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 rule related to Virginia permits for major stationary sources and major modifications locating in PSD or Nonattainment Areas or the Ozone Transport Region 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: August 23, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–22094 Filed 9–6–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0305; FRL–9724–9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Deferral for CO_2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Maryland Department of the Environmental (MDE) on April 4, 2012. This revision proposes to defer until July 21, 2014 the application of the Prevention of Significant Deterioration (PSD) permitting requirements to biogenic carbon dioxide (CO_2) emissions from bioenergy and other biogenic stationary sources in the State of Maryland. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before October 9, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0305 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: cox.kathleen@epa.gov.*

C. *Mail:* EPA–R03–OAR–2012–0305, Ms. Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2012–0305. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Mr. David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On April 4, 2012, MDE submitted a revision (#12–02) to its State Implementation Plan (SIP) to maintain consistency with Federal greenhouse gas (GHG) permitting requirements under the PSD program.

I. Background

A. The Tailoring Rule

On June 3, 2010 (effective August 2, 2010), EPA promulgated a final rulemaking, the Tailoring Rule, for the purpose of relieving overwhelming permitting burdens from the regulation of GHG's that would, in the absence of the rule, fall on permitting authorities and sources (75 FR 31514). EPA accomplished this by tailoring the applicability criteria that determine which GHG emission sources become subject to the PSD program of the CAA. In particular, EPA established in the Tailoring Rule a phase-in approach for PSD applicability and established the first two steps of the phase-in for the largest GHG-emitters.

For the first step of the Tailoring Rule, which began on January 2, 2011, PSD requirements apply to major stationary source GHG emissions only if the sources are subject to PSD anyway due to their emissions of non-GHG pollutants. Therefore, in the first step, EPA did not require sources or modifications to evaluate whether they are subject to PSD requirements solely on account of their GHG emissions. Specifically, for PSD, Step 1 requires that as of January 2, 2011, the applicable requirements of PSD, most noticeably the best available control technology

(BACT) requirement as defined in CAA section 169(3), apply to projects that increase net GHG emissions by at least 75,000 tons per year (tpy) of CO_2 equivalent (CO_2e), but only if the project also significantly increases emissions of at least one non-GHG pollutant. CO_2e is a metric used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP). The CO_2e for a gas is determined by multiplying the mass of the gas by the associated GWP. The applicable GWP's and guidance on how to calculate a source's GHG emissions in tpy CO_2e can be found in EPA's ''Inventory of U.S. Greenhouse Gas Emissions and Sinks,'' which is updated annually under existing commitment under the United Nations Framework Convention on Climate Change (UNFCCC).

The second step of the Tailoring Rule, which began on July 1, 2011, phased in additional large sources of GHG emissions. New sources that emit, or have the potential to emit (PTE), at least 100,000 tpy CO_2e are subject to the PSD requirements. In addition, sources that emit or have the PTE at least 100,000 tpy CO_2e and that undertake a modification that increases net GHG emissions by at least 75,000 tpy CO_2e are also be subject to PSD requirements. For both steps, EPA noted that if sources or modifications exceed these CO_2e-adjusted GHG triggers, they are not covered by permitting requirements unless their GHG emissions also exceed the corresponding mass-based triggers in tpy.

Maryland implements its PSD program by incorporating 40 CFR 52.21 by reference, under COMAR 26.11.06.14B(1). This incorporation references a date specific version of the CFR and is updated periodically and submitted to EPA for approval into the SIP. In order to adopt the Tailoring Rule, Maryland's previous update incorporated 40 CFR 52.21 ''as published in the 2009 edition, as amended by the 'Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule' (75 FR 31514).'' EPA approved this revision into the Maryland SIP on August 2, 2012 (77 FR 45949).

B. EPA's Biomass Deferral Rule

On July 20, 2011, EPA promulgated the final ''Deferral for CO_2 Emissions from Bioenergy and other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs'' (Biomass Deferral). Following is a brief discussion of the deferral. For a full discussion of EPA's rationale for the rule, see the notice of final rulemaking at 76 FR 43490.

The biomass deferral delays until July 21, 2014 the consideration of CO_2 emissions from bioenergy and other biogenic sources (hereinafter referred to as ''biogenic CO_2 emissions'') when determining whether a stationary source meets the PSD and Title V applicability thresholds, including those for the application of BACT [1]. Stationary sources that combust biomass (or otherwise emit biogenic CO_2 emissions) and construct or modify during the deferral period will avoid the application of PSD to the biogenic CO_2 emissions resulting from those actions. The deferral applies only to biogenic CO_2 emissions and does not affect non-GHG pollutants or other GHG's (e.g., methane (CH_4) and nitrous oxide (N_2O)) emitted from the combustion of biomass fuel. Also, the deferral only pertains to biogenic CO_2 emissions in the PSD and Title V programs and does not pertain to any other EPA programs such as the GHG Reporting Program.

