

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[MD-T5-2002-01a; FRL-7375-3]

### Clean Air Act Full Approval of Operating Permit Program; Maryland

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the operating permit program for the State of Maryland. Maryland's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that requires States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. On July 3, 1996, EPA published a rule, granting final interim approval of Maryland's operating permit program, which listed the reasons why Maryland did not receive full approval. On July 15, 2002, Maryland submitted a corrected operating permit program that included regulatory amendments and other documentation that address all deficiencies identified in the interim approval action as well as other additional amendments not related to the interim approval. With the correction of the deficiencies cited in the final rule granting interim approval, EPA is proposing to fully approve the operating permit program for the State of Maryland.

**DATES:** Comments on this notice must be received in writing on or before October 10, 2002.

**ADDRESSES:** Written comments should be mailed to Ms. Makeba Morris, Chief, Permits and Technical Assessment Branch, Mail code 3AP11, 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 and Air Quality Permits Program, Air and Radiation Management, Maryland Department of the Environment, 188 Washington Boulevard, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Helene Drago, (215) 814-5796, or by e-mail at [drago.helene@epa.gov](mailto:drago.helene@epa.gov).

**SUPPLEMENTARY INFORMATION:** On July 15, 2002, the State of Maryland

submitted documentation that revises its State operating permit program. These revisions are the subject of this document. This section provides additional information on the revisions by addressing the following questions:

#### What Is the State Operating Permit Program?

The Clean Air Act (CAA) Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of "major" sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM<sub>10</sub>); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

#### What Are the State Operating Permit Program Requirements?

The minimum program elements for an approvable operating permit program are those mandated by title V of the CAA Amendments of 1990 and established by EPA's implementing regulations at title 40, part 70—"State Operating Permit Programs" in the Code of Federal Regulations (part 70). Title V of the CAA requires state and local air pollution control agencies to develop

operating permit programs and submit them to EPA for approval by November 15, 1993. Under title V, State and local air pollution control agencies that implement operating permit programs are called "permitting authorities".

Where an operating permit program substantially, but not fully, met the program approval criteria outlined at 40 CFR part 70, EPA granted interim approval contingent on the permit authority revising its program to correct those programmatic deficiencies that prevented full approval. Maryland's original operating permit program substantially, but not fully, met the requirements of 40 CFR part 70. Therefore, EPA granted final interim approval of the program in a rule making published on July 3, 1996. (See 61 FR 34733.) The interim approval notice identified nine outstanding deficiencies that had to be corrected in order for Maryland's program to receive full approval.

#### In 1995, What Did Maryland Submit To Meet the Title V Requirements?

The Secretary of the Maryland Department of the Environment, on behalf of the Governor of Maryland, submitted a title V operating permit program for the State of Maryland on May 09, 1995. The submittal included regulations for implementing the part 70 program which are found in the Code of Maryland Regulations (COMAR), specifically COMAR 26.11.02 and .03. In addition, the program submittal included a legal opinion from the Attorney General of Maryland (dated May 31, 1995) affirming that the laws of the State provide adequate authority to carry out all aspects of the program. The submittal contained a description of how the State would implement the program, evidence of proper adoption of the program regulations, application and permit forms and a permit fee demonstration. This program, including the operating permit regulations, substantially met the requirements of part 70.

On October 30, 1995, EPA proposed interim approval of the Maryland's operating permit program. (See 60 FR 55232). The interim approval notice identified nine outstanding deficiencies that had to be corrected in order for Maryland's program to receive full approval. On July 3, 1996, EPA granted final interim approval of the program in a rulemaking. (See 61 FR 34733.)

#### What Is Being Addressed in This Document?

On July 15, 2002, Maryland submitted documents that revise its title V operating permit program. In general,

the submission included amendments to Maryland's operating permit program regulations that were adopted on June 8, 2001, an amendment to Maryland's statute signed into law by the Governor of Maryland on May 16, 2002, legal opinions from the Attorney General of Maryland dated May 20, 2002 and October 9, 2001, and evidence of proper adoption of the program revisions. These amendments are intended to correct deficiencies identified by EPA when it granted final interim approval of Maryland's program in 1996. In addition, Maryland submitted amendments to its operating permit program regulations adopted on November 6, 2001. EPA is proposing to approve these additional amendments.

