

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.*).

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**. 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).

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 28, 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 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: January 31, 2003.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

2. Section 52.220 is amended by adding paragraph (c)(300) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(300) Amended regulations for the following APCDs were submitted on June 18, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Mojave Desert Air Quality Management District.

(1) Rule 1161 amended on March 25, 2002.

\* \* \* \* \*

[FR Doc. 03-4513 Filed 2-26-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD141/142-3095a; FRL-7450-2]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Miscellaneous Revisions

**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). One revision removes from the SIP the state ambient air quality standard for hydrocarbons. The other revision removes an outdated citation of a current SIP provision regarding the granting of visible emissions exceptions by control officers. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on April 28, 2003 without further notice, unless EPA receives adverse written comment by March 31, 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 addressed to Harold A. Frankford, 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, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814-2108, or by e-mail at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 18, 2002 and November 26, 2002, the State of Maryland submitted formal revisions to its State Implementation Plan (SIP). These revisions consists of the removal of outdated and redundant provisions from the Maryland SIP. The November 18, 2002 revision (#85-03) removes the ambient air quality standard for hydrocarbons. The November 26, 2002 revision (#84-06) removes a provision from Maryland's regulations governing control of fuel burning equipment and internal stationary sources.

##### II. Summary of SIP Revisions

The fuel burning equipment provision being reviewed in this action allows control officers to grant visible emissions exceptions for small residential units and small heating

equipment in State Air Quality Regions I, II, V, and VI, which comprises the following counties: Allegany, Calvert, Cecil, Charles, Dorchester, Frederick, Garrett, Kent, Queen Anne's, Saint Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester. Before December 3, 1984, this rule had been cited in the Code of Maryland Administrative Regulations (COMAR) at COMAR 10.18.09.05A(3)(b) (i) and (ii). In a State action which became effective on December 3, 1984, Maryland removed these provisions from COMAR 10.18.09.05A and merged them with its general visible emissions exceptions regulation, currently cited in the Maryland SIP as COMAR 26.11.06.02B. In a letter dated January 9, 2003 to EPA, Maryland reiterated that the intent of Revision 84-06 was to move the provisions which allows control officers to grant visible emissions exceptions from COMAR 10.18.09.05 A(3)(b) (i) and (ii) to COMAR 26.11.06.02B(5) (a) and (b). On February 12, 2001 (66 FR 9764), EPA had approved the provisions to COMAR 26.11.06.02B(5) (a) and (b) as revisions of the Maryland SIP, but had not indicated in this action that these provisions represented a merger with an existing SIP-approved rule. See, 40 CFR 52.1070(c)(153)(i)(E)(1). In this action, EPA is formally removing COMAR 10.18.09.05A(3)(b)(i) and (ii) from the Maryland SIP, in accordance with the intent of Maryland's 1984 rulemaking action.

With regard to the ambient air quality standard for hydrocarbons, EPA had removed this pollutant from the list of national ambient air quality standards (NAAQS) cited in 40 CFR part 50 on January 5, 1983 (48 FR 629). In response to EPA's action, Maryland removed the state hydrocarbons standard from COMAR 10.18.03, effective October 14, 1985. After EPA reviewed the history of Maryland's formal SIP actions taken since 1985, it was not clear whether EPA had received a formal request from Maryland to remove the State's ambient hydrocarbons standard from the SIP. Therefore, on November 18, 2002, Maryland submitted a formal SIP revision request reaffirming its intent to remove this provision from the SIP.

Given the history of the State and EPA rulemaking actions associated with these two provisions, EPA regards these revisions as "housekeeping" actions with no impact on Agency policy, ambient air quality, or enforceability.

### III. Final Action

EPA is approving the removal of the visible emissions exceptions provision cited at COMAR 10.18.09.05A(3)(b)(i) and (ii). As explained earlier in this

action, the actual provision remains in the SIP, but in a different location within Maryland's air pollution control regulations. EPA is also approving the removal of Maryland's ambient air quality standard for hydrocarbons from the Maryland SIP.

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 28, 2003 without further notice unless EPA receives adverse comment by March 31, 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. Statutory and Executive Order Reviews

#### 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 28, 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 to approve miscellaneous Maryland SIP revisions 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, Particulate matter.

