

Table 2—Mine Operators' Annual Burden Hours and Costs—Continued

Prov.	Mines (1-5)		Mines (6-19)		Mines (≥20)		Totals	
	Hrs.	Costs	Hrs.	Costs	Hrs.	Costs	Hrs.	Costs
46.11 .....	25,298	581,843	22,155	509,565	8,730	200,790	56,183	1,292,198
Total .....	117,826	3,897,684	80,577	2,582,527	42,148	1,375,254	240,552	7,855,465

3. On page 53088, in the first column, in the first full paragraph the first sentence should read "Several commenters favored a six-month delay in the effective date, stating it would provide adequate time for compliance if MSHA and state agencies were available to assist operators in such areas as the development of training plans and training materials."

4. On page 53088, in the first column, the first sentence in the last paragraph should read "We have concluded that a one-year delay in the effective date, without interim compliance deadlines, will ensure that production-operators, independent contractors, and others affected by the final part 46 rule will have sufficient time to become familiar with the rule's requirements and take steps to come into compliance."

5. On page 53089, in the first column, in the first full paragraph, the last two sentences should read "MSHA's current budget includes \$6.013 million for the State Grants program. Our budget request for fiscal year 2000 would increase that sum to \$6.139 million."

Dated: October 20, 1999.

Marvin W. Nichols,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 99-27897 Filed 10-28-99; 8:45 am]

BILLING CODE 4510-43-P

**DATES:** Effective November 29, 1999.

**ADDRESSES:** Send correspondence concerning this document to the attention of Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268-0001.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street NW., Washington, DC 20268-0001, 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

*Introduction.* The Commission hereby adopts, as a final rule, the revisions to its rules implementing the Freedom of Information Act (FOIA) described and identified here. (Order No. 1267, issued October 8, 1999.) The revisions, which were the subject of Commission Order No. 1253, were previously published at 64 FR 50031. No comments on the proposal were received.

The Commission has reviewed its initial proposal, and has determined that final adoption of the revisions is appropriate. The previous version is unchanged except for clarifying that claims that sensitive business information should be exempt from disclosure can be made under several subparts of 5 U.S.C. 552(b). Part I explains the changes. Part II summarizes the effect of the changes on organization of the rules. Part III sets out the final rules.

**Part I—Background**

The Commission's rules implementing the requirements of the FOIA, 5 U.S.C. 552, have not been amended since 1993. Consequently, they do not incorporate changes in applicable law since that time, most notably the requirements added by the Electronic FOIA, Pub. L. 104-231. Also, they do not reflect recent changes in the Commission's methods of information management, which have become increasingly computer-based, or other administrative changes affecting access to information at the Commission.

The rules adopted here are intended to address and accommodate these changes. They also incorporate a major structural change for the convenience of persons interested in obtaining information by various means. This

entails the transfer of all provisions describing FOIA access and processes at the Commission to a new Part 3004.

*A. Compliance With Public Inspection and Copying Requirements as Modified by the Electronic FOIA Amendments*

Subsection (a)(2) of the FOIA requires an agency to make available for public inspection and copying its final opinions in adjudicated cases, policy statements and interpretations not published in the **Federal Register**, and administrative staff manuals and instructions to staff that affect members of the public. The 1996 Electronic FOIA amendments extended this requirement by directing agencies to make such records created on or after November 1, 1996, available by computer telecommunications or other electronic means.

*Description of changes.* The final rules reflect the actions the Commission has taken to achieve compliance with the amended public inspection and copying requirements. Since 1996, the Commission has operated a website linked to the Internet for the purposes of telecommunication and publication of official information. Recently, the Commission has expanded the material available on its website to include all decisions issued on or after January 1, 1996; orders, notices and other documents issued in proceedings pending before the Commission; the domestic mail classification schedule, which is a compilation of all provisions that define the categories of mail and postal services available in the national postal system; and the rules of practices which govern the conduct of proceedings before the Commission. These materials are now available for viewing and downloading from the Commission's website at [www.prc.gov](http://www.prc.gov). Accordingly, 39 CFR 3004.2(c) identifies that domain as the location of the Commission's electronic reading room, and describes generally the categories of information available from the website.

