ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD120–3071a; FRL–7100–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; VOC RACT Determination for the Thomas Manufacturing Corporation Inc. in the Baltimore Ozone Nontattainmant Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the State of Maryland's State Implementation Plan (SIP). The revision was submitted by the Maryland Department of the Environment (MDE) to establish and require reasonably available control technology (RACT) for a major source of volatile organic compounds (VOC) in Maryland, the Thomas Manufacturing Corporation, Inc. This source is located in the Baltimore ozone nonattainment area. EPA is approving this revision to establish a RACT requirement in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on December 31, 2001 without further notice, unless EPA receives adverse written comment by December 17, 2001. 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: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Catherine Magliocchetti at (215) 814–2174 at the EPA Region III address above or by e-mail at *magliocchetti.catherine@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

On February 21, 2001, the Maryland Department of the Environment (MDE) submitted a revision to the Maryland SIP that establishes and imposes a source-specific RACT determination for the Thomas Manufacturing Corporation, Inc., a major source of VOC's in the State of Maryland. The submittal consists of a consent order that imposes VOC RACT requirements for this source. This source is located in Baltimore County. Maryland is imposing a source-specific RACT determination under COMAR 26.11.19.02 G. Once this SIP revision is approved by EPA, the Thomas Manufacturing Corporation Inc. will no longer be subject to COMAR 26.11.06.06.

II. Summary of the SIP Revision

Thomas Manufacturing Corporation Inc. is a light bulb coating facility located in Baltimore County, Maryland. Thomas Manufacturing Corporation Inc. is a major VOC emitting facility. The MDE issued a consent order to impose RACT for this VOC emitting source as follows.

The consent order for this facility requires Thomas Manufacturing Corporation Inc. to operate and maintain the existing Carbon Adsorption/Absorption Unit on the light bulb coating operation to reduce VOC emissions. The source also must operate the control system, at all times, in accordance with the manufacturer's specifications. The source must adjust the operating cycles of adsorption and desorption to maximize VOC recovery, and in no event can the cycles exceed a two (2) hour cycle. The source is required to operate and maintain the existing Carbtrol system to reduce VOC emissions from the material mixing room. The source must operate the control system at all times in accordance with the manufacturer's specifications. The source must use chemical sensing detector tubes to determine when carbon breakthough occurs, which shall be defined as a VOC reading of greater than or equal to 50 parts per million (ppm) on the detector. Upon detection of breakthrough, the carbon canisters shall be removed and replaced with fresh carbon canisters. All used canisters of carbon shall be capped to prevent fugitive emissions until recovery has taken place. Thomas Manufacturing Corporation Inc. agrees to design and operate the carbon control system to reduce VOC emissions by 85 percent or more, overall. The source shall demonstrate compliance through the calculation of monthly material balance under which the company shall record the total VOC used and recovered during each calendar month. The source must retain all VOC use and recovery records for three years and make such records available to the MDE upon request. Under this consent order, Thomas Manufacturing Corporation Inc. shall not be subject to the otherwise applicable general VOC requirements in COMAR 26.11.06.06, provided that the source achieves and maintains compliance with the terms of the consent order.

III. Final Action

EPA is approving this revision to the Maryland SIP submitted by MDE on February 21, 2001 to establish and require VOC RACT for the Thomas Manufacturing Corporation Inc., located in the Baltimore 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 December 31, 2001 without further notice unless EPA receives adverse comment by December 17, 2001. 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.

IV. Administrative Requirements

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.'' See 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 (Public Law 104–4). This rule also does 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), nor will it 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for one named source.

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 January 14, 2002. 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 approving Maryland's source-specific RACT requirements to control VOC emissions from the Thomas Manufacturing Corporation Inc. in Maryland 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, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: October 31, 2001.

Thomas Voltaggio,

Acting 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)(167) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(167)

(i) Incorporation by reference.

(A) Letter dated February 21, 2001 submitted by the Maryland Department of the Environment transmitting the source-specific VOC RACT determination for the Thomas Manufacturing Corporation Inc., in the form of a Consent Order.

(B) Consent Order for the Thomas Manufacturing Corporation Inc., dated February 6, 2001, with an effective date of February 15, 2001.

(ii) Additional Materials—Other materials submitted by the State of Maryland in support of and pertaining to the RACT determination for the source listed in paragraph (c)(167)(i)(B) of this section.

[FR Doc. 01–28187 Filed 11–14–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281-0369-02; I.D. 110801D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the northern Florida west coast subzone. This closure is necessary to protect the Gulf king mackerel resource.