

TITLE 26 - DEPARTMENT OF THE ENVIRONMENT

SUBTITLE 11 -AIR QUALITY

CHAPTER 02 - PERMITS, APPROVALS, AND REGISTRATION

.01 - Definitions.

A. In this chapter and in CO MAR 26. 11 .0 3, the following terms have the meanings indicated.

8. Terms Defined.

(1), (1-1) [not in S IP]

(2) "Affected source" means a source that includes one or more affected units.

(3) "Affected states" means all states including the District of Columbia:

(a) Whose air quality may be affected and that are contiguous to Maryland; or

(b) That are within 50 miles of the permitted source.

(4) - (6) [not in S IP]

(7) "Applicable requirement of State air pollution control law" means all of the following as they apply to a source:

(a) Environment Article, Title 2, Annotated Code of Maryland; and

(b) All regulations that the Department has adopted under the authority of Environment Article, Title 2, including COMAR 26.11.

(8) "Applicant" means a person who submits an application for a permit.

(9) "Application" means a written request for a permit required by this chapter or by COMAR 26.11.03.

(10) [not in S IP]

(11) "Approval" means a special category of permit from the Department for a PSD source or an NSR source.

(12) "Clean Air Act" means the federal Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(13) "Complete application" means an application that:

(a) Contains all the information required by the Department under Regulation .11, .12, or .14 of this chapter or COMAR 26.11.03.02 and .03 in sufficient detail that allows the Department to begin review of the application; and

(b) Includes additional information that the Department, in its final review of the application, may require to assure that emissions estimates are reasonably accurate and that all applicable requirements will be met.

(14) "Contested case hearing" means a hearing that meets the requirements of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(15), (16) [not in SIP]

(17) "EPA" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

(18) Emissions Unit.

(a) "Emissions unit" means a part or activity of a stationary source, including an installation, that emits or has the potential to emit a regulated air pollutant or hazardous air pollutant listed under § 112 (6) of the Clean Air Act.

(b) "Emissions unit" does not alter or affect the definition of the term "unit" for purposes of Title IV of the Clean Air Act.

(19) "Federally enforceable requirements of a permit to construct or State permit to operate" means the provisions of a permit to construct or State permit to operate that meet the requirements of Regulation .03 of this chapter.

(20) "Final permit" means the version of a permit issued after the Department has completed all review procedures required, with respect to the permit, by this chapter and by COMAR 26.11.03.

(21) "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(22) [not in SIP]

(23) "General permit" means a general Part 70 permit, a general permit to construct, or a general State permit to operate.

(24) "General permit to construct" means a permit that meets the requirements of Regulation .09D of this chapter.

(25) "General State permit to operate" means a permit that meets the requirements of Regulation . I 3 H of this chapter.

(26) "Informational meeting" means a meeting that meets the requirements of Environment Article, § 1- 10 I (g), Annotated Code of Maryland.

(27) "Major source" has the meaning stated in §C of this regulation .

(28) "Maryland State Implementation Plan (SIP)" means the Maryland plan required by §110 of the Clean Air Act, as approved by EPA.

(29) through (33) [not in SIP]

(34) "Permit" means a written authorization from the Department issued pursuant to this chapter or COMAR 26.1 1.03 , including a Part 70 permit , a State permit to operate, a permit to construct, a general permit, or an approval of a PSD or NSR source.

(35) Permit to Construct.

(a) "Permit to construct" means a permit to construct issued , renewed, or revised pursuant to this chapter.

(b) "Permit to construct" does not mean a Part 70 permit.

(36) "Permittee" means a person who has obtained a permit from the Department.

(37) [not in SIP]

(38) "Permit revision" means a revision to the terms and conditions of a permit or approval.

(39) [not in SIP]

(40) Portable Emission Unit.

(a) "Portable emission unit" means an emission unit that is designed to be moved from site to site , including portable asphalt plants, portable stone crushers and screens , and portable stills.

(b) "Portable emission unit" includes other emission units that are designed to be moved from site to site and that are not major sources as defined in the Clean Air Act.

(c) "Pollable emission unit" may be a temporary source subject to COMAR 26.11.03.22.

(41) "Potential to emit" means the maximum capacity of a stationary source to emit an air pollutant under its physical and operational design. A physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the EPA. This term does not alter or affect the use of this term for any other purposes under the Clean Air Act or the term "capacity factor" as used concerning acid rain emissions in Title IV of the Clean Air Act or the regulations promulgated under it.

(42) [not in SIP]

(43) "Public hearing" means a hearing that meets the requirements of Environment Article, § 1-101 (j), Annotated Code of Maryland, and that is held in the county where a proposed source would be located.

(44) "Regulated air pollutant" means the following:

(a) Nitrogen oxides (NO_x) or any volatile organic compound (VOC);

(b) A pollutant for which a national ambient air quality standard has been promulgated;

(c) A pollutant that is subject to any new source performance standard promulgated under § 111 of the Clean Air Act;

(d) A Class I or II substance subject to a standard concerning stratospheric ozone protection promulgated under or established by Title VI of the Clean Air Act;

(e) A hazardous air pollutant subject to a standard promulgated under § 112 or other requirements established under § 112 of the Clean Air Act, including provisions for modifications under § 112(g), provisions for equivalent emissions limitations by permit under § 112(j), and provisions for prevention of accidental releases under § 112(r) of the Clean Air Act, including the following:

(i) A pollutant subject to requirements under § 1120) of the Clean Air Act; if the EPA fails to promulgate a standard by the date established pursuant to §112(e) of the Clean Air Act, a pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to § 112(e) of the Clean Air Act, and

(ii) A pollutant for which the requirements of § 112(g)(2) of the Clean Air Act have been met, but only with respect to the individual source subject to the §112(g)(2) requirement; or

(t) A greenhouse gas (GHG) as defined in CO MAR 26.1 1.0 1.01 B(I 8- 1) and subject to regulation under the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (75 FR 31 5 14) and the " Deferral for CO2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs" (76 FR 43490).

(45) "Renewal" means the process by which a permit is reissued at the end of its term .

(46) [not in SIP]

(47) "Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or another person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of that person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25,000,000 in second quarter 1980 dollars, or

(ii) The delegation of authority to the representative is approved in advance by the Department;

(b)) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipal, State, federal, or other public agency: >either a principal executive officer or ranking elected official; for the purposes of this chapter and CO MAR 26.1 1.03, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a

principal geographic unit of the agency, for example a regional administrator of EPA; or

(d) For affected sources:

(i) The designated representative insofar as actions, standards, requirements, or prohibitions concerning acid rain emissions under Title IV of the Clean Air Act or the regulations promulgated under it, and

(ii) The designated representative for any other purpose under this chapter or COMAR 26.11.03.

(48) "Revocation" or "revoke" means a decision by the Department or the EPA to take away a permit before the end of its term or to suspend a permit for a specified period of time.

(49), (50) [not in SIP]

(51) "State permit" means an approval, permit to construct, or State permit to operate.

(52) "State permit to operate" means a permit to operate issued, renewed, or revised pursuant to this chapter and which is not a Part 70 permit.

(53) "Stationary source" means a building, structure, facility, or installation that emits or may emit a regulated air pollutant or a pollutant listed under §112(b) of the Clean Air Act.