#### **What Is Not Being Addressed in This Document?**

On December 11, 2000, EPA announced a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs. (See 65 FR 77376.) The public was able to comment on all currently-approved operating permit programs, regardless of whether they have been granted full or interim approval. The December 11, 2000 notice instructed the public not to include in their comments any program deficiencies that were previously identified by EPA when the subject program was granted interim approval. Since those program deficiencies have already been identified and permitting authorities have been working to correct them, EPA will solicit comments when taking action on those corrective measures.

EPA stated that it will consider information received from the public pursuant to the December 11, 2000 notice and determine whether it agrees or disagrees with the purported deficiencies. Where EPA agrees there is a deficiency, it will publish a notice of deficiency consistent with 40 CFR 70.4(i) and 40 CFR 70.10(b). The Agency will, at the same time, publish a notice identifying any alleged problems that we do not agree are deficiencies. For programs that have not yet received full approval, such as Maryland's program, EPA would publish these notices by December 1, 2001. On December 5, 2001, EPA announced that a part 71 federal operating permit program became effective in Maryland. (See 66 FR 63236.) Because an approved part 70 program is not in effect in Maryland, EPA has not yet responded to public comments on the State's part 70 program.

EPA received numerous comments in response to the December 11, 2000

notice announcing the start of the 90-day public comment period. As part of those comments, EPA Region III received comments about Maryland's interim approved operating permit program. The Agency will respond to those comments in a separate notice(s), as required by the December 11, 2000 notice.

EPA is not addressing any comments received pursuant to the December 11, 2000 notice in this document. As mentioned above, comments provided in accordance with the December 11, 2000 notice were to address shortcomings that had not previously been identified by EPA as deficiencies necessitating interim, rather than full, approval of a State's operating permit program. This action, proposing full approval of Maryland's operating permit program, addresses program deficiencies identified when EPA granted interim approval to Maryland's program in 1996 as well as other regulatory amendments. Therefore, any persons wishing to comment on this action should do so at this time.

#### **What Are the Changes to Maryland's Program That Correct Interim Approval Deficiencies?**

1. The principles of "representational" standing provided by the CAA, its implementing regulations and Article III of the U.S. Constitution as interpreted by the federal courts was not fully articulated by Maryland law. The Maryland Environmental Standing Act (MESA) provided standing to those "persons" as defined under MESA. Not included in that definition were individuals and organizations that do not reside or do business in Maryland. The minimum requirements for judicial review are those established by the CAA and EPA's implementing regulations. In general, State programs must provide an opportunity for judicial review in State court to the applicant, to any person who filed comments or attended a hearing on a permit, and any other person who could obtain judicial review under State law. When EPA granted Maryland interim approval in 1996, it stated that in order to fully meet the standing requirements of the CAA the State must take legislative action to ensure that the standing requirements for non-state residents and organizations not doing business in Maryland are not more restrictive than the minimum requirements of Article III of the U.S. Constitution as they apply to federal courts. On May 16, 2002, Maryland changed its statute at Ann. Code MD. 2-404.1 to expand its standing for the title V operating permit program to meet the threshold standing requirements under

federal constitutional law. Maryland revised its Attorney General's opinion by stating that Maryland's standing law is now equivalent to federal constitutional standard. With this statute revision, Maryland's program is consistent with the scope of standing for judicial review implicit in the CAA and title V's implementing regulations.

2. Maryland was required to revise the provisions for insignificant activities under COMAR 26.11.03.04 in the following three ways to achieve consistency with the requirements of 40 CFR 70.5(c):