*B. Transfer of FOIA Procedural Rules to New Part 3004*

Currently, the rules describing public information available at the Commission and procedures for obtaining access are

**POSTAL RATE COMMISSION**

**39 CFR Parts 3001, 3002 and 3004**

[Docket No. RM99-2; Order No. 1267]

**Freedom of Information Act Administrative Rulemaking**

**AGENCY:** Postal Rate Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adopting previously-proposed changes to its rules of practice to implement the Electronic Freedom of Information Act and to reflect improved methods of information management. These changes establish consistency with current law. They also improve the Commission's administration of related responsibilities and the public's ability to obtain or review certain information.

contained in 39 CFR 3001.42 and 3001.42a, within the rules of general applicability in part 3001. (Part 3001 is a compilation of all the Commission's rules of practice and procedure.) For the convenience of persons interested primarily in obtaining access to public information, the final rules incorporate a major structural change. Rules describing the procedures for obtaining access to public information at the Commission, fees associated with some retrieval and copying services, and procedures relating to the submission and disclosure of sensitive business information are transferred to a new part 3004, entitled "Freedom of Information Rules." Rules describing the Commission's public information resources generally are retained in section 3001.42, with additional detailed information in part 3002, the organizational description of the Commission.

In addition, new part 3004 includes revisions of, and updates to, the provisions transferred from sections 3001.42 and 42a to conform to current FOIA legal requirements and practices. Sections 3004.1 and 3004.2 describe the purpose of the rules and the sources of the Commission's public information, including the physical and electronic reading rooms. Section 3004.3 provides both for regular FOIA requests and requests for expedited processing based on a demonstration of compelling need. The time limit specified in section 3004.4 for responding to requests is changed from 10 days to 20 days, in accordance with the 1996 amendments. The period for filing an appeal of a denial of a request with the Commission, currently 20 days, is extended to one year under section 3004.4(a)(2).

#### *C. Provisions Relating to Submission of Sensitive Business Information*

Section 3004.8 adopts procedures for the Commission's treatment of materials containing sensitive business information that are considerably more detailed than those in current section 3001.42a. Section 3004.8(a) directs any person who submits information believed to be exempt from disclosure under 5 U.S.C. section 552(b) to designate the exempt information by appropriate markings, and provide a brief written statement explaining why the information is exempt. Any such designation expires 10 years after the date of submission, unless the submitter requests and justifies a longer duration.

Should the Commission receive an FOIA request seeking business information that has been properly designated under section 3004.8(a), or

one that may be exempt from disclosure under 5 U.S.C. section 552(b), section 3004.8(b) provides that the Commission is to notify the submitter that such a request has been made, and provide a copy of the notice to the requester. Under section 3004.8(c), the submitter has 7 days to submit written objections to the information's disclosure, specifying all grounds for withholding it under the FOIA. The submitter will be considered to have no objection to disclosure if it submits no response by the end of the 7-day period.

If the submitter objects to disclosure, the Commission then decides whether to disclose the information. If the decision is to disclose, section 3004.8(d) requires the Commission to provide the submitter with written notice of that decision and a brief explanation for not sustaining the submitter's objections. Actual disclosure is not to be made until 5 days after the submitter's receipt of the notice. Section 3004.8(e) provides that the Commission need not notify the submitter if it determines not to disclose the information; if the information has been lawfully published or officially made publicly available; or if disclosure is required by a regulation or a statute other than the FOIA.

Finally, section 3004.8(f) specifies that protection of business information made available in formal Commission proceedings, and under the periodic reporting requirements in subpart G of 39 CFR part 3001, is provided under the terms of section 3001.31a. Thus, the procedures in section 3004.8 do not apply to the potential disclosure of commercially sensitive materials in the course of the Commission's performance of its primary jurisdictional responsibilities.