(54) [not in SIP]

(55) "Title I modification" means a physical change or change in operation to a source that qualifies as a:

(a) Modification under §111 of Title I of the Clean Air Act concerning new source performance standards or §112 NES HAP including §112(g) of Title I of the Clean Air Act concerning hazardous air pollutants; or

(b) Major modification concerning the provisions related to prevention of significant deterioration under Part C or the provisions concerning nonattainment review under Part D of Title I of the Clean Air Act.

C. Major Source.

(1) "Major source" means a stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person, or persons under common control, belonging to a single major industrial grouping and that is described as follows:

(a) A major source under § 112 of the Clean Air Act concerning hazardous air pollutants, defined as:

(i) For pollutants other than radionuclides, a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year or more of a hazardous air pollutant which has been listed pursuant to § 112(b) of the Clean Air Act, 25 tons per year or more of any combination of hazardous air pollutants, or a lesser quantity that the EPA may establish by rule;

(ii) Notwithstanding § C(1)(a)(i) of this regulation, emissions from an oil or gas exploration or production well, with its associated equipment, and emissions from a pipeline compressor or pump station may not be aggregated with emissions from similar devices, whether or not the devices are in a contiguous area or under common control, to determine whether the devices or stations are major sources; or

(iii) For radionuclides, a major source has the meaning specified by EPA by rule;

(b) Except as provided in § C(1)(d) of this regulation, a major stationary source of air pollutants, as defined in § 302 of the Clean Air Act, that directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant including a major source of fugitive emissions of the pollutant, as determined by rule by the EPA; or

(c) A major stationary source as defined in Part D of Title I of the Clean Air Act, concerning nonattainment areas, including any stationary source which emits or has the potential to emit:

(i) 25 tons per year or more of VOC or NO_x for sources located in Baltimore City or Anne Arundel, Baltimore, Carroll, Cecil, Harford, Howard, Calvert, Charles, Frederick, Montgomery, or Prince George's counties;

(ii) 50 tons per year or more of VOC for sources located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties;

(iii) 100 tons per year or more of NO_x for sources located in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester counties; or

(iv) 100 tons per year or more of carbon monoxide for sources located in the areas designated as nonattainment for carbon monoxide in 40 CFR § 81.321 (1992 edition);

(d) A GHG source shall not be considered a major stationary source of any GHG under § C(1)(b) of this regulation unless it is subject to regulation under paragraphs (1) and (2) of the definition of "Subject to regulation" in 40 CFR 70.2, as amended by "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (75 FR 31514) and the "Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs" (76 FR 43490).

(2) Under § C(1)(b) of this regulation, the fugitive emissions of a stationary source may not be considered in determining whether it is a major stationary source for the purposes of

§302U) of the Clean Air Act unless the source belongs to one of the following categories of stationary source:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- U) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants;

- (u) Fossil fuel boilers, or combination of them, totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (aa) All other stationary source categories regulated by a standard promulgated under § 111, concerning New Source Performance Standards, or § 112, concerning hazardous air pollutants, of the Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.

(3) For the purpose of defining the term "major source", a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the pollutant emitting activities at the source or group of sources on contiguous or adjacent properties belong to the same major group; that is, all have the same two-digit code, as described in the Standard Industrial Classification Manual, 1987.

.02 - General Provisions.

A. Registration.

(1) Requirement for Registration. The owner or operator of a source, except as provided in § A(3) of this regulation, shall register that source with the Department in the manner prescribed by the Department. Registration does not imply approval by the Department of the source.

(2) Change in Ownership. A change of ownership terminates the registration of a source. The new owner shall register the source with the Department within 30 days of the change of ownership.

(3) Sources Not Required to be Registered. Existing sources listed in Regulation . IO of this chapter are not required to be registered. This provision does not authorize or permit the creation of or maintenance of air pollution.

B. Permits to Construct and Approvals.

(1) A permit to construct and an approval from the Department is required before construction or modification of a source, except as specified in Regulation .10 of this chapter.

(2) When an approval is required for a source, the approval is in addition to any other permit that is required for that source. At the option of the applicant, an approval of a source may be sought before or simultaneously with a permit to construct or a Part 70 permit that is required for the same source.

C. State Permits to Operate. A State permit to operate from the Department is required for a source listed in Regulation .13 of this chapter.

D. [not in SIP]

E. Transfers. A permit to construct, State permit to operate, or approval may not be transferred either from one source to another or from one person to another, except as approved by the Department. Transfers of Part 70 permits may be made as provided in COMAR 26.11.03.15.

F. Certification . An application form, report, or compliance certification submitted pursuant to this chapter or COMAR 26.11 .03, including supplementary information, shall be certified by a responsible official as to truth, accuracy, and completeness. The owner or operator of a source shall expeditiously notify the Department of an appointment of a new responsible official. The certification shall be in the following form: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

G. Confidential Information. All information submitted in an application shall be considered to be part of the public record and available for inspection and copying under State Government Article, § 10-611 et seq., Annotated Code of Maryland, unless the applicant claims that the information is confidential when it is submitted to the Department and the Department, at the time of a request for inspection or copying, determines that the information is confidential, in accordance with the provisions of State Government Article, § 10-611 et seq., Annotated Code of Maryland. An applicant who requests the Department to keep information confidential shall identify the information in a manner specified by the Department and, when requested by the Department, promptly provide specific reasons supporting the claim of confidentiality. Information provided to the Department without a request that the information be deemed confidential may be made available to the public. Subject to approval of the Department, the applicant may provide a summary of confidential information that is suitable for public review. The contents of a Part 70 permit are not subject to confidential treatment.

H. Terms and Conditions. The Department may include terms and conditions in any permit or approval issued under this chapter or COMAR 26. 11.03 to ensure continuous compliance with this subtitle.

I. A permit cannot be obtained because of failure of the Department to act on an application

within an applicable time limit prescribed by this chapter, COMAR 26.11.03. or 40 CFR §71.7. Failure of the Department to make a decision within a time limit for issuing or denying a permit, permit renewal, or permit modification constitutes final agency action solely for the purpose of seeking judicial review to compel the Department to make a decision.

J. To the extent required by the Clean Air Act or authorized by the EPA, the Department may administer and enforce a permit issued by the EPA, including treating that permit as if it were a permit issued by the Department.

K. To the extent required by the Clean Air Act or authorized by the EPA, the Department may include an applicable requirement of the Clean Air Act in a permit that it issues regardless of whether the applicable requirement has been adopted as a regulation by the Department.

L. Portable Emissions Units.

(1) The owner or operator of a portable emissions unit shall obtain a separate permit to construct for each site at which the unit is located, in accordance with the procedures in Regulation .11 or .14 of this chapter, as appropriate. An application for each site may be submitted at different times or applications may be submitted simultaneously, at the option of the applicant. A permit to construct that is issued for a site expires if the portable emissions unit has not been located at the site for 3 years, as provided in Regulation .04E of this chapter.

(2) Simultaneously with submitting an application for a permit to construct a portable emissions unit at the first site on which the unit is to be located, the applicant may submit an application for a State permit to operate the unit at that site. If the Department issues the permit to construct the portable emissions unit, the Department may simultaneously issue a temporary start-up permit to operate the unit at the same site. The temporary start-up permit may be issued or extended by the Department so that it is effective for up to 1 year from each date that operation commences of the portable emissions unit, as provided at Regulation .040 of this chapter. When it has been demonstrated to the satisfaction of the Department that the unit is capable of complying continuously with all applicable requirements, the Department shall issue an operating permit for the unit.

