



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0304; FRL-9949-72-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Maryland; Control of Volatile Organic Compounds Emissions from Fiberglass Boat
Manufacturing Materials**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to Maryland's adoption of the requirements in EPA's control technique guidelines (CTG) for fiberglass boat manufacturing materials. This action is being taken under the Clean Air Act (CAA).

DATES: This rule is effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse written comment by **[insert date 30 days after date of publication in the Federal Register]**. 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: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0304 at <http://www.regulations.gov>, or via email to fernandez.cristina@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit

electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814-2042, or by e-mail at huang.gavin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including reasonably available control technology (RACT), for sources of emissions. Additionally, Maryland is in the Ozone Transport Region (OTR) established under section 184(a) of the CAA. Pursuant to section 184(b)(1)(B) of the CAA, all areas in the OTR must submit SIP revisions that include implementation of RACT with respect to all sources of VOCs in the states covered by a CTG. *See* CAA section 184(b)(1). EPA defines RACT as “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering

technological and economic feasibility.” 44 FR 53761 (September 17, 1979).

CTGs are intended to provide state and local air pollution control authorities information that should assist them in determining RACT for VOCs from various sources of fiberglass boat manufacturing. EPA has not published a previous CTG for fiberglass boat manufacturing materials, but did publish an assessment of VOC emissions from fiberglass boat manufacturing in 1990. The 1990 assessment defined the nature and scope of VOC emissions from fiberglass boat manufacturing, characterized the industry, estimated per plant and national VOC emissions, and identified and evaluated potential control options. In 2001, EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing, 40 CFR part 63, subpart VVVV (2001 NESHAP). The 2001 NESHAP established organic hazardous air pollutant (HAP) emissions limits based on low-HAP resins and gel coats and low-emitting resin application technology. Several of the air pollution control districts in California have specific regulations that control VOC emissions from fiberglass boat manufacturing operations as part of their regulations for limiting VOC emissions from polyester resin operations. Several other states also have regulations that address VOC emissions from fiberglass boat manufacturing as part of polyester resin operations. After reviewing the 1990 VOC assessment, the 2001 NESHAP, and existing California district and other state VOC emission reduction approaches, and after considering information obtained since the issuance of the 2001 NESHAP, EPA developed a CTG entitled *Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials* (Publication No. EPA 453/R-08-004; September 2008).

The CTG for fiberglass boat manufacturing materials provides control recommendations for reducing VOC emissions from the use of gel coats, resins, and materials used to clean

application equipment in fiberglass boat manufacturing operations. This CTG applies to facilities that manufacture hulls or decks of boats from fiberglass or build molds to make fiberglass boat hulls or decks. EPA’s 2008 CTG recommends that the following operations should be covered: open molding resin and gel coat operations (these include pigmented gel coat, clear gel coat, production resin, tooling gel coat, and tooling resin); resin and gel coat mixing operations; and resin and gel coat application equipment cleaning operations.

EPA’s 2008 CTG recommends the following VOC reduction measures: VOC emission limits for molding resins and gel coats; work practices for resin and gel coat mixing containers; and VOC content and vapor pressure limits for cleaning materials. Recommended VOC emission limits for open molding resin and gel coat operations are shown in Table 1.

Table 1. Monomer VOC Content Limitations for Open Molding Resin and Gel Coat Operations

Materials	Application Method	Individual Monomer VOC Content or Weight Average Monomer VOC Content Limit (weight percent)
Production Resin	Atomized (spray)	28
Production Resin	Nonatomized	35
Pigmented Gel Coat	Any Method	33
Clear Gel Coat	Any Method	48
Tooling Resin	Atomized	30
Tooling Resin	Nonatomized	39
Tooling Gel Coat	Any Method	40

II. Summary of SIP Revision

On December 23, 2015, the Maryland Department of the Environment (MDE) submitted on behalf of the State of Maryland to EPA SIP revision #15-07 concerning implementation of

RACT requirements for the control of VOC emissions from fiberglass boat manufacturing materials. Maryland has adopted EPA's CTG standards for fiberglass boat manufacturing materials, including the emission limits found in Table 1 of this rulemaking action, through a regulation, found at Code of Maryland Regulations (COMAR) 26.11.19 (relating to VOC from specific processes). This SIP revision seeks to add COMAR 26.11.19.26-1 (control of VOC emissions from fiberglass boat manufacturing materials) to the Maryland SIP and also includes an amendment to COMAR 26.11.19.26 (control of VOC emissions from reinforced plastic manufacturing) which was previously approved into the Maryland SIP. In addition to adopting EPA's CTG standards, COMAR 26.11.19.26-1 includes numerous terms and definitions to support the interpretation of the measures, as well as work practices for cleaning, compliance and monitoring requirements, sampling and testing, and record keeping requirements. The amendment to COMAR 26.11.19.26 at COMAR 26.11.19.26A exempts fiberglass boat manufacturing to avoid duplicative or conflicting requirements. Prior to Maryland's new COMAR 26.11.19.26-1, fiberglass boat manufacturing materials were covered under COMAR 26.11.19.26 which did not address fully EPA's CTG requirements. Thus, with COMAR 26.11.19.26-1 now addressing fiberglass boat manufacturing materials, Maryland has revised COMAR 26.11.19.26A to clarify and exempt fiberglass boat manufacturing materials from COMAR 26.11.19.26A as these are now clearly addressed in COMAR 26.11.19.26-1. EPA finds the provisions in COMAR 26.11.19.26-1 identical to the CTG standards for fiberglass boat manufacturing materials and therefore approvable in accordance with sections 172(c)(1) and 184(b)(1)(B) of the CAA.

III. Final Action

EPA is approving the Maryland SIP revision adding new regulation COMAR 26.11.19.26-1 and

amending COMAR 26.11.19.26, which was submitted on December 23, 2015, because it meets the requirement to adopt RACT for sources covered by EPA's CTG standards for fiberglass boat manufacturing materials. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of this **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 [insert date 60 days after date of publication in the Federal Register] without further notice unless EPA receives adverse comment by [insert date 30 days after date of publication in the Federal Register]. 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.

IV. Incorporation by Reference

In this rulemaking action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of COMAR 26.11.19.26-1 and an amendment to COMAR 26.11.19.26 into the Maryland SIP. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or may be viewed at the appropriate EPA office

(see the ADDRESSES section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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 approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (Public Law 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 rule 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.

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 action 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**. A major rule cannot take effect until 60 days after it is

published in the **Federal Register**. This action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the “Proposed Rules” section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action to approve the Maryland SIP revision adding new regulation COMAR 26.11.19.26-1 and amending COMAR 26.11.19.26 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, Carbon monoxide, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: July 15, 2016.

Shawn M. Garvin,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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 “26.11.19.26” and adding in numerical order the entry for “26.11.19.26-1” to read as follows:

§ 52.1070 Identification of plan.

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(c)* * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES 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
* * * * *				
26.11.19 Volatile Organic Compounds From Specific Processes				
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26.11.19.26	Control of Volatile Organic Compound Emissions from Reinforced Plastic Manufacturing	09/28/15	[<u>Insert date of publication in the Federal Register</u>] [<u>Insert Federal Register citation</u>]	Amendment to .26A
26.11.19.26-1	Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing	09/28/15	[<u>Insert date of publication in the Federal Register</u>] [<u>Insert Federal Register citation</u>]	New Regulation.
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