PAR. 2. Section 31.3402(n)-1 is amended by adding two sentences immediately before example (1) to read as follows:

§ 31.3402(n)-1 Employees incurring no income tax liability.

* * * * *

If the employer has reason to believe that the withholding exemption certificate contains any incorrect statement, the district director should be so advised. See § 31.3402(f)(2)-1(e) for rules relating to invalid withholding exemption certificates.

* * * * *

This Treasury decision is necessary to correct immediately the subject provisions of the Employment Tax Regulations in order to avoid confusion and misunderstanding both by Internal Revenue Service personnel and by the public. For this reason, notice and public procedure on this matter are impracticable and contrary to the public interest. Therefore, this Treasury decision need not be issued with notice and public procedure under subsection (b) of section 553, Title 5 of the United States Code, or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: February 28, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 79-7474 Filed 3-12-79; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 822-79]

PART 47—RIGHT TO FINANCIAL PRIVACY ACT

Regulations Implementing the Right to Financial Privacy Act of 1978

AGENCY: Department of Justice.

ACTION: Final regulation.

SUMMARY: These regulations will authorize Department of Justice units to request financial records from a financial institution pursuant to the formal written request procedure established by section 1108 of the Right to Financial Privacy Act of 1978 ("Act"), 12 U.S.C. 3408, and will set forth the conditions under which such requests may be made.

EFFECTIVE DATE: March 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Abbe D. Lowell, Special Assistant to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530; 202-633-4238.

SUPPLEMENTARY INFORMATION: On February 2, 1979, the Department of Justice published in the FEDERAL REGISTER a proposed regulation authorizing Department of Justice units to request financial records from a financial institution pursuant to the formal written request procedure established by section 1108 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3408, and setting forth the conditions under which such requests may be made. 44 FR 6752-53. Following is a summary of the comments and recommendations received by the Department:

One comment noted that the legislative history of the Act stated that the regulations to be issued under section 1108 "should specify the level of employee permitted to make such requests and should state that the authority may not be delegated." H.R. Rep. No. 1383, 95th Cong., 2d Sess. 52 (1978). The statement that the authority to make requests should not be delegated would not appear to amount to a requirement of law; in addition, the designation of supervisory officials by the head of each Departmental unit would clearly indicate that the authority may not be exercised by those not so designated. Nonetheless, a provision to this effect is being added to the regulations in order to comply as fully as possible with Congress' intent.

Another comment questioned whether section 1108 could itself be construed as authority to promulgate regulations. The requirement that regulations be promulgated would appear to contemplate clearly that authority existed to do so—if not by section 1108 itself, then by other statutes cited in the regulations.

Another comment was that the regulations are not specific enough as to the circumstances when the procedure may be used or as to the level of employee authorized to make a formal written request. In view of the many different sorts of investigations in which a formal written request might be helpful, it was thought inadvisable to attempt to specify each circumstance where the request would be authorized. In view of the different structures of the various Departmental units, and in light of the fact that changes in these structures are not infrequently made, it was thought best to vest the authority to designate officials to sign the formal written request in the head of each Departmental unit authorized to conduct law enforcement inquiries. If any financial institution questions the authority of any official to issue the formal written request, the official might then provide that financial institution with a copy of the designation authorizing him to do so.

Other comments related to the problems facing financial institutions in determining whether to respond to a formal written request—e.g., whether the financial institution must inquire whether the requesting agency had authority to investigate violations of law, whether it had administrative subpoena or summons authority, whether the request is authorized by regulations promulgated by the head of the department, whether there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry, whether the requesting official is acting beyond his authority, etc. These problems appear to be alleviated by section 1117(c) of the Act, 12 U.S.C. 3417(c), which provides that a financial institution disclosing financial records "in good-faith reliance upon a certificate by any Government authority shall not be liable to the customer for such disclosure." According to one of the sponsors of the Act, a financial institution is protected under this provision "if it receives a certificate of compliance with the act required by section 1103(b) that appears proper and legitimate on its face." H.R. Rep. No. 1383, 95th Cong., 2d Sess. 230 (1978) (additional views of Representative LaFalce). In any event, since these are matters which relate to the guidance of the financial institutions, they would appear to be outside the scope of regulations whose purpose is to authorize the use of the formal written request by government agencies.

Finally, another comment suggested that a provision be added requiring that each formal written request include a statement that financial institutions should consult counsel to determine whether compliance with a formal written request is permitted under applicable state and federal laws. It is not the responsibility of the Department of Justice to advise financial institutions as to the manner in which they are to perform their obligations under law.

