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

##### B. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

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 EPA 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 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).

##### 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 November 2, 1998. Filing a petition for reconsideration by the Administrator of this final rule approving revisions to two of Maryland's VOC revisions 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and record keeping requirements.

Dated: August 11, 1998.

**W. Michael McCabe,**

*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)(131) and (132) to read as follows:

##### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(131) Revisions to the Maryland State Implementation Plan submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's State Implementation Plan, pertaining to volatile organic compounds in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR) 26.11.

(B) Revision to COMAR 26.11.19.12: Control of Volatile Organic Compound Emissions from Dry Cleaning Installations, adopted by the Secretary of the Environment on August 18, 1997, and effective on September 22, 1997, including the following:

(1) Deletion of COMAR 26.11.19.12.B(1), pertaining to perchloroethylene dry cleaner installations applicability.

(2) Deletion of COMAR 26.11.19.12.C, Equipment Specifications and Emission Standards—Perchloroethylene Dry Cleaning Installations.

(3) Deletion of COMAR 26.11.19.12.D, Determination of Compliance—Perchloroethylene Dry Cleaning Installations.

(ii) Additional Material—Remainder of February 6, 1998 State submittal pertaining to COMAR 26.11.19.12 Control of Volatile Organic Compound Emissions from Dry Cleaning Installations

(132) Revisions to the Maryland State Implementation Plan submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's State Implementation Plan, pertaining to volatile organic

compounds in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR) 26.11.

(B) Revision to COMAR 26.11.13.04: Control of Gasoline and Volatile Organic Compound Storage and Handling from Loading Operations, adopted by the Secretary of the Environment on July 18, 1997, and effective on August 11, 1997, including the following:

(1) Deletion of COMAR

26.11.13.04.C(1)(b), pertaining to the applicability of this regulation to gasoline storage tanks with a capacity greater than 250 gallons and less than 2000 gallons.

(2) Deletion of COMAR

26.11.13.04.C(2), Exemptions.

(3) Deletion of COMAR

26.11.13.04.C(4), Effective Date of Stage I Requirement for Certain Sources.

(ii) Additional material—Remainder of February 6, 1998 State submittal pertaining to COMAR 26.11.13.04 Control of Gasoline and Volatile Organic Compound Storage and Handling from Loading Operations.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 119-4074a; FRL-6148-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program

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

**ACTION:** Direct final rule.

**SUMMARY:** This action serves to remove several conditions of EPA's January 28, 1997 interim final approval of the Commonwealth of Pennsylvania's State Implementation Plan (SIP) revision for its enhanced motor vehicle emissions inspection and maintenance (I/M) program. The Commonwealth has amended its SIP (since EPA granted conditional interim approval of that plan) to address these deficiencies. EPA is removing these conditions by approving two related SIP revisions submitted by Pennsylvania. These revisions serve to bolster the Commonwealth's I/M SIP, and to strengthen its I/M program. The intended effect of this action is to remove several conditions placed by EPA upon the approval of the Commonwealth's SIP. However, as

Pennsylvania has yet to address several other outstanding rulemaking conditions on this same SIP, the Commonwealth's I/M SIP will continue to be conditionally approved, in accordance with the Clean Air Act, until the Commonwealth satisfies the remaining conditions.

**DATES:** This direct final rule is effective on November 2, 1998 without further notice, unless EPA receives adverse comment by October 2, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments should be mailed to Marcia Spink, Associate Director, Office of Air Programs, Mailcode 3AP20, 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—14th Floor, Philadelphia, Pennsylvania 19103; and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, (215) 814-2176, or by e-mail at rehn.brian@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 28, 1997, EPA published in the **Federal Register** a document (62 FR 4004) granting conditional interim approval to Pennsylvania's enhanced I/M program SIP (submitted March 22, 1996)—under the authority of both the National Highway Systems Designation Act of 1995, and the Clean Air Act as amended in 1990. The NHSDA established key changes to previous EPA I/M requirements. Under the NHSDA, EPA could not disapprove, or automatically discount the effectiveness of, a state's I/M program solely because it utilized a decentralized testing network. Instead, on the basis of a "good faith estimate" by a state, the NHSDA allowed for presumptive equivalency of such decentralized networks to the benchmark of centralized programs. Under the NHSDA, EPA was to grant "interim" approval of such decentralized programs, for an 18-month period, at the end of which the state is required to submit an evaluation of the actual effectiveness of the enhanced program.

In Pennsylvania's case, EPA granted interim approval of the enhanced I/M program SIP, but also conditioned approval of that SIP upon the satisfaction of five major deficiencies, and fourteen minor, or de minimus, deficiencies. EPA's January 28, 1997 interim conditional approval stipulated that the five major conditions were to be corrected within one year of approval, and that the de minimus conditions be addressed within eighteen months of approval. On January 9, 1998, EPA published (63 FR 1362) a final rule amending federal I/M requirements for ongoing evaluation methodologies for state I/M programs—one of the major deficiencies of Pennsylvania's program identified by EPA in its January 1998 interim conditional approval. EPA's I/M requirements rule change also served to amend the related condition of the Commonwealth's approval. As a result, the deadline for the Commonwealth to satisfy this condition was extended from February of 1998 to November 30, 1998.

The NHSDA effectiveness demonstration described previously is also due at the end of the 18-month NHSDA, interim approval period. The Commonwealth's interim approval period granted under authority of the NHSDA expires on August 28, 1998.

#### Status of I/M Program SIP Revisions

On November 13, 1997 and on February 24, 1998, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). These November 13, 1997 SIP revisions consist of Pennsylvania's revised, final I/M program regulations, as well as supporting information and materials. The February 24, 1998 SIP revision contains updated emissions benefit computer modeling to demonstrate that Pennsylvania's program meets federal performance-based standards for enhanced I/M programs. Both SIP revisions are intended to partially satisfy "major" and "minor", or de minimus, deficiencies identified by EPA in its January 28, 1997 interim conditional approval of the Commonwealth's March 22, 1996 I/M program SIP submittal.

EPA views the November 13, 1997 and the February 24, 1998 SIP revisions as separate, independent SIP amendments from the enhanced I/M SIP revision submitted on March 22, 1996. While these two more recent SIP revisions are related to the March 1996 enhanced I/M SIP revision submitted by the Commonwealth, they serve to supplement and to strengthen the Commonwealth's enhanced I/M program SIP—not to replace it. EPA is today acting only upon the November