

(m) *Motions for reconsideration or clarification.* Motions to reconsider or clarify any final disposition of the Environmental Appeals Board must be filed within 10 days after service of that order. Motions for reconsideration must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for clarification must set forth with specificity the portion of the decision for which clarification is being sought and the reason clarification is necessary. Motions for reconsideration or clarification under this provision must be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration or clarification directed to the Administrator, rather than the Environmental Appeals Board, will not be considered, unless such motion relates to a matter that the Environmental Appeals Board has referred to the Administrator pursuant to § 124.2 and for which the Administrator has issued the final order. A motion for reconsideration or clarification does not stay the effective date of the final order unless the Environmental Appeals Board specifically so orders.

(n) *Board authority.* In exercising its duties and responsibilities under this part, the Environmental Appeals Board may do all acts and take all measures necessary for the efficient, fair, and impartial adjudication of issues arising in an appeal under this part including, but not limited to, imposing procedural sanctions against a party who, without adequate justification, fails or refuses to comply with this part or an order of the Environmental Appeals Board. Such sanctions may include drawing adverse inferences against a party, striking a party's pleadings or other submissions from the record, and denying any or all relief sought by the party in the proceeding. Additionally, for good cause, the Board may relax or suspend the filing requirements prescribed by these rules or Board order.

(o) *General NPDES permits.* (1) Persons affected by an NPDES general permit may not file a petition under this section or otherwise challenge the conditions of a general permit in further Agency proceedings. Instead, they may do either of the following:

(i) Challenge the general permit by filing an action in court; or  
(ii) Apply for an individual NPDES permit under § 122.21 as authorized in § 122.28 of this chapter and may then petition the Environmental Appeals Board to review the individual permit as provided by this section.

(2) As provided in § 122.28(b)(3) of this chapter, any interested person may

also petition the Director to require an individual NPDES permit for any discharger eligible for authorization to discharge under an NPDES general permit.

(p) The Environmental Appeals Board also may decide on its own initiative to review any condition of any RCRA, UIC, NPDES, or PSD permit decision issued under this part for which review is available under paragraph (a) of this section. The Environmental Appeals Board must act under this paragraph within 30 days of the service date of notice of the Regional Administrator's action.

■ 5. Paragraph (b)(1) of § 124.60 is amended by removing the reference to “§ 124.19(f)” in the first sentence and adding in its place “§ 124.19(k)(2)”.

#### **PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM**

■ 6. The authority citation for part 270 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

■ 7. Paragraph (f)(3) of § 270.42 is revised to read as follows:

#### **§ 270.42 Permit modification at the request of permittee.**

\* \* \* \* \*

(f) \* \* \*

(3) An automatic authorization that goes into effect under paragraph (b)(6)(iii) or (v) of this section may be appealed under the permit appeal procedures of 40 CFR 124.19; however, the permittee may continue to conduct the activities pursuant to the automatic authorization unless and until a final determination is made by the Environmental Appeals Board to grant review and remand the permit decision.

\* \* \* \* \*

■ 8. Paragraph (a) of 270.155 is revised to read as follows:

#### **§ 270.155 May the decision to approve or deny my RAP application be administratively appealed?**

(a) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Director's decision to approve or deny your RAP application to EPA's Environmental Appeals Board under § 124.19 of this chapter. Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent

as for final permit decisions under § 124.15 of this chapter (or a decision under § 270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit).

\* \* \* \* \*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 239 and 258**

**[EPA-R01-RCRA-2012-0944; FRL-9771-7]**

### **Adequacy of Massachusetts Municipal Solid Waste Landfill Permit Program**

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

**ACTION:** Direct final rule.

**SUMMARY:** This action approves a modification to Massachusetts's approved municipal solid waste landfill (MSWLF) program. The approved modification allows the State to issue Research, Development, and Demonstration (RD&D) Permits to owners and operators of MSWLF in accordance with its State law. On March 22, 2004, EPA issued final regulations allowing research, development, and demonstration (RD&D) permits to be issued to certain municipal solid waste landfills by approved states. On December 7, 2012 Massachusetts submitted an application to EPA Region 1 seeking Federal approval of its RD&D requirements. After thorough review EPA Region 1 is determining that Massachusetts's RD&D permit requirements are adequate through this direct final action.

