

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart I—Delaware

2. Section 52.420 is amended by adding paragraph (c)(52) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(52) Revisions to the Delaware State Implementation Plan submitted by the Secretary, Delaware Department of Natural Resources and Environmental Control, on January 11, 1993.

(i) Incorporation by reference.

(A) Letter dated January 11, 1993 from the Secretary, Delaware Department of Natural Resources and Environmental Control, submitting a revision to the Delaware State Implementation Plan.

(B) Amended section 2, Regulation 1 (Definitions and Administrative Principles). Amended section 1, and added new section 7 of Regulation 17 (Source Monitoring, Recordkeeping and Reporting). The amendments to Regulations 1 and 17, and the addition of section 7 of Regulation 17, were effective on January 11, 1993. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOC) and/or nitrogen oxides (NO_x) at or above specified actual emission threshold levels. This program is applicable state-wide.

(ii) Additional material.

(A) Remainder of January 11, 1993 state submittal pertaining to Delaware Emission Statement Program.

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[FR Doc. 96–4445 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MD6–1–5626; FRL–5328–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Continuous Emission Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes and requires continuous emission monitoring requirements for certain sources of air

pollution. The regulation applies to operators of fossil fuel-fired steam generating equipment with a rated heat input capacity of 250 million BTU per hour or greater. The intended effect of this action is to approve an amended regulation submitted by the State of Maryland Department of the Environment as a SIP revision rendering its monitoring requirements as federally enforceable. This action is being taken in accordance with section 110 of the Clean Air Act.

DATES: This action is effective April 29, 1996 unless notice is received on or before March 29, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Marcia Spink, Associate Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and State of Maryland Department of the Environment, Air Management Association, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 597–7547.

SUPPLEMENTARY INFORMATION: On September 23, 1991, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of the following regulatory modifications: (1) Definition amendments to Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, (2) the addition of regulation COMAR 26.11.01.10 which contains continuous emissions monitoring (CEM) requirements for opacity and (3) amendments to COMAR 26.11.08.07 which would delete redundant language in requirements for CEMs for municipal solid waste incinerators.

Summary of SIP Revision

The revision includes the addition of definitions regarding the continuous emission monitoring regulations, the continuous emission monitoring program requirements for opacity.

The new regulations, found at COMAR 26.11.01.10, require continuous emission monitoring for large fuel burning sources. These new monitoring requirements will mandate the installation of continuous emission monitoring for opacity that will provide Maryland direct access to data for enforcement purposes. Opacity is an indicator of combustion efficiency and an indirect measure of particulate emissions. Data collected from the opacity monitoring will be used by Maryland as an indicator of whether proper operation and maintenance procedures are being used.

Specifically, the revision adds a new regulation which provides that fossil fuel-fired steam generating units with a rated heat input of 250 million Btu per hour or greater shall install and operate a CEM to measure and record opacity. The new regulation also clearly stipulates monitoring and installation requirements, certification schedules, and recordkeeping and reporting requirements.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on April 29, 1996, unless, by March 29, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 29, 1996.

Final Action

EPA is approving the amended regulations, COMAR 26.11.01.01 Definitions and COMAR 26.11.01.10 Continuous Emissions Monitoring Requirements submitted by the State of Maryland Department of the Environment as a revision to the Maryland SIP. The regulation requires that the operators of fossil fuel-fired steam generating units, continuously monitor opacity and report the findings on a specified, regular basis to the

Maryland Department of the Environment.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Through submission of this state implementation plan revision, the State has elected to adopt the program provided for under Section 110. SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the SIP processing guidelines of the July 10, 1995 memorandum from the Assistant Administrator for Air and Radiation.

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan revision, the State has elected to adopt the program

provided for under section 110 and subchapter I, part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirement; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the State of Maryland—Continuous Emission Monitoring Regulations, must be filed in the United States Court of Appeals for the appropriate circuit by April 29, 1996. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 24, 1995.

Stanley L. Laskowski,

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. 7401–7671q.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(106) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(106) Revisions to the Maryland Regulations submitted on September 18,

1991 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of September 18, 1991 from the Maryland Department of the Environment transmitting the continuous emission monitoring revision.

(B) Definition amendments to Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, excluding paragraph E–1, and new regulations COMAR 26.11.01.10 Continuous Emission Monitoring Requirements, concerning continuous opacity monitoring, effective July 22, 1991.

(ii) Additional materials.

(A) Remainder of September 23, 1991 State submittal.

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[FR Doc. 96–4444 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 110

[FRL–5430–6]

Oil Discharge Program; Editorial Revision of Rules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is removing text from the Code of Federal Regulations (CFR), specifically 40 CFR part 110, which is unnecessary because it simply repeats language already set out in section 311 of the Federal Water Pollution Control Act (the Clean Water Act or the Act). EPA is also making other editorial revisions in 40 CFR part 110. Neither the removal of text nor the editorial revisions effect any substantive changes to the revised rules.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT:

Hugo Paul Fleischman, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, mail code 5203G, phone (703) 603–8769; or the RCRA/Superfund Hotline, phone (800) 424–9346 or (703) 603–9232 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995, The President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer, and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. EPA has