

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 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 18, 2003.

**William W. Rice,**

*Acting Regional Administrator, Region 7.*

■ 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 AA—Missouri

■ 2. Section 52.1320 is amended by:

■ a. In paragraph (c) removing the heading and entries for St. Louis City Ordinance 64749 and adding a heading and entries for St. Louis City Ordinance 65645.

■ b. In paragraph (d) adding an entry to the end of the table for St. Louis University.

■ The revisions and addition read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

#### EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
* * * * *				
<b>St. Louis City Ordinance 65645</b>				
Section 6 .....	Definitions .....	8/28/03	12/9/03 [insert FR page citation].	The phrase "other than liquids or gases" in the Refuse definition has not been approved.
Section 15 .....	Open Burning Restrictions .....	8/28/03	12/9/03 [insert FR page citation].	

(d) \* \* \*

#### EPA-APPROVED STATE SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit number	State effective date	EPA approval date	Explanation
* * * * *				
St. Louis University .....	Permit Matter No. 00-01-004 ....	8/28/03	12/9/03 [insert FR page citation].	Updates a reference in section II.B. to Ordinance No. 65645.

\* \* \* \* \*

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BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MD152-3105a; FRL-7596-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Emissions of Volatile Organic Compounds From Consumer Products

**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 revisions pertain to the control of volatile organic compound (VOC) emissions from consumer products. EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on January 23, 2004 without further notice, unless EPA receives adverse written comment by January 8, 2004. 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, 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](mailto: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 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](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 19, 2003, the Maryland Department of the Environment (MDE) submitted a formal revision to its State Implementation Plan (SIP). The SIP revision (Maryland SIP revision # 03-07) consists of the standards and requirements to control VOC emissions from consumer products.

## I. Background

In December 1999, EPA identified emission reduction shortfalls in several one-hour ozone nonattainment areas in the Ozone Transport Region (OTR) and required those areas to address the shortfalls. The Ozone Transport Commission (OTC) developed control measures into model rules for a number of source categories and estimated emission reduction benefits from implementing those model rules that will close the shortfalls. The OTC Commissioners formally supported these model rules, including a consumer products rule. The OTC Consumer Products model rule was based on the existing rules developed by the California Air Resources Board, which were analyzed and modified by the OTC workgroup to address VOC reduction needs in the OTR. The standards and requirements contained in Maryland's Consumer Products rule are consistent with the OTC model rule.

## II. Summary of SIP Revision

On July 25, 2003, the Secretary of the Environment adopted new regulation COMAR 26.11.32, Control of Emissions of VOC from Consumer Products that includes COMAR 26.11.32.01 through COMAR 26.11.32.23. This regulation establishes VOC content limits for approximately 80 categories and subcategories of consumer products. Consumer products are household and industrial products such as cleaning compounds, floor finishes, personal care products, automotive products, disinfectants, aerosol adhesives, and lawn and garden products.

The regulation applies to a person who sells, supplies, offers for sale, or manufactures consumer products on or after January 1, 2005 for use in the State of Maryland. Also included in the regulation are definitions, the VOC content limits, standards and exemptions, innovative products, administrative requirements, recordkeeping and reporting

requirements, variances, test methods, and an alternative control plan.

On October 21, 2003, the Secretary of the Environment adopted an amendment to COMAR 26.11.32.01 by the addition of COMAR 26.11.32.01F, which clarifies the enforcement policy relative to the sale of a non-complying consumer product by a retailer. The amendment includes good faith efforts to be used by a retailer in safeguarding against the sale of a non-compliant product, and in the course of business, ensure that the products meet applicable state requirements.

## III. Final Action

EPA is approving revisions to the Maryland SIP, COMAR 26.11.32, to establish VOC content limits for approximately 80 categories and subcategories of consumer products that was submitted on November 19, 2003 by MDE. The implementation of this rule will result in the reduction of VOC emissions in the Baltimore Metropolitan Area.

