



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
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March 7, 2012

Diana Esher, Director
Air Protection Division (3AP00)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia PA 19103-2029

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Dear Ms. Esher:

The purpose of this letter is to advise EPA Region III that Maryland has acted to obtain updates to its delegations of authority to implement and enforce National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS). EPA's past NESHAP and NSPS delegations to Maryland allow Maryland to obtain updates to its delegations of authority to implement and enforce NESHAP and NSPS by adopting further requirements by reference.

Maryland has acted to obtain updates to its delegations of authority to implement and enforce NESHAP and NSPS by updating Maryland's adoption by reference of NESHAP and NSPS to include all current and future:

- NESHAP under 40 CFR Part 63; and
- NSPS under 40 CFR Part 60.

Maryland has amended its definition of NESHAP source found in Code of Maryland Regulations (COMAR) 26.11.01.01B(21) to include all sources subject to 40 CFR Part 63, including any future amendments thereto. In accordance with COMAR 26.11.15.02, NESHAP sources in Maryland may not be constructed, modified or operated in any way which will result in violation of any provisions of 40 CFR Part 63. Similarly, Maryland has amended its definition of NSPS source found in COMAR 26.11.01.01B(23) to include all sources subject to 40 CFR Part 60, including any future amendments thereto. In accordance with COMAR 26.11.06.12, NSPS sources in Maryland may not be constructed, modified or operated in any way which will result in violation of any provisions of 40 CFR Part 60.

The Notice of Proposed Action for the NESHAP and NSPS amendments was published in the Maryland Register on December 2, 2011 and a public hearing was held on January 11, 2012. The action was adopted on February 9, 2012 and became effective on March 5, 2012. The Notice of Proposed Action and Notice of Final Action are attached. All administrative procedures were properly followed throughout the adoption process.



Diana Esher
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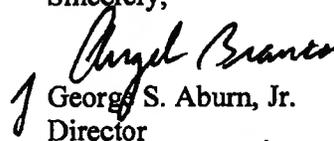
Maryland intends to continue to enforce all current and future NESHAP standards in conformance with the terms of the delegation as laid out in:

- (1) the EPA Region III letter dated November 3, 1999 from W. Michael McCabe to Ann Marie DeBiase for all source categories which are located at major sources, as defined in 40 CFR Part 70.
- (2) the EPA January 30, 2002 notice of delegation in the Federal Register (67 FR 4359) for specified sources that are not located at major sources; and
- (3) the EPA and Maryland Department of the Environment joint Area Source NESHAP Implementation Agreement signed by EPA Region 3 on July 2, 2009 and the Department on August 4, 2009.

Maryland intends to continue to enforce all current and future NSPS standards in conformance with the terms of the NSPS delegation dated August 25, 1985 (50 FR 34140), as revised on April 29, 1986 (51 FR 15886).

If you have any questions concerning this notification or the attached regulatory action, please feel free to call me at (410) 537-3255 or have a member of your staff call Diane Franks at (410) 537-3245.

Sincerely,


George S. Aburn, Jr.

Director

Air & Radiation Management Administration

GSA:dhr
Attachments

cc: Diane Franks
Karen Irons
Frank Courtright



26.11.02 Permits, Approvals, and Registration

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-401, 2-403, and 2-404, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (43) (text unchanged)

(44) "Regulated air pollutant" means the following:

(a) — (e) (text unchanged)

(f) A greenhouse gas (GHG) as defined in COMAR 26.11.01.01B(18-1) and subject to regulation under the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (75 FR 31514) and the "Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs" (76 FR 43490).

(45) — (56) (text unchanged)

C. Major Source.

(1) "Major source" means a stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person, or persons under common control, belonging to a single major industrial grouping and that is described as follows:

(a) — (c) (text unchanged)

(d) A GHG source shall not be considered a major stationary source of any GHG under §C(1)(b) of this regulation unless it is subject to regulation under paragraphs (1) and (2) of the definition of "Subject to regulation" in 40 CFR 70.2, as amended by "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (75 FR 31514) and the "Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs" (76 FR 43490).

(2) — (3) (text unchanged)

26.11.06 General Emission Standards, Prohibitions, and Restrictions

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 10-102, and 10-103, Annotated Code of Maryland

.14 Control of PSD Sources.

A. (text unchanged)

B. General Requirements.

(1) A person may not construct, modify, or operate, or cause to be constructed, modified, or operated, a Prevention of Significant Deterioration (PSD) source, as defined in COMAR 26.11.01.01B(37), which will result in violation of any provision of 40 CFR §52.21, as published in the 2009 edition, as amended by the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (75 FR 31514) and the "Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs" (76 FR 43490).

(2) (text unchanged)

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY

Notice of Proposed Action

[[11-346-P]

The Secretary of the Environment proposes to amend:
(1) Regulation .01 under COMAR 26.11.01 General Administrative Provisions; and
(2) Regulation .12 under COMAR 26.11.06 General Emission Standards, Prohibitions, and Restrictions.