By virtue of the authority vested in me by 5 U.S.C. 301, 28 U.S.C. 509, 510, and section 1108 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3408, a new part 47 is hereby added to title 28 of the Code of Federal Regulations as set forth below:

Dated: March 9, 1979.

GRIFFIN B. BELL,
Attorney General.

PART 47—RIGHT TO FINANCIAL PRIVACY ACT

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510; section 1108 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3408.

§ 47.1 Definitions.

The terms used in this part shall have the same meaning as similar terms used in the Right to Financial Privacy Act of 1978. "Departmental unit" means any office, division, board, bureau, or other component of the Department of Justice which is authorized to conduct law enforcement inquiries. "Act" means the Right to Financial Privacy Act of 1978.

§ 47.2 Purpose.

The purpose of these regulations is to authorize Departmental units to request financial records from a financial institution pursuant to the formal written request procedure authorized by section 1108 of the Act, and to set forth the conditions under which such requests may be made.

§ 47.3 Authorization.

Departmental units are authorized to request financial records of any customer from a financial institution pursuant to a formal written request under the Act only if:

(a) no administrative summons or subpoena authority reasonably appears to be available to the Departmental unit to obtain financial records for the purpose for which the records are sought;

(b) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry and will further that inquiry;

(c) the request is issued by a supervisory official of a rank designated by the head of the requesting Departmental unit. The officials so designated shall not delegate this authority to others;

(d) the request adheres to the requirements set forth in § 47.4; and

(e) the notice requirements set forth in section 1108(4) of the Act, or the requirements pertaining to delay of notice in section 1109 of the Act, are satisfied, except in situations (e.g., section 1113(g)) where no notice is required.

§ 47.4 Written request.

(a) The formal written request shall be in the form of a letter or memorandum to an appropriate official of the financial institution from which financial records are requested. The request shall be signed by the issuing official, and shall set forth that official's name, title, business address and business phone number. The request shall also contain the following:

(1) The identity of the customer or customers to whom the records pertain;

(2) A reasonable description of the records sought; and

(3) Such additional information as may be appropriate—e.g., the date on which the opportunity for the customer to challenge the formal written request will expire, the date on which the requesting Departmental unit expects to present a certificate of compliance with the applicable provisions of the Act, the name and title of the individual (if known) to whom disclosure is to be made.

(b) In cases where customer notice is delayed by court order, a copy of the court order shall be attached to the formal written request.

§ 47.5 Certification.

Prior to obtaining the requested records pursuant to a formal written request, an official of a rank designated by the head of the requesting Departmental unit shall certify in writing to the financial institution that the Departmental unit has complied with the applicable provisions of the Act.

[FR Doc. 79-7686 Filed 3-12-79; 8:45 am]

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Lead; Notice of Partial Judicial Stay

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of partial judicial stay of standard for occupational exposure to lead.

SUMMARY: Several provisions of OSHA's new standard for occupational exposure to lead (29 CFR 1910.1025) have been stayed by the U.S. Court of Appeals for the District of Columbia Circuit pending full judicial review of the standard. This notice lists the provisions which have been stayed. The remaining provisions are effective March 1, 1979. In addition, the prior standard on occupational exposure to lead in 29 CFR 1910.1000 will remain in effect until the complete new standard becomes effective.

DATE: The effective date of the standard is March 1, 1979, except as otherwise noted.

FOR FURTHER INFORMATION CONTACT:

Gail Brinkerhoff, U.S. Department of Labor, Room N3112, Washington, D.C. 20210, Telephone: (202) 523-8034.

SUPPLEMENTARY INFORMATION: On November 13, 1978, the Occupational Safety and Health Administration (OSHA) promulgated a permanent standard for occupational exposure to lead. [29 CFR 1910.1025, 43 FR 52952-53014 (November 14, 1978), 43 FR 54354-54509 (November 21, 1978)]. The standard provided for an effective date of February 1, 1979, with delayed startup dates for some provisions. Certain corrections to the standard, including an administrative stay of one portion of the respirator table, were published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5446).

Pursuant to section 6(f) of the Occupational Safety and Health Act, 29 U.S.C. 655(f), numerous petitions were filed in several U.S. Courts of Appeal challenging the validity of the standard. All petitions were transferred to the U.S. Court of Appeals for the District of Columbia Circuit (*United Steelworkers of America, AFL-CIO-CLC* v. *Marshall*, No. 78-2452 (3rd Circuit, January 10, 1979)) and consolidated.

