

§ 52.520 Identification of plan.

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EPA APPROVED FLORIDA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
62-296.412	Dry Cleaning Facilities	06/05/1996	01/16/2003 [Insert page citation of publication].	
62-296.511	Solvent Metal Cleaning	06/05/1996	01/16/2003 [Insert page citation of publication].	

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[PA185-4197; FRL-7437-5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Control of Volatile Organic Compounds From Solvent Cleaning Operations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes revised volatile organic compound (VOC) control regulations for solvent cleaning operations and also adds new definitions and amends certain existing definitions for terms used in regulations pertaining to solvent cleaning operations.

EFFECTIVE DATE: This final rule is effective on February 18, 2003.

ADDRESSES: 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, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O.

Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814-2034 or by e-mail at wentworth.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On May 15, 2002, (67 FR 34647), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of revised VOC control requirements for solvent cleaning operations, and the addition and amendment of definitions for terms used in the regulations for solvent cleaning operations. The formal SIP revision was submitted by the Commonwealth of Pennsylvania on February 13, 2002. Other specific requirements of Pennsylvania's SIP revision for solvent cleaning operations and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. On June 13, 2002, EPA received adverse comments on the May 15, 2002, NPR. A summary of the comments submitted and EPA's responses are provided in section II of this document.

II. Public Comments and Responses

Carpenter Technology Corporation (Carpenter) submitted adverse comments on the proposed rule to approve revised VOC control regulations for solvent cleaning operations in the Commonwealth of Pennsylvania published by EPA in the **Federal Register** on May 15, 2002 (67 FR 34647). A summary of those comments and EPA's responses are provided below.

Comment: Carpenter comments that the State failed to provide an opportunity for public comment on the cost/benefit analysis used to justify the rule.

Response: EPA disagrees that the Commonwealth failed to meet the public participation requirements for this SIP revision. The Clean Air Act requires that a state provide for public comment and hearing on a proposed SIP revision. In this instance, the Commonwealth's proposed SIP revision consists of the addition of the Solvent Cleaning Operations rule. After publishing notices in nine newspapers across the entire state announcing their respective dates, times and venues, public hearings were held by the Pennsylvania Environmental Quality Board (EQB) on the proposed rulemaking for the Solvent Cleaning Operations rule at the Pennsylvania Department of Environmental Protection's (PADEP) Southwestern Regional Office in Pittsburgh on September 28, 1999, at its Southeastern Regional office in Conshohocken on October 1, 1999, and on October 5, 1999, at its South Central Regional Office in Harrisburg. The notices also provided information to the public for obtaining hard copies of the proposed rulemaking from PADEP and the electronic address on its website where the proposed rulemaking could also be reviewed for comment by the public. On August 28, 1999, the EQB published the proposed rulemaking in the *Pennsylvania Bulletin* (29 Pa. B. 4661). In addition to the proposed rule itself, the August 28, 1999 proposed rulemaking (29 Pa. B. 4661) also includes the information as to the start and close of the public comment period; the dates, times and venues of the public hearings; and the means by which the public may provide comments on the proposed rulemaking both in writing and electronically to the EQB.

Although not required by Federal law for meeting public participation requirements for SIP revisions, Executive Order 1996-1 of the

Commonwealth of Pennsylvania requires that PADEP perform a Regulatory Analysis as part of its rule adoption process. The Regulatory Analysis is to be submitted to the General Counsel, Secretary of Budget and the Governor's Policy Director. That regulatory analysis is to include a cost/benefit analysis. Executive Order 1996-1 does not require PADEP to publish the Regulatory Analysis for comment by the public. However, the August 28, 1999 *Pennsylvania Bulletin* proposed rulemaking states that a cost/benefit analysis was done for the proposed making and states that the Regulatory Analysis form is available to the public upon request (29 Pa. B. 4662). Moreover, as part of its SIP revision submittal, PADEP included a document entitled, "Solvent Cleaning Operations Comment and Response Document," dated May 1, 2001. That document includes Carpenter's comments on the cost/benefit analysis of the proposed rulemaking and provides PADEP's response.

The final rulemaking published in the *Pennsylvania Bulletin* on December 22, 2001 (31 Pa. B. 6921), announcing the adoption of the final version of the Solvent Cleaning Operations rule includes the following finding by the Environmental Quality Board of the Commonwealth of Pennsylvania at J. Findings (2): "A public comment period was provided as required by law and all comments were considered." (31 Pa. B. 6926, December 22, 2001).

Comment: Carpenter comments that no data analysis was presented to support the projected VOC emission reductions in the final rule.

Response: EPA is not approving a quantified amount of emission reductions from Pennsylvania's solvent cleaning rule. Nor does Pennsylvania's SIP revision submittal include a request that any amount of emission reductions be approved by EPA. Emission reductions achieved by this rule and any other rules credited by PADEP in SIP revisions submitted to satisfy any rate of progress plan or attainment demonstration plan requirements would be the subject of separate rulemakings on those plans.

Comment: Carpenter comments that the freeboard requirements for closed-top immersion cold cleaning machines will actually increase emissions, and has provided specific information as to the emission increases that would occur at its Reading, Pennsylvania facility. In its comment letter, Carpenter also provides information regarding modifications to its Reading facility which have reduced VOC emissions from 14 tons per year (tpy) to 2.5 tpy.