(3) At any time a temporary start-up permit or a State permit to operate has been issued for a portable emissions unit at the first site on which the unit is located, the owner or operator may apply for and the Department may issue a State permit to operate the unit at any other site for which a permit to construct has been issued for the unit.

.03 - Federally Enforceable Permits to Construct and State Permits to Operate.

A. The Department may include a condition in a permit to construct, an approval, or a State permit to operate that limits emissions from a source and that is federally enforceable so that the source is not subject to a Part 70 permit or an applicable requirement of the Clean Air Act.

B. Conditions of a permit to construct are federally enforceable if the conditions are based upon applicable requirements of the Clean Air Act.

C. A State permit to operate is federally enforceable if the permit so states and if the permit was processed in accordance with the procedures set forth in 54 FR 21275 - 21282 (June 28, 1989) or other procedures acceptable to EPA for making a permit federally enforceable.

.04 - Duration of Permits.

A. Unless a permit to construct, State permit to operate, or an approval is revoked by the Department or superseded by another permit, it remains in effect as provided in this regulation.

B. Permits to Construct and Approvals. A permit to construct or an approval expires if, as determined by the Department:

(1) Substantial construction or modification is not commenced within 18 months after the date of issuance of the permit or approval, unless the Department specifies a longer period in the permit or approval;

(2) Construction or modification is substantially discontinued for a period of 18 months after the construction or modification has commenced; or

(3) The source for which the permit or approval was issued is not completed within a reasonable period after the date of issuance of the permit or approval.

C. State Permits to Operate.

(1) Except as provided by State Government Article, Section IO-226(b), Annotated Code of Maryland, a State permit to operate expires 5 years from the date of issuance by the Department, unless an earlier expiration date is specified in the permit.

(2) [not in SIP]

D. Temporary Start-Up State Permit to Operate. Notwithstanding Sections B and C of this regulation, the Department may issue a temporary start-up State permit to operate for a source or emission unit within the source for a period not to exceed 90 days. In the case of a newly constructed or modified source, the Department may issue a temporary start-up State permit to operate for a period not to exceed 1 year.

E. Portable Emission Units. A permit to construct a portable emission unit at a specific site expires if the Department determines that the portable emission unit has not been located at the site for 3 years.

F. Duration of Part 70 Permits. The duration of Part 70 permits is located in COMAR 26.11.03.0SD.

G. Effect of Permit Expiration. Except as otherwise provided in this chapter or COMAR 26.11.03, the expiration of a permit to operate for a source terminates the right of the owner and operator to operate the source.

.05 - Violation of Permits and Approvals.

A. A person may not violate or cause to be violated any term or conditions of a permit issued under this chapter or COMAR 26.11.03. The Department may bring any action authorized by law for violation of a permit or any term or condition of a permit. These actions include revocation of a permit or any other actions specified in the Environmental Article, Section 2-601 et seq., Annotated Code of Maryland. Under Environment Article, Section 2-609, Annotated Code of Maryland, the Department may seek immediate injunctive relief against a person who violates a permit in such a manner as to cause a threat to human health or the environment. Unless they provide otherwise, the terms and conditions of a permit remain in effect until the permit expires or is revised, revoked, or superseded by the issuance of a later permit, order, plan for compliance, or other consent agreement which is inconsistent with the earlier permit, either expressly or by necessary implication.

B. Each day of violation of each provision of a permit is a separate violation, as provided by Environment Article, Sections 2-609.1, 2-610, and 2-610.1, Annotated Code of Maryland. Each day of construction, modification, or operation without a permit which is in current effect, as required by this chapter and COMAR 26.11.03, is a separate violation.

C. In addition to or in lieu of bringing an administrative or judicial enforcement action against a person responsible for construction, modification, or operation of a source for which a permit has expired or has been revoked, the Department, at its option, may treat the permit as remaining in effect for the purpose of administrative or judicial enforcement for violation of the provisions of the permit.

D. Except as provided in a permit shield issued under COMAR 26.11.03.23 for a Part 70 source, the issuance of a permit for a particular source does not alter the requirement for the source to comply with all other applicable requirements of the Clean Air Act and State air pollution control law. In addition to or in lieu of an administrative or judicial action that may result from violation of the permit and approval requirements of this chapter or COMAR 26.11.03, the Department may commence an administrative or judicial action authorized by law for violation of applicable requirements of the Clean Air Act or State air pollution control law.

.06 - Denial of Applications for State Permits and Approvals.

A. Applicability. This regulation applies to all permits and approvals except Part 70 permits and general permits.

B. All Permits to Construct and Approvals. The Department shall deny an application if the applicant does not demonstrate to the satisfaction of the Department that the source:

(1) Shall comply with all applicable emission standards set forth in this subtitle, including but not limited to:

(a) New Source Performance Standards (NSPS) contained in COMAR 26.11.06.12.

(b) Requirements for National Emission Standards for Hazardous Air Pollutants Sources (NESHAP Sources) contained in COMAR 26.11.15.02,

(c) Requirements for toxic air pollutants contained in COMAR 26.11.15;

(2) Shall comply with the requirements for the Prevention of Significant Deterioration (PSD) contained in COMAR 26.11.06.14:

(3) In the case of an emission unit or other source which is part of a PSD source, shall comply with the conditions of the approval by the Department of the PSD source under this regulation which relate to the emission unit or other source:

(4) Shall comply with the requirements for New Source Review (NSR) sources contained in COMAR 26.11.17;

(5) Does not interfere with the attainment or maintenance of ambient air quality standards contained in COMAR 26.11.04, except as permitted in COMAR 26.11.17;

(6) Shall comply with the State Workers' Compensation laws as required by Environment Article, Section 1-202, Annotated Code of Maryland; and

(7) Shall pay all fees and penalties to the Department that are related to the State air pollution control law.

C. State Permits to Operate. The Department may deny the application for a State permit to operate for a source if the Department determines that the applicant has not demonstrated that the applicant and the source shall:

(1) Comply with all applicable emission standards contained in this subtitle, including but not limited to:

(a) New Source Performance Standards (NSPS) contained in COMAR 26.11.06.12,

(b) National Emission Standards for Hazardous Air Pollutants (NESHAPS) contained in COMAR 26.11.15.02,

(c) Requirements for toxic air pollutants contained in COMAR 26.11.15 ;

(2) Comply with the terms and conditions of all approvals, permits, orders, and plans for compliance or other consent agreements previously issued or adopted by the Department which are applicable to the source, including approvals and permits which have expired or have been revoked or suspended, but whose terms and conditions are intended to be incorporated into subsequent operating permits;

(3) Comply with the State Workers' Compensation laws, as required by Environment Article, Section 1-20,2 Annotated Code of Maryland; and

(4) Pay all fees and penalties owed to the Department that are related to the State air pollution control law.

D. State Permits and Approvals. The Department may deny an application for a permit to construct, an approval, or a State permit to operate if:

(1) The applicant has not complied with all procedural requirements of this regulation; or

(2) Based on past history of the applicant or source, the Department determines that the source is not expected to comply with all applicable requirements of the State air pollution control law.

.07– Procedures for Denying, Revoking, or Reopening and Revising a Permit or Approval.

