

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 rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new

regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 January 3, 2000. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 5, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40, *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.*

EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
Chapter No. 335-3-1—General Provision				
Section 335-3-1-.13	Credible Evidence	04/13/99	11/03/99	[Insert citation of publication]
Chapter No. 335-3-14—Air Permits				
Section 335-3-14-.04(ff-gg)	Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration (PSD)].	04/13/99	11/03/99	[Insert citation of publication]
Section 335-3-14-.04(8)(m)	Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration (PSD)].	04/13/99	11/03/99	[Insert citation of publication]

Subpart B—Alabama

2. Section 52.50 is amended by revising the table heading and adding three new entries in the table in paragraph (c) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) EPA approved regulations.

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 097-5041; FRL-6459-9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Control of VOC Emissions From Solvent Metal Cleaning Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions

submitted by the Commonwealth of Virginia. The revisions pertain to and clarify the Commonwealth's regulation to control of volatile organic compound (VOC) emissions from solvent metal cleaning operations using non-halogenated solvents, and update another of its regulations to incorporate certain federal regulations by reference. The intended effect of this action is to approve the Commonwealth's request to approve these SIP revisions pertaining to solvent metal cleaning operations. **DATES:** This final rule is effective on December 20, 1999 without further notice, unless EPA receives adverse

comments by December 3, 1999. If EPA receives adverse comments, we 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 David 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 Virginia Department of Environmental Quality, P.O. Box 10009, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Janice M. Lewis, (215) 814-2185, at EPA Region III address above or via e-mail at lewis.janice@epa.gov. While information may be requested by e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

On April 22, 1996 the Virginia Department of Environmental Quality (VADEQ) submitted a revised version of Rule 4-24 (9 VAC 5-40-3260 et seq) Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents as adopted on December 19, 1995, published in the Virginia Register of Regulations (Volume 12, Issue 11) on February 19, 1996, and effective on April 1, 1996. The VADEQ originally adopted this regulation in 1979 to satisfy the Clean Air Act's (the Act's) requirement that states impose reasonably available control technology (RACT) requirements on sources of volatile organic compound (VOC) emissions located in ozone nonattainment areas. In accordance with the Act's requirements, this RACT regulation applies in the Virginia portion of the Metropolitan Washington DC ozone nonattainment area and also applies in the previously designated ozone nonattainment areas of Richmond and Hampton Roads which have been redesignated to attainment for the one-hour ozone ambient air quality standard. The redesignations do not alter the Act's requirements that RACT be imposed on sources of VOC located in the of the Richmond and Hampton

Roads areas. On December 19, 1995, Virginia adopted amendments to the regulation to update it to conform to recently issued EPA guidance, and on April 22, 1996 submitted it to EPA for approval as SIP revision.

On October 9, 1998, VADEQ submitted an amendment to the 9 VAC 5-40-3260 Applicability and designation of affected facility portion of Rule 4-24 (9 VAC 5-40-3260 et seq) Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents. Although the title of the December 19, 1995 version of Rule 4-24 specifically referred to sources using non-halogenated solvents, the portion of the regulation entitled Applicability and designation of affected facility did not. Therefore, to clarify any potential for confusion, Virginia adopted a technical amendment to add language to the 9 VAC 5-40-3260 Applicability and designation of affected facility portion of Rule 4-24 to specify that it applies to facilities using non-halogenated solvents. This amendment was adopted on January 8, 1997, published in the Virginia Register of Regulations (Volume 13, Issue 14) on March 31, 1997 and effective on April 1, 1997.

EPA has determined that Rule 4-24 (9 VAC 5-40-3260 et seq) Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents as originally submitted on April 22, 1996, and as revised by the October 9, 1998 submittal, meets all federal guidance for approval.

As a separate matter, the Commonwealth's October 9, 1998 submittal also included requests that EPA approve revisions made to Rule 6-2 (9 VAC 5-60-90 et seq) pertaining to the use of halogenated solvents as a source category subject to maximum available control technology (MACT) to control air toxics. For the Commonwealth to maintain its delegation of authority for the MACT standard, and to make this federal rule part of the SIP to establish RACT for halogenated solvent sources, Virginia adopted the relevant federal regulations found at 40 CFR Part 63.460 through 40 CFR Part 63.469 by incorporating them by reference into Rule 6-2 at 9 VAC 5-60-100, Subpart T. The Commonwealth also amended Rule 6-2 at 9 VAC 5-60-90 to update its dated citation of the Code of Federal Regulations from which regulations have been incorporated by reference from the 1994 version to the 1996 version. EPA is approving both of these revisions.

II. Final Action

EPA is approving the SIP revisions pertaining to solvent metal cleaning submitted by the VADEQ on April 22, 1996 and October 9, 1998.

