

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