#### *D. Updated Information Responsive to Publication Requirements*

Subsection (a)(1) of the FOIA specifies five categories of information that agencies are required to "currently publish in the **Federal Register** for the guidance of the public[.]" The final rules are designed to comply fully with these publication requirements, and also to carry out the intent of the Electronic FOIA Amendments of 1996 to increase the public availability of information through computer telecommunications.

The final rules address publication requirements by incorporating several amendments to existing rules that enhance the information provided regarding the Commission's operations, facilities, and information resources available to the public. Section 3002.2 adds a description of the Commission's statutory functions, including its jurisdictional responsibilities and the

means by which the public may participate in Commission proceedings, in response to 5 U.S.C. 552(a)(1)(B). Section 3002.3 describes the potential sources of public information in the Commission's docket room, physical reading room, and electronic reading room on its website, as directed in 5 U.S.C. 552(a)(1)(A). Section 3002.4(e) provides additional detail concerning the information available on the Commission's website, and clarifies the responsibility of the Commission's administrative office to maintain it and the other public information resources of the agency.

#### **Part II. Summary of Effect of Changes on the Rules**

In 39 CFR part 3001, paragraph (c) of existing 3001.42, captioned "Public information and requests," is deleted in its entirety. Existing 3001.42(d), captioned "Procedure in event of subpoena," is redesignated as 3001.42(c). In addition, 3001.42a, captioned "Protection of trade secrets and commercial or financial information" is deleted in its entirety.

In 39 CFR part 3002, 3002.1 is retained without change. Provisions currently designated as 3002.2, 3002.3 and 3002.4 are redesignated as 3002.3, 3002.4 and 3002.5, respectively. In the redesignated paragraphs, a new paragraph (c) is added in 3002.3 and a new paragraph (e) is added in 3002.4.

The redesignation leaves 3001.2 available. The Commission uses this space for new text addressing its functions. Accordingly, this section, formerly captioned "The Commission and its offices," is given the new caption of "Statutory functions," and new language appears therein.

A new part 3004, captioned "Freedom of Information Rules" is added. It contains eight paragraphs describing various responsibilities and requirements.

#### **Part III. Final Rules**

The final rules appear below.

#### **List of Subjects in 39 CFR Parts 3001, 3002 and 3004**

Administrative practice and procedure, Archives and records, Freedom of information, Organization, Privacy, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, 39 CFR chapter III is amended as follows.

#### **PART 3001—RULES OF PRACTICE AND PROCEDURE**

1. The authority citation for part 3001 continues to read as follows:

**Authority:** 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662.

**§ 3001.42 [Amended]**

2. In § 3001.42, remove paragraph (c) in its entirety, and redesignate paragraph (d) as (c).

**§ 3001.42a [Removed]**

3. Remove § 3001.42a in its entirety.

**PART 3002—ORGANIZATION**

4. The authority citation for part 3002 continues to read as follows:

**Authority:** 39 U.S.C. 3603; 5 U.S.C. 552.

**§§ 3002.2, 3002.3, 3002.4 [Redesignated as §§ 3002.3, 3002.4, and 3002.5]**

5. Redesignate §§ 3002.2, 3002.3 and 3002.4 as §§ 3002.3, 3002.4, and 3002.5, respectively.

6. In newly designated § 3002.3, add a new paragraph (c) to read as follows:

**§ 3002.3 The Commission and its offices**

\* \* \* \* \*

(c) The Commission's offices are located at 1333 H Street, NW., Suite 300, Washington, DC 20268. On these premises, the Commission maintains offices for Commissioners and the staff components described in §§ 3001.4, 3001.5, 3001.6 and 3001.7; a docket room where documents may be filed with the Commission pursuant to § 3001.9 and examined by interested persons; a public reading room where the Commission's public records are available for inspection and copying; a library containing legal and technical reference materials; and a hearing room where formal evidentiary proceedings are held on matters before the Commission. The Commission also maintains an electronic reading room accessible through the Internet, on its website at [www.prc.gov](http://www.prc.gov).

