

and now deleted without replacement Rules 405 and 406.

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(5) Rule 1138, adopted on November 14, 1997.

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(A) \* \* \*

(2) Rules 101, 408, 409, 420, 421, 701, and 702, adopted on September 14, 1999.

(B) \* \* \*

(2) Rule 403, adopted on March 22, 2000.

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[FR Doc. 01-17201 Filed 7-10-01; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[FRL-7009-6]

#### Approval of Section 112(l) Program of Delegation; Ohio

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, through a "direct final" procedure, a request for delegation of the Federal air toxics program. The State's mechanism of delegation involves the straight delegation of all existing and future section 112 standards unchanged from the Federal standards. The actual delegation of authority of individual standards, except standards addressed specifically in this action, will occur through a mechanism set forth in a memorandum of agreement (MOA) between the Ohio Environmental Protection Agency (OEPA) and EPA. This request for approval of a mechanism of delegation encompasses all part 70 and non-part 70 sources subject to a section 112 standard with the exception of the Coke Oven standard.

**DATES:** The "direct final" is effective on September 10, 2001, unless EPA receives adverse or critical written comments by August 10, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments should be sent to: Pamela Blakely, Chief,

Permits and Grants Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR-18J, Chicago, Illinois, 60604. Please contact Genevieve Damico at (312) 353-4761 to arrange a time if inspection of the submittal is desired.

#### FOR FURTHER INFORMATION CONTACT:

Genevieve Damico, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353-4761, damico.genevieve@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Why Are We Delegating This Program to OEPA?

Section 112(l) of the Act enables the EPA to delegate Federal air toxics programs or rules to be implemented by States in State air toxics programs. The Federal air toxics program implements the requirements found in section 112 of the Act pertaining to the regulation of hazardous air pollutants. Approval of an air toxics program is granted by the EPA if the Agency finds that the State program: (1) Is no less stringent than the corresponding Federal program or rule, (2) the State has adequate authority and resources to implement the program for all sources, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance. Once approval is granted, the air toxics program can be implemented and enforced by State or local agencies, as well as EPA. Implementation by local agencies is dependent upon appropriate subdelegation.

##### II. What Is the History of This Request for Delegation?

On March 31, 1995, Ohio submitted to EPA a request for delegation of authority to implement and enforce the air toxics program under section 112 of the Act. Additional letters supplementing this request were sent on June 27, 1995, August 23, 1996, June 1, 1999, and July 8, 1999. On July 22, 1999, EPA found the State's submittal complete. OEPA notified us through a letter dated December 13, 2000, that it is not requesting delegation of the Coke Oven standard (40 CFR part 63, subpart L). In this document EPA is taking final action to approve the program of delegation for Ohio for part 70 and non-part 70 sources

with the exception of sources subject to the Coke Oven standard (40 CFR part 63, subpart L).

##### III. How Will OEPA Implement This Delegation?

Requirements for approval, specified in section 112(l)(5), require that a State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule. These requirements are also requirements for an adequate operating permits program under part 70 (40 CFR 70.4). In an August 15, 1995 rulemaking, EPA promulgated a final full approval under part 70 of the State of Ohio's Operating Permit Program. The document did not include the approval of a 112(l) mechanism for delegation of all section 112 standards for sources subject to the part 70 program. Sources subject to the part 70 program are those sources that are operating pursuant to a part 70 permit issued by the State, local agency or EPA. Sources not subject to the part 70 program are those sources that are not required to obtain a part 70 permit from either the State, local agency or EPA (see 40 CFR 70.3).

This Ohio program of delegation will not include delegation of section 112(r) authority. (The 112(r) program has been delegated to OEPA under a separate document.) The program will, however, include the delegation of the 40 CFR part 63 general provisions to the extent that they are not reserved to the EPA and are delegable to the State, as set forth at 65 FR 55810 (September 14, 2000).

As stated above, this document constitutes EPA's approval of Ohio's program of straight delegation of all existing and future air toxics standards, except for section 112(r) standards and the Coke Oven standard. Straight delegation means that the State will not promulgate individual State rules for each section 112 standard promulgated by EPA, but will implement and enforce without change the section 112 standards promulgated by EPA. The Ohio program of straight delegation is as follows: Upon promulgation of a section 112 standard, OEPA will issue or reopen the appropriate permit to include the section 112 standard for sources which are subject according to the permit issuance schedule in the MOA. OEPA will be able to implement and enforce the terms of the permit containing the section 112 standard requirement. OEPA must notify EPA within 45 days of the final promulgation of the standard if OEPA does not intend to take delegation of the standard. OEPA will incorporate section 112 standards into the Title V permits, new source review

permits and federally enforceable state operating permits according to the schedule of implementation in the MOA for each source in Ohio subject to the section 112 standard. The delegation will be implemented on a source by source basis upon the issuance of the applicable permit to that source. Ohio will assume responsibility for the timely implementation and enforcement required by each standard, as well as any further activities agreed to by OEPA and EPA. Some activities necessary for effective implementation of a standard include receipt of initial notifications, recordkeeping, reporting and generally assuring that sources subject to a standard are aware of its existence. When deemed appropriate, OEPA will utilize the resources of its Small Business Assistance Program to assist in general program implementation. The details of this delegation mechanism will be set forth in a memorandum of agreement between EPA and OEPA, copies of which will be placed in the docket associated with this rulemaking.

