

US EPA ARCHIVE DOCUMENT

EPA has no authority to disapprove requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 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. 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.*).

B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2002. 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, pertaining to the approval of MDE's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(20) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(20) Maryland.

(i) Maryland is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the Maryland Department of the Environment, dated November 3, 1999, and any mutually acceptable amendments to that agreement.

(ii) Maryland is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is sought by the Maryland Department of the Environment and approved by EPA Region III, at affected sources which are not located at major sources, as defined in 40 CFR part 70, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02-2230 Filed 1-29-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[PA001-1002; FRL-7135-3]

Approval of Section 112(l) Authority for Hazardous Air Pollutants and the Chemical Accident Prevention Provisions; Allegheny County; Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA is taking direct final action to approve Allegheny County Health Department's (ACHD's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations. For sources which are required to obtain a Clean Air Act operating permit, this delegation addresses all existing hazardous pollutant regulations. For sources which are not required to obtain a Clean Air Act operating permit, this delegation presently addresses the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting. This delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is taking direct final action to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both ACHD and EPA. This action pertains to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, as well as covered processes, as defined by the Act's chemical accident prevention provisions. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective April 1, 2002 unless EPA receives adverse or critical comments by March 1, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, and Roger C. Westman, Manager, Air Quality

Program, Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201-8103. 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 Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201-8103.

FOR FURTHER INFORMATION CONTACT:

Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103-2029, mcnally.dianne@epa.gov (telephone 215-814-3297). Please note that any formal comments must be submitted, in writing, as provided in the ADDRESSES section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63 subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63 and the chemical accident prevention provisions set forth at 40 CFR part 68. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

- (a) a demonstration of the State's authority and resources to implement and enforce regulations that are at least as stringent as the 40 CFR part 63 National Emission Standards for Hazardous Air Pollutant (NESHAP) requirements and the 40 CFR part 68 chemical accident prevention provisions, including an auditing strategy at least as stringent as the EPA regulation;
- (b) a schedule demonstrating expeditious implementation of the regulations;
- (c) a plan that assures expeditious compliance by all sources subject to the regulations;
- (d) a requirement that subject sources submit a risk management plan (RMP);
- (d) procedures for reviewing RMPs; and,
- (e) procedures to provide technical assistance to subject sources, including small businesses, under the chemical accident prevention provisions.

On March 30, 1998 and October 30, 1998, ACHD, through letters from the

Pennsylvania Department of Environmental Protection (PADEP), submitted to EPA requests to receive delegation of authority to implement and enforce the hazardous air pollutant regulations which have been adopted by reference from 40 CFR part 63 and the chemical accident prevention regulations which have been adopted by reference from 40 CFR part 68. On August 4, 1999, PADEP submitted a copy of an Agreement for Implementation of the Title V Operating Permits Program between EPA, PADEP and ACHD. On June 15, 2001, ACHD submitted a letter to EPA clarifying its request for delegation of authority of the NESHAPs and the chemical accident prevention provisions. In this letter, ACHD stated that it was seeking delegation of authority of the NESHAPs, as they applied to sources subject to the Title V program and to sources which have taken a federally-enforceable limit on their potential to emit to below the major source thresholds, as defined in 40 CFR part 70. The ACHD also clarified that it was seeking automatic delegation of future NESHAPs for these sources. This letter also reiterated that ACHD was seeking delegation of the chemical accident prevention regulations for all sources. These four submissions provided detailed information on ACHD's legal and enforcement authority, resources, and implementation procedures for addressing the hazardous air pollutant regulations at facilities required to obtain an operating permit under 40 CFR part 70 and the chemical accident prevention regulations at all facilities. On October 24, 2001, ACHD submitted to EPA additional information necessary to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T and X, respectively, at sources not addressed in ACHD's previous requests. In this October 24, 2001 request, ACHD also asked that EPA automatically delegate future amendments to these specific regulations and future hazardous air pollutant regulations adopted unchanged from the Federal requirements which were not addressed by ACHD's previous requests. Because ACHD automatically adopts by reference the regulations in 40 CFR part 63, the recently promulgated regulations

addressing hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting (40 CFR part 63 subparts EEE, LLL, and RRR, respectively), while not specifically mentioned in this October 24, 2001 letter, are also part of the delegation request.