A. Denial of Approvals, State Permits to Operate or State-Only Enforceable Provisions of a Part 70 Permit.

(1) Denial is final unless the applicant requests a hearing before the Department within 15 days after service.

(2) When a hearing is requested by the applicant, it shall be held pursuant to the contested case provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(3) Denials shall be served as summonses are served, or by certified mail upon the applicant.

B. Denial of Permits to Construct.

(1) A denial of a permit to construct a source, except for a permit to construct a source subject to Regulation .12 of this chapter, is a final determination subject to judicial review in accordance with Regulation .11M of this chapter.

(2) Notice of the denial of a permit to construct shall be given in accordance with the notice of final determination provisions in Regulation .11L of this chapter.

C. Revoking or Reopening a Permit. Except as protected by a permit shield provided in accordance with COMAR 26.11.03.23, the Department may issue an order revoking or reopening a State permit to operate, or the State-only enforceable provisions of a Part 70 permit, for violation of a provision of the permit or this subtitle. An order revoking or reopening a permit shall be served as summonses are served or by certified mail upon the permittee, and is final unless the permittee requests a contested case hearing within 15 days after service. When a hearing is requested by the permittee, it shall be held pursuant to the contested case provisions of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

.08 Late Applications and Delays in Acting on Applications.

A. The Department does not issue retroactive permits for sources which are constructed, modified, or operated before being covered by a valid permit or approval. Processing and evaluation of late applications follow the requirements of this chapter and COMAR 26.11.03. Ln determining the appropriate penalty to seek in an administrative or judicial enforcement action, the Department shall consider, among other things:

(1) The length of time that a source was not permitted;

(2) Whether the person responsible for the source had actual or constructive knowledge of the requirements of this chapter and COMAR 26.11.03; and

(3) Whether and to what extent the source was in violation of the other applicable requirements of the State air pollution control law or of the Clean Air Act.

B. As required by the Clean Air Act and State Government Article, Section 10-226(6), Annotated Code of Maryland, continued operation of a source pending final action on an application for the renewal of a State permit to operate or a Part 70 permit is not by itself a basis for administrative or judicial enforcement action if the source has submitted a timely and complete application and is in compliance with the prior State permit to operate or Part 70 permit. This protection ceases to apply if, subsequent to a timely submission of a complete application, the applicant fails to submit by the deadline specified in writing by the Department any additional information identified as being needed to process the application.

.09 Sources Subject to Permits to Construct and Approvals.

A. A person may not construct or modify or cause to be constructed or modified any of the following sources without first obtaining, and having in current effect, the specified permits to construct and approvals:

(1) New Source Review Source (NSR source), as defined at COMAR 26.11.01.01(I) - approval required, except for electric generating stations that receive a certificate of public convenience and necessity (CPCN) under Public Utilities Article, §§7-207 and 7-208, Annotated Code of Maryland;

(2) Prevention of Significant Deterioration (PSD) Source, as defined at COMAR 26.11.01.01(I) - approval required, except for electric generating stations that receive a certificate of public convenience and necessity (CPCN) under Public Utilities Article, §§7-207 and 7-208, Annotated Code of Maryland;

(3) New Source Performance Standard Source (NSPS source), as defined at COMAR 26.11.01.01(I) - permit to construct required, except for electric generating stations that receive a certificate of public convenience and necessity (CPCN) under Public Utilities Article, §§7-207 and 7-208, Annotated Code of Maryland;

(4) National Emission Standards for Hazardous Air Pollutants Source (NEHAPS source), as defined at COMAR 26.11.01.018(2)(a) - permit to construct required, except for electric generating stations that receive a certificate of public convenience and necessity (CPCN) under Public Utilities Article, §§7-207 and 7-208, Annotated Code of Maryland;

(5) Stationary source of lead that discharges 1 ton per year or more of lead or lead compounds measured as elemental lead - permit to construct required;

(6) All sources, including installations and air pollution control equipment, except as listed in Regulation .10 of this chapter - permit to construct required.

8. In the event of a conflict between the applicability of §A(IH5) of this regulation and an exemption listed in Regulation .10 of this chapter, the provision that requires a permit applies.

C. Approval of a PSD or NSR source by the Department does not relieve the person obtaining approval from also obtaining all permits to construct required by §A(J)-(6) of this regulation.

D. General Permits to Construct. The Department may issue a general permit to construct covering similar sources, emissions units, or control equipment.

.10 - Sources Exempt from Permits to Construct and Approvals.

A person may construct or modify or cause to be constructed or modified any of the following sources without first obtaining, and having in current effect, a permit to construct:

A. Electric generating stations that receive a certificate of public convenience and necessity (CPCN) under Public Utility Companies Article, §§7-207 and 7-208, Annotated Code of Maryland;

B. Motor vehicles, steamships, tugs, and railroad locomotives;

C. Fuel-burning equipment and space heaters using gaseous fuels or No. 1 or No. 2 fuel oil with a heat input less than 1,000,000 Btu (1.06 gigajoules) per hour;

D. [Removed from SIP]

E. Stationary internal combustion engines with an output less than 500 brake horse power (373 kilowatts) and which are not used to generate electricity for sale or load shaving.

F. Bench scale laboratory equipment used exclusively for chemical or physical analysis or experimentation;

G. Portable brazing, soldering, or welding equipment;

H. Comfort air conditioning or comfort ventilating systems which are not designed to remove emissions generated by or released from specific units of equipment;

I. Water cooling towers and water cooling ponds unless used for evaporative cooling of water from barometric jets or barometric condensers, or used in conjunction with an installation requiring a permit to operate;

J. Equipment used exclusively for steam cleaning;

K. Grain, metal, plastic, or mineral extrusion presses;

L. Porcelain enameling drying ovens;

M. Unheated VOC dispensing containers or unheated VOC rinsing containers of 60 gallons (227 liters) capacity or less;

N. Equipment used for hydraulic or hydrostatic testing;

O. The following equipment or an exhaust system or collector servicing exclusively this equipment:

(1) Blast cleaning equipment using a suspension of abrasive in water,

(2) Commercial bakery ovens with a rated heat input capacity of less than 2 MMBtu per hour,

(3) Kilns used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity, or any combination of these,

(4) Confection cookers where the products are edible and intended for human consumption,

(5) Drop hammers or hydraulic presses for forging or metal working,

(6) Die casting machines,

(7) Photographic process equipment used to reproduce an image upon sensitized material through the use of radiant energy,-

(8) Equipment for drilling, carving, cutting, routing, turning, sawing, planing, spindle sanding, or disc sanding of wood or wood products,

(9) Equipment for surface preparation of metals by use of aqueous solutions, except for acid solutions,

(10) Equipment for washing or drying products fabricated from metal or glass, provided that no VOC is used in the process and that no oil or solid fuel is burned,

(11) Laundry dryers, extractors, or tumblers for fabrics cleaned with only water solution or bleach or detergents,

(12) Containers, reservoirs, or tanks used exclusively for electrolytic plating work, or electrolytic polishing, or electrolytic stripping of brass, bronze, cadmium, copper, iron, lead, nickel, tin, zinc, and precious metals;

(13) Breweries with an annual beer production less than 60,000 barrels, and

(14) Municipal solid waste landfills that have a design capacity of less than 500,000 tons of municipal solid waste and that are not major sources;

P. Natural draft hoods or natural draft ventilators;

Q. Containers, reservoirs, or tanks used exclusively for:

(1) Dipping operations for coating objects with oils, waxes, or greases, where no VOC is used,

(2) Dipping operations for applying coatings of natural or synthetic resins which contain no **VOE**,

(3) Storage of butane, propane or liquefied petroleum, or natural gas,

(4) Storage of lubricating oils,

(5) Unheated storage of VOC with an initial boiling point of 300°F (149 °C) or greater.

