

Dated: March 7, 2003.

**John B. Brown III,**

*Acting Administrator.*

[FR Doc. 03-10565 Filed 4-30-03; 8:45 am]

BILLING CODE 4410-09-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD139-3098a; FRL-7478-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Regulation for Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revisions amend provisions of Maryland's regulation for Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on June 30, 2003 without further notice, unless EPA receives adverse written comment by June 2, 2003. 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 Makeba Morris, Acting 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, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308, or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 6, 2002, the Maryland Department of the Environment (MDE) submitted a formal revision to its State Implementation Plan (SIP). The SIP revision (#02-06) consists of administrative and clarifying amendments to regulation 26.11.09 for Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations, and includes the establishment of an alternative NO<sub>x</sub> emission standard for a specific subcategory of sources subject to this regulation.

##### II. Summary of SIP Revision

Code of Maryland Administrative Regulation (COMAR) 26.11.09 establishes emission standards for fuel burning equipment, including standards for visible emissions, particulate matter emissions and NO<sub>x</sub> emissions. The amendments to COMAR 26.11.09 effect the following changes to the regulation:

1. Visible emissions requirements in Regulations .05 were revised to remove references to the Ringlemann Smoke Chart, and in lieu of the Ringlemann number, the percent opacity corresponding to that number is now required, resulting in no change to the standard.
2. Particulate matter standards in Regulation .06 and .09 were revised to remove emission limit applicability for fuel burning equipment which burn only gas or distillate fuel. The definitions in Regulation .01 were revised to clarify the definition for gas fuels. The particulate matter standards will now apply only to residual fuel-fired equipment as defined in Regulation .01. Since the uncontrolled emissions from gas or distillate fuel-fired equipment do not exceed the particulate matter emission standards in the regulation, this revision is approvable.

3. The requirement for observation of visible emissions by a Bacharach Smoke Test in Regulation .09 was removed. Visible emissions observations in accordance with EPA-approved methods are addressed by and required under a separate regulation under COMAR.

4. Regulation .08 was amended to revise the emission standard for coal-fired units having a capacity between 100 MMBtu and 250 MMBtu. Low NO<sub>x</sub> burners were installed on three coal-fired boilers to meet requirements for Reasonably Available Control

Technology for NO<sub>x</sub> (NO<sub>x</sub> RACT). NO<sub>x</sub> RACT was completed at considerable cost, however, the emission standard of 0.5 pounds NO<sub>x</sub> per MMBtu per hour could not be achieved under normal operating conditions. Continuous emissions monitoring (CEM) data showed that NO<sub>x</sub> RACT achieves the emission standard only when operating at maximum capacity, and that during normal operations NO<sub>x</sub> is reduced to 0.65 pounds per MMBTU. Installation of additional controls would result in NO<sub>x</sub> RACT which would be well above reasonable cost effectiveness. This revision will not negatively impact Maryland's Rate of Progress plan nor its attainment demonstration for the ozone national ambient air quality standards previously submitted by the state of Maryland, and is thus approvable.

##### III. Final Action

EPA is approving Maryland's SIP Revision to its regulation under COMAR 26.11.09 as submitted. 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 June 30, 2003 without further notice unless EPA receives adverse comment by June 2, 2003. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

##### IV. Statutory and Executive Order Reviews

###### 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