

applicant a written notification stating the reasons for refusal within four months of the date on which the first request for reconsideration is received by the Examining Division. When the ending date for the four-month time period falls on a weekend or a Federal holiday, the ending day of the four-month period shall be extended to the next Federal work day. Failure by the Examining Division to send the written notification within the four-month period shall not result in registration of the applicant's work.

(c) *Second reconsideration.* Upon receiving written notification of the Examining Division's decision to refuse registration in response to the first request for reconsideration, an applicant may request that the Review Board reconsider the Examining Division's refusal to register, subject to the following requirements:

(1) An applicant must request in writing that the Review Board reconsider the Examining Division's decision to refuse registration. The second request for reconsideration must include the reasons the applicant believes registration was improperly refused, including any legal arguments in support of those reasons and any supplementary information, and must address the reasons stated by the Examining Division for refusing registration upon first reconsideration. The Board will base its decision on the applicant's written submissions.

(2) The fee set forth in § 201.3(d)(4) of this chapter must accompany the second request for reconsideration.

(3) The second request for reconsideration and the applicable fee must be received in the Copyright Office no later than three months from the date that appears in the Examining Division's written notice of its decision to refuse registration after the first request for reconsideration. When the ending date for the three-month time period falls on a weekend or a Federal holiday, the ending day of the three-month period shall be extended to the next Federal work day.

(4) If the Review Board decides to register an applicant's work in response to a second request for reconsideration, it will notify the applicant in writing of the decision and the work will be registered. If the Review Board upholds the refusal to register the work, it will send the applicant a written notification stating the reasons for refusal.

(d) *Submission of reconsiderations.*

(1) All mail, including any that is hand delivered, should be addressed as follows: RECONSIDERATION, Copyright R&P Division, P.O. Box 71380, Washington, DC 20024-1380. If

hand delivered by a commercial, non-government courier or messenger, a request for reconsideration must be delivered between 8:30 a.m. and 4 p.m. to: Congressional Courier Acceptance Site, located at Second and D Streets, NE., Washington, DC. If hand delivered by a private party, a request for reconsideration must be delivered between 8:30 a.m. and 5 p.m. to: Room 401 of the James Madison Memorial Building, located at 101 Independence Avenue, SE., Washington, DC.

(2) The first page of the written request must contain the Copyright Office control number and clearly indicate either "FIRST RECONSIDERATION" or "SECOND RECONSIDERATION," as appropriate, on the subject line.

(e) *Suspension or waiver of time requirements.* For any particular request for reconsideration, the provisions relating to the time requirements for submitting a request under this section may be suspended or waived, in whole or in part, by the Register of Copyrights upon a showing of good cause. Such suspension or waiver shall apply only to the request at issue and shall not be relevant with respect to any other request for reconsideration from that applicant or any other applicant.

(f) *Composition of the Review Board.* The Review Board shall consist of three members; the first two members are the Register of Copyrights and the General Counsel or their respective designees. The third member will be designated by the Register.

(g) *Final agency action.* A decision by the Review Board in response to a second request for reconsideration constitutes final agency action.

#### **PART 211—MASK WORK PROTECTION**

■ 3. The authority citation for part 211 continues to read as follows:

**Authority:** 17 U.S.C. 702 and 908.

■ 4. Add § 211.7 to read as follows:

##### **§ 211.7 Reconsideration procedure for refusals to register.**

The requirements prescribed in § 202.5 of this chapter for reconsideration of refusals to register copyright claims are applicable to requests to reconsider refusals to register mask works under 17 U.S.C. chapter 9, unless otherwise required by this part.

#### **PART 212—PROTECTION OF VESSEL HULL DESIGNS**

■ 5. The authority citation for part 212 continues to read as follows:

**Authority:** 17 U.S.C. chapter 13.

■ 6. Add § 212.7 to read as follows:

##### **§ 212.7 Reconsideration procedure for refusals to register.**

The requirements prescribed in § 202.5 of this chapter for reconsideration of refusals to register copyright claims are applicable to requests to reconsider refusals to register vessel hull designs under 17 U.S.C. chapter 13, unless otherwise required by this part.

Dated: December 3, 2004.

