

Dated: December 15, 2000.

**William J. Muszynski,**

*Acting Regional Administrator, Region 2.*

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 HH—New York**

2. Section 52.1670 is amended by adding new paragraph (c)(99) to read as follows:

##### **§ 52.1670 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(99) Revisions to the New York State Implementation Plan (SIP) for the Motor

Vehicle Inspection and Maintenance Program, submitted on March 6, 1996, May 24, 1999, October 7, 1999, October 29, 1999, and May 22, 2000 by the New York State Department of Environmental Conservation.

(i) Incorporation by reference. Revision to 6NYCRR Part 217, Motor Vehicle Emissions, Subparts 217–1, 217–2, and 217–4, that became effective on May 22, 1997 and revisions to 15NYCRR Part 79, Motor Vehicle Inspection, Sections 79.1–79.15, 79.17, 79.20, 79.21, 79.24–79.26, that became effective on June 4, 1997.

(ii) Additional material:

(A) March 6, 1996, submittal of revisions to the enhanced motor vehicle inspection and maintenance program.

(B) May 24, 1999, submittal of the demonstration of the effectiveness of New York's decentralized inspection and maintenance program network.

(C) October 7, 1999, supplemental submittal of the demonstration of the effectiveness of New York's decentralized inspection and maintenance program network.

(D) October 29, 1999, letter clarifying October 7, 1999, supplemental submittal.

(E) May 22, 2000, Instrumentation/Protocol Assessment Pilot Study analysis of the NYTEST.

3. In § 52.1679, the table is amended by:

a. Adding a new heading for “Title 6” to the beginning of the table;

b. Revising the entry for part 217;

c. Adding a new heading for “Title 15” and new entries for part 79 to the end of the table.

The revisions and entries read as follows:

##### **§ 52.1679 EPA-approved New York State regulations.**

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6:			
* * * * *	* * * * *	* * * * *	* * * * *
Part 217, Motor Vehicle Emissions:			
Subpart 217–1, Motor Vehicle Enhanced Inspection and Maintenance Program Requirements.	May 22, 1997 .....	May 7, 2001, 66 FR 22924.	
Subpart 217–2, Motor vehicle NY91 Inspection and Maintenance Program Requirements.	May 22, 1997 .....	May 7, 2001, 66 FR 22924.	
Subpart 217–4, Inspection and Maintenance Program Audits.	May 22, 1997 .....	May 7, 2001, 66 FR 22924.	
* * * * *	* * * * *	* * * * *	* * * * *
Title 15:			
Part 79, Motor Vehicle Inspection:			
Sections 79.1–79.15, 79.17, 79.20, 79.21, and 79.24–79.26.	June 4, 1997 .....	May 7, 2001, 66 FR 22924.	

#### **§ 52.1683 [Amended]**

4. Section 52.1683 is amended by removing and reserving paragraphs (b), (c), (d), and (e).

[FR Doc. 01–10429 Filed 5–4–01; 8:45 am]

**BILLING CODE 6560–50–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[MD 064/109/111/113–3065a; FRL–6973–3]

#### **Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Approval of Revisions to Volatile Organic Compounds, Regulations and Miscellaneous Revisions**

**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) submitted by the Maryland Department of Environment (MDE). The revisions replace the existing regulation and adopt a new regulation for control of volatile organic compounds (VOC) from expandable polystyrene operations (EPO), establish VOC reasonably available control technology (RACT) standards for facilities that recycle bakery and confectionary waste, adopt by reference the EPA definition of VOC and include other miscellaneous revisions. EPA is approving these revisions to the State of Maryland's SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on July 6, 2001 without further notice, unless EPA receives adverse written comment by June 6, 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 the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto at (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov) for information concerning the EPO regulation or Kelly L. Bunker at (215) 814-2177, or by e-mail at [bunker.kelly@epa.gov](mailto:bunker.kelly@epa.gov) for the remaining regulation revisions.

**SUPPLEMENTARY INFORMATION:**

**I. Summary of SIP Revision**

On February 6, 1998, October 20, 2000, October 31, 2000 and November 16, 2000 the State of Maryland submitted formal revisions to its SIP. The SIP revisions consist of a new regulation which replaces the existing regulation for control of VOC from EPOs (COMAR 26.11.19.19), establish VOC RACT regulations for facilities that recycle bakery and confectionary waste (COMAR 26.11.19.28), adopt by reference the EPA definition of VOC (COMAR 26.11.01.01B(53)), update the Maryland regulation references to the federal definition of VOC at 40 CFR 51.100(s) and the federal PSD regulations at 40 CFR 52.21 PSD (COMAR 26.11.01.01B(37) and (53) and COMAR 26.11.06.14) and include other miscellaneous revisions (COMAR 26.11.01.01B(6-1) and COMAR 26.11.06.06A(1)(d)). These regulatory revisions became effective on October 2, 2000, October 16, 2000, June 30, 1997 and September 22, 1997.

