

### 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 August 12, 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 the revisions to the Pennsylvania's air resource regulations 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 8, 2002.

**Thomas C. 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(189) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(189) Revisions to the Commonwealth of Pennsylvania Regulations pertaining to the Pennsylvania's air resource regulations submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting revisions to the Commonwealth's Regulations pertaining to the Pennsylvania's air resource regulations.

(B) Revisions to 25 PA Code, Part I, Subpart C, Article III, effective December 27, 1997.

(1) Revisions to Chapter 121, General Provisions, section 121.1, revised definitions for coke oven battery, coke oven gas collector main, and door area.

(2) Revisions to Chapter 123, section 123.44, Visible Emissions—Limitations

of fugitive air contaminants from operation of any coke oven battery, paragraphs (a) and (a)(1).

(3) Revisions to Chapter 137, section 137.4, Standby Plans, paragraphs (b), (c) and (f).

(4) Revisions to Chapter 139, section 139.12, Emissions of Particulate Matter, paragraphs (1) and (5).

(5) Revisions to Chapter 139, section 139.111, Waste Incinerator Monitoring Requirements, introductory paragraph, and paragraphs (1)(i), (2) and (3).

(6) Deletion of Chapter 139, section 139.61.

(7) Deletion of Chapter 139, section 139.104. In its place, the provisions of Chapter 139.101 will now apply.

(C) Revisions to 25 PA Code, Part I, Subpart C, Article III, effective May 7, 1998.

(1) Revisions to Chapter 139, section 139.12, Emissions of Particulate Matter, paragraph (2).

(2) Revisions to Chapter 139, section 139.101, General Requirements, paragraph (12)(ii).

(ii) Additional Material.—Remainder of the State submittal(s) pertaining to the revisions listed in paragraph (c)(189)(i) of this section.

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BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD062-3087a; FRL-7220-1]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Visible Emissions and Open Fire Amendments

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the Maryland State Implementation Plan (SIP). These revisions establish the exemption of certain intermittent visible emissions (VE) at Federal facilities, amend open burning distance limitations, and establish specific requirements for safety determinations at Federal facilities. EPA is fully approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on August 12, 2002 without further notice, unless EPA receives adverse written comment by July 11, 2002. 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 and Information Services Branch, 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 Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**FOR FURTHER INFORMATION CONTACT:** Betty Harris, (215) 814-2168, or by e-mail at harris.betty@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 6, 1998, the State of Maryland submitted formal revisions to its State Implementation Plan (SIP). These revisions submitted by the Maryland Department of the Environment (MDE) establish an exemption of certain intermittent visible emissions (VE) at Federal facilities, amend open burning distance limitations, and establish specific requirements for safety determinations at Federal facilities.

#### II. Summary of SIP Revision

COMAR 26.11.06.02 exempts certain intermittent visible emissions at Federal facilities, COMAR 26.11.07 establishes specific requirements that apply to safety determinations at Federal facilities, and COMAR 26.11.07.03 (B) amends the distance limitations associated with open burning activities.

The primary purpose of COMAR 26.11.06.02 is to exempt certain intermittent visible emissions at Federal facilities from the general visible emission requirements of the SIP. The function of some Federal facilities and other sources under contract with the Federal government is to test and perform demonstrations on weapons, munitions and other devices and to prepare safety procedures for proper handling and transportation. Under

these general provisions, the tests and demonstrations are short term where the visible emission is the result.

The amendments under COMAR 26.11.07 establish specific requirements as it relates to safety determinations at Federal facilities. Safety determinations at Federal facilities include testing, training, or demonstrations with explosives, propellants, incendiaries, or military devices involving an open flame.

The amendments under COMAR 26.11.07.03 (B) reinstate the previous open burning distance limitations which were inadvertently changed for Calvert, Cecil, Charles and Frederick counties.

### III. Final Action

EPA is approving the SIP revisions submitted by MDE on February 6, 1998 to exempt certain intermittent visible emissions at Federal facilities, amend open burning distance limitations for Calvert, Cecil, Charles and Frederick counties, and establish specific requirements for safety determinations at Federal facilities. 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 August 12, 2002 without further notice unless EPA receives adverse comment by July 11, 2002. 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" (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 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 August 12, 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 pertaining to Maryland SIP amending visible emission and open burning requirements 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, Reporting and recordkeeping requirements.

Dated: May 21, 2002.