a. Maryland's regulation found at COMAR 26.11.03.04A(18) provided that "any other emission unit that is not subject to an applicable requirement of the Clean Air Act" may be excluded from part 70 permit applications. This item was part of a list of other emission units and activities which were allowed to be excluded from part 70 applications. EPA recommended that Maryland remove this item from the list because it was important for such unspecified units or activities to be included in the permit application even if they did not have applicable requirements. Rather than remove the item from its regulations, Maryland amended the provision to ensure that such emission units and activities were not excluded from permit applications. Maryland revised COMAR 26.11.03.04A to require that any emission unit or activity that the permit applicant believes does not have any applicable requirements and is seeking to be exempted from the requirement to provide detailed emissions and operational information in the permit application must be identified to, and agreed upon by, the Maryland Department of the Environment during the application process. Identification of these units during the permit application process ensures that Maryland, EPA and members of the public who have access to the permit application are aware of the existence of these units at an applicant's facility. Because these emissions units and activities are clearly identified as part of the permit application process, the Maryland Department of the Environment can affirmatively determine whether additional information in the permit application regarding these units or activities is necessary to assess whether they have applicable requirements. The identification of these units also has a subsidiary benefit of allowing the State to request additional information about a unit that may be subject to state-only requirements, even if there is no federal applicable requirement. If the Maryland

Department of Environment determines that additional information is necessary from the permit applicant to determine whether an emission unit is subject to an applicable requirement, it may specify the additional information needed or deny the applicant's request that the unit be exempt from the requirement to provide detailed emissions and operational information under COMAR 26.11.03.03

Further, the amended language of COMAR 26.11.03.04A works in conjunction with other provisions of this section which require that (1) a permit applicant may not omit information on an emissions unit that is necessary to determine the applicability of, or to impose, an applicable requirement of the CAA; (2) potential emissions from all exempt sources shall be included in the determination of whether a source is major; (3) the listing as an insignificant activity does not exempt an emissions unit from any air quality regulation; and (4) emissions units that use Class I or Class II ozone-depleting substances subject to an applicable requirement established under title VI of the CAA are not exempt from the part 70 application. Therefore, the amended provisions of COMAR 26.11.03.04A ensure that permit applicants are required to provide all information in their applications necessary to determine the applicability of requirements and to verify compliance with those applicable requirements.

b. Maryland's regulation at COMAR 26.11.03.04B did not provide that a permit applicant shall not omit information needed to determine the applicability of, or to impose, any applicable requirement as required under 40 CFR 70.5(c). Maryland amended its regulation to include COMAR 26.11.03.04C which states "A permit applicant may not omit information on an emissions unit that is necessary to determine the applicability of, or to impose, an applicable requirement of the Clean Air Act." With this amendment, Maryland's program is consistent with 40 CFR 70.5(c).

c. Maryland's regulation at COMAR 26.11.03.04 A(2) provided an exemption from part 70 permit applications to boilers used exclusively to operate steam engines for farm and domestic use. Maryland has deleted this exemption from its regulation. While not included as an interim approval deficiency, the Maryland statute found at Ann. Code. Md. 2-402 provides a similar exemption to boilers used exclusively to operate steam engines for farm and domestic use. Maryland has provided a statement with supporting

documentation that no boilers used exclusively to operate steam engines for farm and domestic currently exist in the State. Further, the State provided an Attorney General's opinion, dated May 20, 2002 stating that since there are no sources subject to the exemption, Maryland's title V operating permit program applies to all sources that are required to be covered by the title V permit program. With the deletion from its regulation, coupled with the State's affirmation and Attorney General's opinion, Maryland's regulation is consistent with 40 CFR 70.5(c).

3. Maryland's regulations at COMAR 26.11.03.21 did not specifically state that the procedures for issuing general permits include notice and opportunity for public comment and hearing by affected states consistent with 40 CFR 70.7(h)(3) and 70.8 and a 45-day EPA review consistent with 40 CFR 70.8(a) and (c). In addition, Maryland's regulation for issuing general permits did not provide that the State would keep a record of public commenters and issues raised during the public participation process so that EPA may fulfill its obligation under section 505(b)(2) of the CAA to determine whether a citizen petition should be granted. Maryland revised its regulation, found at COMAR 26.11.03.21.A, to clarify that the procedures for issuing general permits include a review by EPA and affected states. Further, COMAR 26.11.03.21.B was added which states "the Department shall maintain records of the public comments and issues raised during the public participation process." With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(h) and 70.8.