Several of the petitioners then moved in the Court of Appeals for a stay of the lead standard pending disposition of their petitions for review. In the FEDERAL REGISTER notice of January 26, 1979, OSHA administratively stayed the lead standard until February 24, 1979, to facilitate the Court's consideration of the motions (44 FR 5446, January 26, 1979). The administrative stay was subsequently extended at the Court's request for the same reason. A decision on the motions to stay the lead standard was issued by the Court on March 1, 1979. (*United Steelworkers of America, AFL-CIO-CLC* v. *Marshall*, No. 79-1048 (D.C. Circuit, March 1, 1979)). The Court's order stayed certain provisions of the lead standard and denied the stay motions as to others. Following is a list of the paragraphs of the standard as they have been affected by the Court's order. As directed by the Court, the effective date of the standard as a whole was March 1, 1979, with limited exceptions noted below, subject to the delayed startup dates in paragraph (r).

§ 1910.1025 Lead.

Paragraph (a), *Scope and application*, is in effect;

Paragraph (b), *Definitions*, is in effect;

Paragraph (c), *Permissible exposure limit*, is in effect;

Paragraph (d), *Exposure monitoring*, is in effect;

Paragraph (e)(1), *Methods of compliance/Engineering and work practice controls*, is stayed;

Paragraph (e)(2), *Respiratory protection*, is in effect.

Paragraph (e)(3), *Compliance program*, is stayed, except that paragraph (e)(3)(ii)(F), relating to compliance plans for protective clothing, hygiene and housekeeping practices, is in effect;

Paragraph (e)(4), *Bypass of interim level* is stayed;

Paragraph (e)(5), *Mechanical ventilation* is stayed;

Paragraph (e)(6), *Administrative controls*, is stayed;

Paragraph (f), *Respiratory protection*, is in effect, except that paragraph (f)(2)(ii), relating to employee selection of powered, air-purifying respirators (PAPR), is modified so that PAPR's must be provided under that paragraph only when the physical characteristics of the employee are such that the respirators specified in Table II (paragraph (f)(2)(i)) are inadequate for the employee's protection. (Note that dust, fume, and mist air-purifying respirators are permitted to be used in addition to the respirators listed in Table II under the terms of the temporary administrative stay published at 44 FR 5446.);

Paragraph (g), *Protective work clothing and equipment*, is effective March 31, 1979, to provide employers time to implement its requirements and to apply for variances where warranted;

Paragraph (h), *Housekeeping*, is in effect, except that to the extent that employers must acquire vacuums to comply, the effective date is March 31, 1979. During this period, employers may apply for variances where warranted;

Paragraph (i), *Hygiene facilities and practices*, is in effect, except that it is stayed to the extent that it requires the construction of new facilities or substantial renovation of existing facilities;

Paragraph (j), *Medical surveillance*, is in effect, except for the requirements for ZPP determinations in paragraphs (j)(2) and (j)(3)(ii)(D)(*3*), and except for the requirements for the multiple physician review mechanism established in paragraph (j)(3)(iii) and referred to elsewhere in the standard;

Paragraph (k), *Medical removal protection*, is in effect;

Paragraph (l), *Employee information and training*, is in effect;

Paragraph (m), *Signs*, is stayed;

Paragraph (n), *Recordkeeping*, is in effect;

Paragraph (o), *Observation of monitoring*, is in effect;

Paragraph (p), *Effective date*, is modified to March 1, 1979;

Paragraph (q), *Appendices*, is in effect;

Paragraph (r), *Startup dates*, is in effect, except to the extent that it applies to provisions of the standard which have been stayed.

In addition, the standard for lead in 29 CFR 1910.1000 will remain in effect during the period of the stay and will continue to be enforced by OSHA. Section 1910.1000, Table Z-2, sets a permissible exposure limit of 0.2 milligrams of lead per cubic meter of air as an 8-hour, time-weighted average, which must be complied with by the use of feasible engineering or administrative controls (§ 1910.1000(e)).

Signed in Washington, D.C. on March 8, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-7626 Filed 3-12-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1034-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval and Disapproval of Revisions of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval with certain exceptions of amendments to Maryland Regulations 10.03.36 through 10.03.41 inclusive, governing control of hydrocarbons and oxides of nitrogen. The amendments include definitions of organic solvents, changes of regulations governing control of oxides of nitrogen from fuel-burning equipment and nitric acid plants, control of hydrocarbon emissions from organic solvents, dry cleaning operations, and control of new sources of photochemically reactive organic material. This notice also announces the Administrator's disapproval of exemptions from regulations controlling emissions from organic solvents in the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR) and the Maryland portion of the National Capital Interstate AQCR.

