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(3) Rule 74.29, adopted on October 10, 1995.

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[FR Doc. 01-12716 Filed 5-21-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD112-3066a; FRL-6979-3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions from Distilled Spirits Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Maryland State Implementation Plan (SIP). These revisions establish reasonable available control technology (RACT) to limit volatile organic compound (VOC) emissions from distilled spirits facilities. EPA is fully approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on July 23, 2001 without further notice, unless EPA receives adverse written comment by June 21, 2001. 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, Air Quality Planning and Information Services 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: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 2000, the State of Maryland submitted formal revisions to its State Implementation Plan (SIP). These SIP revisions, submitted by the Maryland Department of the Environment (MDE), consist of the control of volatile organic compound (VOC) emissions from distilled spirits facilities.

II. Summary of SIP Revision

COMAR 26.11.19.29 applies to a person who owns or operates a distilled spirits facility that has a total potential to emit VOCs of 25 tons or more per year.

General Provisions

This section establishes definitions for the terms "aging warehouse," "bottling operation," "distilled spirits," "distilled spirits facility," and "vacuum filling system."

General Requirements

This section requires the use of one of the following control methods at distilled spirits facilities subject to this regulation:

- Empty and fill barrels using a pump-operated, bayonet-type suction and filling device, or comparably effective device that minimizes VOC evaporative losses when emptying or filling barrels,
- Drain distilled spirits from filter plates that are located between the barrel unloading and storage tanks to either a recycling tank or to an enclosed collection system, and
- Use a gravity and vacuum or pressure filling system or comparably effective system to minimize fugitive emissions from the bottling operations.

This section also requires during the warmer weather, used barrels that are stored in the outdoors awaiting disposal shall be periodically (at least weekly) wetted down to reduce potential leakage and fugitive emissions.

Control of Other Fugitive Emission Sources

This section requires a submittal to MDE for approval, a good operating practices manual to minimize fugitive VOC emissions from the aging warehouse, and shall be implemented not later than 60 days after approval by MDE. This section also requires a report to be submitted to MDE following implementation of the approved good operating practices.

Evaluation: This SIP revision, controlling VOC emissions from distilled spirits facilities, will result in significant enforceable VOC emission reductions. EPA has determined that

COMAR 26.11.19.29 is approvable as a SIP revision.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipate 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 July 23, 2001 without further notice unless EPA receives adverse comment by June 21, 2001. 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.

II. Final Action

EPA is approving the SIP revisions submitted by MDE on November 13, 2000 to control VOC emissions from distilled spirits facilities.

III. Administrative 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. 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 (Public Law 104-4). This rule also does 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), nor will it 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), because it 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 CAA. This rule also is not subject to Executive Order 13045 (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 CAA. 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 CAA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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, pertaining to revisions to the Maryland SIP establishing requirements for distilled spirits facilities, must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 2, 2001.

William C. Early,

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)(160) to read as follows:

§ 52.1070 Identification of plan.

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(c) * * *

(160) Revisions to the Maryland State Implementation Plan submitted on November 13, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) A letter dated November 13, 2000 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan, pertaining to volatile organic compound (VOC) regulations in Maryland's air quality regulations, COMAR 26.11.19.29.

(B) Addition of new COMAR 26.11.19.29—Control of Volatile Organic Compounds from Distilled Spirits Facilities, adopted by the Secretary of

the Environment on September 11, 2000 and effective on October 2, 2000.

(ii) Additional Materials—Remainder of the November 13, 2000 submittal pertaining to COMAR 26.11.19.29—Control of VOC Emissions from Distilled Spirits Facilities.

[FR Doc. 01-12714 Filed 5-21-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY48-221; FRL-6979-2]

Approval and Promulgation of Implementation Plans; New York; Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New York. This SIP revision meets the requirements of the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," known as the "NO_x SIP Call." The SIP revision includes a narrative and a regulation that establish a statewide nitrogen oxides (NO_x) budget and a NO_x allowance trading program that begins in 2003 for large electricity generating and industrial sources. The intended effect of this SIP revision is to reduce emissions of NO_x in order to help attain the national ambient air quality standard for ozone. EPA is approving this action pursuant to section 110 of the Clean Air Act. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New York.

EFFECTIVE DATE: This rule will be effective June 21, 2001.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region II Office, Air Programs Branch,
290 Broadway, 25th Floor, New York,
New York 10007-1866.
New York State Department of
Environmental Conservation, Division
of Air Resources, 50 Wolf Road,
Albany, New York 12233.