Response: EPA disagrees that a freeboard requirement for closed-top immersion cold cleaning machines will increase emissions. For purposes of clarification, in Pennsylvania's regulation, an immersion cold cleaning machine refers to a cold cleaning machine with an opening at the top (as opposed to the side or bottom) of the machine through which the parts to be immersed must pass in order to reach the solvent. An immersion cold cleaning machine may or may not be equipped with a cover or lid that would have to be raised or removed in order to pass the parts that are to be immersed through the top opening. Pennsylvania's regulation requires that all immersion cold cleaning machines, as defined above, that use two gallons or more of solvents containing greater than 5 percent VOC content by weight for the cleaning of metal parts, be equipped with a cover that shall be closed at all times except during the cleaning of parts or the addition or removal of solvent. The Pennsylvania rulemaking allows operators of affected cold cleaning machines the option of using low volatility solvents (1 mm Hg) in a machine with a freeboard ratio of 0.5 or greater. A freeboard ratio of 0.75 or greater is required only if the solvent volatility is greater than 1 mm Hg. Carpenter is correct in pointing out that an increase in freeboard ratio results in more space (volume) in which the solvent may evaporate.

However, because the solvent vapors are denser than the air in the cold cleaning machine, the solvent vapor concentration is greatest near the liquid solvent than near the opening of the cold cleaning machine. A higher freeboard ratio means that the more concentrated solvent vapor interface area will be less disturbed by air draft or air currents when the cleaner is opened or when it remains open during cleaning. When opening the cover on a cold cleaning machine, Carpenter states that solvent vapor will escape from the machine. This is true, but in machines with a higher freeboard ratio, the less concentrated solvent vapors nearest the opening are more likely to be affected by the opening and closing of the cover, than are the more concentrated solvent vapors near the liquid solvent.

In its emissions analysis, Carpenter is assuming that solvent evaporation is reaching equilibrium within the volume of the cold cleaning machine, and that this entire volume of solvent will be emitted when opening the cover on the cold cleaning machine. In actual practice, in properly operated cold cleaning machines, not all of the volume of solvent that has evaporated into the

freeboard area will be emitted. An increased freeboard ratio also reduces working emission losses to the extent that it provides additional dwell space in order for the liquid solvent to drain back into the cold cleaning machine when parts are removed after having been cleaned. Therefore, EPA expects that PADEP's freeboard requirements for open-top immersion cold cleaning machines will reduce VOC emissions in the Commonwealth.

However, given the specific circumstances of Carpenter's Reading facility as described in its June 10, 2002 letter of comment to EPA, including the information regarding the switch to aqueous-based cleaning solutions, the replacement of equipment, and the costs associated with these changes which resulted in a reduction in VOC emissions from 14 tons per year (TPY) to 2.5 TPY (an 82 percent reduction), Carpenter may wish to apply to PADEP for a source-specific variance to the revised regulations. If Carpenter can provide documentation to PADEP of the information provided in its June 10, 2002 letter to EPA, and demonstrate to the Commonwealth's satisfaction that compliance with the revised regulations would indeed increase VOC emissions at its Reading facility, PADEP could issue a source-specific alternative to Carpenter and submit it to EPA for approval as a SIP revision.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP regarding VOC control requirements for solvent cleaning operations applicable throughout the Commonwealth.

IV. Regulatory Assessment 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 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 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 March 17, 2003. 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, approving revisions to Pennsylvania's control of VOCs from solvent 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: December 31, 2002.

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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(195) to read as follows:

§ 52.2020 Identification of plan.

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(195) Revisions to the Pennsylvania Regulations regarding VOC control requirements for solvent cleaning operations, submitted on February 13, 2002, by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of February 13, 2002, from the Pennsylvania Department of Environmental Protection transmitting the revisions to VOC control

requirements for solvent cleaning operations.

(B) Revisions to 25 PA Code, chapter 121 and chapter 129, effective December 22, 2001.

(1) Additions and Revisions of definitions for terms in chapter 121, General Provisions, section 121.1, Definitions.

(i) Addition of the following terms: Airless cleaning system, Airtight cleaning system, Batch vapor cleaning machine, Carbon adsorber, Cold cleaning machine, Dwell, Dwell time, Extreme cleaning service, Freeboard refrigeration device, Idling mode, Immersion cold cleaning machine, In-line vapor cleaning machine, Reduced room draft, Remote reservoir cold cleaning machine, Solvent/air interface, Solvent cleaning machine, Solvent cleaning machine automated parts handling system, Solvent cleaning machine down time, Solvent vapor zone, Superheated vapor system, Vapor cleaning machine, Vapor cleaning machine primary condenser, Vapor pressure, Vapor up control switch, Working mode cover.

(ii) Revision of the term "freeboard ratio."

(2) Revisions to chapter 129, Standards for Sources, Sources of VOCs, section 129.63, VOC Cleaning Operations replacing the current section 129.63.

(ii) Additional Material. Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(195)(i) of this section.

[FR Doc. 03-851 Filed 1-15-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 137-3093a; FRL-7436-9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Motor Vehicle Inspection and Maintenance Program—Request for Delay in the Incorporation of On-Board Diagnostics Testing

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). Maryland has requested a six-month extension of the Federal deadline to incorporate electronic checks to of On-board Diagnostic (OBD) computer systems of 1996-and-newer vehicles into