The amendment to COMAR 26.11.01.01B adds the definition of "commercial bakery oven" to the general definitions section of the Maryland air regulations. EPA approved Maryland's commercial bakery oven RACT regulation, including a definition for "commercial bakery oven", found at COMAR 26.11.19.21 on October 15, 1997 (62 FR 53544). The definition for "commercial bakery oven" found in COMAR 26.11.19.21 is identical to the definition being added at COMAR 26.11.01.01B(6-1). The addition of the definition for the term "commercial bakery oven" is approvable.

The amendment to COMAR 26.11.01.01B(53) adopts by reference the EPA definition of "volatile organic compound" found at Title 40, Part 51.100(s) of the Code of Federal Regulations (CFR), as per the 1996 edition. The amendment ensures that Maryland's definition of the term is identical to the federal definition. EPA defines VOCs as any organic compound that contributes to ground-level ozone formation and lists as exclusions the compounds that have negligible photochemical reactivity. As EPA completes its reactivity testing, the list of exempt compounds expands. In the past, each time that EPA amended its' definition of VOC to include another

exempt compound Maryland then had to amend its definition of VOC to add the newly exempted compound. Amending Maryland's definition requires draft regulations to be prepared, processed, put through public hearing and comment, adopted and then submitted to EPA. Since Maryland accepts the EPA test results on VOC exempt compounds it is appropriate for Maryland to adopt the federal definition of VOC as it appears in 40 CFR § 51.100 (s) as of a specified date.

COMAR 26.11.01.01B(53) was subsequently amended to update the federal reference for incorporation of the EPA definition of VOC found at 40 CFR § 51.100(s) from the 1996 to the 1999 edition of the CFR.

The amendments to COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 update the reference for incorporation of the federal PSD regulations found at 40 CFR § 52.21 from the 1993 to the 1996 edition and then again from the 1996 to the 1999 edition. These revisions are approvable.

The amendment to COMAR 26.11.06.06 A(1)(d) will clarify the general VOC regulation and will affect VOC sources that are currently, or will be in the future, subject to a RACT regulation in Chapter 19, VOCs from Specific Processes. The amendment will exempt any source that is subject to a source specific regulation in Chapter 19 from the general VOC requirements in COMAR 26.11.06.06. These modifications are approvable.

The amendment to COMAR 26.11.19.19 will replace the existing regulation and adopt a new regulation for control of VOCs from expandable polystyrene operations (EPO). On October 15, 1997 (62 FR 53544) EPA approved a new regulation which established VOC RACT for EPOs. The existing regulation requires VOC emissions to be reduced through the use of various control options including incineration and a combination of low VOC beads (7 percent or less) and recycled material use. Since the adoption of the existing regulation, the bead manufacturers have been successful in producing an "ultra low VOC" bead (6 percent or less). These "ultra low VOC" beads, however, cannot be used for all products. But the production of the "ultra low VOC" bead has made available other cost-effective compliance options for specific product types at the EPO facilities. The existing regulation is being replaced with a new regulation which allows the use of conventional VOC control methods and adds the use of ultra low VOC beads as an additional alternative control option. This regulation will further reduce VOC

emissions, encourage use of recycled materials and is approvable.

A new regulation, COMAR 26.11.19.28, is being added for the control of VOC emissions from bread and snack food drying operations. The purpose of the regulation is to establish RACT standards for facilities that recycle bakery and confectionary waste products for use as animal feed. The facilities dry the waste products to reduce moisture content and in the process VOCs are released. The new regulation requires a source with VOC emissions of 25 tons or more per year to install a control device with 85% or more removal efficiency to reduce emissions from the dryer stack. The regulation applies statewide and includes compliance testing, monitoring and recordkeeping requirements. The regulation will reduce VOC emissions and is approvable.

A more detailed analysis of Maryland's submittal is contained in a Technical Support Document (TSD) which is available from the Region III office listed in the **ADDRESSES** section of this notice.

**II. Final Action**

EPA is approving revisions to the Maryland SIP that replace the existing regulation and adopt a new regulation for control of VOC from EPOs (COMAR 26.11.19.19), establish VOC RACT regulations for facilities that recycle bakery and confectionary waste (COMAR 26.11.19.28), adopt by reference the EPA definition of VOC found at 40 CFR 51.100(s) (COMAR 26.11.01.01B(53)), update the Maryland regulation references to the federal definition of VOC at 40 CFR 51.100(s) (COMAR 26.11.01.01B(53)) and the federal PSD regulations at 40 CFR 52.21 (COMAR 26.11.01.01B(37) and 26.11.06.14), add a definition for the term "commercial bakery oven" (COMAR 26.11.01.01B(6-1) and other miscellaneous revisions (COMAR 26.11.06.06A(1)(d)). The revisions became effective on October 2, 2000, October 16, 2000, June 30, 1997 and September 22, 1997.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment since the revisions are administrative changes to the state regulations. 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 6, 2001 without further notice unless EPA receives adverse

comment by June 6, 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.

