

should be applied based on "information available to the Director." EPA interprets this subsection to place the burden of proof on the owner or operator to document, as appropriate, that the exemption applies. In other words, failure of the source to provide documentation that it has conducted maintenance operations in a manner consistent with good air pollution control practices should not prevent either the State or EPA from exercising its enforcement authority.

(E) Revisions to 45CSR7 include provisions for alternative emission limitations. As a result of a petition by Schuller International, Inc., West Virginia set alternative particulate matter limits for fiberglass production facilities using flame attenuation in the manufacturing process in lieu of limits that would otherwise be set by the duplicate source provisions in Table 45-7A of 45CSR7. The Schuller facility, now known as John Mansville International, Inc. (JM), is located in Vienna, West Virginia. Under the duplicate source provisions in 45CSR7, the allowable emission rate for each individual source would be established using the ratio of process input weight for the individual stack to the total process input weight, times the allowable emission rate for the combined sources. Since the relationship between the allowable emission rate and the process input rate is less than linear, the duplicate source provisions become more stringent as multiple sources are added. Abatement equipment and techniques to reduce particulate matter emissions were determined by West Virginia to be economically and technically infeasible to meet the duplicate source emission limitations at the John Mansville facility. Therefore, alternative particulate emission rate limits have been set that are based on best actual limits achieved in practice.

These alternative emission limitations are framed such that they generically apply to all fiberglass production facilities that use the flame attenuation process. The John Mansville facility is the only such manufacturing facility in the state and the rule names and applies limits to the specific stacks at this facility. EPA believes that the rule is inconsistent in applying a site-specific set of emission limitations as generic standards for all flame attenuation plants, regardless of whether other plants exist. To resolve this inconsistency, EPA interprets the regulation to apply only to the Johns Mansville facility. Should other flame attenuation plants locate in the State,

they will be subject to the duplicate source provisions of 45CSR7.

(F) An owner or operator may petition the Director for alternative visible emission standards during periods of start-up and shut-down. The petitioner must: (1) Demonstrate that it cannot comply with existing standards, (2) document the need for an alternative standard based on monitoring results and inspections, (3) demonstrate that mass emission standards are being met, and (4) maintain and operate manufacturing processes and air pollution control equipment in a manner consistent with good air pollution control practices. Section 110(a)(2)(A) of the Clean Air Act requires SIPs to include federally enforceable emission limitations. The West Virginia Department of Environmental Protection (WVDEP) submitted a letter to EPA on March 19, 2003, clarifying how the State intends to interpret and implement its air control regulations. This letter states that all alternative visible emission standards will be established as specific conditions of permits issued in accordance with federally enforceable permitting programs. The letter also states that prior to issuing such permits, the WVDEP shall submit them to EPA for review. This letter has been included in the administrative record for the rulemaking action on this SIP revision.

(G) A new section titled "Alternative Emission Limits for Duplicate Source Operations" provides a process for owners or operators to apply for alternative mass particulate emission rates. These alternative limits will not allow the overall site limit determined by Tables 45-7A and B in the regulation to be relaxed but will provide some flexibility on what may be emitted from individual stacks. The regulation requires the petitioner to conduct an air quality impact analysis to demonstrate that the alternative standard(s) will not interfere with attainment or maintenance of any federal air quality standard or cause an unacceptable increase over the baseline concentration of particulate matter. In addition, the alternative standard is required to be implemented through 45CSR13, which is a federally enforceable permit program. As noted previously, WVDEP submitted a letter to EPA on March 19, 2003, which is part of the administrative record for this rulemaking action, stating that alternative mass emission limits issued under the authority of 45CSR13 will be established and implemented as conditions of permits issued in accordance with federally approved and enforceable programs and, that prior to issuance such permits

shall be submitted to EPA for review. The letter also affirms that a successful petition for alternative emission limits under this subsection may in no way supersede any provisions in 45CSR14 or 45CSR19 regarding pre-construction review of new or modified sources.

(H) The SIP revision removes the restriction that the Director may only require a stack test when there is evidence of a violation. EPA believes that this revision substantially enhances West Virginia's ability to determine compliance with the particulate matter standard.

(I) A section on delayed compliance orders was deleted and a section titled "Inconsistency Between Rules" allows the Director to determine applicability of conflicting rules based on imposing the more stringent provisions.

Additional details and a description of minor revisions are included in the Technical Support Document for this rulemaking.

These revisions strengthen the SIP by clarifying and updating definitions and updating opacity standards. The revisions also require EPA review of alternative emission limits and establish acceptable periods when emission standards do not apply.

III. Final Action

EPA is approving the revisions to 45CSR7, "To Prevent and Control Particulate Matter Air Pollution from Manufacturing Processes and Associated Operations", submitted by West Virginia on September 21, 2000. 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 4, 2003 without further notice unless EPA receives adverse comment by July 3, 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.

IV. Regulatory Assessment Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is