

Facts About...

Amendments to Regulations .07, .11, and .12 under COMAR 26.11.02. Permits, Approvals, and Registration

06/08/15

Purpose of Amendments

The primary purpose of these amendments is to implement the new statutory requirements of Senate Bill 1065 which were effective on January 1, 2010. The amendments also incorporate requirements of House Bill 554 and House Bill 95, both of which were effective October 1, 2013.

Background

Senate Bill 1065 expanded standing for challenges to most of the Department's major permits and substituted direct judicial review for the previous contested case process for those same permits. The most significant impact on the Department's permitting process was the elimination of the Office of Administrative Hearings' (OAH) adjudicatory hearing process. Instead, permits now issue and are effective upon a final determination. Citizens contesting the issuance of a permit must appeal directly to circuit court. While the Department continues to follow many of the previous procedures governing issuance of permits, the new law required some regulatory and procedural changes.

House Bill 554 required the Department to notify elected officials of permit proceedings within a one mile radius of a source subject to the expanded public participation requirements. Elected officials include mayors, county officials, and state legislators.

House Bill 95 established an alternate public participation process for sources subject to expanded public participation that trigger EPA New Source Performance Standards (NSPS) only. Examples of NSPS only sources include small combined heat and power facilities and medium size boilers. If the NSPS source is also listed as a State permit to operate source, it is not affected by House Bill 95. These sources continue to be subject to expanded public participation requirements.

Sources Affected and Location

These amendments affect the entire State of Maryland.

Requirements

These amendments implement the requirements of Senate Bill 1065, House Bill 554, and House Bill 95 as discussed above.

Expected Emissions Reductions

These amendments solely affect the administrative permit issuance process. These amendments do not change any applicable requirements as they relate to air emissions; therefore, there are no expected emissions reductions.

Economic Impact on Affected Sources and the Department

The purpose of these amendments is to ensure that the Code of Maryland Regulations (COMAR) is consistent with State statutes that are currently in effect and have been in effect since January 1, 2010 and October 1, 2013. The changes to the State statute eliminated the public's opportunity to request a contested case hearing on a proposed air quality permit to construct. Instead, the public may seek judicial review. The Department has been implementing the requirements of House Bill 95 and House Bill 554 since October 1, 2013.

Economic Impact on Small Businesses

The impact to small businesses will be the same as on all affected sources. Any impact will be minimal since it is even less likely that air quality permits to construct for small business will be subject to judicial review. The requirements of House Bill 554 are implemented by the Department. The requirements of House Bill 95 would have a positive impact on small business since if a small business is impacted it would now be subject to a more streamlined permit process.

Submission to EPA as Revision to Maryland's SIP (or 111(d) Plan, or Title V Program)

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan (SIP).

Is there an Equivalent Federal Standard to this Proposed Regulatory Action?

- No