**Marybeth Peters,**

*Register of Copyrights.*

*Approved by:*

**James H. Billington,**

*Librarian of Congress.*

[FR Doc. 04-28396 Filed 12-27-04; 8:45 am]

**BILLING CODE 1410-30-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR PART 22**

[FRL-7855-6]

#### **Clarification of Address for Documents Filed With EPA's Environmental Appeals Board**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is amending the regulations that pertain to filing appeals and other documents with the Environmental Appeals Board (EAB) under the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (CROP). Specifically, EPA is amending two regulations that specify the addresses where notices of appeal, accompanying briefs, and other documents must be filed, to provide that any filings made through the U.S. mail service must be addressed to the EAB's mailing address, and that any filings made by hand-delivery or courier must be made to the EAB's hand-delivery address. The amendments are intended to make the regulations consistent with current Agency practice and to provide clear guidance on the proper address to use under various circumstances.

**EFFECTIVE DATE:** This final rule is effective on December 28, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Eurika Durr, Clerk of the Board.

Telephone number: (202) 233-0122. E-mail: [Durr.Eurika@epa.gov](mailto:Durr.Eurika@epa.gov).

**SUPPLEMENTARY INFORMATION:** This action is directed to the public in

general and to anyone who may want to file documents with the EAB. If you have questions regarding the applicability of this action to a particular entity or action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

## I. Background

### A. What Action Is the Agency Taking?

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (CROP), 40 CFR part 22, govern the filing of certain appeals with the EAB, and provide, in pertinent part, that:

[A]ny party may appeal any adverse order or ruling of the Presiding Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board (Clerk of the Board (Mail Code 1103B), United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries may be made at Suite 600, 1341 G Street, NW.

40 CFR 22.30(a)(1). The regulation could be read as implying that hand deliveries may be made at either of the two specified addresses. However, the address referenced in the regulation as "1200 Pennsylvania Avenue, NW." is that of the EPA mailing center, which no longer accepts hand deliveries of mail addressed to the EAB. The EPA mailing center will reject any document addressed to the EAB that is delivered by hand or courier, and such document will not be properly filed until it has been re-delivered to the physical offices of the EAB at Suite 600, 1341 G Street, NW., Washington, DC 20005. The purpose of the amendment is to delete the regulatory language at 40 CFR 22.30(a)(1) quoted above, and to replace it with the following language:

[A]ny party may appeal any adverse order or ruling of the Presiding Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board. Appeals filed through the U.S. Postal Service (except by U.S. Postal Express Mail) shall be addressed to the Environmental Appeals Board at its official mailing address: Clerk of the Board (Mail Code 1103B), United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Appeals delivered by hand or courier (including deliveries by U.S. Postal Express Mail or by a commercial delivery service) shall be delivered to Suite 600, 1341 G Street, NW., Washington, DC 20005.

The CROP further provides, in pertinent part, that:

The original and one copy of each document intended to be part of the record

shall be filed \* \* \* with the Clerk of the Board when the proceeding is before the Environmental Appeals Board. A document is filed when it is received by the appropriate Clerk.

40 CFR 22.5(a)(1). According to 40 CFR 22.3, the Clerk of the Board "means the Clerk of the Environmental Appeals Board, Mail Code 1103B, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460." The purpose of the amendment is to amend 40 CFR 22.5(a)(1) by adding the following sentence after the regulatory language quoted above:

Documents filed in proceedings before the Environmental Appeals Board shall either be sent by U.S. mail (except by U.S. Express Mail) to the official mailing address of the Clerk of the Board set forth at 22.3 or delivered by hand or courier (including deliveries by U.S. Postal Express or by a commercial delivery service) to Suite 600, 1341 G Street, NW., Washington, DC 20005.

### B. How Can I Get Additional Information About This Action?

You may obtain additional information about this action on the EAB's Internet home page at <http://www.epa.gov/eab>.

### C. What Is the Agency's Authority for Taking This Action?

EPA is issuing this document under its general rulemaking authority. Reorganization Plan No. 3 of 1970 (5 U.S.C. app.). In addition, section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that this amendment is technical and non-substantive, and therefore, that there is good cause under 5 U.S.C. 553(b)(B) for making this rule final without prior proposal and opportunity for comment. EPA also finds good cause under 5 U.S.C. 553(d) to make this rule effective on the date of publication.