7. In newly designated § 3002.4, add new paragraph (e) to read as follows:

**§ 3002.4 Administrative Office.**

\* \* \* \* \*

(e) The Administrative Office is also responsible for the maintenance of the Commission's public information resources, including the docket room, the physical reading room, and the library on the premises of the Commission's offices, as well as the electronic reading room accessible on the Commission's website at [www.prc.gov](http://www.prc.gov). The information available on the Commission's website is, in general, coextensive with that available from the Commission's docket room and physical reading room, and includes: Commission decisions, rules, orders and notices; testimony, pleadings and reference materials filed in Commission

proceedings; and current information concerning Commission activities, employment opportunities, and a calendar of upcoming events.

8. Add new § 3002.2 to read as follows:

**§ 3002.2 Statutory functions.**

(a) *Areas of jurisdiction.* The Commission has jurisdiction over changes in postal rates and fees under 39 U.S.C. 3622, and over mail classifications under 39 U.S.C. 3623. It issues recommended decisions to the Governors of the Postal Service on these matters. It also acts on postal patrons' appeals from Postal Service decisions to close or consolidate post offices under 39 U.S.C. 404(b). Further, the Commission investigates complaints of substantial national scope concerning postal rates, fees, mail classifications or services under 39 U.S.C. 3662. It also responds to requests of the Postal Service for advisory opinions on changes in the nature of postal services under 39 U.S.C. 3661. Because of the Commission's expertise, Congress occasionally asks it to undertake special studies on postal issues.

(b) *Public participation.* Interested persons may elect to participate in Commission rate and mail classification proceedings as formal intervenors (§ 3001.20), limited participators (§ 3001.20a), or commenters (§ 3001.20b). Interested parties who believe the Postal Service is charging rates which do not conform with the policies of the Postal Reorganization Act, or who believe that they are not receiving postal service in accordance with the policies of title 39, may lodge a complaint with the Commission under section 3001.82. Persons served by post offices that the Postal Service decides to close or consolidate with other post offices may appeal such determinations under § 3001.111.

9. Part 3004 is added to read as follows:

**PART 3004—FREEDOM OF INFORMATION RULES**

Sec.

- 3004.1 Purpose.
- 3004.2 Reading room.
- 3004.3 Requests for records and or expedited processing.
- 3004.4 Response to requests.
- 3004.5 Appeals.
- 3004.6 Fees.
- 3004.7 Aggregation of requests.
- 3004.8 Submission of business information.

**Authority:** 39 U.S.C. 3603; 5 U.S.C. 552, 552a.

**§ 3004.1 Purpose.**

(a) This part is published pursuant to the Freedom of Information Act (FOIA),

5 U.S.C. 552, to describe the procedures by which a person can request copies of Commission records. It also describes how a submitter of trade secrets or confidential business information can identify information that the submitter believes to be exempt from disclosure under 5 U.S.C. 552(b).

(b) An individual seeking access to a record about himself or herself that is subject to the Privacy Act of 1974 should also consult the Commission's Privacy Act rules in part 3003 for the procedures that apply to requests for records under that Act. Requests for first-party access can be made under both the FOIA and the Privacy Act of 1974.

(c) Information required to be published or made available pursuant to 5 U.S.C. 552(a)(1) and (a)(2) may be found in part 3002, elsewhere in this chapter, in the **Federal Register**, or on the Commission's website at [www.prc.gov](http://www.prc.gov). The Commission's guide to the FOIA, all required FOIA indexes, and any available annual FOIA reports, are also available at the website in the electronic reading room or elsewhere on the site.

(d) Section 3001.42(b) of this chapter identifies records that the Commission has determined to be public.

