

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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**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

conducted that review and, on June 29, 1995, published a final rule eliminating legally obsolete rules. See 60 FR 33912. Now EPA is taking another step in the ongoing review of its rules. EPA has reviewed 40 CFR part 110, and is removing text which unnecessarily repeats section 311 of the Act. EPA is also revising regulatory text: to make it more concise, to conform more closely to statutory language, or to eliminate text which is legally obsolete. All of these changes are editorial. None effect any changes to the substance of the revised rules. EPA is also redesignating affected sections as necessary.

## II. Provisions Which Largely Track the Clean Water Act

EPA is removing the following provisions, or parts thereof, which either track the language of the Act precisely, or closely paraphrase it. These changes either make the regulatory text more concise or remove legally obsolete language.

### 40 CFR 110.1 Definitions

EPA is revising the introductory text to § 110.1 to provide that words not defined therein have the same meaning as in section 311(a) of the Act. Therefore, EPA is removing the following definitions in § 110.1 which track language in section 311 of the Act. The definitions are: "contiguous zone;" "Deepwater port;" "discharge;" "oil;" "offshore facility;" "onshore facility;" "person;" "public vessel;" and, "vessel." "Deepwater port" is a term no longer appearing in part 110, therefore the definition is no longer necessary. See 60 FR 33912. "Oil," as defined in relation to section 18 of the Deepwater Port Act of 1974, is also being removed. Section 18 was repealed by section 2003(a) of the Oil Pollution Act of 1990, Public Law 202-380, August 18, 1990. Therefore, that part of the definition is legally obsolete.

### 40 CFR 110.2 Applicability

EPA is removing the second and third sentences of the paragraph comprising this section. The second sentence of the paragraph describes the scope of discharge prohibited by section 311(b)(3) of the Act, and closely tracks the language of that section. Removal of this sentence will have no effect on the scope of prohibited discharges. The rule and section 311(b)(3) of the Act will continue to prohibit illegal discharges. EPA is also removing the third sentence of the paragraph because it merely references a removed section, i.e., § 110.11. That section was removed from the CFR on June 29, 1995 (60 FR 33912) because it was legally obsolete.

### 40 CFR 110.9 [sic] Discharge Prohibited

EPA is removing this section because it merely paraphrases the statutory language of section 311(b)(3) of the Act. This section should have been designated § 110.6, but due to error was designated as § 110.9.

## III. Editorial Changes

EPA is revising the text in the sections described below in order to make them more concise, and to consolidate similar text now in multiple sections into one section where possible. In one case, EPA is revising regulatory text to conform more closely to statutory language. The revisions to or redesignation of affected sections is explained below.

### 40 CFR 110.3 Discharge Into Navigable Waters of Such Quantities as May Be Harmful

Revised §110.3 consolidates regulations from old §§ 110.3, 110.4, and 110.5. The section heading is being revised to read "Discharge of oil in such quantities as 'may be harmful' pursuant to section 311(b)(4) of the Act," in order to reflect the consolidation of the regulations under that section. The new name of the section describes its enlarged scope. Revised § 110.3 now includes discharges of oil: into navigable waters formerly included within the scope of old § 110.3, into the contiguous zone formerly included within the scope of old § 110.4, and beyond the contiguous zone formerly included within the scope of old § 110.5. EPA is removing old §§ 110.4 and 110.5 because the text of revised § 110.3 now includes all discharges of oil, whether in navigable waters, the contiguous zone, or beyond the contiguous zone. EPA is also revising the text of § 110.3 to make clear that discharges affecting the environment, as provided in section 311(b)(4) of the Act, are included within the scope of prohibited discharges.

### 40 CFR 110.4 Discharge Into Contiguous Zone of Such Quantities as May be Harmful

EPA is removing this section because its provisions have been incorporated into revised § 110.3.

### 40 CFR 110.5 Discharge Beyond Contiguous Zone of Such Quantities as May be Harmful

EPA is removing this section because its provisions have been incorporated into revised § 110.3. In its place, EPA is revising and renaming § 110.5. The renamed section describes those discharges which have been determined

not to be harmful, combining the text from old §§ 110.7 and 110.9.

### 40 CFR 110.7 Exception for Vessel Engines

EPA is removing this section because the exception is now included within revised § 110.5.

### 40 CFR 110.8 Dispersants

This section is being redesignated as § 110.4.

### 40 CFR 110.9 Demonstration Projects

EPA is removing this section because discharges permitted in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of oil pollution are now included in revised § 110.5.

### 40 CFR 110.10 Notice

EPA is redesignating this section as § 110.6. EPA is also removing the reference to § 110.6 in the first sentence of the section, and substituting § 311 (b) (3) of the Act in its place. This change is necessary because former §110.6, "Discharges prohibited," is being removed. The revision is strictly editorial and does not change the scope of prohibited discharges.

## IV. Differentiation Between Classes of Oils

Pursuant to Public Law 104-55 (109 Stat. 546), enacted November 20, 1995, most Federal agencies (including EPA) must, in the issuance or enforcement of any regulation or the establishment of any interpretation or guideline relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil, or grease, differentiate between and establish separate classes for animal fats and oils and greases, fish and marine mammal oils, and oils of vegetable origin (as opposed to petroleum and other oils and greases). EPA has considered whether differentiation between and establishment of separate classes of oils is appropriate for this rule, and concluded that it is not. This conclusion is based on the fact that the instant revisions are merely editorial and do not change any substantive aspects of the oil discharge program, thereby vitiating any need for differentiation.