**DATES:** This determination of RD&D program adequacy for Massachusetts will become effective April 25, 2013 without further notice unless EPA receives adverse comments on or before March 26, 2013. If adverse comments are received, EPA will review the comments and publish another **Federal Register** document responding to the comments and either affirming or revising the initial decision.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-RCRA-2012-0944, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* [hsieh.juiyu@epa.gov](mailto:hsieh.juiyu@epa.gov).
- *Fax:* (617) 918-0646, to the attention of Juiyu Hsieh.
- *Mail:* Juiyu Hsieh, RCRA Waste Management and UST Section, Office of

Site Remediation and Restoration (OSRR07-1), EPA New England—Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912.

- *Hand Delivery or Courier:* Deliver your comments to Juiyu Hsieh, RCRA Waste Management and UST Section, Office of Site Remediation and Restoration (OSRR07-1), EPA New England—Region 1, 5 Post Office Square, 7th floor, Boston, MA 02109-3912. Such deliveries are only accepted during the Office's normal hours of operation.

*Instructions:* Identify your comments as relating to Docket ID No. EPA-R01-RCRA-2012-0944. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or claimed to be other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* EPA has established a docket for this action under Docket ID No. EPA-R01-RCRA-2012-0944. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although it may be listed in the index, some information might not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Region 1 Library, 5 Post Office Square, 1st floor, Boston, MA 02109-3912; by appointment only; tel: (617) 918-1990.

**FOR FURTHER INFORMATION CONTACT:** Juiyu Hsieh, Remediation and Restoration II Branch (Mail Code OSRR07-1), U.S. EPA Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109, telephone: (617) 918-1646, [hsieh.juiyu@epa.gov](mailto:hsieh.juiyu@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

On March 22, 2004, EPA issued a final rule amending the municipal solid waste landfill criteria in 40 CFR part 258 to allow for research, development and demonstration (RD&D) permits (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time, to be implemented through state-issued RD&D permits. RD&D permits are available only in states with approved MSWLF permit programs that have been modified to incorporate RD&D permit authority. While States are not required to seek approval to allow permits under this new provision, those States that are interested in providing RD&D permits to owners and operators of MSWLFs must seek approval from EPA before issuing such permits. Approval procedures for new provisions of 40 CFR part 258 are outlined in 40 CFR 239.12.

Massachusetts's MSWLF permit program was approved on July 5, 1995 (60 FR 34982). On December 7, 2012, Massachusetts submitted an application to EPA Region 1 seeking Federal approval of its RD&D project program in conformance with Federal Requirements at 40 CFR 258.4. The Massachusetts RD&D program utilizes existing State regulations at 310 C.M.R. 19.080 and 310 C.M.R. 19.062, which allow the State to issue variances, and demonstration project permits, respectively. The State has the authority under these regulations to ensure that all federal requirements are met, by limiting the variances issued to those that are federally allowed, and by attaching conditions and requirements to any variances and permits that are issued which ensure that all federal requirements will be met. The Massachusetts Department of Environmental Protection has entered into a Memorandum of Agreement with the EPA in which it has committed to

always exercise its authority to ensure that all federal requirements are met.

##### **B. Decision**

After a thorough review, EPA is determining that the Massachusetts RD&D permit provisions are adequate to comply with the Federal criteria as set out in 40 CFR 258.4.