Biogenic CO_2 emissions are defined as emissions of CO_2 from a stationary source directly resulting from the combustion or decomposition of biologically-based materials other than fossil fuels and mineral sources of carbon. Examples of ''biogenic CO_2 emissions'' include, but are not limited to:

- CO_2 generated from the biological decomposition of waste in landfills, wastewater treatment or manure management processes;
- CO_2 from the combustion of biogas collected from biological decomposition of waste in landfills, wastewater treatment or manure management processes;
- CO_2 from fermentation during ethanol production or other industrial fermentation processes;
- CO_2 from combustion of the biological fraction of municipal solid waste or biosolids;
- CO_2 from combustion of the biological fraction of tire-derived fuel; and
- CO_2 derived from combustion of biological material, including all types of wood and wood waste, forest residue, and agricultural material.

EPA recognizes that use of certain types of biomass can be part of the national strategy to reduce dependence on fossil fuels. Efforts are underway at the Federal, state and regional level to foster the expansion of renewable resources and promote bioenergy projects when they are a way to address climate change, increase domestic alternative energy production, enhance forest management and create related employment opportunities. We believe part of fostering this development is to ensure that those feedstocks with negligible net atmospheric impact not be subject to unnecessary regulation. At the same time, it is important that EPA have time to conduct its detailed examination of the science and technical issues related to accounting for biogenic CO_2 emissions and therefore have finalized this deferral. The deferral is intended to be a temporary measure, in effect for no more than three years, to allow the Agency time to complete its work and determine what, if any, treatment of biogenic CO_2 emissions should be in the PSD and Title V programs. The biomass deferral rule is not EPA's final determination on the treatment of biogenic CO_2 emissions in those programs. The Agency plans to complete its science and technical review and any follow-on rulemakings within the three-year deferral period and further believes that three years is ample time to complete these tasks. It is possible that the subsequent rulemaking, depending on the nature of EPA's determinations, would supersede the biomass deferral rulemaking and become effective in fewer than three years. In that event, Maryland may revise its SIP accordingly.

For stationary sources co-firing fossil fuel and biologically-based fuel, and/or combusting mixed fuels (e.g., tire derived fuels, municipal solid waste (MSW)), the biogenic CO_2 emissions from that combustion are included in the biomass deferral. However, the fossil CO_2 emissions are not. Emissions of CO_2 from processing of mineral feedstocks (e.g., calcium carbonate) are also not included in the deferral. Various methods are available to calculate both the biogenic and fossil portions of CO_2 emissions, including those methods contained in the GHG Reporting Program (40 CFR Part 98). Consistent with the other pollutants in PSD and Title V, there are no requirements to use a particular method in determining biogenic and fossil CO_2 emissions.

EPA's final biomass deferral rule is an interim deferral for biogenic CO_2 emissions only and does not relieve sources of the obligation to meet the PSD and Title V permitting requirements for other pollutant emissions that are otherwise applicable to the source during the deferral period or that may be applicable to the source at a future date pending the results of

[1] As with the Tailoring Rule, the Biomass Deferral addresses both PSD and Title V requirements. However, EPA is only taking action on Maryland's PSD program as part of this action.

EPA's study and subsequent rulemaking action. This means, for example, that if the deferral is applicable to biogenic CO_2 emissions from a particular source during the three-year effective period and the study and future rulemaking do not provide for a permanent exemption from PSD and Title V permitting requirements for the biogenic CO_2 emissions from a source with particular characteristics, then the deferral would end for that type of source and its biogenic CO_2 emissions would have to be appropriately considered in any applicability determinations that the source may need to conduct for future stationary source permitting purposes, consistent with that subsequent rulemaking and the Final Tailoring Rule (*e.g.,* a major source determination for Title V purposes or a major modification determination for PSD purposes). EPA also wishes to clarify that we do not require that a PSD permit issued during the deferral period be amended or that any PSD requirements in a PSD permit existing at the time the deferral took effect, such as BACT limitations, be revised or removed from an effective PSD permit for any reason related to the deferral or when the deferral period expires.

Section 52.21(w) of 40 CFR requires that any PSD permit shall remain in effect, unless and until it expires or it is rescinded, under the limited conditions specified in that provision. Thus, a PSD permit that is issued to a source while the deferral was effective need not be reopened or amended if the source is no longer eligible to exclude its biogenic CO_2 emissions from PSD applicability after the deferral expires. However, if such a source undertakes a modification that could potentially require a PSD permit and the source is not eligible to continue excluding its biogenic CO_2 emissions after the deferral expires, the source will need to consider its biogenic CO_2 emissions in assessing whether it needs a PSD permit to authorize the modification.