EFFECTIVE DATES: April 12, 1979, for all approval actions, March 13, 1979 for all disapproval actions.

ADDRESSES: Copies of the amended regulations and associated support and comment material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Harold Frankford.

Maryland Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Maryland 21201, ATTN: Mr. George P. Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Frankford, (215) 597-8392.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The State of Maryland submitted amendments to Section .04 of Maryland Regulations 10.03.36 through 10.03.41 inclusive governing control of air pollution. The State requested that these amendments, submitted on April 24, 1974, December 11, 1974 and July 1, 1975, be reviewed and processed as revisions of the Maryland State Implementation Plan (SIP) for the attainment and maintenance of national ambient air quality standards. The amendments consist of the below-listed changes:

10.03.36-37, 40-41

.04G: *Nitrogen Oxides from New Fuel-Burning Equipment*—Minor wording changes.

.04H: *Nitrogen Oxides from Nitric Acid Plants*—Emission limitation for plants existing before 1972 are made more restrictive.

.04J: *Hydrocarbons from Other Than Fuel-Burning Equipment.*

.04J(1)a: Definition of "Organic material"—New section.

.04J(1)b: Definition of "True Vapor Pressure"—New section.

.04J(2): *Organic Material*—Control of organic material from storage tanks—New section.

10.03.38-39

.04G(1), (2): *Nitrogen Oxides from Fuel-Burning Equipment—New and existing* *fuel-burning equipment—Minor wording changes.*

.04H: *Nitrogen Oxides from Nitric Acid Plants*—Emission limitation for plants existing before 1972 are made more restrictive.

.04J: *Hydrocarbons from Other Than Fuel-Burning Equipment.*

.04J(1)i: Definition of "Photochemically Reactive Organic Materials"—New section.

.04J(3)a: *Organic Solvents*—Minor wording changes.

.04J(3)d: Control of dry cleaning solvents—New section.

.04J(3)e: Exception to control of organic solvents—New section.

.06G (1), (2), (3): *Control and Prohibition of Sources of Photochemically Reactive Organic Materials*—These sections ban construction of all new sources that will discharge more than 550 lbs. per day of photochemically reactive organic solvents into atmosphere, limit existing sources of photochemically organic solvents to 550 lbs. per day, and provide exemptions for relocation of facilities; Section .04J(3)c of SIP regulation is deleted.

.06G (4), (5): These sections provide mechanical requirements for equipment handling photochemically reactive organic material.

The State of Maryland provided proof that public hearings for the above-mentioned regulations were held in accordance with the requirements of 40 CFR 51.4. All of the above-listed amendments were proposed by EPA as revisions of the Maryland State Implementation Plan. The actions taken by EPA and the State of Maryland are summarized in the following chart:

Date of submittal by Maryland to EPA	Date of public hearings held by Maryland	Location of public hearings	Date of notice of proposed rulemaking (FR citation)	Expiration date of public comment period
Apr. 24, 1974	Sept. 5, 1973	Baltimore	Mar. 27, 1975 (40 FR 13521)	Apr. 28, 1975.
	Sept. 6, 1973	Silver Spring		
Dec. 11, 1974	Aug. 6, 1974	Takoma Park	Jan. 30, 1975 (40 FR 4447)	Mar. 3, 1975.
	Aug. 7, 1974	Baltimore	Mar. 27, 1975 (40 FR 13521)	Apr. 28, 1975.
			Nov. 19, 1975 (40 FR 53595)	Dec. 19, 1975.
July 1, 1975	May 21, 1975	Baltimore	Oct. 6, 1975 (40 FR 46117)	Nov. 5, 1975.
	May 25, 1975	Cambridge		
	May 26, 1975	Cumberland		

II. Public Comments Received/EPA Response

During the combined public comment periods, comments opposing aspects of the proposed regulation were submitted by the Baltimore Gas and Electric Company, the Maryland State Chamber of Commerce, and representatives of the Bethlehem Steel Corporation and the Crown Central Petroleum Corporation. The comments essentially state opposition to the emissions "freeze" of 550 pounds per day of photochemically reactive organic compounds in the Metropolitan Baltimore Intrastate AQCR (Section 10.03.38.06G) as well as to the definition of "photochemically reactive organic materials" [Section 10.03.38.04J (1)i]. The basic objections to the regulations concern the necessity of imposing a "pounds per day" emission limitation applicable to all stationary sources of hydrocarbons, rather than source-specific emission limitations. The limitations which the commentors would prefer are those that would be achievable if major sources of reactive hydrocarbon emissions applied best available control technology. A secondary concern was the effect of an "emission freeze" on industrial growth in the Metropolitan Baltimore Interstate AQCR. The State of Maryland submitted comments supporting the hydrocarbon emissions "freeze".