**§ 3004.2 Reading room.**

(a) The Commission maintains a public reading room at its offices at 1333 H Street NW., Washington, DC 20268. The reading room is open from 8:00 a.m. until 4:30 p.m. during business days.

(b) The records available for public inspection and copying in the reading room include: final opinions, statements of policy, administrative staff manuals and instructions that affect a member of the public, copies of selected records released under the FOIA, and indexes required to be maintained under the FOIA, and records described in 39 CFR 3001.42(b) relating to any matter or proceeding before the Commission.

(c) The Commission's electronic reading room is maintained at its website at [www.prc.gov](http://www.prc.gov). Commission decisions, orders, rules of practice, and other directives affecting the public are available from the electronic reading room. To the extent practicable, other documents available in the reading room are also posted and available on the website.

**§ 3004.3 Requests for records and for expedited processing.**

(a) A request for records must be in writing and must reasonably describe the records sought. A request should be addressed or delivered to the Secretary

of the Commission at the offices of the Commission at 1333 H Street NW., Washington, DC 20268. A request should be clearly identified as "Freedom of Information Act Request" both in the text of the request and on the envelope. A requester should include a daytime telephone number.

(b) A request for expedited processing may be made in cases in which the requester demonstrates a compelling need as defined in 5 U.S.C.

552(a)(6)(E)(v). The Commission may otherwise grant requests for expedited processing at its discretion. A request for expedited processing should be clearly identified as "Expedited Freedom of Information Act Request" both in the text of the request and on the envelope.

(c) A demonstration of compelling need by a requester seeking expedited processing must be made by a statement certified by the requester to be true and correct to the best of the requester's knowledge and belief. At its discretion, the Commission may waive the requirement for certification.

(d) A request for expedited processing may be made at the time of an initial request (or appeal) or at a later time.

#### § 3004.4 Response to requests.

(a) Within 20 days (excluding Saturdays, Sundays, and legal public holidays) after receipt of a request for a Commission record, the Secretary of the Commission will:

(1) Determine to comply with the request and immediately notify the requester of the determination and of any fees that must be paid; or

(2) Deny the request in writing. The denial letter will explain the reason for the denial, including each exemption used as a basis for withholding of the records sought. The denial letter will include an estimate of the volume of requested matter that was denied. If disclosure of a record has been partially denied, the amount of information deleted will be indicated on the released portion if technically feasible. If revealing the amount or location of a denied record will harm an interest protected by an exemption, then the description of the amount or location of deleted information may be withheld. The denial letter will inform the requestor that he/she may, within one year, appeal the denial to the Commission.

(b) A denial is any form of adverse determination, including: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not

readily reproducible in the form or format sought by the requester; a determination that what has been requested is not a record subject to the FOIA; an adverse decision on any disputed fee matter, including a denial of a requested fee waiver; and a denial of a request for expedited treatment.

(c) Within ten days after the receipt of a request for expedited processing, the Secretary will:

(1) Grant the request for expedited processing and process the request for records as soon as practicable; or

(2) Deny a request for expedited processing in writing. Any request for records that has been denied expedited processing will be processed in the same manner as a request that did not seek expedited processing. The denial letter will inform the requestor that he/she may, within five days, appeal the denial to the Commission.

(d) If warranted by the unusual circumstances specified in 5 U.S.C. 552(a)(6)(B)(iii), the Secretary may extend the time for a response for up to ten working days. The Secretary will notify the requester of any extension, and the reason for the extension, in writing. The Secretary will also provide the requester with an opportunity to limit the scope of the request or to arrange an alternative time frame for processing the request or a modified request.

#### § 3004.5 Appeals.

(a) A requester who seeks to appeal any denial must file an appeal in writing with the Commission. The Commission may review any decision of the Secretary on its own initiative. The Commission will grant or deny the appeal in writing, within 20 days (excluding Saturdays, Sundays and legal public holidays) of the date the appeal is received. If on appeal the denial of the request for records is upheld, the Commission will notify the person making such request of the provisions for judicial review of that determination pursuant to 5 U.S.C. 552(c). The Commission will expeditiously consider an appeal of a denial of expedited processing.