##### **C. Statutory and Executive Order Reviews**

This action approves State solid waste requirements pursuant to Resource Conservation and Recovery Act (RCRA) Section 4005 and imposes no Federal requirements. Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning Review—The Office of Management and Budget has exempted this action from its review under Executive Order 12866;

2. Paperwork Reduction Act: This action does not impose an information collection burden under the Paperwork Reduction Act;

3. Regulatory Flexibility Act: Since this action will not add any requirements not already imposed under State law, I certify that this action will not have a significant economic impact on a substantial number of small entities;

4. Unfunded Mandates Reform Act: Because this action approves pre-existing requirement 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;

5. Executive Order 13132: Federalism—Executive Order 13132 does not apply to this action because this action will not have federalism implications (i.e., there are no substantial direct effects on States, on the relationship between the national government and States, or on the distribution of power and responsibilities between Federal and State governments);

6. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments—Executive Order 13175 does not apply to this action because it will not have Tribal implications (i.e., there are no substantial direct effects 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);

7. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks—This action is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks;

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use: This action is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866;

9. National Technology Transfer Advancement Act: This provision directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards and bodies. EPA approves State programs so long as the State programs adequately meet the criteria set out in 40 CFR part 258. It would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the 40 CFR part 258 criteria. Thus, the National Technology Transfer Advancement Act does not apply to this action;

10. Congressional Review Act: EPA will submit a report containing this action and other information required by the Congressional Review Act (5 U.S.C. 801 et seq.) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**.

#### List of Subjects

##### 40 CFR Part 239

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

##### 40 CFR Part 258

Reporting and recordkeeping requirements, Waste treatment disposal, Water pollution control.

**Authority:** This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated: January 4, 2013.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA New England, Region 1.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2012-0610; FRL-9770-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology Requirements for Volatile Organic Compounds

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. These revisions pertain to the adoption of various test methods, calculations methods, work practice standards and exemptions which make Maryland Department of the Environment (MDE) regulations more consistent with EPA's Control Techniques Guidelines (CTGs) for seven source categories. These categories are: Paper, film, and foil coatings; industrial cleaning solvents; miscellaneous metal and plastic parts coatings; large appliance coatings; offset lithographic printing and letterpress printing; flat wood paneling coatings; and flexible package printing. EPA is approving these revisions to reduce volatile organic compound (VOC) emissions from these seven categories which will help Maryland attain and maintain the National Ambient Air Quality Standards (NAAQS) for ozone in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on February 25, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-EPA-R03-OAR-2012-0610. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy 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. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

#### FOR FURTHER INFORMATION CONTACT:

Christopher Cripps, (215) 814-2179, or by email at [cripps.christoher@epa.gov](mailto:cripps.christoher@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 23, 2012 (77 FR 64787), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of revisions to Maryland regulations for the control of emissions of VOC from seven categories of sources covered by a CTG. The State of Maryland submitted the formal SIP revision (Revision No. 12-03) on April 4, 2012.

##### II. Summary of SIP Revision

On April 5, 2012, EPA received a SIP revision submittal from the Maryland Department of the Environment (MDE) which addressed sources of VOC emissions covered by EPA's CTGs for the following seven source categories: (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. This SIP revision submittal included amended Regulation .04 "Testing and Monitoring" under COMAR 26.11.01 "General Administrative Provisions" (COMAR 26.11.01.04) and Regulation .02 "Applicability, Determining Compliance, Reporting and General Requirements" under COMAR 26.11.19 "Volatile Organic Compounds from Specific Processes" (COMAR 26.11.19.02). These amendments pertain to the adoption of various test methods, calculations methods, work practice standards and exemptions which make MDE's regulations more consistent with EPA's CTGs for these seven source categories.

An explanation of the CAA's reasonably available control technology (RACT) requirements for the 1997 8-hour ozone NAAQS as they apply to Maryland, the specific details of the amendments to COMAR 26.11.01.04 and COMAR 26.11.19.02 and EPA's rationale for approving this SIP revision were provided in the NPR and will not be restated here.