4. COMAR 26.11.03.21.J allowed Maryland to revise or repeal a general permit using the procedures that are appropriate to the particular permit. COMAR 26.11.03.21.L stated that the revision procedures set forth in Maryland's regulations do not apply to a general permit, except as provided in the general permit. These provisions were inconsistent with part 70 because they gave Maryland the discretion to determine the appropriate procedures that should be followed to revise a general permit. To remedy the deficiency, Maryland has deleted COMAR 26.11.03.21.J. In addition, Maryland revised COMAR 26.11.03.21.L to clearly state that all permit revision procedures apply to general permits. With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(e).

5. Maryland's requirements for permit reopenings, including COMAR 26.11.03.07.A(2), 26.11.03.08.A, and

26.11.03.20C(4), (5) and (6), provided the State discretion to follow procedures other than the procedures for permit issuance. Federal regulations at 40 CFR 70.7(f)(2) require that procedures to reopen and issue a permit shall follow the same procedure as apply to initial permit issuance. Maryland has revised its regulations found at COMAR 26.11.03.07.A(2), 26.11.03.08.A, and 26.11.03.20C(4), and (5) to provide that procedures to reopen and issue a permit shall follow the same procedure for issuance of an initial permit. With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(f)(2).

6. COMAR 26.11.03.17F provided that the permittee could submit an application for a significant modification up to 12 months after commencing operation of the changed source. This provision is inconsistent with 40 CFR 70.7(e)(4) and provides less stringent application requirements in making a significant modification than for making minor modifications or administrative amendments. Maryland revised its regulation by deleting the language at COMAR 26.11.03.17F which stated that the permittee could submit an application for a significant modification up to 12 months after commencing operation of the changed source. Maryland added language at COMAR 26.11.03.17F that requires that no significant modifications may be made at a facility prior to the facility obtaining all permits to construct and approvals or a certificate of public convenience and necessity and submitting a complete application for a significant modification to an operating permit. Further, if no permit to construct or approval is necessary, the permittee may not make the change until Maryland issues a revised part 70 permit that includes the requirements that apply to the modification. With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(e)(4).

7. EPA required that the language at COMAR 26.11.03.15B(7) be clarified to indicate that all permit modifications for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the act. Maryland modified its regulation by deleting COMAR 26.11.03.15B(7). Maryland added language at COMAR 26.11.03.15C that states that amendments will be consistent with the part 70 regulation "except for a permit modification for the acid rain portion of a part 70 permit which is governed by regulations promulgated under title IV of the Clean Air Act." In addition, COMAR 26.11.03.01M incorporates by reference

into its part 70 permitting program, the acid rain program found at 40 CFR part 72 into its part 70 permitting program and specifically states that "a person who constructs, modifies, or operates, or causes to be constructed, modified, or operated an acid rain source...shall comply with 40 CFR 72 \* \* \*." The permit revision regulations found at 40 CFR 72.80 provide that

"notwithstanding the operating permit revision procedures specified in part 70 \* \* \*, the provisions of this subpart shall govern revision of any Acid Rain Program permit revision." With these provisions of the State and federal regulations, Maryland's regulations are consistent with 40 CFR 70.7(d) and (e).

8. COMAR 26.11.03.11 afforded EPA a thirty day opportunity to comment on the proposed decision of an administrative law judge prior to Maryland's issuance of a final decision. It was not clear to EPA that in the event that Maryland issues a final decision which modifies conditions in the final permit under a contested case decision, that that modification would follow State requirements at COMAR 26.11.03.09, .16 and .17 which require Maryland to provide EPA with an additional 45 day period in which to review and comment on the final permit. Maryland revised its regulation at COMAR 26.11.03.11 to change EPA's review time of any permit modification proposed through a contested case hearing from 30 days to 45 days. In addition, Maryland provided an Attorney General's opinion, dated May 20, 2002, that states that "a final decision pursuant to COMAR 26.11.03.11E which makes significant or minor modifications to a challenged title V permit is subject to the review and comment provisions in regulations .09B, .16F, and .17D. Therefore, EPA must be provided with a 45-day review and comment period prior to issuance of a final decision which makes significant or minor modifications to the permit." With this regulation revision and the amended Attorney General's opinion, Maryland's regulations are consistent with the part 70 program.

