

Office of Management and Budget. 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 (Public Law 104-4). This rule also does 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 rule will 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), because it 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 Act. This rule also is not subject to Executive Order 13045 (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 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 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear

legal standard for affected conduct in issuing this rule. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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. section 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. section 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 19, 2001. 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 27, 2001.

**Jane Diamond,**

*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)(280)(i)(A)(2) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(280) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 461, adopted on April 21, 2000.

\* \* \* \* \*

[FR Doc. 01-20780 Filed 8-17-01; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MD064/122/123-3069a; FRL-7021-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Administrative Revisions of General Provisions Related to Definitions of Terms and 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 Maryland State Implementation Plan (SIP). In this action, EPA is approving revisions which reorganize the structure of the general administrative provisions describing definitions of terms used throughout Maryland's air pollution control regulations, amend the definition of the term "source," and reorganize the provisions governing ambient air quality standards. EPA is approving these revisions to in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on October 19, 2001 without further notice, unless EPA receives adverse written comment by September 19, 2001. 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 Harold A. Frankford, Office of Air Programs, Mail Code 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, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**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 February 6, 1998 and May 14, 2001, the State of Maryland submitted formal revisions to its State

Implementation Plan (SIP). These SIP revisions consist of:

(1) Administrative revisions affecting the overall organization of the general definitions section (COMAR 26.11.01.01).

(2) Revisions to COMAR 26.11.01.01B(43), the definition of "source," due to a revision in the organization of the State statute which is cross-referenced in this definition. There are no substantive changes to the wording of any of the definitions subject to this action. On June 12, 2001, Maryland also submitted additional revisions to the chapter governing ambient air quality standards. Maryland provided proof that public hearings were held on the revisions in accordance with the requirements of 40 CFR section 51.102. The State held hearings on January 25 and 26, 1994 with regard to the COMAR rule reorganization, on July 23, 1997 with regard to the revised definition of

"source," and on June 14 and 17, 1994 with regard to the reorganized structure of the ambient air quality standards chapter.

**II. Summary of SIP Revisions**

In the reorganization of COMAR 26.11.01.01, subsection 26.11.01.01A now contains a general purpose statement, while subsection 26.11.01.01B contains all of the general terms which appear throughout COMAR 26.11.XX.XX (Maryland's air pollution control regulations). There are some definitions which are found in subsection 26.11.01.01B, as well as all of the provisions listed in subsection 26.11.01.01C which EPA has never incorporated by reference into 40 CFR Section 52.1070(c). Therefore, EPA is not acting on those provisions in this rulemaking action. The following chart lists the terms for which SIP-approved COMAR citations change as a result of this action:

Definition or term	Current SIP citation (26.11.01.XX)	New SIP citation (26.11.01.XX)
Actual emissions .....	.01A	.01B(1)
Air pollution .....	.01A-1	.01B(2)
Allowable emissions .....	.01A-3	.01B(4)
Capture efficiency .....	.01A-4	.01B(5)
Certifying individual .....	.01A-5	.01B(6)
Confined emissions .....	.01B	.01B(7)
Confined source .....	.01C	.01B(8)
Continuous emission monitor (CEM) .....	.01C-1	.01B(9)
Control efficiency .....	.01C-2	.01B(10)
Control equipment .....	.01D	.01B(11)
Control officer .....	.01E	.01B(12)
Department .....	.01F	.01B(14)
Emissions .....	.01G	.01B(16)
Fugitive emissions .....	.01H	.01B(18)
Installation .....	.01I	.01B(19)
Opacity .....	.01O	.01B(26)
Operating day .....	.01O-1	.01B(27)
Oxides of nitrogen (NO <sub>x</sub> ) .....	.01O-2	.01B(28)
Particulate matter .....	.01P	.01B(29)
Particulate matter emissions .....	.01P-1	.01B(30)
PM10 .....	.01P-2	.01B(31)
PM10 emissions .....	.01P-3	.01B(32)
Percent seasonal throughput .....	.01P-4	.01B(33)
Person .....	.01Q	.01B(34)
Potential to emit .....	.01Q-1	.01B(35)
Premises .....	.01Q-2	.01B(36)
Process weight .....	.01S	.01B(38)
Process weight per hour .....	.01T	.01B(39)
Reasonably Available Control Technology (RACT) .....	.01U	.01B(40)
Residual fuel oil .....	.01U-1	.01B(41)
Secretary .....	.01V	.01B(42)
Source .....	.01W	.01B(43)
Stack or chimney .....	.01X	.01B(44)
Stack Height .....	.08A(2)	.01B(45)
Standard conditions .....	.01Y	.01B(46)
Standard industrial classification (SIC) code .....	.01Y-1	.01B(47)
True vapor pressure (TVP) .....	.01Z	.01B(48)
Typical ozone season day (TOSD) .....	.01Z-1	.01B(49)
Unconfined source .....	.01AA	.01B(50)
Vapor balance line .....	.01BB	.01B(51)
Vapor pressure .....	.01CC	.01B(52)

In addition, EPA has recently approved terms already using the revised COMAR citation as part of the Maryland SIP. These terms are:

Definition or term	Current SIP Citation (26.11.01.XX)
Distillate fuel oil .....	.01B(15)
Fuel-burning equipment .....	.01B(17)
Modification .....	.01B(20)
Motor vehicle .....	.01B(20-1)
New Source Review Source	.01B(24)
Prevention of Significant Deterioration (PSD) Source ...	.01B(37)
Volatile organic compound (VOC) .....	.01B(53)

EPA's action does not include the recodification of the following terms which are not historically part of the Maryland SIP: air pollution control equipment, data telemetry, NESHAP source, NSPS source, and odor.