(b) If warranted by the unusual circumstances specified in 5 U.S.C. 552(a)(6)(B)(iii), the Commission may extend the time for a response to an appeal for up to ten working days. The Commission will notify the requester of any extension, and the reason for the extension, in writing. The Commission will also provide the requester with an opportunity to limit the scope of the request or to arrange an alternative time frame for processing the request or a modified request.

#### § 3004.6 Fees.

(a) Definitions pertaining to fees:

(1) *Direct costs* means expenditures the Commission actually incurs in searching for, duplicating, and, where applicable, reviewing documents to respond to a request. They include (without limitation) the salary of the employee performing work (the basic pay rate of such employee plus 16 percent to cover benefits) and the cost of operating required machinery.

(2) *Search* includes all time spent looking for material responsive to a request, including identification of pages or lines within documents. The term covers both manual and computerized searching.

(3) *Duplication* means making copies of documents necessary to respond to a request. Such copies may be paper, microform, audiovisual, or machine-readable.

(4) *Review* means examining documents located in response to a commercial-use request to determine whether any portion is exempt from mandatory disclosure, and processing or preparing documents for release, but not determination of general legal or policy issues regarding application of exemptions.

(5) *Commercial use request* means a request from or on behalf of one seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. In determining the applicability of this term, the use to which a requester will put the document is considered first; where reasonable doubt exists as to the use, the Commission may seek clarification before assigning the request to a category.

(6) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate or undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) *Noncommercial scientific institution* means an institution, not operated on a *commercial* basis (as referenced above), which is operated solely for the purpose of conducting scientific research whose results are not intended to promote any particular product or industry.

(8) *Representative of the news media* means any person actively gathering news for an entity organized and operated to publish or broadcast news to the public. *News* means information about current events or that would be of current interest to the public. *Freelance*

journalists will be regarded as working for a news medium if they demonstrate (for example, by a publication contract or a past record of publication) a solid basis for expecting publication through such organization even though not actually employed by it.

(b) Except in the case of commercial-use requesters, the first 100 pages of duplication and the first two hours of search time are provided without charge. A *page* for these purposes is a letter- or legal-size sheet, or the equivalent amount of information in a medium other than paper copy. *Search time* for these purposes refers to manual searching; if the search is performed by computer, the amount not charged for will be the search cost equivalent to two hours' salary of the person performing the search. No requester will be charged a fee when the Commission determines that the cost of collecting the fee would equal or exceed the fee itself. In determining whether cost of collection would equal or exceed the fee, the allowance for two hours' search or 100 pages of duplication will be made before comparing the remaining fee and the cost of collection.

(c) Fees will be charged in accordance with the following provisions:

(1) The level of fee charged depends on the category of requester:

(i) A request appearing to be for commercial use will be charged the full direct costs of searching for, reviewing, and duplicating the records sought.

(ii) A request from an educational or noncommercial scientific institution will be charged for the cost of duplication only (excluding charges for the first 100 pages). To be eligible for this category, a requester must show that the request is made under the auspices of a qualifying institution and that the records are not sought for commercial use but are in furtherance of scholarly (in the case of educational institutions) or scientific (in the case of noncommercial scientific institutions) research.

(iii) A request from a representative of the news media will be charged the cost of duplication only (excluding charges for the first 100 pages).

(iv) A request from any other requester will be charged the full direct cost of searching for and duplicating records responsive to the request, except that the first 100 pages of duplication and the first two hours of search will be furnished without charge.

(v) A request from a record subject for records about himself or herself filed in a Commission Privacy Act system of records will be charged fees as provided under the Commission's Privacy Act regulations in part 3003 of this chapter.