(6) Storage of Numbers 1, 2, 4, 5, and 6 fuel oil and aviation jet engine fuel,

(7) Storage of motor vehicle gasoline, having an individual tank capacity of 2,000 gallons or less.

(8) The storage of VOC normally used as solvents, diluents, thinners, inks, colorants, paints, lacquers, enamels, varnishes, liquid resins, or other surface coatings and having a capacity of 2,000 gallons (7.6 cubic meters) or less;

R. Gaseous fuel-fired or electrically heated furnaces for heat treating glass or metals, the use of which does not involve molten materials;

S. Crucible furnaces, pot furnaces, or induction furnaces, with a capacity of 1,000 pounds (454 kilograms) or less each, in which no sweating or distilling is conducted, or any fluxing conducted, using chloride, fluoride, or ammonium compounds and from which only the following metals are poured or in which only the following metals are held in a molten state:

(1) Aluminum or any alloy containing over 50 percent aluminum, if no gaseous chloride compounds, chlorine, aluminum chloride, or aluminum fluoride is used,

(2) Magnesium or any alloy containing over 50 percent magnesium,

(3) Lead or any alloy containing over 50 percent lead,

(4) Tin or any alloy containing over 50 percent tin.

(5) Zinc or any alloy containing over 50 percent zinc,

(6) Copper, or

(7) Precious metals;

T. Vacuum cleaning systems used exclusively for industrial, commercial, or residential house-keeping purposes;

U. Charbroilers and pit barbecues as defined in COMAR 26.11.18.01 with a total cooking area of 5 square feet (0.46 square meter) or less;

V. Hazardous waste incinerators, as defined in COMAR 26.13.01.038 (33), and for which a hazardous waste facility permit has been applied for or issued by the Department under COMAR 26.13.07;

W. Sheet-fed letter of lithographic printing presses with a cylinder width of less than 18 inches; and

X. Other installations if:

(1) The proposed installation is not subject to any source-specific State or federal limitation or emissions standard, including any mass emissions rate limitation, pollutant concentration limitation, material formulation standard, equipment performance standard, or work practice standard;

(2) The emissions contain not more than 1 pound per day of a Class I toxic air pollutant, as defined in COMAR 26.11.15.018 (4); and

(3) The pre-control potential-to-emit from the proposed installation, combined with any potential increase in emissions from other installations that could be caused by the proposed installation, is less than 1 ton per calendar year for:

(a) Volatile organic compounds;

(b) Each pollutant for which there is a federal ambient air quality standard; and

(c) Each Class II toxic air pollutant, as defined in COMAR 26.11.15.018 (5).

11 Procedures for Obtaining Permits to Construct Certain Significant Sources.

A. Applicability.

(1) The owner or operator of a source shall comply with the procedures in this regulation when applying for a permit to construct for any of the activities listed in §A(2) of this regulation at any source:

(a) For which a State permit to operate is required, as provided in Regulation .13 of this chapter;

(b) Subject to federal new source performance standards at 40 CFR 60, national emission standards for hazardous air pollutants at 40 CFR 61, or prevention of significant deterioration requirements at 40 CFR §52.21;

(c) That, after control, will discharge 25 tons per year or more of a pollutant regulated under Environment Article, Title 2, Annotated Code of Maryland, in the areas of Baltimore City designated by the United States Post Office as zip code numbers 21225, 21226, and 21230; or

(d) Of lead that will discharge 5 tons per year or more of lead or lead compounds measured as elemental lead.

(2) This regulation applies to applications for permits to construct for the following activities at the sources listed in §A(1) of this regulation:

(a) Construction of a new source;

(b) Replacement of components of an existing permitted source, if the fixed capital cost of the replacement components exceeds 1/2 of the fixed capital cost that would be required to construct a new source comparable in process to the existing source; and

(c) Modification of an existing permitted source by making a physical or operational change to the source that will result in a significant net increase in emissions of any pollutant from that source.

(3) Before issuing a permit to construct for any of the activities listed in §A(2) of this regulation, at a source that is subject to federal new source performance standards under 40 CFR 60, the Department shall either comply with the provisions of §§E—N of this regulation, or with the following procedures:

(a) Electronically post a notice of an application for the permit on the Department's website in accordance with Environment Article, §1-602(B)(2), Annotated Code of Maryland;

(b) Give notice to the chief executive of any county or municipal corporation in which any portion of the source is located or is proposed to be located; and

(c) Receive comments from the public on the permit application.

B. Exception for an Approval and for Certain Control Equipment. Notwithstanding the requirements of §A, this regulation does not apply to:

(1) The approval phase of a source for which an approval is required; and

(2) The construction or installation of air pollution control equipment for which a permit to construct is required, as provided in Regulation .09 of this chapter, and that will control an existing source.

C. Consolidated Procedures. For a source that is subject to this regulation and is also a Part 70 source, the Department may authorize special procedures, at the applicant's request, for the applicant to apply simultaneously, to the extent possible, for a permit to construct and a Part 70 permit, or a revision to a Part 70 permit. These procedures may provide for combined public notices, informational meetings, and public hearings for both permits but may not adversely affect the rights of a person, including the EPA and affected states, to obtain information about the application for a permit, to comment on an application, or to challenge a permit that is issued. In addition, these procedures may not alter any existing Part 70 permit procedures or time frames.

D. Application. The owner or operator of a source subject to this regulation shall submit a complete application on forms provided by the Department. The information that the Department requires may vary depending on the type of source. The applicant shall provide information sufficient to enable the Department to determine whether the source can be constructed so that it can comply with all applicable requirements of the Clean Air Act and State air pollution control law. An application shall include evidence of compliance with State Workers' Compensation laws as required by Environment Article, §1-202, Annotated Code of Maryland. Unless otherwise required by the Department, the application forms shall be complete and include the following information:

(1) For process or manufacturing equipment or operations:

(a) Drawings that depict the layout of the equipment or operations;

(b) Flow sheets that depict how the equipment or operations relate to each other;

(c) Material balance sheets;

(d) Equipment drawings and literature; and

(e) Purchase specifications;

(2) For air pollution control equipment:

(a) Vendor proposals or quotations;

(b) Vendor guarantees;

(c) Equipment drawings and literature; and

(d) Purchase specifications;

(3) For a source that will be located at a new facility:

(a) An area map; and

(b) If requested, additional information regarding the nature of the area, including distances to residences and other buildings.

E. Notice of Application; Informational Meeting.

(1) The Department shall require the applicant to send to a newspaper for publication a notice regarding the application that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland. As determined by the Department, the notice shall provide for an informational meeting or an opportunity for the public to request an informational meeting within 10 days of publication of the notice. If the Department decides to hold an informational meeting because of requests for a meeting, the Department shall publish or require the applicant to publish a notice regarding the informational meeting that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland. Unless the Department determines otherwise, notice of an informational meeting shall be published not later than 10 days before the meeting is held.