II. EPA's Analysis of ACHD's Submittal

Based on ACHD's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that ACHD has satisfied the criteria of 40 CFR 63.91 and 63.95. In accordance with 40 CFR 63.91(d)(3)(i), ACHD submitted two written findings by the County Solicitor which demonstrate that ACHD has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), ACHD submitted copies of its statutes, regulations and requirements that grant authority to ACHD to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)-(v), ACHD submitted documentation of adequate resources and a schedule and plan to assure expeditious implementation and compliance by all sources. Therefore, the ACHD program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of the emission standards of 40 CFR part 63, including 40 CFR part 63, subparts M, N, O, T, X, EEE¹, LLL and RRR, and the chemical accident prevention provisions of 40 CFR part 68, at all covered facilities. In addition, the ACHD program has adequate and effective authorities, resources and procedures in place for implementation and enforcement of any future emission standards.

In accordance with 40 CFR 63.95(b)(1), ACHD submitted information which demonstrates that it has the authority and resources to implement and enforce regulations that are no less stringent than the regulations in 40 CFR part 68, subparts A through G and 68.200 and a requirement that subject sources submit a RMP that reports at least the same information in the same format as required under 40 CFR part 68, subpart G. As required by

¹ Delegation of the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (40 CFR part 63 subpart EEE) could be affected by the July 24, 2001 ruling by the United States Court of Appeals for the District of Columbia Circuit which vacated the rule.

40 CFR 63.95(b)(3)–(4), ACHD submitted documentation that it has adequate procedures for reviewing RMPs, providing technical assistance to stationary sources, including small businesses, and auditing RMPs in a manner consistent with the Federal regulation.

The ACHD automatically adopts the emission standards promulgated in 40 CFR part 63 and the chemical accident prevention provisions promulgated in 40 CFR part 68 into the County of Allegheny, Pennsylvania, Ordinance No. 16782 and Allegheny County Health Department Rules and Regulations, Article XXI Air Pollution Control 2104.08. The ACHD has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Allegheny County, including on-site inspections, record-keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for ACHD to receive automatic delegation of future amendments to the hazardous air pollutant regulations² and the chemical accident prevention provisions, each amendment must be legally adopted by Allegheny County. As stated earlier, these amendments are automatically adopted into the County of Allegheny, Pennsylvania, Ordinance No. 16782 and ACHD Rules and Regulations, Article XXI Air Pollution Control 2104.08. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption.

EPA has also determined that ACHD can be delegated the authority to implement and enforce all future hazardous air pollutant regulations, which it adopts unchanged from the Federal requirements. The delegation of future hazardous air pollutant regulations will be finalized on the effective date of the legal adoption. The official notice of delegation of additional emission standards will be published in the **Federal Register**. The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to ACHD and EPA Region III.

If at any time there is a conflict between an ACHD regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of ACHD. EPA is responsible for determining stringency between conflicting regulations. If ACHD does not have the authority to

enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that ACHD's procedures for enforcing or implementing the 40 CFR part 63 or 40 CFR part 68 requirements are inadequate, or are not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 and 40 CFR part 68 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and 40 CFR 68.120 and the "Delegation of Authorities" section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) approval of alternative non-opacity emission standards, e.g., 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) approval of alternative opacity standards, e.g., 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, ACHD must notify EPA Region III in writing:

(1) applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, e.g., 40 CFR 63.1 and applicable sections of relevant standards;³

³ Applicability determinations are considered to be nationally significant when they:

- (i) are unusually complex or controversial;
- (ii) have bearing on more than one state or are multi-Regional;
- (iii) appear to create a conflict with previous policy or determinations;

(2) responsibility for determining compliance with operation and maintenance requirements, e.g., 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) responsibility for determining compliance with non-opacity standards, e.g., 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) responsibility for determining compliance with opacity and visible emission standards, e.g., 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) approval of site-specific test plans,⁴ e.g., 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) approval of shorter sampling times/volumes when necessitated by process variables and other factors, e.g., 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) waiver of performance testing, e.g., 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) approval of site-specific performance evaluation (monitoring) plans,⁵ e.g., 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) approval of intermediate alternatives to monitoring methods, as

(iv) are a legal issue which has not been previously considered; or

(v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305-B-99-004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring*, dated February 1999. The ACHD may also refer to the *Compendium of Applicability Determinations* issued by the EPA and may contact EPA Region III for guidance.

