

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[R03-OAR-2005-MD-0011; FRL-7984-6]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to the Control of VOC From AIM Coatings**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to the amendments of controlling volatile organic compound (VOC) emissions from architectural and industrial maintenance (AIM) coatings in Maryland. EPA is approving this SIP revision in accordance with the Clean Air Act (CAA or Act).

DATES: This final rule is effective on November 18, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) ID Number R03-OAR-2005-MD-0011. All documents in the docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Once in the system, select "quick search," then key in the appropriate RME identification number. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (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 RME or in hard copy 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. 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: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On August 15, 2005 (70 FR 47757), EPA published a notice of proposed rulemaking (NPR) for the State of

Maryland. The NPR proposed approval of the amendments to the control of VOC emissions from AIM coatings in Maryland. The formal SIP revision was submitted by the Maryland Department of the Environment (MDE) on March 15, 2005.

II. Summary of SIP Revision

This SIP revision amends a regulation to control emissions of VOC from AIM coatings in the State of Maryland. On March 15, 2005, MDE formally submitted its amendments to the AIM coatings rule as a SIP revision. These amendments are to provide consistency with similar regulations adopted by the other states in the Ozone Transport Region (OTR). These amendments are administrative changes that will not affect VOC reductions achieved through compliance with the coating standards. Other specific requirements of these amendments and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving Maryland's amendments to the AIM coatings rule as a revision to the Maryland SIP.

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 requirement, 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 December 19, 2005. 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, pertaining to the amendments to the Maryland AIM coatings rule, 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 dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 11, 2005.

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. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.33 to read as follows:

§ 52.1070 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED REGULATIONS IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ Citation at 40 CFR 52.1100
* * * * *				
26.11.33—Architectural Coatings				
* * * * *				
26.11.33.06	Most Restrictive VOC Limit	2/28/05	10/19/05 [Insert page number where the document begins].	Addition of sections B(15) through B(19).
26.11.33.10	Coatings Not Listed in Regulation .05.	2/28/05	10/19/05 [Insert page number where the document begins].	
26.11.33.12	Container Labeling Requirements	2/28/05	10/19/05 [Insert page number where the document begins].	Deleted section K.
26.11.33.13	Record Keeping Requirements ...	2/28/05	10/19/05 [Insert page number where the document begins].	
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04-OAR-2003-KY-0001-200410(w); FRL-7983-3]

Approval and Promulgation of Implementation Plans for Kentucky: Regulatory Limit on Potential To Emit; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comment, EPA is withdrawing the direct final rule published August 24, 2005, (70 FR 49493) approving a revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision incorporates Kentucky rule 401 KAR 52:080 into the Kentucky SIP. This rule allows sources with a potential to emit (PTE) that equals or exceeds a title V major source threshold to be classified as minor sources if they restrict their actual emissions to less than 50 percent of the title V major source thresholds and meet other conditions specified in the rule. EPA stated in the direct final rule that if EPA received adverse

comment by September 23, 2005, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comment in a subsequent final action based upon the proposed action also published on August 24, 2005 (70 FR 49525). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 19, 2005.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (404) 562-9031 (phone) or *notarianni.michele@epa.gov* (e-mail).