With respect to these public comments received on Maryland Regulations 10.03.38.06G (1)-(3) and 10.03.39.06G(1)-(3), the Administrator has determined that the Metropolitan Baltimore Intrastate and the Maryland portion of the National Capital Interstate AQCR are nonattainment areas with respect to photochemical oxidants (43 FR 8962, 43 FR 40502). Therefore, the Administrator feels justified in approving regulations which would limit the amount of photochemically reactive organic materials, since such material causes formation of photochemical oxidants. In addition, these "freeze" regulations are more stringent than the Agency's new source regulations governing emissions offsets because they preclude the use of offsets for new major sources of photochemically reactive organic materials wishing to locate in the Metropolitan Baltimore Intrastate and Maryland portions of the National Capital Interstate AQCR's.

III. EPA's Evaluation

With the exception of Section 10.03.38.04J(3)e of Maryland Regulations governing the Metropolitan Baltimore Intrastate AQCR and Section 10.03.39.04J(3)e of Maryland Regulations governing the Maryland portion of the National Capital Interstate AQCR, and which are discussed below, the above-listed amendments meet the criteria of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Section .04J of Maryland Regulations 10.03.38 and 10.03.39 pertains to control of hydrocarbon emissions from sources other than fuel burning equipment. Although EPA has issued guidance (July 8, 1977, 42 FR 35314) stating that volatile organic compounds (VOC) contribute more significantly to formation of photochemical oxidants than originally believed, the guidance allows previous amendments submitted by States to be evaluated as "interim" SIP control strategies.

Section .04J(3)d of Regulations 10.03.38 and 10.03.39 which controls photochemically reactive organic solvents from dry cleaning operations is also approvable as a revision of the Maryland SIP. However, the State's definition of "photochemically reactive organic solvent" does not include trichloroethylene, an organic solvent included in the definition of "photochemically reactive organic solvent" that appears in the federally promulgated dry cleaning solvents regulations (40 CFR Sections 52.1088 and 52.1107). Therefore, the federal regulations will remain in effect to govern situations where tricholorethylene is used as a dry cleaning solvent.

The amendments to Section .04J(3)e, which provide exceptions from the organic solvents regulations, were added with the intent that solvent-emitting sources would be encouraged to substitute volatile organic compounds with water-based and high solids content coatings. However, the provisions of Section .04J(3)e(2)(b) of Regulations 10.03.38 and 10.03.39 could be interpreted to mean that even if such water-based/high solids content coatings are used and the remaining volatile content consists of a volatile organic compound defined as "photochemically reactive", then that portion, no matter what percentage of the total material, must still be controlled by 85% [the reduction stipulated in Section .04J(3) of Regulations 10.03.38 and 10.03.39]. According to this interpretation, this amended regulation would not achieve the goal of solvent substitution. Because this amendment is vague and unclear in its wording and intent, the Administrator considers it to be unenforceable. Therefore, the Administrator cannot approve these amendments as revisions of the Maryland SIP. The State of Maryland is encouraged to revise the wording of this regulation.

The remaining amendments to Section .04J meet the procedural requirements of 40 CFR Part 51. However, the Metropolitan Baltimore Intrastate AQCR and the Maryland portion of the National Capital Interstate AQCR were determined to be nonattainment areas for photochemical oxidants (43 FR 8962, 43 FR 40502). As such, the State of Maryland is required to submit additional control strategies designed to attain and maintain the national ambient air quality standards for photochemical oxidants. Those amendments to Section .04J approved by the Administrator in this final rulemaking serve as "interim" revisions to the Maryland SIP until the additional control measures, due January 1, 1979, are submitted by the State.