Dated: February 4, 2003.

**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)(180) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(180) Revisions to the Code of Maryland Administrative Regulations (COMAR) submitted on November 18, 2002 and November 26, 2002 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of November 18, 2002 from the Maryland Department of the Environment transmitting the removal of Code of Maryland Administrative Regulation (COMAR) 10.18.03.08—the State ambient air quality standard for hydrocarbons.

(B) Removal of COMAR 10.18.03.08, effective October 14, 1985.

(C) Letter of November 26, 2002 from the Maryland Department of the Environment transmitting revisions to COMAR 10.18.09.05 regarding the removal of provisions granting visible emissions exceptions by control officers in Maryland Areas I, II, V, and VI.

(D) Removal of COMAR 10.18.09.05A(3)(b)(i) and .05A(3)(b)(ii), effective December 3, 1984.

(ii) Additional Material.

(A) Remainder of the State submittals pertaining to the revisions listed in paragraph (c)(180)(i) of this section.

(B) Letter dated January 9, 2003 from the Maryland Air and Radiation Management Administration to the Environmental Protection Agency, Region III, clarifying the reasons for removing the provisions of COMAR 10.18.09.05B(3)(i) and (ii).

[FR Doc. 03-4516 Filed 2-26-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[Region II Docket No. VI4-249a, FRL-7455-3]

### Approval and Promulgation of State Plans for Designated Facilities; Virgin Islands

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a negative declaration submitted by the Government of the United States (US) Virgin Islands. The negative declaration satisfies EPA's promulgated Emission Guidelines (EG) for existing commercial and industrial solid waste incineration (CISWI) units. In accordance with the EG, states are not required to submit a plan to implement and enforce the EG if there are no existing CISWI units in the state and if it submits a negative declaration letter in place of the State Plan.

**DATES:** This direct final rule is effective on April 28, 2003 without further notice, unless EPA receives adverse comment by March 30, 2003.

If an adverse comment is received, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866.

A copy of the Virgin Islands submittal is available for inspection at the Region 2 Office in New York City. Those interested in inspecting the submittal must arrange an appointment in advance by calling (212) 637-4249. Alternatively, appointments may be arranged via e-mail by sending a message to Demian P. Ellis at [ellis.demian@epa.gov](mailto:ellis.demian@epa.gov). The office address is 290 Broadway, Air Programs Branch, 25th Floor, New York, New York 10007-1866.

A copy of the Virgin Islands submittal is also available for inspection at the following locations:

Virgin Islands Department of Planning and Natural Resources, Division of Environmental Protection, Cyril E. King Airport, Terminal Building, 2nd Floor, St. Thomas, USVI, 00802.

#### FOR FURTHER INFORMATION CONTACT:

Demian P. Ellis, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, Telephone, (212) 637-4249.

**SUPPLEMENTARY INFORMATION:** The following table of contents describes the format for the **SUPPLEMENTARY INFORMATION** section:

#### Table of Contents

- A. What action is EPA taking today?
- B. Why is EPA approving the Virgin Islands' negative declaration?
- C. What if an existing CISWI unit is discovered in the Virgin Islands after today's action becomes effective?
- D. What is the background for Emission Guidelines and State Plans?
- E. Where can you find the EG requirements for CISWI units?
- F. Who must comply with the EG requirements?
- G. What are EPA's conclusions?
- H. Statutory and Executive Order Reviews

#### A. What Action Is EPA Taking Today?

The Environmental Protection Agency (EPA) is approving a negative declaration submitted by the Government of the United States Virgin Islands (Virgin Islands) dated October 25, 2002. This negative declaration finds that there are no existing commercial and industrial solid waste incineration (CISWI) units throughout the Territory of the Virgin Islands. The negative declaration satisfies the federal Emission Guidelines (EG) requirements of EPA's promulgated regulation entitled "Emission Guidelines for Existing Commercial and Industrial Solid Waste Incineration Units" (65 FR 75338, December 1, 2000). The negative declaration officially certifies to EPA that, to the best of the Virgin Islands' knowledge, there are no CISWI units in operation within the Territory.