(2) In addition to the requirements under §E(1) of this regulation, on receipt of an application for a permit to construct subject to this regulation, the Department shall give notice immediately or require the applicant to give notice immediately of the application, by certified mail, to:

(a) The governing body of each county or municipal corporation in which any portion of the source is located or is proposed to be located;

(b) The governing body of each county or municipal corporation within 1 mile of the property line of the source or the proposed location of the source;

(c) Each member of the General Assembly representing any part of a county in which any portion of the source is located or proposed to be located; and

(d) Each member of the General Assembly representing any part of each county within 1 mile of the property line of the source or the proposed location of the source.

F. The Department shall ensure that the application is available to the public for inspection and

copying.

G. If an informational meeting is held regarding the application, the applicant shall attend the meeting and present information concerning the application.

H. Tentative Determination.

(1) The Department shall prepare a tentative determination regarding the application. The content of the tentative determination shall include:

- (a) A proposal to issue or deny the permit;
- (b) Any proposed permit terms and conditions;
- (c) A brief explanation of the Department's tentative determination;
- (d) Any proposed schedule of compliance;

(e) If the tentative determination is to issue the permit, a draft permit, which shall be available to the public for inspection and copying.

(2) In addition to the content of the tentative determination, the following documents shall be made available to the public for inspection and copying no later than the date of issuance of the tentative determination:

- (a) The permit application and all supporting documents submitted with the application;
- (b) All nonprivileged documents the Department relied upon in making the tentative determination; and
- (c) A privilege log that identifies all withheld documents and states the reasons for withholding each document.

I. Notice of Tentative Determination; Public Comment; Public Hearing. The Department shall publish or require the applicant to publish a notice regarding the tentative determination that satisfies the requirements of Environment Article, §1-602, Annotated Code of Maryland. The notice shall provide the opportunity for written public comment for a period of 30 days, which may be extended no more than once by an additional 60 days, upon written request received by the Department within the original comment period. As determined by the Department, the notice shall provide either that a public, nonadjudicatory hearing will be held regarding the tentative determination or that the public may request in writing within 20 days that a public hearing be held. If the Department decides to hold a public hearing because of requests for a hearing from the general public filed in writing within the 20-day request period, or from the applicant, the Department shall publish or require the applicant to publish a notice regarding the hearing that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland.

J. Public Comments. If a public hearing is held regarding the tentative determination, the applicant shall attend the hearing and present information concerning the application. Written public comments will be accepted if they are received by the Department at the public hearing or within 5 days after the public hearing or before the close of the public comment period. Oral public comments may be made

at the public hearing. The Department shall consider all public comments that raise issues of law or material fact regarding an application for a permit or a tentative determination, but only if the issues are pertinent to requirements of the Clean Air Act or State air pollution control law applicable to the proposed permit to construct. Comments raising issues that relate to the location or nature of a proposed source may be considered only if the commenter first demonstrates to the satisfaction of the Department that the Department is required by law to consider the issues.

K. Final Determination.

(1) The Department shall prepare a final determination if:

(a) Timely and pertinent written comments are received during the public comment period, or not later than 5 days after the public hearing, that are adverse to the tentative determination;

(b) Oral comments are received at the public hearing that are adverse to the tentative determination and the Department prepared a transcript of those comments; or

(c) The final determination is substantively different from the tentative determination.

(2) The final determination shall constitute the Department's final decision.

L. Notice of Final Determination.

(1) If the Department is required to prepare a final determination, as provided in §K of this regulation:

(a) Subject to the requirements of §L(1)(b)(i)—(iii) of this regulation, the Department shall publish or require the applicant to publish a Notice of Final Determination that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland; and

(b) If the final determination differs substantively from the tentative determination, then prior to publishing a Notice of Final Determination pursuant to §L(1)(a) of this regulation the Department may:

(i) Publish a Notice of Intent to Issue a Final Determination that includes a proposed final determination, and provides the opportunity for written public comment for a period of 30 days on the portion of the proposed final determination that differs substantively from the tentative determination;

(ii) Consider all public comments submitted on the portion of the proposed final determination that differs substantively from the tentative determination, subject to the criteria set forth in COMAR 26.11.02.11J; and

(iii) Prepare written responses to public comments submitted on the proposed final determination.

(2) If the Department is not required to prepare a final determination under §K of this regulation, the Department shall issue or deny the permit and the tentative determination becomes the final determination and shall constitute the Department's final decision.

(3) The Department shall electronically post notice that the tentative determination has become

the final determination on the Department's website.

M. Judicial Review.

(1) In accordance with Environment Article, §1-601(c), Annotated Code of Maryland, a final determination by the Department to issue or deny a permit to construct subject to Environment Article, §2-404, Annotated Code of Maryland, shall be subject to judicial review at the request of any person who:

(a) Meets the threshold standing requirements under federal law; and

(b) Is the applicant or participated in a public participation process through the submission of written or oral comments, unless an opportunity for public participation was not provided.

(2) Judicial review shall be on the administrative record before the Department and limited to objections raised during the public comment period, unless the petitioner demonstrates that:

(a) The objections were not reasonably ascertainable during the comment period; or

(b) Ground for objections arose after the comment period.

(3) Unless otherwise required by statute, a petition for judicial review shall be filed with the circuit court for the county where the application for the permit states that the proposed activity will occur.

(4) A person submitting a petition for judicial review shall file the petition within 30 days after publication of a Notice of Final Determination.

(5) Except as expressly provided in Environment Article, §1-605(d), Annotated Code of Maryland, a party to the judicial review action may not challenge a facility's compliance with zoning and land use requirements.

(6) Judicial review under this regulation shall be limited to a record compiled by the Department consisting of:

(a) Any permit application and any data submitted to the Department in support of the application;

(b) Any draft permit issued by the Department;

(c) Any notice of intent from the Department to deny the application or to terminate the permit;

(d) A statement or fact sheet explaining the basis for the determination by the Department;

(e) All documents referenced in the statement or fact sheet explaining the basis for the determination by the Department;

(f) All documents, except documents for which disclosure is precluded by law or that are subject to privilege, contained in the supporting file for any draft permit;

(g) All comments submitted to the Department during the public comment period, including comments made on the draft application;

(h) Any tape or transcript of any public hearings held on the application; and

(i) Any response to any comments submitted to the Department.

N. For the purposes of this regulation, a notice that satisfies the requirements of Environment Article, §1-602(a), Annotated Code of Maryland, is a notice that is published at least once a week for 2 consecutive weeks in a daily newspaper of general circulation in the geographic area in which the source is, or will be, located. The Department may also require the applicant to mail notice to any other person who has requested the notice, or to the person's authorized representative, and may require the applicant to post the notice in the vicinity of the proposed source or at public facilities in the geographic area of the proposed source. The applicant shall bear all costs related to providing the notice.

.12 Procedures for Obtaining Approvals of PSD Sources and NSR Sources, Certain Permits to Construct, and Case-by-Case MACT Determinations in Accordance with 40 CFR Part 63, Subpart B.

