



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0047; FRL-9961-49-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Maryland; Requirements for Continuous Emission Monitoring**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to removing a discontinued Technical Memorandum 90-01 (TM 90-01) from Maryland's SIP, which is now superseded by a new continuous emission monitoring (CEM) regulation. Maryland previously used TM 90-01 to govern the CEM requirements for fuel burning equipment. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2017-0047 at <https://www.regulations.gov>, or via email to rehn.brian@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or

other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814-2042, or by e-mail at huang.gavin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In May 2010, the State of Maryland through the Maryland Department of the Environment (MDE) discontinued the use of TM 90-01 “Continuous Emission Monitoring Policies and Procedures” and codified these requirements for CEMs in Maryland regulation COMAR 26.11.01.11 “Continuous Emission Monitoring Requirements.” MDE had been in the process of establishing unique requirements for CEMs, separate from the requirements for continuous opacity monitors (COMs), and broke out the requirements into separate COMAR regulations. On November 7, 2016 (81 FR 78048), EPA approved these separate regulations into Maryland’s SIP.

II. Summary of SIP Revision and EPA Evaluation

On July 1, 2016, MDE submitted a SIP revision to remove discontinued TM 90-01 from Maryland's SIP because TM 90-01 had been superseded by COMAR 26.11.01.11. EPA previously approved TM 90-01 into Maryland's SIP on February 28, 1996. *See* 61 FR 7418. MDE also submitted a revised version of COMAR 26.11.10.06 "Control of Volatile Organic Compounds from Iron and Steel Production Installations" for inclusion in the Maryland SIP which removed a reference to TM 90-01 in section C(3)(b) of COMAR 26.11.10.06 and added a reference to COMAR 26.11.01.11 in COMAR 26.11.10.06.

On November 7, 2016 (81 FR 78048), EPA approved COMAR 26.11.01.11 into the Maryland SIP. This newly SIP approved regulation establishes general requirements, quality assurance provisions, and monitoring and compliance requirements for the installation of CEMs for each of the applicable source categories. TM 90-01 previously had addressed quality assurance provisions for CEMs and had also established levels of enforcement actions for Maryland for visible emissions exceedances based on a source's operating time during a calendar quarter, and allowed exceedances to occur without follow up enforcement for up to 10 percent of a source's operating time in addition to an existing 6-minute exclusion. Maryland's CEM quality assurance requirements are now in COMAR 26.11.01.11 which is in the Maryland SIP. The removal of TM 90-01, which contained enforcement exclusions related to the number of violations and data availability from CEMs and COMs, strengthens enforcement of Maryland's visible emissions standards. COMAR 26.11.01.11 does not contain any exclusions for the operation of CEMs. Therefore, EPA is removing a moot memorandum from the SIP which has already been replaced by a regulatory requirement and thus this removal will not interfere with any CAA requirement, with any national ambient air quality standard (NAAQS), or with any reasonable further progress

and the removal meets requirements in section 110(l) of the CAA. Due to the removal of TM 90-01, MDE has also removed a reference to TM 90-01 in COMAR 26.11.10.06 in section C(3)(b) and added a reference to COMAR 26.11.01.11 which EPA finds appropriate. This amendment to COMAR 26.11.10.06 will also be reflected in the SIP.

III. Proposed Action

EPA is proposing to approve the July 1, 2016 Maryland SIP revision submittal, which seeks removal of discontinued TM 90-01 from the Maryland SIP in accordance with section 110 of the CAA. The CEM requirements for quality assurance, monitoring and other technical requirements under discontinued TM 90-01 have been superseded and codified under COMAR 26.11.01.11. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this proposed rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference COMAR 26.11.01.11 in the amendment to COMAR 26.11.10.06C(3)(b), as previously discussed in section II in this rulemaking. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region III Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. Statutory and Executive Order Reviews

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 proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 proposed rulemaking to remove discontinued TM 90-01 from Maryland's SIP and include revised COMAR 26.11.10.06 in the SIP 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: April 3, 2017.

Cecil Rodrigues,
Acting Regional Administrator,
Region III.

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