Statement of Purpose

The purpose of this action is to:

- (1) Update the definition of National Emission Standards for Hazardous Air Pollutants source (NESHAP source) under COMAR 26.11.01B(21)(b);
- (2) Update the definition of New Source Performance Standard source (NSPS source) under COMAR 26.11.01B(23); and
- (3) Update a cross reference to the NSPS definition in COMAR 26.11.06.12.

The definitions are being updated by directly incorporating by reference the federal definitions under 40 CFR Parts 63 and 60, as amended, respectively. This action removes the NESHAP and NSPS industrial category/sector lists under 26.11.01.01C and D and instead directly references the industrial category/sector standards under 40 CFR Parts 63 and 60.

Background

Under the Clean Air Act, standards are required to be established for substances and chemical groups that have been identified as hazardous air pollutants (HAPs).

Section 112 of the Clean Air Act sets the requirements for the federal control program for HAPs. NESHAPs are issued to set specific standards for HAPs from industrial sectors. These standards represent the maximum available control technology (MACT) or, in the case of some standards for area sources, the generally achievable control technology (GACT), that the sector could achieve. The level of emission controls required by NESHAPs is technology based. NESHAPs are regularly reviewed and revised by EPA and states take delegation to enforce the standards.

NSPS are required under Section 111 of the Clean Air Act. These standards are technology based and apply to specific categories of stationary sources identified in 40 CFR Part 60. The NSPS apply to new, modified and reconstructed facilities in specific source categories. The NSPS are developed and implemented by EPA and states take delegation to enforce the standards. EPA retains authority to implement and enforce the NSPS.

Sources Affected and Location

The proposed amendments apply to all sources affected by the federal NESHAP and NSPS requirements.

Requirements

The proposed amendments clarify the definitions of NESHAP and NSPS source as follows:

- (1) NESHAP source: A source which is subject to the provisions of 40 CFR Part 63, as amended including Subpart B requirements for control technology determinations for major sources in accordance with Clean Air Act Sections 112(g) and (j); and
- (2) NSPS source: A source which is subject to 40 CFR Part 60, as amended.

Expected Emissions Reductions

Emissions of HAPs are reduced as a result of implementing the NESHAP standards. Implementation of NSPS standards predominantly results in reduction of criteria pollutants. As EPA adds

new source categories to NESHAP and NSPS, those sources will be required to meet strict technology based emission limits.

Existing source categories covered by NESHAP and NSPS are already subject to the emission limits and no additional reductions will be achieved through this action. This action facilitates the implementation of NESHAP and NSPS standards as they are adopted and amended by EPA.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

This action will have a positive impact on individuals with disabilities involving respiratory problems by reducing air pollutants that contribute to disease.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

26.11.01 General Administrative Provisions

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 10-102, and 10-103, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (20-1) (text unchanged)

(21) "National Emission Standards for Hazardous Air Pollutants source (NESHAP source)" means any:

(a) Source of asbestos, beryllium, mercury, vinyl chloride, benzene, or inorganic arsenic which is subject to the provisions of 40 CFR Part 61 (excluding Subparts B, H, I, K, Q, R, T, and W), as amended; or

(b) [One of the sources listed in §D of this regulation] Source which is subject to the provisions of 40 CFR Part 63, as amended.

(22) Reserved.

(23) "New Source Performance Standard source (NSPS source)" [(see §C of this regulation)] means any source which is subject to 40 CFR Part 60, as amended.

(24) — (53) (text unchanged)

[C.] — [D.] (proposed for repeal)

26.11.06 General Emission Standards, Prohibitions, and Restrictions

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 10-102, and 10-103, Annotated Code of Maryland

.12 Control of NSPS Sources.

A person may not construct, modify, or operate, or cause to be constructed, modified, or operated, a New Source Performance Standard (NSPS) source as defined in COMAR [26.11.01.C] 26.11.01.B(23), which results or will result in violation of the provisions of 40 CFR 60, as amended.

ROBERT M. SUMMERS, Ph.D
Secretary of the Environment

Subtitle 11 AIR QUALITY

Notice of Proposed Action

[11-348-P]

The Secretary of the Environment proposes to amend:

(1) Regulation .04 under COMAR 26.11.01 General Administrative Provisions; and

(2) Regulation .02 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

Statement of Purpose

The purpose of this action is to:

(1) Establish methods, procedures, and requirements for the alternative testing of control devices under COMAR 26.11.19.02D;

(2) Establish the method required to determine composite vapor pressure of solvent cleaning material under COMAR 26.11.19.02E;

(3) Establish requirements for the handling of solvents and cleaning materials under COMAR 26.11.19.02I;

(4) Update COMAR 26.11.19.02G(1) to include references to specific VOC Reasonably Available Control Technology (RACT) regulations that had not been adopted at the time this generic RACT regulation was adopted; and

(5) Update COMAR 26.11.01.04 as needed because the test methods are referenced under COMAR 26.11.19.02.

