

significant step towards meeting the 1997 PM_{2.5} and 8-hour ozone national ambient air quality standards (NAAQS), among other NAAQS, improving visibility in the mountains and other scenic vistas, and reducing acid rain. The specific approved provisions, submitted on August 21, 2009, are paragraphs (a) through (e) of Section 1 of Session Law 2002–4, Senate Bill 1078 enacted and state effective on June 20, 2002. This approval does not include paragraphs (f) through (j) of Section 1 of Senate Bill 1078 nor any of Section 2 of Senate Bill 1078.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0631; FRL–9470–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Transportation Conformity Regulations

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). The revisions establish transportation conformity regulations for the State of Maryland. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on November 25, 2011 without further notice, unless EPA receives adverse written comment by October 26, 2011. 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: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0631 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA–R03–OAR–2008–0631, Cristina Fernandez, Associate Director, Office of Air Planning Programs, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2011–0631. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington

Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, (215) 814–3335, or by e-mail at kotsch.martin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean EPA.

I. What is transportation conformity?

Transportation conformity is required under section 176(c) of the CAA to ensure that Federally supported highway, transit projects, and other activities are consistent with (conform to) the purpose of the SIP. Conformity currently applies to areas that are designated nonattainment, and those redesignated to attainment after 1990 (maintenance areas), with plans developed under section 175A of the CAA for the following transportation related criteria pollutants: ozone, particulate matter (PM_{2.5} and PM₁₀), carbon monoxide (CO), and nitrogen dioxide (NO₂). Conformity, for purposes of the SIP, means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS). The transportation conformity regulation is found in 40 CFR part 93 ("Federal conformity rule") and provisions related to conformity SIPs are found in 40 CFR 51.390.

II. What is the background for this action?

On August 10, 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU) was signed into law. SAFETEA–LU revised certain provisions of section 176(c) of the CAA, related to transportation conformity. Prior to SAFETEA–LU, states were required to address all of the Federal conformity rule's provisions in their conformity SIPs. After SAFETEA–LU, state's SIPs were required to contain all or portions of only the following three sections of the Federal conformity rule, modified as appropriate to each state's circumstances: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (written commitments to implement certain kinds of control measures); and 40 CFR 93.125(c) (written commitments to implement certain kinds of mitigation measures). States are no longer required to submit conformity SIP revisions that address the other sections of the Federal conformity rule.

III. What did the state submit and how did we evaluate it?

On September 17, 2010, the Maryland Department of the Environment submitted a revision to its SIP, Revision #10-07 to EPA for transportation conformity amendments adopted on June 30, 2008. The SIP revision included regulations .01 through .09 under COMAR 26.11.26 (Conformity).

We reviewed the submittals to assure consistency with the February 14, 2006, "Interim Guidance for Implementing the Transportation Conformity provisions in SAFETEA-LU." The guidance document can be found at <http://epa.gov/otaq/stateresources/transconf/policy.htm>. The guidance document states that each state is only required to address and tailor the afore-mentioned three sections of the Federal Conformity Rule to be included in their state conformity SIPs. EPA's review of Maryland's SIP revision indicates that it is consistent with EPA's guidance in that it includes the three aforementioned regulatory elements specified by SAFETEA-LU. Consistent with the EPA Conformity Rule at 40 CFR 93.105 (consultation procedures), COMAR 26.11.26.02, COMAR 26.11.26.04, and COMAR 26.11.26.05 identify the appropriate agencies, procedures, and allocation of responsibilities. In addition, COMAR 26.11.26.07 provides for appropriate public consultation/public involvement consistent with 40 CFR 93.105. With respect to the requirements of 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c), the SIP specifies that written commitments to implement control measures and mitigation measures for meeting these requirements will be provided as needed.

IV. Final Action

EPA is approving the Maryland SIP revisions for transportation conformity, which were submitted on September 17, 2010. EPA is publishing this rule without prior proposal because EPA 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 November 25, 2011 without further notice unless EPA receives adverse comment by October 26, 2011. 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.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 25, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action to approve the Maryland transportation conformity regulation 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 29, 2011.

W. C. Early,

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. In § 52.1070, the table in paragraph (c) is amended by revising the entries for COMAR 26.11.26.01 and 26.11.26.03, and adding new entries for COMAR 26.11.26.02, 26.11.26.04, 26.11.26.05, 26.11.26.06, 26.11.26.07,

26.11.26.08, and 26.11.26.09 in numerical order. The amendments read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c)* * *

EPA-APPROVED REGULATIONS IN THE MARYLAND SIP

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
* * * * *				
26.11.26	Conformity			
26.11.26.01	Purpose	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.02	Definitions	6/30/08	9/26/11 [Insert page number where the document begins].	Definitions added for transportation conformity; definitions for general conformity were approved at (c)(136).
26.11.26.03	Transportation Conformity	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.04	Transportation Conformity—Consultation in General.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.05	Transportation Conformity—Interagency Consultation Requirements.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.06	Transportation Conformity—Dispute Resolution.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.07	Transportation Conformity—Public Consultation Procedures.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.08	Transportation Conformity—Interagency Consultation.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.09	General Conformity	6/30/08	9/26/11 [Insert page number where the document begins].	Formerly SIP regulation 26.11.26.03.
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0789; FRL-9471-2]

Interim Final Determination To Stay and Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is making an interim final determination to stay the

imposition of offset sanctions and to defer the imposition of highway sanctions based on a proposed approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP) published on September 14, 2011. 76 FR 56706. The revisions concern SJVUAPCD Rule 4570.

DATES: This interim final determination is effective on September 26, 2011. However, comments will be accepted until October 26, 2011.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2011-0789, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. E-mail: steckel.andrew@epa.gov.
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the