

Example 1. (i) Taxpayer is engaged in the trade or business of wholesaling products A, B, and C. Taxpayer also manufactures a small quantity of identical products for sale to customers. Taxpayer treats its wholesaling and manufacturing activities as a single trade or business. Taxpayer uses the IPIC method described in paragraph (e)(3) of this section. Pursuant to its election, Taxpayer establishes dollar-value pools for the wholesale items purchased for resale under paragraph (c)(2)(i) of this section, based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. Taxpayer also establishes dollar-value pools for the manufactured items under paragraph (c)(2)(ii) of this section, based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. Taxpayer does not choose to use the 5-percent rules under paragraphs (c)(2)(i) and (ii) of this section.

(ii) Even though Taxpayer has resale and manufactured items that share the same 2-digit commodity codes, under paragraph (c)(2)(iii) of this section, Taxpayer's resale goods may not be included in the same IPIC pool as its manufactured goods.

Example 2.(i) The facts are the same as in **Example 1**, except Taxpayer establishes three IPIC pools for its wholesale activities and three IPIC pools for its manufacturing activities. Further, Taxpayer chooses to use the 5-percent rules of paragraphs (c)(2)(i) and (ii) of this section. The percentage of total current-year cost of each IPIC pool to the current-year cost of all dollar-value pools for the trade or business is as follows:

	Percentage of total current-year cost of IPIC pool to current-year cost of all dollar-value pools (%)
Wholesaling Pools:	
Pool J	90
Pool K	1
Pool L	1
Manufacturing Pools:	
Pool M	6
Pool N	1
Pool O	1
	100

(ii) For purposes of applying the 5-percent rules to Taxpayer's wholesaling operations under paragraph (c)(2)(i) of this section, because Pools K and Pool L each comprise less than 5 percent of the total current-year cost of all dollar-value pools, Pools K and L may be combined to form a single miscellaneous pool of wholesale goods (new Pool P).

(iii) For purposes of applying the 5-percent rules to Taxpayer's manufacturing operations under paragraph (c)(2)(ii) of this section, because Pools N and O each comprise less than 5 percent of the total current-year cost of all dollar-value pools, Pools N and O may be combined to form a single miscellaneous pool of manufactured goods (new Pool Q).

(iv) Because Pool P comprises less than 5 percent of the total current-year cost of all dollar-value pools, under paragraph (c)(2)(i)

of this section, Pool P may be combined with Pool J, the largest IPIC pool of resale goods.

(v) Although Pool Q also comprises less than 5 percent of the total current-year cost of all dollar-value pools, under paragraph (c)(2)(ii) of this section, Pool Q may not be combined with Pool J, the largest pool of resale goods, or Pool M, the largest pool of manufactured goods.

* * * * *

(e) * * *

(3) * * *

(ii) **Eligibility.** Any taxpayer electing to use the dollar-value LIFO method may elect to use the IPIC method. Except as provided in other published guidance, a taxpayer that elects to use the IPIC method for a specific trade or business must use that method to account for all items of dollar-value LIFO inventory.

* * * * *

(v) **Effective/applicability date.** The rules of this paragraph (e)(3) and paragraphs (b)(4) and (c)(2) of this section are applicable for taxable years ending on or after the date the Treasury decision adopting these rules as final regulations is published in the **Federal Register**.

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John Dalrymple,

Deputy Commissioner for Services and Enforcement.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0454; FRL-9955-51-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; New Regulations for Architectural and Industrial Maintenance Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to a provision establishing new volatile organic compound (VOC) content limits and standards for architectural and industrial maintenance (AIM) coatings available for sale and use in Maryland. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before December 28, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0454 at <http://www.regulations.gov>, or via email to pino.maria@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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: Irene Shandruk, (215) 814-2166, or by email at shandruk.irene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In 2001, the Ozone Transport Commission (OTC), in collaboration with the Ozone Transport Region (OTR) states, developed several emission reduction measures, including a VOC model rule for AIM coatings (known as the Phase I AIM model rule), which addressed VOC reductions in the OTR. In 2004, consistent with the OTC Phase I AIM model rule, Maryland adopted COMAR 26.11.33—*Architectural Coatings*, which established VOC content limits, recordkeeping and labeling requirements, and standard practices for use and application of coatings used in architectural and industrial maintenance.

The Phase I AIM model rule was replaced with an amended OTC model rule in 2011 (known as the Phase II AIM model rule). The Phase II AIM model rule was developed for states that needed additional VOC emission

reductions in order to meet the ozone national ambient air quality standards (NAAQS). Consistent with the Phase II AIM model rule, Maryland developed and adopted COMAR 26.11.39—*Architectural and Industrial Maintenance Coatings*, which is an updated version of COMAR 26.11.33.