The revised definition of "source" found at COMAR 26.11.01.01B(43) consists solely of a revised citation of the Maryland statute [Environment Article, Section 1-101(i)], which is cross-referenced in this term. The SIP-approved cross reference citation is 1-101(h). The revision to "source" is necessitated by the insertion of a provision into Section 1-101 of the statute which is unrelated to the statutory definition of "source." There are no substantive changes to this SIP-approved definition.

This rulemaking action does not include EPA's substantive evaluation of the definitions listed in COMAR 26.11.01.01B. These definitions and terms were approved into the Maryland SIP in previous rulemaking actions. EPA is now merely approving the numbering system submitted by the State. EPA's approval of the renumbering system, at this time, does not imply any position with respect to the approvability of the substantive rules. To the extent EPA has issued any SIP calls to the State with respect to the adequacy of any of the rules subject to this recodification, EPA will continue to require the State to correct any such rule deficiencies despite EPA's approval of this recodification.

The revisions to the ambient air quality standards provisions consist of the following changes:

(1) Recodification of the provisions, from COMAR 26.11.03.01 through 26.11.03.07 to COMAR 26.11.04.03 through 26.11.04.09 respectively;

(2) A change in the chapter title to "Ambient Air Quality Standards;" and,

(3) The addition of COMAR 26.11.04.02, which states that the chapter contains "state-adopted national

ambient air quality standards" (which was the title of the former SIP-approved COMAR 26.11.03).

There are no substantive changes either to the wording of this chapter, or to any of the ambient air quality standards described in this chapter.

### III. Final Action

EPA is approving the revised citation format of approved SIP provisions found in COMAR 26.11.01.01A and .01B, the revised citation cross-reference found in the definition of "source" (COMAR 26.11.01.01B(43)), and revised restructuring of and administrative changes to COMAR 26.11.04.02 through 26.11.04.09. 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 this SIP revision if adverse comments are filed. This rule will be effective on October 19, 2001 without further notice unless EPA receives adverse comment by September 19, 2001. 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. Administrative Requirements

#### 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 Fed. Reg. 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 (Public Law 104-4). This rule also does 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), nor will it 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule; EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under

the executive order. 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 October 19, 2001. 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 revising Maryland's general administrative provisions related to certain definitions and terms as well as 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 20, 2001.

**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 VV—Maryland**

2. Section 52.1070 is amended by adding paragraphs (c)(164) and (c)(165) to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(164) Revisions to the Maryland State Implementation Plan submitted on February 6, 1998 and May 14, 2001 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of May 14, 2001 from the Maryland Department of the Environment transmitting revisions to COMAR 26.11.01.01 (General Administrative Definitions).

(B) The following revised provisions of COMAR 26.11.01.01, effective June 20, 1994:

(1) 26.11.01.01A.

(2) 26.11.01.01B(1) through .01B(20), except for .01B(3) and .01B(13).

(3) 26.11.01.01B(24) through .01B(36), except for .01B(25).

(4) 26.11.01.01B(38) through .01B(53).

(C) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting revisions to COMAR 26.11.01.01 (General Administrative Definitions).

(D) Revised COMAR 26.11.01.01B(43) [definition of "source"], effective June 30, 1997.

(ii) Additional Material.

(A) Remainder of May 14, 2001 submittal.

(B) Remainder of February 6, 1998 submittal related to the revised definition of "source."

(165) Revisions to the Maryland State Implementation Plan submitted on June 12, 2001 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of June 12, 2001 from the Maryland Department of the Environment transmitting revisions to COMAR 26.11.04 (Ambient Air Quality Standards).

(B) The following revised provisions of COMAR 26.11.04, effective May 8, 1995:

(1) Revised chapter title of COMAR 26.11.04.

(2) New 26.11.04.03 through .09 (formerly COMAR 26.11.03.01 through .07 [State-Adopted National Ambient Air Quality Standards and Guidelines], effective prior to May 8, 1995).

(3) Addition of COMAR 26.11.04.02.

(ii) Additional Material.

(A) Remainder of June 12, 2001 submittal.

[FR Doc. 01-20782 Filed 8-17-01; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[KY130-200117(a); FRL-7036-8]

**Approval and Promulgation of Implementation Plans Commonwealth of Kentucky: Approval of Revisions to the 1-Hour Ozone Maintenance State Implementation Plan for Marshall and a Portion of Livingston Counties**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the 1-hour ozone maintenance state implementation plan (SIP) for Marshall and a portion of Livingston Counties, Kentucky (i.e., the Paducah area), submitted on June 14, 2001, by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet to correct/revise the original motor vehicle emissions budgets (MVEBs) approved by EPA. Once EPA's approval is effective, the revised MVEBs must be used for transportation conformity purposes in the Paducah area.

**DATES:** This direct final rule is effective October 19, 2001 without further notice, unless EPA receives adverse comment by September 19, 2001. If adverse comment is received, EPA 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:** All comments should be addressed to: Mr. Richard A. Schutt, Chief, Regulatory Planning Section, EPA, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Contact: Mr. Richard A. Schutt, (404) 562-9033, [schutt.dick@epa.gov](mailto:schutt.dick@epa.gov).

Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601. (502) 573-3382.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard A. Schutt, (404) 562-9033, [schutt.dick@epa.gov](mailto:schutt.dick@epa.gov).

**SUPPLEMENTARY INFORMATION:**