

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of the Environment
(DLS Control No. 15-033)**

Overview and Legal and Fiscal Impact

These regulations establish more stringent nitrogen oxide limitations for long dry kilns and pre-calciner kilns and a new method for continuous monitoring of particulate matter emissions from cement kilns and clinker coolers. The regulations also reorganize provisions pertaining to Portland cement manufacturing plants into a single chapter.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of the Environment:

Air Quality: General Administrative Provisions: COMAR 26.11.01.10

Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations: COMAR 26.11.09.08

Control of Portland Cement Manufacturing Plants: COMAR 26.11.30.01-.08

Legal Analysis

Background

In light of new ambient air quality standards established by the Environmental Protection Agency (EPA) in 2012, section 182 of the Clean Air Act requires the department to review and revise reasonably available control technology requirements for nitrogen oxides in the State Implementation Plan. Additionally, in 2013 EPA adopted new particulate matter continuous emission monitoring regulations for the Portland cement manufacturing industry.

Summary of Regulations

The regulations establish a new chapter pertaining to Portland cement manufacturing plants. More specifically, the regulations:

- provide for the scope and applicability of the regulation;
- define certain terms;

- compile existing requirements for particulate matter, visible emission standards, sulfur compounds, and nitrogen oxides as they relate to Portland cement manufacturing plants and installations into one chapter;
- establish particulate matter monitoring requirements for cement kilns and clinker coolers;
- require the owner or operator of a cement kiln or a clinker cooler at a Portland cement manufacturing plant to use either continuous opacity monitoring or particulate matter continuous parametric monitoring systems;
- establish new nitrogen oxide emission standards for long dry kilns and pre-calciner kilns effective on and after April 1, 2017;
- repeal an obsolete nitrogen oxide emission standard for long wet kilns;
- require the owner or operator of a Portland cement manufacturing plant to continuously monitor nitrogen oxide emissions with a continuous emissions monitor system and to collect and submit the data to the department; and
- make conforming changes.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Maryland Department of the Environment cites §§ 1-101, 1-404, 2-101 – 2-103, 2-301 – 2-303, 10-102, and 10-103 of the Environment Article as authority for the regulations. More specifically, § 1-404 provides the Secretary with general authority to adopt regulations to carry out the provisions of law within the Environment Article and to review and revise these regulations. Section 2-102 states that it is the policy of the State to maintain the degree of air purity necessary to protect the health, general welfare, and property of the people of the State. Section 2-103 gives the department jurisdiction over emissions into the air and ambient air quality in the State and makes it the responsibility of the department to monitor ambient air quality in the State. Section 2-301 authorizes the department to adopt regulations for the control of air pollution in the State, including testing, monitoring, record keeping, and reporting requirements. Section 2-302 requires the department to adopt regulations that set emission standards and ambient air quality standards for each of the air quality control areas in the State. Section 2-302 also details guidelines for the adoption of ambient air quality standards and emissions standards.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs, as the regulations only apply to several privately owned facilities; the department can implement the regulations with existing resources.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs and notes that the only facility that the department anticipates will be affected by the more stringent air pollution requirements is a large, global corporation and not a small business.

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