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 January 23, 2004 without further notice unless EPA receives adverse comment by January 8, 2004. 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, MD152-3105, 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. 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](mailto:morris.makeba@epa.gov), attention: MD152-3105. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.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.

ii. *Regulations.gov.* Your use of [Regulation.gov](http://www.regulations.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.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

#### Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and will be available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### 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 (Pub. L. 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 February 9, 2004. 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 Maryland's Consumer Products 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 28, 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)(185) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(185) Revisions to the Code of Maryland Administrative Regulations (COMAR) on the Control of VOC Emissions from Consumer Products submitted on November 19, 2003 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) A letter dated November 19, 2003 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan pertaining to the control of volatile organic compounds (VOC) emissions from consumer products.

(B) Addition of new COMAR

26.11.32—Control of Emissions of VOC from Consumer Products:

(1) Addition of COMAR 26.11.32.01 through COMAR 26.11.32.23 adopted by the Secretary of the Environment on July 25, 2003 and effective on August 18, 2003.

(2) Addition of new COMAR 26.11.32.01F—Retail Sales, adopted by the Secretary of the Environment on October 22, 2003 and effective on November 24, 2003.

(ii) Additional Material.—Remainder of the State submittals pertaining to the revisions listed in paragraph (c)(185)(i) of this section.

[FR Doc. 03-30509 Filed 12-8-03; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7597-5]

#### Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** The State of Louisiana has applied for final authorization of revisions to its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA), Clusters X, XI and XII which contain Federal rules promulgated from July 1, 1999, to June 30, 2002. The EPA has determined that these revisions satisfy the requirements needed to qualify for final authorization, and is authorizing the State's revisions through this immediate final action. The EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect adverse comments. We note that a petition to withdraw the State of Louisiana's authorization to operate its RCRA program dated March 13, 2002 has been filed by Concerned Citizens of New Sarpy and Louisiana Bucket Brigade. Currently, we are in the final stages of review of the allegations contained in the petition. As such, the Region is not yet in a position to determine the outcome of the petition at this time. EPA is continuing to review the Petition and will take whatever action is deemed necessary as a result of its investigation of the allegations contained in the petition. The approval of this revision to the State's authorized program is a completely separate and unrelated action to EPA's review of the petition. Under RCRA Section 3006(b), 42 U.S.C. 6926(b), States must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Since there were modifications made to the federal program, the changes to Louisiana's RCRA program are necessary. In most circumstances, the Federal Rules require the authorized State's program be revised within one year of the Federal modification. Therefore, EPA does not believe that action on this revision to Louisiana's program should be delayed.

Unless we get adverse comments which oppose this authorization during the comment period, the decision to authorize the State of Louisiana Department of Environmental Quality (LDEQ) revisions to their hazardous waste program will take effect. If adverse comments are received, the EPA will publish a document in the **Federal Register** (FR) either: A withdrawal of the immediate final decisions (and the proposed rule published elsewhere in this issue of the **Federal Register** will serve as a proposal to authorize the changes), or a document containing a response to comments and which either affirms that the immediate final decision takes effect or reverses the decision.

**DATES:** This immediate final rule is effective February 9, 2004 unless EPA receives adverse written comments by January 8, 2004. Should EPA receive such comments, it will publish a timely document either: Withdrawing the immediate final publication or affirming the publication and responding to comments.

**ADDRESSES:** Written comments, referring to Docket Number LA-01-03 should be sent to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. You may submit your comments electronically to [Patterson.alima@epa.gov](mailto:Patterson.alima@epa.gov). Copies of the Louisiana program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday, at the following addresses: Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70884-2178, (225) 219-3559 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-8533.

#### FOR FURTHER INFORMATION CONTACT:

Alima Patterson, (214) 665-8533.

#### SUPPLEMENTARY INFORMATION:

#### A. Why Are Revisions to State Programs Necessary?

States that receive final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when