A. Applicability. The owner or operator of a source shall comply with the procedures in this regulation when applying for the following:

(1) Approval for a source that is a Prevention of Significant Deterioration (PSD) source or a New Source Review (NSR) source;

(2) Unless it is subject to Regulation .11 of this chapter:

(a) A permit to construct a source that, after the source is in compliance with all other applicable requirements of the State air pollution control law, has the potential to discharge to the atmosphere 100 tons per year (91,000 kilograms) or more of any pollutant except for greenhouse gases;

(b) A permit to construct a source that, after the source is in compliance with all other applicable requirements of the State air pollution control law, is a GHG source to which 40 CFR 52.21(b)(49)(iv) or (v) applies;

(3) A permit to construct a lead source that will discharge 5 tons per year or more of lead or lead compounds measured as elemental lead; or

(4) A case-by-case MACT determination for a source, in accordance with 40 CFR Part 63, Subpart B.

B. Procedures. The owner or operator of a source subject to this regulation shall comply with the procedures in §§C—L of this regulation.

C. Application. The owner or operator of a source subject to this regulation shall submit a complete application on forms provided by the Department. The information that the Department requires may vary depending on the type of the source and whether PSD or NSR approval or a permit to construct is sought. The applicant shall provide sufficient information to enable the Department to determine whether the source can comply with the requirements of COMAR 26.11.06.14 for a PSD source, or COMAR 26.11.17 for an NSR source.

D. Within 10 working days, the Department shall acknowledge receipt of an application for an approval or permit to construct.

E. After receipt of a complete application, the Department shall:

- (1) Make a determination to proceed with the application or deny the approval or permit to construct;
- (2) Upon a determination to proceed with the application, make available for public inspection in at least one location in the region in which the proposed source is to be constructed, a copy of the information submitted by the applicant and a copy or summary of other information considered by the Department.

F. Notice of Opportunity to Submit Written Comments and to Request a Public Hearing. The applicant shall publish a notice in at least one newspaper of general circulation in the area concerned. The applicant shall file a copy of the public notice and a certification of publication with the Department. The notice shall be made at the applicant's expense, in a format approved by the Department, and include:

- (1) A summary of the nature and location of the proposed source;
- (2) The place where the information required by §E(2) of this regulation is available for public inspection;
- (3) A statement that a person has 10 days after the publication date of the notice to submit a written request for a public, nonadjudicatory hearing on the application;
- (4) A statement that a person has 30 days after the publication date of the notice to submit written comments on the application; and
- (5) The address to which the request for a public hearing and written comments shall be sent.

G. Notice of Public Hearing. If the Department schedules a public hearing on an application, the applicant shall publish a notice in at least one newspaper of general circulation in the area concerned. The applicant shall file a copy of the public notice and a certification of publication with the Department. The notice shall:

- (1) Be made at the applicant's expense in a format approved by the Department;
- (2) Include the date, time, location, and subject of the hearing; and
- (3) Be published at least 30 days before the scheduled hearing.

H. The Department may decide to proceed directly to a public hearing, in which event the requirements of §§F and G of this regulation will be combined as appropriate to ensure that the public has 30 days notice of the public hearing and 30 days opportunity to provide written comments.

I. The Department shall consider all public comments that raise issues of law or material fact regarding an application for an approval or permit to construct, but only if the issues are pertinent to requirements applicable to PSD and NSR approvals or permits to construct. Comments raising issues that relate to the location or nature of a proposed source for which approval or permit to construct is

sought may not be considered unless the commenter first demonstrates to the satisfaction of the Department that the Department is required by law to consider the comments.

J. Not later than 60 days after the conclusion of a public comment period or the public hearing, whichever is later, the Department shall issue or deny the approval or permit to construct.

K. A source for which an approval is obtained under this regulation may not be constructed until a permit to construct is obtained for the source.

L. In place of all or any portion of the procedures set forth in this regulation, the Department may use all or any portion of the procedures set forth in 40 CFR §52.21 to process an application for approval of a PSD source.

.13 - Sources Subject to State Permits to Operate.

- A. Except for a source that is covered by a Part 70 permit, a person may not operate or cause to be operated any of the following sources without first obtaining, and having in current effect, a State permit to operate as required by this regulation:

(1) General and by-product waste incinerators of 2,000 pounds/hour (907 kilograms/hour) or more rated capacity, crematorium s, pathological and medical waste incinerators, and sewage sludge incinerators;

(2) Fuel-burning equipment, hot oil heaters, and stationary combustion turbines with a maximum rated heat input capacity of 50 million Btu/hour (52.8 gigajoule s/ hour) or more;

(3) Glass melting furnaces of 1 ton/hour (907 kilograms/hour) or more throughput, o r I ton (907 kilograms) or more capacity;

(4) Sintering machines - metallic o res and mineral products;

(5) Coke ovens - al l types of I ton/day (907 kilograms/day) or more throughput;

(6) Scarfing machines - metal products only. all sizes;

(7) Metallurgical furnaces involving molten metal holding 1 ton (907 kilograms) or more of metal o r having a throughput greater than 500 pounds/hour (227 kilograms/hour);

(8) Metal reclamation furnaces;

(9) By-product recovery furnaces - I ton (907 kilograms) or more capacity or I to

n/hour

(907 kilograms /hour) or more throughput;

(10) Lime kilns - all types and sizes;

(11) Cement kilns - all types and sizes;

(12) Other kilns of I to n/ hour (907 kilograms/ hour) or more throughput;

(13) Rendering cookers and offal dryers;

(14) Wood digesters;

(15) Sulfuric acid plants;

(16) Chemical reactors of 1 ton (907 kilograms) or more capacity or 1 ton/hour (907 kilograms /hour) or more throughput;

(17) Varnish or resin cookers - all types of 500 pounds (227 kilograms) or more capacity or 500 pounds /hour (227 kilograms /hour) or more throughput;

(18) Distillation equipment of 1,000 gallons/hour (3.8 cubic meters /hour) or more capacity;

(19) Through-circulation dryers - mineral products or metallic ores, of 5 tons/hour (4540 kilograms /hour) or more throughput or 5 tons (4540 kilograms) or more capacity;

(20) Spray dryers of I ton (907 kilograms) or more capacity or I ton/hour (907 kilograms/hour) or more throughput;

(21) Crushers , hammermills , shredders , grinders, classifying screens of 5 tons/hour (4540 kilograms /hour) or more throughput;

(22) Ball mills and roller mills - dry type of 2 tons/hour (1810 kilograms /hour) or more throughput;

(23) VOC storage tanks required to have vapor control devices ;

(24) Motor vehicle fuel storage tanks with a capacity of 40,000 gallons (151 cubic meters) or more that are required to have vapor control devices;

(25) Gasoline tank truck loading racks outloading 20,000 gallons/day (75.7 cubic

meters/day) or more;

(26) Chemical reclamation process equipment;

(27) Inorganic pigment chemical process equipment of 1 ton (907 kilograms) per hour or more rated capacity;

(28) Coating, decorating, and impregnating lines with integral drying ovens at which coatings or adhesives containing VOC are applied by automatic equipment to surfaces;

(29) Web printing press lines with integral drying ovens;

(30) Grain elevators and terminals of 10,000 bushels/hour or more grain leg capacity;

(31) Frit smelters;

(32) Portland cement clinker coolers;

(33) Benzene storage tanks of 500 gallons (1.9 cubic meters) or more capacity;

(34) Benzene truck loading racks;

(35) Galvanizing operations using fluxes and pre-fluxes;

(36) Coal tar or petroleum pitch impregnating operations;

(37) Gypsum calcining kettles;

(38) Pulverized material separators with 1 ton (907 kilograms) per hour or more capacity;

