

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State adoption date	EPA approval date	Explanation
Section 111.183	Requirements for Exemptions	06/16/89	October 28, 1999.	
<b>Subchapter B—Outdoor Burning</b>				
Section 111.201	General Prohibitions	08/21/96	October 28, 1999.	
Section 111.203	Definitions	08/21/96	October 28, 1999.	
Section 111.205	Exceptions for Fire Training	08/21/96	October 28, 1999.	
Section 111.207	Exceptions for Fires Used for Recreation, Ceremony, Cooking, and Warmth.	08/21/96	October 28, 1999.	
Section 111.209	Exception for Disposal Fires	08/21/96	October 28, 1999.	
Section 111.211	Exception for Prescribed Burn	08/21/96	October 28, 1999.	
Section 111.213	Exception for Hydrocarbon Burning.	08/21/96	October 28, 1999.	
Section 111.215	Executive Director Approval of Otherwise Prohibited Outdoor Burning.	08/21/96	October 28, 1999.	
Section 111.219	General Requirements for Allowable Outdoor Burning.	08/21/96	October 28, 1999.	
Section 111.221	Responsibility for Consequences of Outdoor Burning.	08/21/96	October 28, 1999.	
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[FR Doc. 99-27136 Filed 10-27-99; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[MD093-3040; FRL-6460-1]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; VOCs from Paint, Resin and Adhesive Manufacturing and Adhesive Application**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on two revisions to the Maryland State Implementation Plan (SIP). The revisions consist of amendments to Maryland's regulation to control volatile organic compounds (VOC) from Paint, Resin & Adhesive manufacturing and Adhesive Application. The first revision amends Maryland's definition of "honeycomb core installation" to include additional substrates. The second revision clarifies the general emission standard for VOCs from adhesive applications. EPA is approving these revisions to in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on December 13, 1999 without further notice, unless EPA receives adverse written comment by November 29,

1999. 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:** Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, 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 Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**FOR FURTHER INFORMATION CONTACT:** Janice M. Lewis, (215) 814-2185, or by e-mail at Lewis.Janice@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Summary of the SIP Revisions*

On April 12, 1999, the Maryland Department of the Environment (MDE) submitted two revisions to its State Implementation Plan (SIP). The first SIP revision amends the definition of "Honeycomb core installation" found at COMAR 26.11.19.15A(2) so that it

includes other substrates in addition to metal foil. This revision was adopted by Maryland on March 2, 1999 and has been effective in the State as of March 22, 1999. The second SIP revision clarifies the applicability of the General Emission Standard for adhesive applications found at COMAR 26.11.19.15C(4). The intent of this regulation is to require the VOC content of the adhesives to be limited to 3.8 pounds per gallon if the total plantwide VOC emissions from all adhesive applications exceeds 50 pounds per day.

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

The EPA has determined that these amendments to COMAR 26.11.19.15: Paint, Resin, and Adhesive Manufacturing and Adhesive Application meet all federal criteria for approval.

**II. Final Action**

EPA is approving the amendments to COMAR 26.11.19.15 submitted by the MDE on April 12, 1999 as revisions to the Maryland SIP.

EPA is publishing this rule without prior proposal because the Agency views these as noncontroversial amendments 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 December 13, 1999 without further notice unless EPA receives

adverse comment by November 29, 1999. 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.

### III. 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 Orders on Federalism

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. On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)] which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, [52 FR 41685 (October 30, 1987),] on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects

only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

#### 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 must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 1999. Filing a petition for reconsideration by the Administrator of this final rule approving two revisions to Maryland's regulations for controlling VOCs from adhesives applications 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: September 30, 1999.

**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 V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(145) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(145) Revisions to the Maryland State Implementation Plan submitted on April 12, 1999, by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of April 12, 1999, from the Maryland Department of the Environment transmitting revisions to Maryland's State Implementation Plan, pertaining to Regulation .15 under Code of Maryland Administrative Regulations (COMAR) 26.11.19 Volatile Organic Compounds from Specific Processes.

(B) Revision to COMAR 26.11.19.15: Paint, Resin, and Adhesive Manufacturing and Adhesive Application amending the definition found at COMAR 26.11.19.15 A(2) of the term "honeycomb core installation" to include other substrates. This revision was adopted on March 2, 1999 and effective on March 22, 1999.

(C) Revision to COMAR 26.11.19.15: Paint, Resin, and Adhesive Manufacturing and Adhesive Application clarifying the applicability of COMAR 26.11.19.15.C(4) General Emission Standard. This revision was adopted on April 9, 1998 and effective on May 4, 1998.

(ii) *Additional Material*—Remainder of April 12, 1999 submittal pertaining to COMAR 26.11.19.15 Paint, Resin, and Adhesive Manufacturing and Adhesive Application.

[FR Doc. 99-27201 Filed 10-27-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA71-168a ; FRL -6452-3]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; Yolo-Solano Air Quality Management District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The revisions concern Kern County Air Pollution Control District (KCAPCD), Rule 424 and Yolo-Solano Air Quality Management District, Rule 2.37. The revisions include rescission and removal of an obsolete rule from the SIP and the incorporation of two rules into the Federally approved SIP.

The rule to be removed regulated sulfur compound emissions from oil field steam generators. No units covered by this rule remain or are in operation within KCAPCD's jurisdictional area.

The rules to be incorporated control emissions of oxides of nitrogen (NO<sub>x</sub>) from natural gas-fired residential water heaters.

This approval action will incorporate the two rules into the Federally approved SIP. The intended effect of approving the rules is to regulate NO<sub>x</sub> emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

**DATES:** These rules are effective on December 27, 1999 without further notice, unless EPA receives adverse comments by November 29, 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:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted respective rules are also 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 94105-3901

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW, Washington, DC 20460

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

Kern County Air Pollution Control District, 2700 "M" Street, Suite 302, Bakersfield, CA 93301-2370

Yolo-Solano Air Quality Management District 1947 Galileo Court, Suite 103, Davis, CA 95616-4882

**FOR FURTHER INFORMATION CONTACT:** Sam Agpawa, Air Planning Office, AIR-2, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1228.

**SUPPLEMENTARY INFORMATION:**