II. Summary of SIP Revision

On June 27, 2016, the Maryland Department of the Environment (MDE) submitted to EPA a SIP revision

containing new AIM regulations .01 through .08 under COMAR 26.11.39—*Architectural and Industrial Maintenance Coatings*. The new regulations apply to any person who manufactures, blends, thins, supplies, sells, offers for sale, repackages for sale, or applies architectural and industrial maintenance coatings in Maryland. Maryland's new AIM regulations establish more stringent VOC content limits (Table 1) and standards for AIM

coating categories than in COMAR 26.11.33, as well as establish container labeling requirements, reporting requirements, and compliance procedures. The requirements of COMAR 26.11.39 will supersede those of COMAR 26.11.33. A more detailed explanation and analysis of COMAR 26.11.39 can be found in the Technical Support Document (TSD) for this rulemaking under Docket ID No. EPA–R03–OAR–2016–0454.¹

TABLE 1—VOC CONTENT LIMITS UNDER COMAR 26.11.39 FOR VARIOUS AIM COATING CATEGORIES

Architectural and industrial maintenance coatings category	Maryland's new VOC content limits (grams/liter) under COMAR 26.11.39
Flat coatings	50
Non-flat coatings	100
Non-flat—high gloss coatings	150
Specialty Coatings:	
Aluminum roof coatings	450
Basement specialty coatings	400
Bituminous roof coatings	270
Bituminous roof primers	350
Bond breakers	350
Calcimine recoater	475
Concrete curing compounds	350
Concrete/masonry sealers	100
Concrete surface retarders	780
Conjugated oil varnish	450
Conversion varnish	725
Driveway sealers	50
Dry fog coatings	150
Faux finishing coatings	350
Fire-resistive coatings	350
Floor coatings	100
Form-release coatings	250
Graphic arts coatings (Sign paints)	500
High-temperature coatings	420
Impacted immersion coatings	780
Industrial maintenance coatings	250
Low-solids coatings	120
Magnesite cement coatings	450
Mastic texture coatings	100
Metallic pigmented coatings	500
Multi-color coatings	250
Nuclear coatings	450
Pre-treatment wash primers	420
Primers, sealers, and undercoaters	100
Reactive penetrating sealers	350
Reactive penetrating carbonate stone sealers	500
Recycled coatings	250
Roof coatings	250
Rust preventative coatings	250
Shellacs:	
Clear	730
Opaque	550
Specialty primers, sealers, and undercoaters	100
Stains	250
Stone consolidant	450
Swimming pool coatings	340
Thermoplastic rubber coatings and mastic	550
Traffic marking coatings	100
Tub and tile refinish coatings	420
Waterproofing membranes	250
Wood coatings	275

¹ The TSD contains a comparison of VOC content limits in COMAR 26.11.39 and COMAR 26.11.33, demonstrating additional VOC emission reduction potential from COMAR 26.11.39 for this source

category. The TSD also describes some AIM categories that were consolidated or added in the new COMAR 26.11.39 compared to COMAR 26.11.33, which EPA had previously approved for

the Maryland SIP. However, none of these adjustments removed any VOC content limits from the Maryland regulation, which EPA had approved previously into the Maryland SIP.

TABLE 1—VOC CONTENT LIMITS UNDER COMAR 26.11.39 FOR VARIOUS AIM COATING CATEGORIES—Continued

Architectural and industrial maintenance coatings category	Maryland's new VOC content limits (grams/liter) under COMAR 26.11.39
Wood preservatives	350
Zinc-rich primers	340

III. Proposed Action

EPA's review of this material indicates that Maryland's new regulations for AIM coatings under COMAR 26.11.39 are based on the OTC's Phase II AIM model rule and establish more stringent VOC content limits and requirements for certain AIM coating categories compared to COMAR 26.11.33. Therefore, these new regulations should lead to additional VOC reductions from this category. Additionally, Maryland's new AIM coating regulations are more stringent than the federal standards found at 40 CFR 59, subpart D—*National Volatile Organic Compound Emission Standards for Architectural Coatings*, which in 1998 established nationwide VOC content limits and other requirements for manufacturers of architectural coatings. EPA expects more stringent VOC content limits will reduce emissions of VOCs, a precursor to ozone formation. Reduced VOC emissions and reduced ozone formation will assist Maryland with attaining and maintaining the ozone NAAQS. EPA proposes to add COMAR 26.11.39 to the Maryland SIP as a SIP strengthening measure. Pursuant to section 110 of the CAA, EPA is proposing to approve Maryland's new AIM coating provision, COMAR 26.11.39, which was submitted on June 27, 2016, as a revision to the Maryland SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Maryland's new regulations for AIM coatings under COMAR 26.11.39. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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 proposed 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 (Pub. L. 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 proposed rule pertaining to Maryland's new regulations for AIM coatings under COMAR 26.11.39, 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 10, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R03-OAR-2016-0053; FRL-9955-69-Region 3]

Approval and Promulgation of Air Quality Plans; State of Maryland; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a section 111(d)/129 plan submitted by the State of Maryland for existing hospital/medical/infectious waste incineration (HMIWI) units. The section 111(d)/129 plan contains revisions to a previously-approved state plan for existing HMIWI units and was submitted as a result of the October 6, 2009 promulgation of federal new source performance standards (NSPS) and emission guidelines for HMIWI