

practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for two named sources.

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 October 6, 2003. 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 approving Pennsylvania's source-specific RACT requirements to control VOC and/or NO_x from two individual sources 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, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 26, 2003.

Donald S. Welsh,

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 NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(208) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(208) Revisions pertaining to VOC and NO_x RACT for major sources submitted on October 25, 1999, and February 4, 2003, by the Pennsylvania Department of Environmental Protection.

(i) Incorporation by reference.

(A) Letters submitted on October 26, 1999, and February 4, 2003 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_x RACT

determinations, in the form of operating permits.

(B) Operating permits (OP) issued to the following sources:

(1) Tarkett Incorporated, Lehigh County, OP 39-0002, effective May 31, 1995.

(2) Harcros Pigments, Inc., Northampton County, OP 48-0018, effective July 31, 1996.

(ii) Additional Material.

(A) Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(208)(i) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD140-3094a; FRL-7523-7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Visible Emissions and Sulfur Dioxide Testing Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revision consists of amendments to Maryland's general air quality emission standards, prohibitions and restrictions affecting visible emissions, particulate matter and sulfur compounds from sources other than fuel burning equipment. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on October 6, 2003 without further notice, unless EPA receives adverse written comment by September 5, 2003. 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: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to morris.makeba@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting

electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part III of the Supplementary Information section. 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, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT:

Kathleen Anderson, (215) 814-2173, or by e-mail at anderson.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 6, 2002, the Maryland Department of the Environment (MDE) submitted a formal revision to its SIP (#02-05) consisting of amendments to Code of Maryland's Administrative Regulations (COMAR) 26.11.06 General Emission Standards, Prohibitions and Restrictions. This regulation contains general provisions that apply to an installation when no other pollutant or source specific requirement exists. The specific revisions to Regulations .02 .03, and .05 remove applicability of the visible emission standard for sources with particulate matter emission controls; expand applicability of unconfined emission requirements; remove prohibitions on visible emissions beyond a source's property line; expand certain visible emission exceptions; and require an adjustment to sulfur compound (SO_x) test results.

II. Summary of SIP Revision

A. Visible and Particulate Matter Emission Standards

Regulation .03 of COMAR 26.11.06 establishes general particulate matter emissions standards for sources in the State. Subsection .03C specifically addresses particulate matter emissions from unconfined sources that are not discharged into the outdoor atmosphere through a stack, duct, hood, flue, or other conduit. The regulation requires these sources to take reasonable precautions, approved by the Maryland Department of the Environment (MDE), to prevent particulate matter from becoming airborne. Reasonable precautions include the installation and

use of hoods, fans, and dust collectors to enclose, capture, and vent emissions.

Subsection .03D establishes requirements for controlling particulate matter from materials handling and construction and prohibits material to be handled, transported, or stored, or a building, its appurtenances, or a road to be used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

Prior to this SIP revision, the provisions in Regulation .03C were applicable in only certain areas of the State. Furthermore, sources that did comply with the requirement to install measures to prevent airborne particulate matter emissions were still subject to the State's visible emissions standards. The revisions approved in today's action will expand applicability of the requirements for unconfined sources to the entire state. This SIP revision also amends the applicability of the general visible emissions standard in Regulation .02 to exclude those unconfined sources that comply with Subsection .03C and those materials handling and construction activities that comply with .03D. In other words, the latter sources that install and implement reasonable controls, approved by MDE, to control particulate matter are excluded from the general visible emission standard. Finally, to be consistent with the exclusions for materials handling and construction activities, the SIP revision also removes the prohibition on visible emissions at the property line for these activities.

B. Sulfur Oxides Testing

COMAR 26.11.06.05 establishes SO_x emission limits for process installations other than fuel burning equipment. COMAR 26.11.06.05A requires calculations of emissions to be adjusted to standard conditions as defined in COMAR 26.11.01.01B(46). This section is being amended to require that the calculations of emissions also be adjusted to 7 percent oxygen to assure that the test results are not diluted with excess air.

III. Final Action

EPA is approving the revisions to COMAR 26.11.06, General Emission Standards, Prohibitions, and Restrictions, submitted to EPA on November 6, 2002. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment 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 October 6, 2003 without further notice unless EPA receives adverse comment by September 5, 2003. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number MD140-3094a in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to morris.makeba@epa.gov, attention MD140-3094a. EPA's e-mail system is not an "anonymous access" system. If

you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. *Regulations.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

IV. Statutory and Executive Order Reviews

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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). 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 tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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 October 6, 2003. 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 to approve revisions to MDE's regulations at COMAR 26.11.06, General Emission Standards, Prohibitions, and Restrictions, 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 26, 2003.

Donald S. Welsh,

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)(181) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(181) Revisions to the Code of Maryland's Administrative Regulations (COMAR) for particulate matter, visible emissions and sulfur compounds submitted on November 6, 2002 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of November 6, 2002 from the Maryland Department of the Environment transmitting the revision

consisting of housekeeping and clarification amendments to Regulations .02, .03, and .05 under COMAR 26.11.06 General Emission Standards, Prohibitions and Restrictions.

(B) The following amendments to COMAR 26.11.06—General Emission Standards, Prohibitions and Restrictions, effective November 11, 2002:

(1) Addition of COMAR 26.11.06.02A(1)(k).

(2) Revisions to COMAR 26.11.06.02A(1)(j), .02A(2), .02C(1), .03C (introductory paragraph), .03C(1), and .05A.

(3) Removal of COMAR 26.11.06.02C(3).

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(181)(i) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries

CFR Correction

■ In Title 40 of the Code of Federal Regulations, part 60 (60.1 to End), revised as of July 1, 2002, on page 496, § 60.593 is corrected by revising paragraph (e). The revised text reads as follows:

§ 60.593 Exceptions.

* * * * *

(e) Pumps in light liquid service and valves in gas/vapor and light liquid service within a process unit that is located in the Alaskan North Slope are exempt from the requirements of § 60.482-2 and § 60.482-7.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[KS 189-1189a; FRL-7540-7]

Approval and Promulgation of Operating Permits Program; State of Kansas

AGENCY: Environmental Protection Agency (EPA).