(2) Fees will be calculated as follows:

(i) Manual search: At the salary rate (basic pay plus 16 percent) of the employee(s) making the search. Search time may be charged for even if the Commission fails to locate records or if records located are exempt from disclosure.

(ii) Computer search: At the actual direct cost of providing the search, including computer search time directly attributable to searching for records responsive to the request, runs, and operator salary apportionable to the search.

(iii) Review (commercial-use requests): At the salary rate (basic pay plus 16 percent) of the employee(s) conducting the review. Charges are imposed only for the review necessary at the initial administrative level to determine the applicability of any exemption, and not for review at the administrative appeal level of an exemption already applied.

(iv) Duplication: At 15 cents per page for paper copy, which the Commission has found to be the reasonable direct cost thereof. For copies of records prepared by computer (such as tapes or printouts), the actual cost of production, including operator time, will be charged.

(v) Additional services: Postage, insurance, and other additional services that may be arranged for by the requester will be charged at actual cost.

(d) Interest at the rate prescribed in 31 U.S.C. 3717 will be charged on unpaid fee bills, starting on the 31st day after the bill was sent. Receipt of a fee by the Commission, whether processed or not, will stay the accrual of interest.

(e) Advance payment may be required only when the allowable fees are likely to exceed \$250, in which case advance payment in part or in full may be required of requesters with no history of prompt payment, and satisfactory assurance of payment from requesters with such history; or when the requester has previously failed to pay a fee timely (within 30 days of the billing date), in which case the Commission may require full payment of the amount owed, plus applicable interest, or a demonstration that the fee has in fact been paid, together with full advance payment of the estimated fee. When advance payment is required, the administrative time limits prescribed in subsection (a)(6) of the FOIA begin only after such payment has been received.

(f) Records will be provided without charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or

activities of the government and is not primarily in the commercial interest of the requester.

#### § 3004.7 Aggregation of requests.

Should the Secretary or the Commission reasonably believe that a requester or a group of requesters acting in concert, have attempted to evade fees or to seek a procedural advantage over other requesters by breaking down a request into a series of requests, the Commission may aggregate the separate requests and treat them as a single request. Multiple requests involving unrelated subjects will not be aggregated.

#### § 3004.8 Submission of business information.

(a) Any person who submits to the Commission a trade secret or commercial or financial information that the submitter reasonably believes to be exempt from disclosure under 5 U.S.C. 552(b) must designate the exempt information by appropriate markings at the time of submission or at a reasonable time after submission. The submission should be accompanied by a brief written statement explaining why the information is exempt. Any designation will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer period.

(b) Before disclosing, in response to a FOIA request, any information properly designated under this part, the Commission will provide the submitter with written notice that a request seeks disclosure of the information. The Commission may also provide notice when it has reason to believe that business information possibly exempt from disclosure may fall within the scope of any FOIA request. The requester will be provided a copy of any notice sent to the submitter.

(c) A submitter has seven days to submit written objections to the disclosure specifying all grounds for withholding the information under the FOIA. If the submitter fails to respond to the notice, the submitter will be considered to have no objection to the disclosure of the information.

(d) If, after considering the submitter's objections to disclosure, the Commission decides to disclose the information, it will give the submitter written notice of the decision and a brief explanation of the reasons for not sustaining the submitter's objections. The actual disclosure will not be made before five days after the submitter has received the notice.

(e) A submitter may not receive notice if the Commission determines that the

information should not be disclosed; if the information has been lawfully published or officially made available to the public; or if a statute (other than the FOIA) or a regulation requires disclosure.

(f) Protection of information made available pursuant to proceedings subject to the rules in 39 CFR part 3001, including information provided pursuant to that subpart requiring the filing of periodic reports, is provided upon request to the Commission as described in § 3001.31a.

Dated: October 22, 1999.

