

SUPPLEMENTARY INFORMATION:**I. Background**

On June 21, 2006, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of regulatory amendment (Revision 06–06) which incorporates by reference EPA's PM-10 test methods. The Maryland regulation cites test methods used to show compliance with emission standards in COMAR 26.11.01.04. The EPA-approved test methods found in 40 CFR Appendix A were previously incorporated by reference in COMAR 26.11.01.04 and approved as part of the Maryland SIP. The method for particulate matter found in Appendix A, Test Method 5, which captures particulate matter in the front half of the test train and finer particulates and condensables collected in the second half. Method 5 typically analyzes the front half of the test train. Compliance with Prevention of Significant Deterioration permits for major sources of PM-10 requires the inclusion of condensables. The revised PM-10 test methods included in this SIP revision require the analysis of condensables for PM-10 emission limits.

The EPA-approved test methods for particulate matter which are the subject of this rulemaking are found in 40 CFR part 51, Appendix M. In addition, the revision references an EPA conditionally approved test method (CTM). The CTMs have been evaluated by the Agency and may be applicable to one or more categories of stationary sources. The EPA confidence in a method included in this category is based upon review of various technical information including, but not limited to, field and laboratory validation studies; EPA understanding of the most significant quality assurance (QA) and quality control (QC) issues; and EPA confirmation that the method addresses these QA/QC issues sufficiently to identify when the method may not be acquiring representative data. The method's QA/QC procedures are required as a condition of applicability.

II. Summary of SIP Revision

The State of Maryland has submitted revisions to the list of test methods for PM-10 for approval into the Maryland SIP. The revisions to COMAR 26.11.04.01 incorporate by reference the following test methods for PM-10 stack testing: Test Methods 201A and 202 (40 CFR part 51, Appendix M); Test Method 5 (40 CFR part 60, Appendix A) with Test method 202; Test Method 5 using front half and back half procedure; Conditional Test Method 39 may be substituted for Test Method 202. The

revisions also include a provision for approval of alternative test methods for PM-10 if approved by the State and EPA.

III. Final Action

EPA is approving revisions to COMAR 26.11.01.04 to incorporate by reference EPA's PM-10 test methods. 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 March 5, 2007 without further notice unless EPA receives adverse comment by February 2, 2007. 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.

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 requirement, 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