

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 June 30, 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 revise the provisions to COMAR 26.11.09 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 31, 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 paragraphs (c)(183) to read as follows:

#### **§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(183) Revisions to the Maryland Regulations pertaining to Control of Fuel Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel Burning Installations, submitted on November 6, 2002 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter dated November 6, 2002 from the Maryland Department of the Environment transmitting revisions to the Maryland State Implementation Plan pertaining to amendments to COMAR 26.11.09.

(B) Revisions to COMAR 26.11.09, Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations, effective November 11, 2002.

(1) Addition of COMAR 26.11.09.01B(3-1)—definition of "gas". Existing paragraph .01B(3-1) is renumbered as .01B(3-2).

(2) Revisions to COMAR 26.11.09.05A(3), .05B(2), and .05B(3).

(3) Revisions to COMAR 26.11.09.06A(1), .06A(2), and .06B(4); addition of .06A(3)(c).

(4) Revision to COMAR 26.11.09.08D (introductory paragraph) and .08D(1)(a).

(5) Revision to COMAR 26.11.09.09 by removing existing Table 1 and adding both a new Table 1 and footnotes (a), (b), and (c).

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(183)(i) of this section.

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BILLING CODE 6560-50-P

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[FL-93-200318 (a); FRL-7491-5]

#### **Approval and Promulgation of Implementation Plans, Florida: Martin Gas Sales, Inc., Variance**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the Florida State Implementation Plan (SIP) submitted on

January 17, 2003, by the State of Florida through the Florida Department of Environmental Protection. This source specific revision amends the SIP to include a variance granted to Martin Gas Sales, Inc., in Hillsborough County, Florida. The variance allows Martin Gas Sales, Inc., to forgo the postconstruction air quality and deposition monitoring for sulfur particulate emissions from the facility.

**DATES:** This direct final rule is effective June 30, 2003, without further notice, unless EPA receives adverse comment by June 2, 2003. If adverse comment is received, EPA 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:** All comments should be addressed to: Heidi LeSane at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region 4, Air Planning Branch, 61  
Forsyth Street, SW., Atlanta, Georgia  
30303-8960. Heidi LeSane, 404/562-  
9035.

Florida Department of Environmental  
Protection, Twin Towers Office  
Building, 2600 Blair Stone Road,  
Tallahassee, Florida 32399-2400.

**FOR FURTHER INFORMATION CONTACT:**  
Environmental Protection Agency,  
Region 4, Air Planning Branch, 61  
Forsyth Street, SW., Atlanta, Georgia  
30303-8960. Heidi LeSane, 404/562-  
9035 *lesane.heidi@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Florida Administrative Code (F.A.C.) rule 62-212.600(2)(c), requires any new or modified sulfur storage and handling facility, with a throughput of elemental sulfur in all forms (solid or molten) equal to or greater than 5,000 tons per year, to conduct postconstruction air quality and deposition monitoring of sulfur particulate matter for two years from the date of issuance of the initial air operation permit for the facility, and, through the permitting process, to establish the period of time, if any, such monitoring must be continued after the initial two year period. The purpose of the postconstruction monitoring requirement in rule 62-212.600(2)(c), F.A.C., is to determine the impact of the facility on sulfur handling and storage operations.

Under section 120.542, of the Florida Statutes, the department may grant a

variance when the person subject to a rule demonstrates that purpose of the underlying statute will be or has been achieved by other means, or when application of a rule would create a substantial hardship or violate principles of fairness.

On August 14, 2002, Martin Gas Sales Inc., submitted a petition for variance from the requirements of rule 62-12.600(2)(c), F.A.C., for a proposed expansion of its sulfur storage and handling facility in Tampa, Florida. The petitioner estimated the potential sulfur particulate emissions from the facility to be only 1.7 tons per year. Further, the company estimated the cost of compliance with the postconstruction monitoring requirement to be between \$3,000 and \$10,000 per year. Given the low estimated annual emissions and the high cost of complying with rule 62-212.600(2)(c), F.A.C., the department has determined that postconstruction air quality and deposition monitoring of sulfur particulate emissions would not be cost effective in this case and that the purpose of the underlying statute would be met without it. Therefore, the department has issued an Order Granting Variance to Martin Gas Sales, Inc., relieving the company from the requirements of rule 62-212.600(2)(c), F.A.C. Since this rule has previously been approved into Florida's State Implementation Plan (SIP), the department is requesting approval of this variance as a revision to the SIP.

**II. Analysis of State's Submittal**

On January 17, 2003, the State of Florida Department of Environmental Protection submitted revisions to the Florida SIP. This SIP revision (DEP number 2003-01) consists of a department order granting a variance from Rule 62-212.600(2)(c), F.A.C., to Martin Gas Sales, Inc., in Hillsborough County, Florida.

**III. Final Action**

EPA is approving the aforementioned changes to the State of Florida SIP because it is consistent with the Clean Air Act and Environmental Protection Agency's policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 30, 2003, without further notice unless the Agency receives adverse comments by June 2, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 30, 2003, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**IV. Statutory and Executive Order Reviews**

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.*).

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**. 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).

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 June 30, 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 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 18, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Part 52 of chapter I, title 40, 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 K—Florida

■ 2. Section 52.520 is amended by adding a new entry at the end of the table in paragraph (d) for "Martin Gas Sales, Inc." to read as follows:

#### § 52.520 Identification of plan.

|     |   |   |   |   |
|-----|---|---|---|---|
| *   | * | * | * | * |
| (d) | * | * | * | * |

#### EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

| Name of source              | Permit No.     | State effective date   | EPA approval date                             | Explanation |
|-----------------------------|----------------|------------------------|-----------------------------------------------|-------------|
| * * * * *                   |                |                        |                                               |             |
| Martin Gas Sales, Inc ..... | 0570477-007-AC | January 17, 2003 ..... | May 1, 2003 [Insert citation of publication]. |             |

\* \* \* \* \*  
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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[ME-062-7011a; A-1-FRL-7491-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; Total Reduced Sulfur From Kraft Paper Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to Maine's plan for controlling air pollution according to section 111(d) of

the Clean Air Act (*i.e.*, a "111(d) plan"). The revision changes state regulations controlling the emission of total reduced sulfur (TRS) from existing kraft paper mills. This action is being taken in accordance with section 111(d) of the Clean Air Act (CAA).

DATES: This direct final rule is effective on June 30, 2003 without further notice, unless EPA receives adverse comment by June 2, 2003. If adverse comment is received, EPA 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 mailed to Steve Rapp, Unit Manager, Air Permits, Toxics, and Indoor Programs Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston,

MA 02114-2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA 02114, the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, (617) 918-1655.

SUPPLEMENTARY INFORMATION: On March 29, 2000, the State of Maine submitted a formal revision to its 111(d) plan to control emissions of total reduced sulfur (TRS) from existing kraft paper mills. The revision consists of changes to Maine's regulations at Chapter 124,