**Margaret P. Crenshaw,**  
Secretary.

[FR Doc. 99-28126 Filed 10-28-99; 8:45 am]

BILLING CODE 7710-FW-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD081-3043a; FRL-6449-3]

### Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Enhanced Inspection and Maintenance Program

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

**ACTION:** Direct final rule.

**SUMMARY:** We are converting our conditional approval of the State of Maryland's State Implementation Plan (SIP) revision for an enhanced vehicle inspection and maintenance (I/M) program, which was granted on July 31, 1997 (61 FR 40938), to a full approval. In the State of Maryland the I/M program is known as the vehicle emissions inspection program (VEIP). In our July 31, 1997 conditional approval, we imposed fifteen conditions for full approval. We have determined that Maryland has met all of those conditions for full approval. The intent of this action is to convert our conditional approval of Maryland's VEIP SIP to a full approval.

**DATES:** This rule is effective on December 28, 1999 without further notice, unless EPA receives adverse written comment by November 29, 1999. 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 David L. Arnold, Chief, Ozone and Mobile Sources 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, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224. Please contact Christopher Cripps at (215) 814-2179 if you wish to arrange an appointment to view the docket at the Philadelphia office.

#### FOR FURTHER INFORMATION CONTACT:

Christopher Cripps, (215) 814-2179, at the EPA Region III address above, or by e-mail at [cripps.christopher@epa.gov](mailto:cripps.christopher@epa.gov).

#### SUPPLEMENTARY INFORMATION:

This Supplementary Information section is organized as follows:

- I. What action is EPA taking today?
- II. Who is affected by this action?
- III. Who will benefit from this action?
- IV. What Maryland SIP revision is the topic of this action?
- V. What were the requirements for full approval of the Maryland program?
- VI. How did Maryland fulfill these requirements for full approval?
- VII. What is EPA doing Regarding Vehicles at Federal Facilities?
- VIII. EPA Action
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#### I. What Action is EPA Taking Today?

In this action, we are converting our conditional approval of Maryland's I/M program as a revision to the SIP to a full approval.

#### II. Who is Affected by This Action?

Residents of the following jurisdictions in Maryland: Anne Arundel County, Baltimore County, Calvert County, Carroll County, Cecil County, Charles County, Frederick County, Harford County, Howard County, Montgomery County, Queen Anne's County, Washington County and Baltimore City. It is important to note that our action today does not impose any new requirements on Maryland residents; we are merely granting full

approval (versus the conditional approval previously granted) to the Maryland laws and regulations already in place at the state level to implement enhanced I/M in Maryland. These laws and regulations were made part of the Maryland SIP by the conditional approval that was published on July 31, 1997.

#### III. Who Will Benefit From This Action?

The residents of Maryland will benefit from this program, which is designed to keep vehicles maintained and operating within pollution control standards. Because air pollution does not recognize political boundaries, neighboring states' residents will also benefit from implementation of this program, designed to prevent excessive vehicle pollution.

#### IV. What Maryland SIP Revision is the Topic of this Action?

This notice deals with a revision to the State of MD SIP entitled "Enhanced Vehicle Emissions Inspection Program (SIP Revision 98-13)" which was submitted by the Secretary of the Maryland Department of the Environment (MDE) September 25, 1998 and supplemented on May 25, 1999. Today we are acting only upon this September 25, 1998, SIP revision and supplemental submittals to determine that Maryland satisfied certain deficiencies of its conditionally approved enhanced I/M plan, and in so doing we are not reopening our July 31, 1997, final rulemaking granting conditional approval of Maryland's enhanced I/M SIP submitted on July 10, 1995, as supplemented on March 27, 1996.

#### V. What Were the Requirements for Full Approval of the Maryland Program?

Approval of Maryland's I/M program SIP was subject to 15 conditions which are summarized in Table 1. These were also discussed in detail in our July 31, 1997 conditional approval.

#### VI. How Did Maryland Fulfill These Requirements for Full Approval?

On September 25, 1998, Maryland submitted revisions to its enhanced I/M SIP to EPA in order to correct conditions for full approval, as detailed in Table 1.