(39) Honeycomb core manufacturing equipment;

(40) Yeast production equipment;

(41) Plastic credit card manufacturing equipment;

(42) Magnetic tape manufacturing equipment;

(43) Coal or ore export loading or unloading equipment;

(44) Petroleum-contaminated soil treatment facility;

(45) Stainless steel manufacturing equipment consisting of electric arc furnaces,

argon- oxygen decarbonization vessels, re-heat furnaces, pickling lines , or slab and billet grinding;

(46) Catalyst manufacturing equipment consisting of reactors, calciners, dryers, crushers, or classifying systems;

(47) Primary aluminum production equipment consisting of potlines, anode bake ovens, reverbatory furnaces, and alumina handling systems;

(48) Titanium dioxide production equipment;

(49) Automobile or truck production and assembly lines;

(50) Stationary internal combustion engines located at natural gas pumping stations or electric generating stations;

(51) Industrial waste or waste oil disposal or treatment equipment located at commercial facilities that collect or consolidate this waste from various sources;

(52) Synthetic fuel, rocket fuel, or explosives production equipment consisting of reactors, dryers, extruders , or mixers of 500 pounds (227 kilograms) or more capacity or 500 pounds/hour (227 kilograms /hour) or more throughput;

(53) Pharmaceutical manufacturing equipment consisting of reactors, dryers, centrifuges , or mixers of 500 pounds (227 kilograms) or more capacity or 500 pounds /hour (227 kilograms /hour) or more throughput;

(54) Specialty footwear manufacturing lines;

(55) Asphalt blowing and asphalt building products saturation or roll coating equipment;

(56) Slab, billet, or ingot re- heat furnaces with a maximum rated heat input capacity of 50 million Btu/hour (52.8 gigajoules /hour) or more;

(57) Fiberglass or other polyester resin products production equipment with total plant- wide use of polyester resin greater than 50 tons per year;

(58) Paint manufacturing equipment consisting of mixing or blending vessels of 250 gallons (1 cubic meter) or more capacity or 250 gallons/hour (1 cubic meter/hour) or more throughput;

(59) Polytetrafluoroethylene (PTFE) products compounding and forming,

impregnating, laminating, mixing , extruding , and drying equipment;

(60) Asphalt concrete production plants;

(61) Equipment used to treat wood with creosote or chrome copper arsenate (CCA) by impregnation in a pressurized vessel ;

(62) Iron and steel production installations as defined in CO MAR 26. 11. 10 .0 I 8(2)(c);

(63) Adhesive manufacturing equipment consisting of mixing, blending, or reactor vessels of 50 gallons (0.2 cubic meter) or more capacity or 50 gallons/hour (0.2 cubic meter/hour) or more throughput;

(64) A source for which the owner or operator requests a State permit to operate in order to make the permit federally enforceable under Regulation .03 of this chapter; or

(65) Any other source that the Department determines has the potential to have a significant impact on air quality.

B. In determining whether a source has the potential to have a significant impact on air quality, for purposes of Section A(65) of this regulation, the Department shall consider the following:

(1) The quality, quantity, or characteristics of the pollutants discharged, including their toxicity;

(2) The location of the source, including its effects on an area that has not met ambient air quality standards; and

(3) Whether permit conditions are necessary to ensure that the source complies continuously with the requirements of the State air pollution control law.

C. Section A of this regulation requires a State permit to operate for each emissions unit at a source covered by a Part 70 permit if the emissions unit is not provided for in the Part 70 permit and is a source listed in §A of this regulation. When the Part 70 permit is revised to include the emissions unit, the Part 70 permit constitutes the State permit to operate for that emissions unit.

D. The Department, on a case-by-case basis, may exempt a source from the requirement for a State permit to operate on the basis of capacity, nature of equipment or materials, amount of emissions, or other evidence that the source has a limited potential to cause air pollution.

E. The Department may issue a single State permit to operate for two or more sources located at a single facility or the Department may issue two or more State permits to operate for emission units within a source.

F. A State permit to operate issued by the Department under Section A(64) of this regulation is not a required permit to operate under Environment Article , Section 2-404(a)(1), Annotated Code of Maryland.

G. Unless it is not practical to do so, a permittee shall maintain all permits in the vicinity of the source for which the permit was issued and make the permit immediately available to officials of the Department upon request.

H. The Department may issue a general State permit to operate covering similar sources.

.14 - Procedures for Obtaining State Permits to Operate and Permits to Construct Certain Sources and Permits to Construct Control Equipment on Existing Sources.

A. Applicability. The owner or operator of a source shall comply with the procedures in this regulation for any source or activity:

(1) That is not listed in Regulation .11A or .12 of this chapter;

(2) That constitutes air pollution control equipment for which a permit to construct is required, as provided in Regulations .09 and .10 of this chapter, and that will control an existing source.

B. Notwithstanding the requirements of §A of this regulation, the procedures of this regulation do not apply to a source for which a general permit to construct is required, as provided in Regulation .09D of this chapter.

C. The owner or operator of a source subject to this regulation shall submit a complete application on forms provided by the Department. The information that the Department requires may vary depending on the type of source and whether the application is for a permit to construct or State permit to operate. The applicant shall provide information sufficient to enable the Department to begin to determine whether the source can be operated in continuous compliance with all applicable requirements of the Clean Air Act and State air pollution control law. Each application shall include evidence of compliance with the State Workers' Compensation law as required by Environment Article, §1-202, Annotated Code of Maryland. Unless otherwise required by the Department, the application forms for a permit to construct shall be complete and include the following information:

(1) For process or manufacturing equipment or operations:

(a) Drawings that depict the layout of the equipment or operations;

(b) Flow sheets that depict how the equipment or operations relate to each other;

(c) Material balance sheets;

(d) Equipment drawings and literature; and

(e) Purchase specifications;

(2) For air pollution control equipment:

(a) Vendor proposals or quotations;

(b) Vendor guarantees;

(c) Equipment drawings and literature; and

(d) Purchase specifications;

(3) For a source that will be located at a new facility:

(a) An area map; and

(b) If requested, additional information regarding the nature of the area, including distances to residences and other buildings.

D. An application for a permit to construct may be submitted at any time. A complete application for an initial State permit to operate shall be submitted not later than 60 days before the source is to commence operating. A complete application for the renewal of a State permit to operate shall be submitted not later than 60 days before the expiration date in a State permit to operate. If a timely application for a renewal has been submitted, the current State permit to operate remains in effect until the Department makes a final decision to issue or deny the permit.

E. Permits subject to this regulation are not subject to public notice, informational meetings, public hearings, or other public participation procedures which pertain to permits to construct and approvals subject to Regulations .11 and .12 of this chapter and to Part 70 permits.

F. Not later than 15 days after a permit is denied or a permit is issued with terms or conditions unacceptable to the applicant, the applicant may appeal the denial or the unacceptable terms and conditions. The Department shall refer the appeal to the Office of Administrative Hearings to conduct a contested case hearing. As provided in Environment Article, §1-601(b), Annotated Code of Maryland, only the permit applicant is entitled to a contested case hearing on a permit subject to this regulation. A permit to construct that is appealed is not in effect until the Department makes a final decision following the contested case hearing. Notwithstanding any other provision of this chapter, the procedures of this section also apply to the State-only enforceable conditions of a Part 70 permit.

.15- .19[not in SIP]