### 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 Clean Air Act. 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 Clean Air Act. 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 Clean Air Act. 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 must be filed in the United States Court of Appeals for the appropriate circuit by July 6, 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 granting full approval of the State of Maryland's volatile organic compounds regulations

and miscellaneous revisions 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, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 24, 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)(156) through (c)(159) to read as follows:

##### **§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(156) Revision to the Maryland Regulations replacing the existing regulation and adopting a new regulation for control of volatile organic compounds (VOC) from expandable polystyrene operations (EPO) submitted on October 20, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of October 20, 2000 from the Maryland Department of the Environment transmitting the EPO regulations.

(B) The Maryland EPO regulations found at COMAR 26.11.19.19, effective October 2, 2000. This rule replaces COMAR 26.11.19.19, effective July 3, 1995.

(ii) Additional Material.—Remainder of the October 20, 2000 submittal.

(157) Revision to the Maryland Regulations establishing VOC reasonably available control technology (RACT) standards for facilities that recycle bakery and confectionary waste submitted on October 31, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of October 31, 2000 from the Maryland Department of the Environment transmitting the VOC RACT regulations for facilities that recycle bakery and confectionary waste.

(B) The Maryland VOC RACT regulations for facilities that recycle bakery and confectionary waste found at

COMAR 26.11.19.28, effective October 2, 2000.

(ii) Additional Material.—Remainder of the October 31, 2000 submittal.

(158) Revision to the Maryland Regulations which adopt by reference the EPA definition of VOC found at 40 CFR 51.100(s), update the Maryland regulation references to the federal PSD regulations at 40 CFR 52.21 and include other miscellaneous revisions submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting the adoption of the federal definition of VOC, federal reference updates and other miscellaneous revisions.

(B) The amendment to COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 which updates the references for incorporation of the federal PSD regulations found at 40 CFR 52.21 from the 1993 to the 1996 edition of the CFR and include other miscellaneous revisions (COMAR 26.11.01.01B(6–1) and COMAR 26.11.06.06A(1)(d)), effective June 30, 1997.

(C) The amendment to COMAR 26.11.01.01B(53) which adopts by reference the EPA definition of VOC found at 40 CFR 51.100(s), 1996 edition of CFR, effective September 22, 1997.

(ii) Additional Material.—Remainder of the February 6, 1998 submittal.

(159) Revision to the Maryland Regulations updating the references to the federal definition of VOC at 40 CFR 51.100(s) and the federal PSD regulations at 40 CFR 52.21, submitted on November 16, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of November 16, 2000 from the Maryland Department of the Environment transmitting the updates to the Maryland regulation references to the federal definition of VOC at 40 CFR 51.100(s) and the federal PSD regulations at 40 CFR 52.21.

(B) The amendments to COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 which update the reference for incorporation of the federal PSD regulations found at 40 CFR 52.21 from the 1996 to the 1999 edition of the CFR and the amendment to COMAR 26.11.01.01B(53) which updates the federal reference for incorporation of the EPA definition of VOC found at 40 CFR 51.100(s) from the 1996 to the 1999 edition of the CFR, effective October 16, 2000.

(ii) Additional Material.—Remainder of the November 16, 2000 submittal.

[FR Doc. 01–11279 Filed 5–4–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[SC–038–200102(a); FRL–6973–9]

### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: South Carolina

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The United States Environmental Protection Agency (EPA) is approving the section 111(d)/129 Plan submitted by the South Carolina Department of Health and Environmental Control (DHEC) for the State of South Carolina on September 19, 2000, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units.

**DATES:** This direct final rule is effective on July 6, 2001, without further notice, unless EPA receives adverse comment by June 6, 2001. If EPA receives adverse comment, we 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:** You should address comments on this action to Gregory Crawford, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; and at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201.

**FOR FURTHER INFORMATION CONTACT:** Gregory Crawford at (404) 562–9046 or Scott Davis at (404) 562–9127.

#### SUPPLEMENTARY INFORMATION:

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VII. Administrative Requirements

### I. What Action Is Being Taken by EPA Today?

We are approving the South Carolina State Plan, as submitted on September 19, 2000, for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When EPA developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed EG to control air emissions from older HMIWIs. (See 62 FR 48348–48391, September 15, 1997, 40 CFR part 60, subpart Ce [Emission Guidelines and Compliance Times for HMIWIs] and subpart Ec [Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996]). The South Carolina DHEC developed a State Plan, as required by sections 111(d) and 129 of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective July 6, 2001, unless by June 6, 2001, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action is effective July 6, 2001.

### II. The HMIWI State Plan Requirement

#### What Is a HMIWI State Plan?

A HMIWI State Plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste. The plan also includes source and emission inventories of these incinerators in the State.