#### **IV. What Requirements Did OEPA Meet To Receive Today's Approval?**

On November 26, 1993, EPA promulgated regulations to provide guidance relating to the approval of State programs under section 112(l) of the Act. 40 FR 62262. These rules were revised on September 14, 2000. 40 FR 55809. That rulemaking outlined the requirements of approval with respect to various delegation options. The requirements for approval pursuant to section 112(l)(5) of the Act, for a program to implement and enforce Federal section 112 rules as promulgated without changes, are found at 40 CFR 63.91. Any request for approval must meet all section 112(l) approval criteria, as well as all approval criteria of § 63.91. A more detailed analysis of the State's submittal pursuant to § 63.91 is contained in the Technical Support Document included in the official file for this rulemaking.

Under section 112(l) of the Act, approval of a State program is granted by the EPA if the Agency finds that: (1) It is "no less stringent" than the corresponding Federal program, (2) the State has adequate authority and resources to implement the program for all sources, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance.

#### **V. How Did OEPA Meet the Approval Criteria?**

EPA is approving Ohio's mechanism of delegation because the State's

submittal meets all requirements necessary for approval under section 112(l). The first requirement is that the program be no less stringent than the Federal program. The Ohio program is no less stringent than the corresponding Federal program or rule because the State has requested straight delegation of all standards unchanged from the Federal standards. Second, the State has shown that it has adequate authority and resources to implement the program. The Ohio Statutes authorize OEPA to require and issue Title V permits to part 70 sources and new source review permits and federally enforceable state operating permits to non-part 70 sources of regulated pollutants to assure compliance with all applicable requirements of the Act. The authority to issue permits includes the authority to incorporate permit conditions that implement Federal section 112 standards. Furthermore, Ohio has the authority to implement each section 112 regulation, emission standard or requirement, perform inspections, request compliance information, incorporate requirements into permits, and bring civil and criminal enforcement actions to recover penalties and fines. OEPA will enforce section 112 standards applicable to part 70 sources by including such section 112 standards in Title V operating permits according to the schedule in the MOA. For section 112 standards applicable to non-part 70 sources by including such section 112 standards in new source review and federally enforceable state operating permits according to the schedule in the MOA. Regardless of type of permit holding the requirements of the standard, the permit must be effective prior to the first substantial compliance date for all future standards. Adequate resources will be obtained through State matching funds, and through any monies from the State's Title V program that can be used to fund acceptable Title V activities.

Third, upon promulgation of a standard, Ohio will immediately begin activities necessary for timely implementation of the standard. These activities will involve identifying sources subject to the applicable requirements and notifying these sources of the applicable requirements. Such schedule is sufficiently expeditious for approval.

Fourth, nothing in the Ohio program for straight delegation is contrary to Federal guidance.

#### **VI. How Are Sources Subject to the Coke Oven Standard (40 CFR Part 63, Subpart L) Going To Be Handled Since OEPA Did Not Accept Delegation of This Standard?**

OEPA notified us through a letter dated December 13, 2000, that it is not requesting delegation of the Coke Oven standard (40 CFR part 63, subpart L). Since OEPA is not accepting delegation of the Coke Oven standard, EPA will be the primary enforcement authority. The Coke Oven standard remains an applicable requirement for the sources subject to this standard. Therefore, OEPA must include the standard as an applicable requirement in Title V permits for subject sources and sources subject to this standard must continue to comply with its requirements.

#### **VII. How Will Applicability Determinations Under Section 112 Be Made?**

In approving this delegation, the State will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the Clean Air Act or 40 CFR part 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

#### **VIII. What Is Today's Final Action?**

The EPA is promulgating final approval of the June 1, 1999, request by the State of Ohio of a mechanism for straight delegation of section 112 standards unchanged from Federal standards because the request meets all requirements of 40 CFR 63.91 and section 112(l) of the Act as it applies to part 70 and non-part 70 sources. After the effective date of this document, upon signing of the MOA and the issuance of the appropriate permit, the implementation and enforcement of all existing section 112 standards applicable to the part 70 or non-part 70 sources, excluding the Coke Oven standard (40 CFR part 63, subpart L) and section 112(r), which have been incorporated into the appropriate permits (Title V, New Source Review, or federally enforceable state operating permit), are delegated to the State of Ohio. As for the section 112 standards which have not yet been incorporated into permits, the implementation authority for these standards is delegated to the State of Ohio after the effective date of this action, upon signing of the MOA, and the issuance of the appropriate permit containing that standard. The enforcement authority and the future delegation of the section 112 standards to the State will occur

according to the procedures outlined in the MOA.

Effective immediately, all notifications, reports and other correspondence required under section 112 standards should be sent to the State of Ohio after the permit is issued. Affected sources should send this information to: Robert F. Hodanbosi, Division of Air Pollution Control, OEPA, 122 South Front Street, P.O. Box 1049, Columbus, Ohio 43266-7049

EPA is publishing this action without prior proposal because EPA views this action as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the State Plan should adverse or critical written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by August 10, 2001. Should EPA receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on September 10, 2001.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any State plan. Each request for revision to a State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### IX. Administrative 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. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have a substantial direct effect on one or more

Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 10, 2001 unless EPA receives adverse written comments by August 10, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 10, 2001. 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 63

Environmental protection, Administrative practice and procedure, Air Pollution control, Hazardous substances, Intergovernmental relations.

(Authority: 42 U.S.C. 7401, *et seq.*)

Dated: June 19, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01-17072 Filed 7-10-01; 8:45 am]

BILLING CODE 6560-50-P

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 310

[Docket No. MARAD-2001-10056]

#### Service Obligation Reporting Requirements for United States Merchant Marine Academy and State Maritime School Graduates

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

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**SUMMARY:** The Maritime Administration (MARAD, we, our, or us) is amending the employment reporting requirements for United States Merchant Marine Academy (USMMA) graduates and graduates receiving student incentive payments at state maritime schools. The