## V. Good Cause Exemption From Notice and Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. 5 U.S.C. 553(b). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and

comment are unnecessary. 5 U.S.C. 553(b)(3)(B).

EPA has determined that providing prior notice and opportunity for comment on the removal and revision of these Regulatory provisions from the CFR is unnecessary. The removals and revisions contained in this final rule are merely editorial and do not affect any substantive aspects of the oil discharge program.

For the same reasons, EPA believes there is good cause for making the removal and revision of these regulatory provisions from the CFR effective immediately. See 5 U.S.C. 553(d).

VI. Analyses Under E.O. 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act and the Paperwork Reduction Act

Because the revision or removal of these rules from the CFR is merely editorial and thus has no regulatory impact, this action is not a "significant" regulatory action within the meaning of E.O. 12866, and does not impose any Federal mandate on State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. For the same reasons, pursuant to the Regulatory Flexibility Act, I certify that this action would not have a significant economic impact on a substantial number of small entities. Finally, because these revisions and removals are merely editorial, they do not affect requirements under the Paperwork Reduction Act.

#### List of Subjects in 40 CFR Part 110

Environmental protection, Deepwater ports, Oil pollution.

Dated: February 15, 1996.

Elliott P. Laws,

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

#### **PART 110—[AMENDED]**

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1321(b)(3) and (b)(4) and 1361(a); E.O. 11735, 38 FR 21243, 3 CFR Parts 1971–1975 Comp., p. 793.

2. In section 110.1 the introductory text is revised and the definitions of "contiguous zone," "Deepwater port," "discharge," "offshore facility," "oil," "onshore facility," "person," "public vessel," and "vessel" are removed; to read as follows:

#### **§ 110.1 Definitions.**

Terms not defined in this section have the same meaning given by the Section 311 of the Act. As used in this part, the following terms shall have the meaning indicated below:

\* \* \* \* \*

3. Section 110.2 is revised to read as follows:

#### **§ 110.2 Applicability.**

The regulations of this part apply to the discharge of oil prohibited by section 311(b)(3) of the Act.

4. Section 110.3 is revised to read as follows:

#### **§ 110.3 Discharge of oil in such quantities as "may be harmful" pursuant to section 311(b)(4) of the Act.**

For purposes of section 311(b)(4) of the Act, discharges of oil in such quantities that the Administrator has determined may be harmful to the public health or welfare or the environment of the United States include discharges of oil that:

- (a) Violate applicable water quality standards; or
- (b) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

#### **§ 110.4 [Removed and Reserved]**

5. Section 110.4 is removed and reserved.

6. Section 110.5 is revised to read as follows:

#### **§ 110.5 Discharges of oil not determined "as may be harmful" pursuant to Section 311(b)(3) of the Act.**

Notwithstanding any other provisions of this part, the Administrator has not determined the following discharges of oil "as may be harmful" for purposes of section 311(b) of the Act:

- (a) Discharges of oil from a properly functioning vessel engine (including an engine on a public vessel) and any discharges of such oil accumulated in the bilges of a vessel discharged in compliance with MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A;
- (b) Other discharges of oil permitted under MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A; and
- (c) Any discharge of oil explicitly permitted by the Administrator in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of oil pollution.

#### **§ 110.9 [Removed]**

7. Section 110.9 "Discharge prohibited", appearing between § 110.5 and 110.7, is removed.

#### **§ 110.7 [Removed]**

8. Section 110.7 is removed.

#### **§ 110.8 [Redesignated as § 110.4]**

9. Section 110.8 is redesignated as § 110.4.

#### **§ 110.9 [Removed]**

10. Section 110.9 is removed.

#### **§ 110.10 [Redesignated as § 110.6]**

11. Section 110.10 is redesignated as § 110.6, and the newly designated § 110.6 is further amended by revising the first sentence to read as follows:

#### **§ 110.6 Notice.**

Any person in charge of a vessel or of an onshore or offshore facility shall, as soon as he or she has knowledge of any discharge of oil from such vessel or facility in violation of section 311(b)(3) of the Act, immediately notify the National Response Center (NRC) (800-424-8802; in the Washington, DC metropolitan area, 202-462-2675). \* \* \*

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#### **40 CFR Parts 712 and 716**

[OPPTS-82048; FRL-4996-9]

#### **Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals**

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

**ACTION:** Final rule.

**SUMMARY:** The Interagency Testing Committee (ITC) in its 37th Report to EPA revised the Toxic Substances Control Act (TSCA) Section 4(e) Priority List by recommending for testing 28 chemical substances. The ITC recommendations must be given priority consideration by EPA in promulgating test rules. EPA is adding these chemical substances to two model information-gathering rules: the TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA Section 8(d) Health and Safety Data Reporting Rule. These model rules will require manufacturers and importers of the substances identified herein to report certain production, use, and exposure-related information, and manufacturers, importers, and processors of the listed substances to report unpublished health and safety data to EPA. This rule also makes certain modifications to a final