Any future actions to modify, shorten, or make permanent the deferral for biogenic sources are beyond the scope of the biomass deferral action and this proposed approval of the deferral into the Maryland SIP, and will be addressed through subsequent rulemaking. The results of EPA's review of the science related to net atmospheric impacts of biogenic CO_2 and the framework to properly account for such emissions in Title V and PSD permitting programs based on the study are prospective and unknown. Thus, we are unable to predict which biogenic CO_2 sources, if any, currently subject to the deferral as incorporated into the Maryland SIP would be subject to any permanent exemptions or which currently deferred sources would be potentially required to account for their emissions in the future rulemaking EPA has committed to undertake for such purposes in three or fewer years. Only in that rulemaking can EPA address the question of extending the deferral or putting in place requirements that would have the equivalent effect on sources covered by the biomass deferral. Once that rulemaking has occurred, Maryland may address related revisions to its SIP.

II. Summary of SIP Revision

Similar to our approach with the Tailoring Rule, EPA incorporated the biomass deferral into the regulations governing state programs and into the Federal PSD program by amending the definition of ''subject to regulation'' under 40 CFR sections 51.166 and 52.21 respectively. As discussed above, Maryland implements its PSD program by incorporating section 52.21 by reference. This incorporation references a date specific version of the CFR and is updated periodically and submitted to EPA for approval into the SIP. In order to adopt the Biomass Deferral, Maryland has revised COMAR 26.11.06.14B(1) to incorporate the 2009 version of 40 CFR 52.21 ''as amended by'' the Tailoring Rule and the Biomass Deferral. Additionally, the definitions of ''PSD source'' and greenhouse gas'' at COMAR 26.11.01.01 and 26.11.02.01 respectively have been revised to incorporate the Biomass Deferral.

III. Proposed Action

EPA's review of this material indicates that it is consistent with Federal regulations. EPA is proposing to approve the Maryland SIP revision incorporating the Biomass Deferral, which was submitted on April 4, 2012. EPA is soliciting public comments on this proposed approval of Maryland's SIP revision request. These comments will be considered before taking final action.

IV. 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 proposes to approve 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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 rule relating to the Biomass Deferral and GHG permitting under Maryland's PSD program 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: August 23, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–22098 Filed 9–6–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 10

[Docket No. USCG–2012–0734]

Medical Waivers for Merchant Mariner Credential Applicants With Anti-Tachycardia Devices or Implantable Cardioverter Defibrillators

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed policy change and request for comments.

SUMMARY: The Coast Guard is seeking public comment regarding criteria for granting medical waivers to mariners who have anti-tachycardia devices or implantable cardioverter defibrillators (ICDs). Current Coast Guard guidance found in Navigation and Vessel Inspection Circular 04–08, *Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials* (NVIC 04–08), states that anti-tachycardia devices or ICDs are generally not waiverable. The Coast Guard is considering changing that policy. Prior to issuing a policy change on whether to grant waivers for anti-tachycardia devices or ICDs and the criteria for such waivers, the Coast Guard will accept comments from the public on whether the proposed criteria would adequately address safety concerns regarding merchant mariners with ICDs.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before October 9, 2012 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0734 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or email Lieutenant Ashley Holm, Mariner Credentialing Program Policy Division (CG–CVC–4), U.S. Coast Guard, telephone 202–372–1128, email *MMCPolicy@uscg.mil.* If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation

You may submit comments and related material regarding whether this proposed policy change should be incorporated into a final policy on issuing medical waivers to mariners with ICDs. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2012–0734) and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''USCG–2012–0734'' in the ''Search'' box. Click ''Search,'' find this notice in the list of Results, and then click on the corresponding ''Comment Now'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov* and insert ''USCG–2012–0734'' in the ''Search'' box. Click ''Search'' and use the filters on the left side of the page to highlight ''Public Submissions'' or other document types. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Background and Purpose

Coast Guard regulations in 46 CFR 10.215 contain the medical standards that merchant mariners must meet prior to being issued a merchant mariner credential (MMC). In cases where the mariner does not meet the medical standards in 46 CFR 10.215, the Coast Guard may issue a waiver when extenuating circumstances exist that warrant special consideration. *See* 46 CFR 10.215(g).

In NVIC 04–08, the Coast Guard states that anti-tachycardia devices and ICDs are generally not waiverable. Since the issuance of NVIC 04–08 on September 15, 2008, a number of mariners have sought and received waivers for anti-tachycardia devices or ICDs in accordance with 46 CFR 10.215(g). However, because NVIC 04–08 does not identify waiver criteria associated with anti-tachycardia devices or ICDs, it has been difficult for Coast Guard personnel to consistently evaluate merchant mariners with anti-tachycardia devices or ICDs and assess whether an applicant's medical condition warrants granting a medical waiver under 46 CFR 10.215(g). Accordingly, the Coast Guard is considering whether to change its policy regarding waivers for anti-tachycardia devices or ICDs, and under what criteria a mariner may be eligible for waiver consideration.

The Coast Guard intends to consider public input as well as the recommendations of the Merchant Mariner Medical Advisory Committee, established under the authority of 46