## II. Do Any of the Regulatory Assessment Requirements Apply to This Action?

No. This final rule implements a technical amendment to 40 CFR part 22 to provide clear guidance on the hand-delivery address for filings with the EAB, and does not otherwise impose or amend any requirements. This action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget under Executive Order 12866, entitled

Regulatory Planning and Review (58 FR 51735, October 4, 1993). This rule does not contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). Since the Agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute, this action is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandate Reform Act of 1995 (UMRA) (Public Law 104-94). In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the UMRA of 1995. This rule will not 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, entitled Federalism (64 FR 43255, August 10, 1999). Similarly, this rule will not have substantial direct effects on tribal governments, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). This rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), because this action is not a significant regulatory action under Executive Order 12866.

## III. Will EPA Submit This Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, generally provides that, before a rule may take effect, the agency that promulgates 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. CRA section 808 provides that the issuing agency may make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. EPA has made such a good cause finding, including the reasons therefor, and has established the date of publication as the effective date. As stated previously, 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 22

Environmental protection,  
Administrative practice and procedure,  
Courts.

Dated: December 20, 2004.

**Richard McKeown,**  
Chief of Staff.

■ 40 CFR Part 22 is amended as follows:  
■ 1. The authority citation for part 22 continues to read as follows:

**Authority:** 7 U.S.C. 136(l); 15 U.S.C. 2615; 33 U.S.C. 1319, 1342, 1361, 1415 and 1418; 42 U.S.C. 300g-3(g), 6912, 6925, 6928, 6991e and 6992d, 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547, 7601 and 7607(a), 9609, and 11045.

■ 2. Section 22.5 is amended by adding a sentence after the second sentence in paragraph (a)(1) to read as follows:

#### § 22.5 Filing, service, and form of all filed documents, business confidentiality claims.

(a) \* \* \*

(1) \* \* \* Documents filed in proceedings before the Environmental Appeals Board shall either be sent by U.S. mail (except by U.S. Express Mail) to the official mailing address of the Clerk of the Board set forth at § 22.3 or delivered by hand or courier (including deliveries by U.S. Postal Express or by a commercial delivery service) to Suite 600, 1341 G Street, NW., Washington, DC 20005. \* \* \*

\* \* \* \* \*

■ 3. Section 22.30 is amended by removing the first two sentences of paragraph (a)(1) and adding three new sentences in their place to read as follows:

#### § 22.30 Appeal from or review of initial decision.

(a) \* \* \*

(1) Within 30 days after the initial decision is served, any party may appeal any adverse order or ruling of the Presiding Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board. Appeals sent by U.S. mail (except by U.S. Postal Express Mail) shall be addressed to the Environmental Appeals Board at its official mailing address: Clerk of the Board (Mail Code 1103B), United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Appeals delivered by hand or courier (including deliveries by U.S. Postal Express Mail or by a commercial delivery service) shall be delivered to Suite 600, 1341 G Street, NW., Washington, DC 20005. \* \* \*

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2004-DC-0003; FRL-7853-9]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Excess Volatile Organic Compound and Nitrogen Oxides Emissions Fee Rule

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the District of Columbia (District) State Implementation Plan (SIP) for ozone. The rule requires major stationary sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) in the District, which is part of the Metropolitan Washington DC Severe Ozone Nonattainment Area, to pay a fee to the District if the area fails to attain the one-hour national ambient air quality standard for ozone by November 15, 2005. The fee must be paid beginning in 2006, and in each calendar year thereafter, until the area is redesignated to attainment for the pollutant ozone. The District of Columbia submitted this rule on April 16, 2004, pursuant to the requirements of Section 110 of the Clean Air Act.

**DATES:** This rule is effective on February 28, 2005, without further notice, unless EPA receives adverse written comment by January 27, 2005. 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:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2004-DC-0003 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/RME>, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

D. Mail: R03-OAR-2004-DC-0003, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to RME ID No. R03-OAR-2004-DC-0003. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the [federalregulations.gov](http://www.federalregulations.gov) Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your