Submission to EPA as Revision to Maryland's SIP (or 11(d) Plan, or Title V Program)

This action will be submitted to the U.S. Environmental Protection Agency for approval as part of Maryland's State Implementation Plan.

Background — COMAR 26.11.19.02D, E, and I Amendments

The methods, procedures, and work practice standards have been established by the U.S. EPA as part of the Control Techniques Guidelines (CTG) for: 1. Paper, Film, and Foil Coatings; 2. Industrial Cleaning Solvents; 3. Miscellaneous Metal and Plastic Parts Coatings; 4. Large Appliance Coatings; 5. Offset Lithographic Printing and Letterpress Printing; 6. Flat Wood Paneling Coatings; and 7. Flexible Package Printing.

EPA develops CTGs as guidance on control requirements for specific source categories. States can either follow the CTGs or adopt more restrictive standards. MDE proposes to adopt the methods,

Title 26
DEPARTMENT OF THE
ENVIRONMENT
Subtitle 11 AIR QUALITY

Notice of Final Action
[11-347-F]

On February 1, 2012, the Secretary of the Environment adopted amendments to:

- (1) Regulation .01 under COMAR 26.11.01 **General Administrative Provisions;**
- (2) Regulation .01 under COMAR 26.11.02 **Permits, Approvals, and Registration; and**
- (3) Regulation .14 under COMAR 26.11.06 **General Emissions Standards, Prohibitions, and Restrictions.**

This action, which was proposed for adoption in 38:25 Md. R. 1645—1647 (December 2, 2011), has been adopted as proposed.
Effective Date: March 5, 2012.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY

Notice of Final Action
[11-346-F]

On February 9, 2012, the Secretary of the Environment adopted amendments to:

- (1) Regulation .01 under COMAR 26.11.01 **General Administrative Provisions; and**
- (2) Regulation .12 under COMAR 26.11.06 **General Emission Standards, Prohibitions, and Restrictions.**

This action, which was proposed for adoption in 38:25 Md. R. 1647—1648 (December 2, 2011), has been adopted as proposed.
Effective Date: March 5, 2012.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY

Notice of Final Action
[11-348-F]

On February 9, 2012, the Secretary of the Environment adopted amendments to:

- (1) Regulation .04 under COMAR 26.11.01 **General Administrative Provisions; and**
- (2) Regulation .02 under COMAR 26.11.19 **Volatile Organic Compounds from Specific Processes.**

This action, which was proposed for adoption in 38:25 Md. R. 1648—1650 (December 2, 2011), has been adopted as proposed.
Effective Date: March 5, 2012.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Title 27
CRITICAL AREA
COMMISSION FOR THE
CHESAPEAKE AND
ATLANTIC COASTAL BAYS

Subtitle 01 CRITERIA FOR LOCAL
CRITICAL AREA PROGRAM
DEVELOPMENT

Notice of Final Action
[11-364-F]

On February 1, 2012, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays adopted:

- (1) Amendments to Regulation .01 under COMAR 27.01.01 **General Provisions; and**
- (2) Amendments to Regulations .01 — .01-3, new Regulation .01-4, and the recodification of existing Regulations .01-4 — .01-7 to be Regulations .01-5 — .01-8 under COMAR 27.01.09 **Habitat Protection Areas in the Critical Area.**

This action, which was proposed for adoption in 38:26 Md. R. 1740—1746 (December 16, 2011), has been adopted with the nonsubstantive changes shown below.

Effective Date: March 5, 2012.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

As originally proposed COMAR 27.01.01.01 and COMAR 27.01.09.01 to .01-4 were provisions to amend the Buffer regulations adopted in March 2010. The proposed amendments were made primarily to make adjustments to mitigation requirements that allow for greater flexibility and decrease costs. During the past year, Commission staff has received comments from individuals and local governments concerning the proposed amendments. In addition, during the official public comment period, the Commission received two comments from local jurisdictions. All comments were discussed with each jurisdiction.

Therefore, the Critical Area Commission has decided to change the regulations as proposed with seven nonsubstantive changes which clarify definitions; delete language to buffer establishment; clarify mitigation and planting standards and reword to clarify buffer management plans. All of these changes are clarifying and none of these changes is substantive. Furthermore, the changes are less restrictive than originally proposed.

Specifically, the nature of the changes and the basis for the above conclusion is as follows:

COMAR 27.01.09.01B(14-1): Added language to clarify "septic systems in a forest or developed woodland on a lot created before local program approval, if clearing is required". This provision is included under the list for permanent disturbance and already appears under the definition of "temporary disturbance" as an example of what is not a temporary disturbance.

COMAR 27.01.09.01B(18-2): Added language to clarify "locating septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required". This provision is included under the list for temporary disturbance