IV. FINAL ACTION

In view of the above evaluation, the Administrator approves, with certain exceptions, the above-mentioned amendments to Sections .04 and .06 of Maryland Regulations 10.03.38 and 10.03.39, and Section .04 of Maryland Regulations as revisions of the Maryland State Implementation Plan effective (30 days after date of publication). Concurrently, 40 CFR Section 52.1070 (Identification of Plan) is amended to incorporate these amendments into the federally-approved Maryland SIP; 40 CFR Section 52.1082(b) (Rules and Regulations) is modified to reflect the Administrator's approval of previously disapproved portions of the SIP regarding control of hydrocarbon emissions; 40 CFR Section 52.1075 (Control Strategy: Nitrogen dioxide) is rescinded because the regulations comprising the control strategy for nitrogen dioxide in the Metropolitan Baltimore Intrastate AQCR are now considered part of the approved SIP; and 40 CFR Sections 52.1088 and 52.1107 (Control of Dry Cleaning Solvent Evaporation) are amended because the amendment to Section .04J(3)d of Maryland Regulations 10.03.38 and 10.03.39, herein approved by the Administrator, does not cover all sources that would be subject to control under the EPA-promulgated regulations.

The Administrator also disapproves the amendments to Section .04G(2) and .04J(3)e of Maryland Regulations 10.03.38 and 10.03.39 as revisions of the Maryland State Implementation Plan, effective immediately. Section 52.1073 (Approval Status) of 40 CFR, Subpart V is hereby amended to officially record the Administrator's disapproval action of the aforementioned amendments.

(42 U.S.C. 7401.)

Dated: February 28, 1979.

DOUGLAS M. COSTLE,
Administrator.

Subpart V of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. In Section 52.1070, paragraph (c) is amended as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified * * *

(19) Amendments to Sections .03 (Air Pollution Episode System), .06 (Test Methods) and .11 (Permits); and deletion of .04 (Prior Registration of Proposed Installations) of Maryland Regulation 10.03.35 (Regulations Governing Control of Air Pollution in the State of Maryland); amendments to Sections .04 (Control and prohibition of hydrocarbons and oxides of nitrogen emissions) and .06 (Control and Prohibition of Installations and Operations) of Regulations 10.03.38 and 10.03.39 (Regulations Governing Air Pollution Control in the Metropolitan Baltimore Intrastate and the Maryland portion of the National Capital Interstate AQCR's; amendments to Section .04 (Control and prohibition of oxides of nitrogen) of Maryland Regulations 10.03.36, 10.03.37, 10.03.40 and 10.03.41 (Regulations Governing Air Pollution Control in the Cumberland-Keyser Interstate and Central Maryland, Southern Maryland and Eastern Shore Intrastate AQCR's).

(20) Amendments to Sections .01 (definitions), .04 (Ambient Air Quality Standards—former Section .05 of Regulations 10.03.36 through 10.03.41 inclusive) and .11 (Permits) of Maryland Regulation 10.03.35 (Regulations Governing Control of Air Pollution in the State of Maryland); amendments to Section .04 (Control and prohibition of hydrocarbon and oxides of nitrogen) of Maryland Regulations 10.03.36, 10.03.37, 10.03.40, and 10.03.41 (Regulations Controlling Air Pollution in the Cumberland-Keyser, Interstate and Central Maryland, Southern Maryland and Eastern Shore Intrastate AQCR's); amendments to Sections .04 (Control and prohibition of hydrocarbons and oxides of nitrogen) and .06 (Control and Prohibition of Installations and Operations) of Maryland Regulations 10.03.38 and 10.03.39 (Regulations Governing Air Pollution Control in the Metropolitan Baltimore Intrastate and Maryland portion of the National Capital Interstate AQCR's) submitted on December 11, 1974 by the Governor.

2. In § 52.1073, paragraph (f) is added to read as follows:

§ 52.1073 Approval status.

* * * * *

(f) With respect to Section .04J(3)e of Maryland Regulations 10.03.38 and 10.03.39, the Administrator disapproves this section because the State does not make clear the type of material considered exempt from the State regulations controlling emissions from organic solvents.

§ 52.1075 [Reserved]

3. Section 52.1075 is revoked and reserved.

4. Section 52.1082(b) is modified to delete all references to the "emissions freeze" and is rewritten as follows to determine its other provisions:

§ 52.1082 Rules and regulations.

* * * * *

(b) The requirements of § 51.22 of this chapter are not met for the Metropolitan Baltimore Region because adopted regulations to control gas handling and dry cleaning emissions, measures referred to in § 52.1073(d) were not submitted in time prior to this promulgation. Substitute regulations for gas handling and dry cleaning emissions are promulgated in §§ 52.1101, 52.1102, and 52.1107.