EPA is approving these SIP revisions without a prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separated document that will serve as the proposal to approve the SIP revisions should adverse or critical comments be filed. This SIP revision will be effective December 20, 1999 without further notice unless the Agency receives adverse comments by December 3, 1999. If EPA receives such comments, then EPA will publish a document withdrawing the final action and informing the public that the action will not take effect. All public comments received will then be addressed in a subsequent final action based on the proposed rule. EPA will not institute a second comment period on the 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 SIP revision will be effective on December 20, 1999 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Orders on Federalism

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to

provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule. On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, [64 FR 43255 (August 10, 1999),] which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, [52 FR 41685 (October 30, 1987),] on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084

requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA 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, I certify 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 Clean Air 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).

F. 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 regulation that includes a Federal mandate that may result in estimated

annual costs to State, local, or tribal governments in the aggregate; or to the 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 proposed does not include a federal mandate that may result in estimated annual 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 federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve revisions to the Virginia SIP pertaining to solvent metal cleaning operations in the Commonwealth must be filed in the United States Court of Appeals for the appropriate circuit by January 3, 2000. 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 revisions to the Virginia SIP pertaining to solvent metal cleaning operations 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, Ozone.

Dated: September 30, 1999.

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—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(130) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(130) Revisions to the State Implementation Plan submitted on April 22, 1996 and October 9, 1998 by the Virginia Department of Environmental Quality regarding regulations for reasonably available control technology requirements to control volatile organic compound emissions from solvent metal cleaning operations using non-halogenated solvents.

(i) Incorporation by reference.

(A) The letters dated April 22, 1996 and October 9, 1998 from the Virginia Department of Environmental Quality transmitting revisions to the Virginia State Implementation Plan pertaining to Rule 4-24 (9 VAC 5-40-3260 *et seq.*) of 9 VAC 5 Chapter 40.

(B) The amended version of Rule 4-24 (9 VAC 5-40-3260 *et seq.*) Emission Standards for Solvent Metal Cleaning Operations Using Nonhalogenated Solvents as adopted on December 19, 1995, published in the Virginia Register of Regulations (Volume 12, Issue 11) on February 19, 1996, and effective on April 1, 1997.

(C) Amendments to 9 VAC 5-40-3260 *Applicability and designation of affected facility* of Rule 4-24 (9 VAC 5-40-3260 *et seq.*) Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents adopted on January 8, 1997, published in the Virginia Register of Regulations (Volume 13, Issue 14) on March 31, 1997 and effective on April 1, 1997.

(ii) Additional Materials—The remainders of the April 22, 1996 and October 1998 submittals which pertain to Rule 4-24 (9 VAC 5-40-3260 *et seq.*)

Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents.

3. Section 52.2423 is amended by adding paragraph (q) to read as follows:

§ 52.2423 Approval status.

* * * * *

(q) EPA approves as part of the Virginia State Implementation Plan the following revisions to the Virginia Regulations for the Control and Abatement of Pollution submitted by the Virginia Department of Environmental Quality on October 9, 1998:

(1) Subpart T of 9 VAC 5-60-100 *Designated emission standards* of Rule 6-2 (9 VAC 5-60-90 *et seq.*) of 9 VAC 5 Chapter 60 amended to adopt 40 CFR 63.460 through 63.469 by reference. This amendment was adopted on January 8, 1997, published in the Virginia Register of Regulations on March 31, 1997 and effective on May 1, 1997.

(2) Revised date reference to 40 CFR part 63 (July 1, 1996) contained in 9 VAC 5-60-90 (General), as it pertains to the documents listed in 9 VAC 5-60-100, Subpart T.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ35-2-195a FRL-6461-7]

Approval and Promulgation of Air Quality Implementation Plans; New Jersey; Approval of National Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of New Jersey on February 22, 1999. That revision committed that the State will accept compliance with the National Low Emission Vehicle (National LEV) program requirements as a compliance option for new motor vehicles sold in the State. New Jersey has previously adopted the California Low Emission Vehicle (CAL LEV) program, but the State has made clear that National LEV is the preferred motor vehicle control program. Auto manufacturers have agreed to sell cleaner vehicles meeting the National LEV standards throughout

New Jersey for the duration of the manufacturers' commitments to the National LEV program. This SIP revision is required as part of the agreement between states and automobile manufacturers to ensure the continuation of the National LEV program to supply clean cars throughout most of the country, beginning with 1999 model year vehicles in Northeastern states and extending to other states beginning with 2001 model year vehicles.

DATES: This rule is effective on January 3, 2000 without further notice, unless EPA receives adverse comment by December 3, 1999. If we receive such comment, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be mailed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, NY 10007-1866.

Copies of the State submittal are available for public inspection during normal business hours, by appointment, at the following addresses:

Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007-1866.

New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT:

Michael P. Moltzen, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-3710.

SUPPLEMENTARY INFORMATION:

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1. What Action Is EPA Taking Today?

The EPA is approving New Jersey's State Implementation Plan (SIP) revision, submitted on February 22, 1999, which fulfills the State's obligation to incorporate its commitment to the National Low Emission Vehicle (National LEV) program in the SIP. The submittal contains amendments, adopted on February 3, 1999, to the State's "Ozone Transport Commission—Low Emission