

economic impact on a substantial number of small entities.

This final rule would affect the following entities, some of which might be small entities: The owners and operators of vessels that desire to transit the waterway and homeowners associations representing property owners upstream of the drawbridge. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will increase the amount of time the drawbridge is open during peak waterway usage and decreases the notification requirement for off-peak opening of the drawbridge.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. This was accomplished through the solicitation of comments from local waterway users during a Coast Guard field study, and through publication of the NPRM and SNPRM in the **Federal Register** in which comments were solicited.

#### Collection of Information

This rule calls for no collection of information under the Paperwork Reduction Act (44 U.S.C. 3510-3520).

#### Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1C this rule is categorically excluded from further environmental documentation. This rule involves the operating schedule of an existing drawbridge and will have no impact on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 117

Bridges.

For reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); Section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.1007(a) is revised as to read as follows:

#### § 117.1007 Elizabeth River—Eastern Branch.

(a) The draw of the Norfolk and Western Railroad bridge, mile 2.7 at Norfolk, shall open as follows:

(1) From 6 a.m. to 10 p.m., the draw shall open on signal if it is in the closed to navigation position and remain open until a train crossing requires that it be returned to the closed position.

(2) From 10 p.m. to 6 a.m., the draw shall open on signal if at least two hours notice is given.

\* \* \* \* \*

Dated: December 21, 2000.

**John E. Shkor,**

*Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.*

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#### DEPARTMENT OF AGRICULTURE

#### Forest Service

#### 36 CFR Part 219

#### National Forest System Land and Resource Management Planning; Review of Decisions To Amend or Revise Plans

**AGENCY:** Forest Service, USDA.

**ACTION:** Interpretive rule.

**SUMMARY:** The Department is adopting this interpretive rule to make explicit its intent regarding the procedure(s) that citizens and entities may use to appeal or object to plan revisions or amendments subsequent to the recent revision of the planning regulations at 36 CFR part 219 and the corollary rescission of the appeal regulations at 36 CFR part 217.

**EFFECTIVE DATE:** This interpretive rule is effective January 10, 2001.

**ADDRESSES:** Written inquiries about this interpretive rule may be sent to the Director, Ecosystem Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

**FOR FURTHER INFORMATION CONTACT:** Steve Segovia, Assistant Director for Appeals and Litigation, Forest Service; Telephone (202) 205-1066; Fax (202) 205-1012.

**SUPPLEMENTARY INFORMATION:** On November 9, 2000, the Secretary of Agriculture adopted a final rule which revised the land and resource management planning rules at 36 CFR part 219 and removed the administrative appeal of plan decisions at 36 CFR part 217 (65 FR 67514). The revised rule at 36 CFR part 219 establishes requirements for the implementation, monitoring, evaluation, amendment, and revision of land and resource management plans, and affirms sustainability as the overall goal for National Forest System planning and management. The intended effects of the rule are to simplify, clarify, and otherwise improve the planning process. To help achieve these intended effects, § 219.32 of the recently revised planning rule establishes an objection process to replace the appeals process embodied in part 217. Section 219.35 of the recently revised rule provides

direction to govern the transition from the previous planning process.

Questions have arisen regarding interpretation and application of administrative appeal and review processes in the context of the transitional language provided in § 219.35. As a consequence, the Department is issuing this interpretive rule which adds a note to appear as an appendix to § 219.35 to explain how these provisions operate together. A description of the matters addressed in this interpretive rule follows.

**Terminology.** Paragraph (b) of § 219.35 uses the term "initiated" in the context of plan revisions or amendments under way prior to November 9, 2000. The Department is clarifying the term "initiated" to avert misinterpretation of the Department's intended application of the rule. This interpretive rule clarifies that "initiated" refers to the published public notification of a proposed plan amendment or revision.

**Options.** Paragraph (b) of § 219.35 grants an option to proceed at the responsible official's discretion either under the 1982 regulations in effect prior to November 9, 2000, or under the revised regulations. This interpretive rule makes clear that paragraph (b) specifically includes the option to select either the administrative appeal and review procedures of 36 CFR part 217 in effect prior to November 9, 2000, or the new objection procedures to complete a plan amendment or revision process initiated under the 1982 regulations.