9. Maryland's part 70 program submitted in 1995 did not include a review from its Attorney General that the State has the necessary legal authority to implement and enforce the federal requirements for hazardous air pollutants. Maryland has submitted an Attorney General's opinion, signed October 9, 2001, that affirms that the laws of Maryland provide the necessary legal authority to implement and enforce 40 CFR part 63 National Emission Standards for Hazardous Pollutants for all major and area sources

subject to part 63 standards. With this Attorney General's opinion, Maryland's regulations are consistent with the part 70 program.

#### **What Other Changes to Maryland's Part 70 Program Were Submitted to EPA?**

1. Maryland regulation at COMAR 26.11.02.01.C defined major sources as those that emit or have the potential to emit 100 tons per year of any *regulated* (emphasis added) air pollutant. In contrast, EPA's definition of a major source at 40 CFR 70.2 is that source that emits or has the potential to emit 100 tons per year of any air pollutant. To clearly indicate that Maryland's definition of a major source is equivalent to the federal definition, the State revised COMAR 26.11.02.01.C. by deleting the word "regulated" from its definition of a major source. This revision is consistent with the part 70 program.

2. Maryland regulation at COMAR 26.11.03.01.B(4) exempted from part 70 requirements "a source that is not subject to an applicable requirement of the Clean Air Act." Federal regulations found at part 70 do not provide for such an exemption. To closely mirror the part 70 regulations, Maryland deleted the exemption from its regulation. This revision is consistent with the part 70 regulations.

3. Maryland regulation at COMAR 26.11.03.18.A provided that a permittee may make a change to a permitted source without obtaining a revision to the part 70 permit, *although the change would otherwise violate the federally enforceable conditions of the part 70 permit*. (emphasis added.) The emphasized language seems to allow changes at a source that might violate the conditions of the part 70 permit, even though subsections 1 through 8 of COMAR 26.11.03.18A contains provisions to prevent any such violation. For clarity purposes, the language was deleted from COMAR 26.11.03.18.A. This deletion is consistent with the part 70 program.

4. Maryland added language at COMAR 26.11.02.16.A(2)(a), 26.11.02.19.A, 26.11.03 to clarify that it has authority to assess permit fees for Title V sources whether the sources are subject to part 70 or 40 CFR part 71. These permit revisions are consistent with the part 70 program.

5. Regulations at COMAR 26.11.03.19.D(1) require the permittee to keep a record describing "changes made at the source that result in emissions of a *regulated* (emphasis added) air pollutant subject to an applicable requirements of the Clean Air Act." Maryland deleted the word "regulated"

from COMAR 26.11.03.19.D(1) to clarify that the permittee shall keep a record of changes of any air pollutant subject to an applicable CAA requirement. This deletion is consistent with the part 70 program.

6. Maryland added regulations at COMAR 26.11.03.01. N which states "The owner or operator of a source which a part 70 permit is required is subject to the compliance assurance monitoring requirements under 40 CFR part 64 which is incorporated by reference." This amendment ensures compliance assurance monitoring is a requirement when applicable in a part 70 permit. This addition is consistent with the part 70 program.

#### **What Action Is Being Taken by EPA?**

EPA has reviewed the program revisions which include regulatory amendments adopted on June 08, 2001 and a statutory amendment effective May 16, 2002 in conjunction with the portion of Maryland's operating permit program that was earlier approved on an interim basis. Based on this review, EPA has determined that the revisions to Maryland's operating permit program adequately address the nine deficiencies identified by EPA in its July 03, 1996 rule granting interim approval and fully satisfy the minimum requirements of 40 CFR part 70 and the CAA. Therefore, EPA is proposing to fully approve the Maryland Title V operating permit program in accordance with 40 CFR 70.4(e). In addition, EPA has reviewed the regulatory amendments adopted November 06, 2001. EPA has determined that these additional amendments fully meet the minimum requirements of 40 CFR part 70 and the CAA and is proposing to approve the additional amendments. Interested members of the public may comment on the changes, as described above.

#### **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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely proposes to approve 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 proposes to approve 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 (Public Law 104-4). This proposed 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 CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State operating permit program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. 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 an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of an operating permit program submission that otherwise satisfies the provisions of the CAA. 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, proposing to approve the operating permit program for the State of Maryland, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 40 CFR Part 70**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 4, 2002.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

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