

title V permit. EPA's approval of this SIP revision will ensure that construction permit terms are included as applicable requirements in Wisconsin's title V permits, and will satisfy the deficiency identified in the NOD. Therefore, EPA has determined that this revision is approvable.

#### V. What Action Is EPA Taking Today?

EPA is proposing to approve revisions to the Wisconsin SIP which will make permanent all terms of Wisconsin's permits to construct, reconstruct, replace or modify sources unless the terms are revised through a revision of the construction permit or issuance of a new construction permit. EPA is also soliciting comment on this proposed approval.

#### VI. Statutory and Executive Order Reviews. Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

#### Paperwork Reduction Act

This proposed 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.*).

#### Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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.*).

#### Unfunded Mandates Reform Act

Because this rule proposes to approve 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 (Pub. L. 104-4).

#### Executive Order 13132—Federalism

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 proposes to approve 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.

#### Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This proposed 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).

#### Executive Order 13045—Protection of Children From Environmental Health and Safety Risks

This proposed 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.

#### Executive Order 13211—Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," 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).

#### National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus

standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

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

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

Date: January 4, 2006.

Gary Gulezian,

Acting Regional Administrator, Region 5.

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BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2005-MD-0015; FRL-8021-1]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revised Definition of Interruptible Gas Service

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Maryland Department of the Environment. This revision amends the regulation pertaining to the control of fuel-burning equipment, stationary internal combustion engines, and certain fuel burning installations. The revision clarifies the definition of "interruptible gas service". This action is being taken under the Clean Air Act (CAA or the Act).

**DATES:** Written comments must be received on or before February 13, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2005-MD-0015 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

C. Mail: EPA-R03-OAR-2005-MD-0015, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such

deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2005-MD-0015. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The EPA <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 e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail 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.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., 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 in <http://www.regulations.gov> or in hard copy 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:** Helene Drago, (215) 814-5796, or by e-mail at [drago.helene@epa.gov](mailto:drago.helene@epa.gov).

**SUPPLEMENTARY INFORMATION:** On October 31, 2005, the Maryland Department of the Environment submitted a revision to its State Implementation Plan (SIP). The revision clarifies the definition of "interruptible gas service". The revision consists of amendments to Regulation .01 under COMAR 26.11.09 Control of Fuel Burning Equipment, Stationary Internal Combustion Engines and Certain Fuel-Burning Installations.

### I. Background

The Maryland Department of the Environment developed as one of its control strategies for particulate matter, a requirement to install a mechanical dust collector on fuel burning equipment burning residual fuel oil. This requirement applied in the Baltimore/Washington areas.

When the dust collector requirement was developed, it was the normal practice for gas suppliers to interrupt gas service for several days up to two weeks when gas supply was low. Gas customers that had dual firing capability had no choice but to burn oil during the interruptible period. At that time a question arose as to the applicability of the dust collector requirement for those sources that burn residual oil when the gas service was interrupted. In response to that question, the term "interruptible gas service" was defined. The regulation provided an exemption from the dust collector requirement for sources that burned residual oil during the interruptible period. The current definition, however, does not clearly state that the exemption applies only when there is a shortage of natural gas.

### II. Summary of SIP Revision

On October 31, 2005, the State submitted a SIP revision request which concerned clarification of the definition of "interruptible gas service". This SIP revision includes amendments to Regulation .01 under COMAR 26.11.09 Control of Fuel-burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations. Documentation of public participation was included in the submittal.

The amendment clarifies the definition of the term "interruptible gas service". The revision clarifies that the gas supplier (utility) makes the decision to interrupt the gas service based on the availability of gas and not on the cost of fuel or other parameter. A user is not involved with the decision to interrupt gas service except when the user is

notified that the service will be interrupted.

### III. Proposed Action

EPA's review of this material indicates the revision will not cause or contribute to a violation of the NAAQS. EPA is proposing to approve the State of Maryland SIP revision concerning the clarification of the definition of "interruptible gas service", which was submitted on October 31, 2005. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 (Pub. L. 104-4). This proposed 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 proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or

the distribution of power and responsibilities established in the Clean Air Act. This proposed 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 proposed 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 proposed rule to approve revisions that clarify the definition of "interruptible gas service" does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: December 30, 2005.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. E6-221 Filed 1-11-06; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 051213334-5334-01; I.D. 112905C]

RIN 0648-AS27

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes a rule to implement Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 19 provides for a comprehensive program to describe and protect essential fish habitat (EFH) for Pacific Coast Groundfish. The proposed management measures are intended to minimize, to the extent practicable, adverse effects to EFH from fishing. The measures include fishing gear restrictions and prohibitions, areas that would be closed to bottom trawl, and areas that would be closed to all fishing that contacts the bottom.

**DATES:** Comments on this proposed rule must be received by 5 p.m. local time February 27, 2006.

**ADDRESSES:** You may submit comments on this proposed rule identified by I.D. 112905C by any of the following methods:

- E-mail:

*GroundfishEFHproposedrule*

*.nwr@noaa.gov* Include ID 112905C in the subject line of the message.

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

- Fax: 206-526-6736, Attn: Steve Copps.

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Steve Copps.

Copies of Amendment 19, which includes a regulatory impact review (RIR/IRFA) and the Final Environmental Impact Statement—(FEIS) on EFH for Pacific Coast Groundfish and Amendment 19 to the Pacific Coast Groundfish FMP are available for public review during business hours at the office of the Pacific Fishery Management Council (Pacific Council),

at 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

Copies of additional reports referred to in this document may also be obtained from the Pacific Council.

#### FOR FURTHER INFORMATION CONTACT:

Steve Copps (Northwest Region, NMFS), phone: 206-526-6140; fax: 206-526-6736 and; e-mail: *steve.copps@noaa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

The proposed rule also is accessible via the Internet at the Office of the Federal Register's website at *http://www.gpoaccess.gov/fr/index.html*. Background information and documents are available at the NMFS Northwest Region website at *http://www.nwr.noaa.gov/* and at the Pacific Council's website at *http://www.pcouncil.org*.

##### Background

Amendment 19 to the FMP has been developed by NMFS and the Pacific Council to comply with section 303(a)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by amending the Pacific Coast Groundfish FMP to: (1) Describe and identify EFH for the fishery, (2) designate Habitat Areas of Particular Concern (HAPAC), (3) minimize to the extent practicable the adverse effects of fishing on EFH, and (4) identify other actions to encourage the conservation and enhancement of EFH. This proposed rule is based on recommendations of the Pacific Council, under the authority of the Pacific Coast Groundfish FMP and the Magnuson-Stevens Act. Background information and the Pacific Council's recommendations are summarized below. Further details are in the FEIS/RIR/IRFA prepared by NMFS for this action.

NMFS considered the environmental effects of this action in an environmental impact statement (EIS) for the comprehensive strategy to conserve and enhance EFH for fish managed under the FMP. The notice of availability for the FEIS was published on December 9, 2005, (70 FR 73233). The comprehensive strategy to conserve EFH, including its identification and the implementation of measures to minimize, to the extent practicable, adverse impacts to EFH from fishing is consistent with provisions in the Magnuson-Stevens Act and implementing regulations. The Magnuson-Stevens Act is the principal legal basis for Federal fishery management within the exclusive economic zone (EEZ), which extends