This rulemaking consists of an interpretive rule and is issued by the agency to advise the public of the agency's preexisting construction of one of the rules it administers—that is, 36 CFR 219.35, in the context of National Forest System land and resource management planning. *See, e.g., Shalala, Secretary of Health and Human Services v. Guernsey Memorial Hosp.*, 514 U.S. 87, 99 (1995). Therefore, under 5 U.S.C. 553(b)(A), this rulemaking is exempt from the notice and comment requirements of the Administrative Procedure Act, and, pursuant to 5 U.S.C. 553(d)(2), this rule is effective immediately upon publication in the **Federal Register**.

### Regulatory Impact

It has been determined that this is not a significant rule. This interpretive rule will not have an annual effect of \$100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This rulemaking will not

interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, this rulemaking will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this rulemaking is not subject to Office of Management and Budget (OMB) review under Executive Order 12866. Moreover, this rulemaking has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It is therefore certified that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This rule will not impose recordkeeping requirements; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

### Environmental Impact

This rulemaking has no direct or indirect effect on the environment, but merely clarifies the relationship of certain planning actions to their respective appeal procedures. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement rules, regulations or policies to establish Service-wide administrative procedures, program processes, or instructions. Based on the nature and scope of this rulemaking, the agency has determined that the interpretive rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

### No Takings Implications

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that this rule will not pose the risk of a taking of private property, as the interpretive rule is limited to clarification of the transition procedures in the new planning rule.

### Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings before parties may file suit in court challenging its provisions.

### Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this rule on State, local and tribal governments and the private sector. This rule will not compel the expenditure of \$100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

### Controlling Paperwork Burdens on the Public

This rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

### List of Subjects in Part 219

Administrative practice and procedure, Environmental impact statements, Forest and forest products, Indians, Intergovernmental relations, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, part 219 of title 36 of the Code of Federal Regulations is amended as follows:

## PART 219—PLANNING

### Subpart A—National Forest System Land and Resource Management Planning

1. The authority citation for subpart A continues to read as follows:

**Authority:** 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

2. Add an appendix at the end of § 219.35 to read as follows:

#### § 219.35 Transition.

\* \* \* \* \*

#### Appendix A to § 219.35

##### Interpretive Rule Related to Paragraph 219.35(b)

The Department is making explicit its preexisting understanding of paragraph (b) of this section with regard to the appeal or objection procedures that may be applied to amendments or revisions of land and resource management plans during the transition from the appeal procedures of 36 CFR part 217 in effect prior to November 9, 2000 (See CFR 36 parts 200 to 299, Revised as of July 1, 2000), to the objection procedures of § 219.32 as follows:

1. The option to proceed under the 1982 regulations or under the provisions of this subpart specifically includes the option to select either the administrative appeal and review procedures of 36 CFR part 217 in effect prior to November 9, 2000, or the objection procedures of 36 CFR 219.32.

2. The Department interprets the term "initiated," as used in paragraph (b) of this section, to indicate that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan revision or amendment as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

\* \* \* \* \*  
Dated: January 4, 2001.

**Dan Glickman,**  
Secretary.

[FR Doc. 01-615 Filed 1-5-01; 1:38 pm]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD104-3060; FRL-6920-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nitrogen Oxides Reduction and Trading Program

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland on April 27, 2000. This revision was submitted to satisfy EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." This revision establishes and requires a nitrogen oxides (NO<sub>x</sub>) allowance trading program for large electric generating and industrial units, and reductions for cement kilns and stationary industrial combustion engines, beginning in 2003. The intended effect of this action has two purposes. EPA is approving the Maryland's NO<sub>x</sub> Reduction and Trading Program because it meets the requirements of the NO<sub>x</sub> SIP Call that will significantly reduce ozone transport in the eastern United States. In addition, EPA is approving Maryland's NO<sub>x</sub> Reduction and Trading Program because it supports the one-hour attainment demonstration plans for the Baltimore, Metropolitan Washington, D.C. and

Philadelphia-Wilmington-Trenton ozone nonattainment areas.