5. In § 52.1088, paragraph (b) is amended to read as follows:

§ 52.1088 Control of dry cleaning solvent equipment.

* * * * *

(b) This section is applicable to all sources located in the Maryland portion of the National Capital Interstate Air Quality Control Region and which are not subject to the provisions of Maryland Regulation 10.03.39 .04J(3)d.

6. In § 52.1107, paragraph (b) is amended to read as follows:

§ 52.1107 Control of Dry Cleaning Solvent Evaporation.

* * * * *

(b) This section is applicable to all sources located in the Metropolitan

Baltimore Intrastate Air Quality Control Region and which are not subject to the provisions of Maryland Regulations 10.03.38 .04J(3)d.

[FR Doc. 79-7565 Filed 3-12-79; 8:45 am]

[6560-01-M]

[FRL 1059-6]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Department of Energy, Portsmouth Area Gaseous Diffusion Plant, Piketon, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to the Department of Energy, Portsmouth Area Gaseous Diffusion Plant (Department of Energy). The Order requires the Department of Energy to bring air emissions from its three boilers at Piketon, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The Department of Energy's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect March 13, 1979.

FOR FURTHER INFORMATION CONTACT:

Louise C. Gross, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 40041) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Department of Energy. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No request for a public hearing was received in response to the proposed notice. A comment received from the Department of Energy resulted in the lengthening of the compliance schedule. The final compliance date was changed from February 1, 1979 to May 1, 1979.

Therefore, a Delayed Compliance Order effective this date is issued to the Department of Energy by the Administrator of U.S. EPA pursuant to the authority of section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Department of Energy on a schedule to bring its three boilers at Piketon, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-11, a part of the federally approved Ohio State Implementation Plan. The Department of Energy is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Department of Energy to delay compliance with the SIP regulation covered by the Order until May 1, 1979.

Compliance with the Order by the Department of Energy will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Department of Energy is in violation of a requirement contained in the Order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the Department of Energy on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: March 5, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending Section 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Department of Energy: Portsmouth Area Gaseous Diffusion Plant.	Piketon, Ohio	EPA-5-79-A-17	9/8/78	AP-3-11	5/1/79

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Department of Energy, Portsmouth Area Gaseous Diffusion Plant, Piketon, Ohio. Proceeding Under Sections 113(d) and 114(a) of the Clean Air Act, as Amended. Order No. EPA-5-79-A-17.

ORDER

The following ORDER is issued this date pursuant to Sections 113(d) and 114(a) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and thirty days notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act. This ORDER contains a schedule for compliance, interim control requirements, continuous emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than May 1, 1979.

On November 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to as the "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of the U.S. EPA, issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to the Department of Energy Portsmouth Area Gaseous Diffusion Plant in Piketon, Ohio, upon finding that the three boilers in Building X-600 located at the Plant were found to be in violation of the applicable Ohio Implementation Plan, as defined in Section 110(d) of the Act. The Notice cited the Plant for violation of Ohio Regulation AP-3-11 (hereinafter referred to as AP-3-11), as demonstrated by the Plant's Air Pollution Emissions Report, emissions factor calculations and material contained in the Office of Federal Activities file. A copy of this Notice was sent to the State of Ohio.

After a thorough investigation of all relevant facts, it is determined that the Department of Energy is presently unable to comply with the Ohio Implementation Plan, that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. Therefore, it is hereby ORDERED that:

I. The Department of Energy shall achieve compliance with AP-3-11 at its three boilers in Building X-600 in accordance with the following schedule:

A. Commence Title I and Title II design work—has been commenced prior to the issuance of this ORDER.

B. Issue invitation for bids on electrostatic precipitators (ESPs); furnish copy of bid package to U.S. EPA—has been completed prior to the issuance of this ORDER.

C. Award contract for ESPs—has been completed prior to the issuance of this ORDER.

D. Complete overall design work (Title II) on facility—has been completed prior to the issuance of this ORDER.

E. Award construction contract and commence construction—has been completed prior to the issuance of this ORDER.

F. Complete ESP procurement—has been completed prior to the issuance of this ORDER.

G. Complete construction and commence performance testing—February 28, 1979.

H. Complete performance testing—March 31, 1979.

I. Demonstrate compliance with AP-3-11—May 1, 1979.

II. The Department of Energy shall demonstrate final compliance with AP-3-11 at its Portsmouth Area Gaseous Diffusion Plant by May 1, 1979.

