

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[MD069-3031a and MD070-3031a; FRL-6440-6]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compounds From Vinegar Generators and Leather Coating Operations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is approving two State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions include new regulations which establish and require volatile organic compound (VOC) emission control requirements for vinegar generators and leather coating operations. The intended effect of this action is to approve two new regulations to control VOCs into the Maryland SIP in accordance with the Clean Air Act.

**DATES:** This direct final rule is effective on November 22, 1999 without further notice, unless EPA receives adverse written comment by October 25, 1999. If adverse comment is received, EPA 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 mailed to Kathleen Henry, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, 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 the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308, or by e-mail at powers.marilyn@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above EPA Region III address.

**SUPPLEMENTARY INFORMATION:** On April 7, 1998, the State of Maryland submitted

two formal revisions to its State Implementation Plan (SIP). The SIP revisions consist of amendments to existing Maryland state regulation COMAR 26.11.19, "Control of Volatile Organic Compounds from Specific Sources". The purpose of the amendments to COMAR 26.11.19 is to establish new regulations for VOC emission control requirements for two source categories: Vinegar Generators and Leather Coating Operations. This revision was submitted to satisfy the requirements of sections 182 and 184 of the Clean Air Act to implement reasonably available control technology (RACT) on major sources of VOCs.

**A. Summary of the SIP Revisions**

Existing SIP-approved COMAR 26.11.19 establishes control requirements of VOC emissions from specific sources. The amendments to COMAR 26.11.19 establish new regulations for vinegar generators and leather coating operations, which are sources of VOC emissions. The new regulations require RACT for these specific source categories. COMAR 26.11.19.22 (Regulation .22) establishes VOC emission control requirements for vinegar generators and COMAR 26.11.19.24 (Regulation .24) establishes VOC emission control requirements for leather coating operations. COMAR 26.11.19.22 and 26.11.19.24 apply statewide to facilities with a total VOC emission rate of 20 pounds or more per day. A summary of the provisions of each regulation is provided below.

**Requirements for Vinegar Generators—COMAR 26.11.19.22**

Installation of a scrubber-absorber system with an overall control efficiency of 85 percent or more is required. After initial stack testing, a stack test to demonstrate compliance must be completed every five years, or upon request of the Maryland Department of the Environment (MDE). Stack test results must be submitted to MDE within 60 days after completion of each test. A water flow meter must be installed on each scrubber-absorber system, with continuous monitoring of the water flow. The water flow rate to the scrubber-absorber shall be as prescribed in the source's operating permit. Water flow data must be recorded and maintained for at least three years and made available to the MDE on request.

**Requirements for Leather Coating Operations—COMAR 26.11.19.24**

One of the following two methods must be used to reduce emissions:

The use of coatings not exceeding 3.5 pounds of VOC per gallon of coating applied minus water and exempt solvents, or installation of a control device that reduces overall facility VOC emissions by 85 percent or more. If compliance is achieved through the use of low VOC coatings, a list of all coatings used to achieve compliance must be submitted to MDE. Monthly records must be maintained showing the total volume of each coating used and the total facility VOC emissions. If compliance is achieved through the use of a control device, an initial stack test must be performed followed by stack testing every three years to demonstrate compliance. Stack test results must be submitted to MDE within 60 days after completion of each test. For each method, records must be maintained on site for at least three years, and made available to MDE upon request.

**B. EPA's Evaluation of the SIP Revisions**

EPA has determined that the control requirements of COMAR 26.11.19.22 and 26.11.19.24 constitute an acceptable level of RACT on vinegar generators and leather coating operations, respectively.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective November 22, 1999 without further notice unless the Agency receives adverse comments by October 25, 1999. If EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 22, 1999 and no further action will be taken on the proposed rule.

**I. Final Action**

EPA is approving the new regulations COMAR 26.11.19.22 Control of VOCs from Vinegar Generators and COMAR 26.11.19.24 Control of VOCs from Leather Operations submitted by the State of Maryland on April 7, 1998, as revisions to the Maryland SIP.

## II. 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 Order 12875

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.

### 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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. 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 rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to 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 promulgated 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 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 Maryland's SIP to control VOCs from two source categories (vinegar generators and leather coating

operations) must be filed in the United States Court of Appeals for the appropriate circuit by November 22, 1999. 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, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: September 3, 1999.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

40 CFR part 52, subpart V of chapter I, title 40 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. Section 52.1070 is amended by adding paragraphs (c) (137) and (138) as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(137) Revision to the Maryland State Implementation Plan submitted on April 7, 1998 by the Maryland Department of the Environment establishing reasonably available control technology (RACT) for two additional VOC source category under COMAR 26.11.19, "Volatile Organic Compounds from Specific Processes."

(i) Incorporation by reference.

(A) Letter dated April 7, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's air quality regulation COMAR 26.11.19, adopted by the Secretary of the Environment on July 15, 1997 and effective August 11, 1997.

(B) New regulations COMAR 26.11.19.22 "Control of Volatile Organic Compounds from Vinegar Generators".

(ii) Additional Material—Remainder of Maryland Department of the Environment's April 7, 1998 submittals pertaining to Vinegar Generators.

(138) Revision to the Maryland State Implementation Plan submitted on

April 7, 1998 by the Maryland Department of the Environment establishing reasonably available control technology (RACT) for an additional VOC source category under COMAR 26.11.19, "Volatile Organic Compounds from Specific Processes."

(i) Incorporation by reference.

(A) Letter dated April 7, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's air quality regulation COMAR 26.11.19, adopted by the Secretary of the Environment on July 15, 1997 and effective August 11, 1997.

(B) New regulation COMAR 26.11.19.24 "Control of Volatile Organic Compounds from Leather Coating Operations".

(ii) Additional Material—Remainder of Maryland Department of the Environment's April 7, 1998 submittals pertaining to Leather Coating Operations.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[CA 013-MSWa; FRL-6439-9]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants: California**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the California State Plan for implementing the emissions guidelines (EG) applicable to existing municipal solid waste (MSW) landfills. The Plan was submitted by the California Air Resources Board (CARB) for the State of California to satisfy requirements of section 111(d) of the Clean Air Act (the Act).

**DATES:** This direct final rule is effective on November 22, 1999 without further notice, unless EPA receives relevant adverse comments by October 25, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the submitted Plan and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted Plan are

available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

**FOR FURTHER INFORMATION CONTACT:**

Patricia A. Bowlin, (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1188.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under section 111(d) of the Act, EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes EG in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26).

On March 12, 1996, EPA promulgated NSPS for new MSW landfills at 40 CFR part 60, subpart WWW (Standards of Performance for Municipal Solid Waste Landfills) and EG for existing MSW landfills at 40 CFR part 60, subpart Cc (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (see 61 FR 9905). The pollutants regulated by the NSPS and EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOC), other organic compounds, methane, and HAPs. VOC emissions contribute to ozone formation which can result in adverse effects to