**EFFECTIVE DATE:** This final rule is effective on February 9, 2001.

**ADDRESSES:** 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.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814-2178 or by e-mail at fernandez.cristina@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On April 27, 2000, the Maryland Department of the Environment (MDE) submitted a revision to its SIP to meet the requirements of the NO<sub>x</sub> SIP Call. The revision consists of the adoption of two new chapters COMAR 26.111.29—NO<sub>x</sub> Reduction and Trading Program and COMAR 26.11.30—Policies and Procedure Relating to Maryland's NO<sub>x</sub> Reduction and Trading Program.

On October 19, 2000 (65 FR 62671), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland proposing to approve the April 27, 2000 SIP revision. That NPR provided for a public comment period ending on November 9, 2000. On November 9, 2000 (65 FR 67319), EPA published a notice extending the comment period to November 20, 2000. A detailed description of this SIP revision and EPA's rationale for approving it was provided in the October 19, 2000 NPR and will not be restated here. One letter of comment was submitted on EPA's proposal. A summary of the comments expressed in that letter and EPA's response is provided in section II, below.

##### II. Public Comments and EPA Response

*Comment:* A letter of comment was submitted expressing concerns over the impact an expansion of the Baltimore/Washington International (BWI) Airport expansion would have on Maryland's ability to limit both emissions of NO<sub>x</sub> and volatile organic compounds (VOCs) sufficiently to meet the National Ambient Air Quality Standard for ozone. The commenter states his overarching concern that planned "growth" in the Baltimore and Washington, DC areas from such

projects as the expansion of BWI airport and the Ann Arundel Mills Mall is occurring at a rate such that compliance with the Maryland's program to satisfy the NO<sub>x</sub> SIP call could be jeopardized. The commenter expresses concerns that although Maryland is "required" to abide by a regional cap and trade program that is intended to significantly reduce NO<sub>x</sub> emissions generated within the Ozone Transport Region, that effort will fail unless the impact of the BWI airport is properly documented to include the cumulative impact of the airport's NO<sub>x</sub> emissions, due to cars, buses, transport vehicles, maintenance facilities, rental cars, and aircraft.

*Response:* The commenter is correct that VOC and NO<sub>x</sub> emissions resulting from growth in the Baltimore and Washington DC areas from projects such as BWI airport and the Ann Arundel Mills Mall must be considered by the State of Maryland in meeting its requirements under the Clean Air Act for attainment and maintenance of the NAAQS for ozone. Increases in both NO<sub>x</sub> and VOC emissions from such projects must be demonstrated to conform to plans and provisions of the Maryland SIP established to accommodate such "growth." Approval of Maryland's regulations and requirements to satisfy the NO<sub>x</sub> SIP call in no way relieves the State from the applicable requirements and obligations under the Clean Air Act's transportation and general conformity provisions. In determining the appropriate control levels, the NO<sub>x</sub> SIP Call rulemaking assumed certain amounts of growth from all source categories. The comment seems to imply that EPA was not cognizant of growth, any such implication is incorrect. Moreover, the requirements of the NO<sub>x</sub> SIP Call and Maryland's SIP will be satisfied if the sources subject to controls implement those controls, and if the emissions cap applicable to electric generating units (EGUs) is adhered to. Under the federal NO<sub>x</sub> SIP Call, states were allowed the flexibility to decide what sources of emissions to control to achieve the required reductions in NO<sub>x</sub>. EPA did provide information that those reductions could be achieved in the most cost effective manner by controlling large stationary sources. EPA finds that Maryland's NO<sub>x</sub> Reduction and Trading Program meets the requirements of the NO<sub>x</sub> SIP Call. However, neither the federal NO<sub>x</sub> SIP Call rule nor Maryland's Program to satisfy that rule alters either of the mandated conformity programs' requirements. Moreover, while the NO<sub>x</sub> SIP Call rule specifically establishes