III. Pursuant to the authority granted in Sections 113(d)(1)(C) and 114(a)(1) of the Clean Air Act, the Department of Energy shall install a continuous monitoring system for the measurement of opacity on each effluent stack of the three violating boilers, following any control devices, at Building X-600 of the Portsmouth Area Gaseous Diffusion Plant. The continuous monitoring system shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in Appendix B of 40 CFR 60.13 and Appendix B of 40 CFR Part 60, and shall be properly calibrated and operational upon the achievement of final compliance.

The Portsmouth Area Gaseous Diffusion Plant is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Ohio Regulation AP-3-07 and corrective action taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of two years and made available for inspection by the U.S. EPA or its agent upon request. Malfunctions or periods in which the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

IV. Pursuant to Section 113(d)(7) of the Act, during the period in which this ORDER is in effect, the Department of Energy shall minimize particulate emissions by implementation of the following:

A. Maintain and operate the existing control devices in a manner which insures that their present collection efficiencies will not diminish.

B. Utilize fuel whose ash content to BTU ratio, on a dry basis, does not exceed, on the average, 2.1×10^{-3} lb/BTU. This figure is based upon the maximum range of weekly average coal samples taken between June and November of 1977.

Adherence to the above provisions has been determined to be reasonable and representative of the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in Section I above) for the period during which the ORDER is in effect.

V. The Department of Energy shall submit reports to the U.S. EPA detailing progress made with respect to each requirement of this ORDER. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than May 1, 1979, the Department of Energy shall certify to the U.S. EPA that the Plant is in final compliance with AP-3-11.

VI. All submissions and notifications to the U.S. EPA pursuant to this ORDER shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

VII. Nothing in this ORDER shall be construed so as to affect the Department of Energy's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this ORDER shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7603.

IX. The Department of Energy is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Department of Energy will be formally notified, pursuant to Section 120 (b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This ORDER is effective upon promulgation in the FEDERAL REGISTER.

Dated: March 5, 1979.

DOUGLAS M. COSTLE,
Administrator or Delegate.

The Department of Energy has reviewed this ORDER and believes it to be a reasonable means by which its three boilers in Building X-600 can achieve final compliance with Ohio Regulation AP-3-11. The Department of Energy stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this ORDER.

Dated: December 15, 1978.

Secretary of Energy
By: CHARLES A. KELLER,
Title: *Acting Manager.*

[FR Doc. 79-7615 Filed 3-12-79; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5658]

[A-9915]

ARIZONA

Revocation of Executive Order No. 6002

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order revokes an Executive order which withdrew 347.58 acres of land for administrative purposes in connection with powersite reservations affecting the Colorado and Paria Rivers in Arizona. The lands remain withdrawn under the Act of October 27, 1972 (86 Stat. 1311-1313), for the Glen Canyon National Recreation Area and under a Bureau of Reclamation First Form Withdrawal. Some of the lands are included in the Navajo Indian Reservation.

EFFECTIVE DATE: March 13, 1979.

FOR FURTHER INFORMATION CONTACT:

Mario L. Lopez—602-261-4774, Chief, Branch of Lands and Minerals Operations, 2400 Valley Bank Center, Phoenix, Arizona 85073.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6002 of January 18, 1933, as interpreted by Secretarial Interpretation No. 298 of April 25, 1941, as to secs. 18 and 19, T. 40 N., R. 8 E., reserving lands as an administrative site in aid of an existing powersite reservation, and in connection with the maintenance and operation of gauging stations in the Colorado and Paria Rivers, is hereby revoked in its entirety. The lands are described as follows:

GILA AND SALT RIVER MERIDIAN

T. 40 N., R. 7 E.,
  Sec. 13, lots 1, 2, 3, and 4.
T. 40 N., R. 8 E. (partially surveyed),
  Sec. 18, lots 1, 2, 3, and all unsurveyed lands within a quarter of a mile of the Colorado River;
  Sec. 19 (unsurveyed), all lands within a quarter of a mile of the tram towers and cable as shown on the plat of survey approved June 29, 1938.

The area described aggregates approximately 347.58 acres in Coconino County.

2. All of the above described lands lying north of the Colorado River are included in the Glen Canyon National Recreation Area under the jurisdiction of the National Park Service, Department of the Interior, pursuant to the Act of October 27, 1972, 86 Stat. 1311-