⁴ The ACHD will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

⁵ The ACHD will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

² See Footnote 1.

defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) approval of adjustments to time periods for submitting reports, e.g., 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, ACHD and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63 and 40 CFR part 68. In instances where there is a conflict between a ACHD interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63 and 40 CFR part 68, the Federal interpretation must be applied if it is more stringent than that of ACHD. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Allegheny County. The ACHD will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by ACHD to identify sources determined to be applicable during that quarter. Although ACHD has primary authority and responsibility to implement and enforce the hazardous air pollutant regulations⁶ and the chemical accident prevention provisions, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving ACHD's request for delegation of authority to implement and enforce its hazardous air pollutant emission standards⁷ which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63 and its chemical accident prevention provisions which have been adopted by reference from the Federal requirements set forth in 40 CFR part 68. This approval will automatically delegate future amendments to these regulations. For sources which are required to obtain an operating permit under 40 CFR part 70, this delegation addresses all existing hazardous air pollutant emission standards as adopted by reference from 40 CFR part 63. For sources which are

not required to obtain an operating permit under 40 CFR part 70, this delegation presently addresses hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,⁸ portland cement manufacturing, and secondary aluminum smelting as adopted by reference from 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL and RRR, respectively. This delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is taking direct final action to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because ACHD's request for delegation of the hazardous air pollutant regulations and its request for automatic delegation of future amendments to these rules and future standards does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of ACHD's request for delegation if adverse comments are filed. This rule will be effective on April 1, 2002 without further notice unless EPA receives adverse comment by March 1, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General 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 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 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 requests for rule approval under CAA section 112, 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 requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA

⁶ See Footnote 1.

⁷ See Footnote 1.

⁸ See Footnote 1.

section 112, to use VCS in place of a request for rule approval under CAA section 112 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 does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2002. 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, pertaining to the approval of ACHD's delegation of authority for the hazardous air pollutant emission standards and the chemical accident prevention provisions (CAA section 112), may not be challenged

later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraphs (a)(38)(iv) and (v):

§ 63.99 Delegated Federal authorities.

(a) * * *

(38) * * *

(iv) Allegheny County is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards at sources within Allegheny County, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

(v) Allegheny County is delegated the authority to implement and enforce the provisions of 40 CFR part 68 and all future unchanged amendments to 40 CFR part 68 at sources within Allegheny County, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02-2228 Filed 1-29-02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Parts 2, 4, 7, 10, 13, and 35

RIN 1090-AA80

Change of Address for Office of Hearings and Appeals

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is revising its regulations governing administrative appeals to

reflect a change of address for the Office of Hearings and Appeals (OHA). OHA is moving to a new building in Arlington, Virginia, effective February 11, 2002.

DATES: This rule is effective February 11, 2002.

FOR FURTHER INFORMATION CONTACT:

Charles E. Breece, Principal Deputy Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone 703-235-3810. After February 11, 2002, Mr. Breece's address will change to Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. The phone number will remain the same.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Procedural Requirements

I. Background

The Department of the Interior's Office of Hearings and Appeals (OHA) conducts hearings and renders decisions in a wide variety of administrative appeals from actions taken by the bureaus and offices of the Department. OHA consists of a headquarters office, located in Arlington, Virginia, and nine field offices located throughout the country. The headquarters office contains the Office of the Director, the Interior Board of Contract Appeals, the Interior Board of Indian Appeals, the Interior Board of Land Appeals, the headquarters component of the Hearings Division, and a Division of Administration. Since 1970, the headquarters office has been located at 4015 Wilson Boulevard, and that address is included in numerous provisions of the Code of Federal Regulations relating to administrative appeals within the Department.

Effective February 11, 2002, the OHA headquarters office is being relocated to 801 North Quincy Street, Arlington, Virginia. In anticipation of that move, the Department is revising its administrative appeals regulations to reflect OHA's new street address.

II. Procedural Requirements

A. Determination To Issue Final Rule Effective in Less than 30 Days

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking because the changes being made relate solely to matters of agency organization, procedure, and practice. They therefore satisfy the exemption from notice and comment rulemaking in 5 U.S.C. 553(b)(A).