James W. Newsom,

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)(173) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(173) Revisions to the Maryland State Implementation Plan submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) A letter dated February 6, 1998 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan, concerning exemption of certain intermittent visible emissions requirements at Federal facilities, establishment of specific requirements for safety determinations at Federal facilities, and amendment to open burning distance limitations under the "open fire" rule.

(B) The following additions and revisions to the Code of Maryland Administrative Regulations (COMAR), effective August 11, 1997:

(1) COMAR 26.11.06.02A(1)—introductory text of paragraph (1) [revised], 26.11.06.02A(1)(i) [revised] and 26.11.06.02A(1)(j) [added].

(2) COMAR 26.11.07.01B(5) [added], 26.11.07.03B(1)(c) [revised], and 26.11.07.06 [added].

(ii) Additional Materials—Remainder of the February 6, 1998 submitted by the Maryland Department of the Environment pertaining to the amendments in paragraph (c)(173)(i) (B) of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL207-2; FRL-7228-4]

### Approval and Promulgation of Implementation Plans; Illinois; Withdrawal of Direct Final Rule

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to an adverse comment, the EPA is withdrawing the direct final rule approving new emissions tests averaging provisions for the State of Illinois. In the direct final rule published on April 15, 2002 (67 FR 18115), EPA stated that if EPA receives adverse comment by May 15, 2002, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comment received in a subsequent final action based upon the proposed action also published on April 15, 2002 (67 FR 18149). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule is withdrawn as of June 11, 2002.

#### FOR FURTHER INFORMATION CONTACT:

David Pohlman, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3299.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Particulate matter, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Recordkeeping and reporting requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 30, 2002.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

Accordingly, the direct final rule adding 40 CFR 52.720(c)(164), published at 67 FR 18115, is withdrawn as of June 11, 2002.

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## FEDERAL MARITIME COMMISSION

### 46 CFR Parts 502, 503, 515, 520, 530, 535, 540, 550, 551, 555, and 560

[Docket No. 02-05]

### Update of Existing and Addition of New Filing and Service Fees

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission ("Commission") is revising its existing fees for filing petitions and complaints; various public information services, such as record searches, document copying, and admissions to practice; filing ocean transportation intermediary applications; applications for special permission; service contracts; agreements; and passenger vessel performance and casualty certificate applications. These revised fees reflect current costs to the Commission. In addition, the Commission is adding a new fee for the provision of a database report on effective carrier agreements, is making nomenclature changes in certain CFR units with respect to Commission bureau designations, and is making section reference changes in certain CFR units to reflect numbering changes made in a previous rulemaking. The Commission also is republishing a fee requirement that was previously inadvertently omitted.

**DATES:** Effective on July 15, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573-0001, (202) 523-5725. E-mail: [secretary@fmc.gov](mailto:secretary@fmc.gov).

**SUPPLEMENTARY INFORMATION:** On March 21, 2002, the Commission published in the **Federal Register** a notice of proposed rulemaking ("Proposed Rule"), 67 FR 13118, in Docket No. 02-05, *Update of Existing and Addition of New Filing and Service Fees*. No comments were received.

This rule updates the Commission's current filing and service fees which have been in effect since 1998, and are no longer representative of the Commission's actual costs for providing such services. Fee increases primarily reflect increases in salary and indirect (overhead) costs. For some services, the increase in processing or review time accounts in part for the increase in the level of fees. For other services, fees are lower due to overall reduced costs to provide those services.

The Commission is instituting a new user fee for provision of a database report on effective carrier agreements. Also, in promulgating new rules governing the filing of service contracts to implement the Ocean Shipping Reform Act of 1998, Pub. L. 105-158, 112 Stat. 1902, in Docket No. 99-12, *Termination of Dial-Up Service Contract Filing System*, 64 FR 41041 (July 29, 1999), we inadvertently failed to carry over § 514.7 into part 530. That section was a permission process to correct clerical or administrative errors in the essential terms of a filed service contract, and included an attendant user fee. We are therefore republishing it.

The Commission intends to update its fees biennially in keeping with OMB guidance. In updating its fees, the Commission will incorporate changes in the salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level of costs.

This regulatory action was not subject to OMB review under Executive Order 12866, dated September 30, 1993. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chairman of the Federal Maritime Commission has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. In its Notice of Proposed Rulemaking, the Commission stated its intention to certify the rule because the impact on