

(1996 Replacement Volume and 2001 Supplement)

Preamble

WHEREAS, On December 3, 2001 the Department of the Environment lost federal approval of its Clean Air Act Title V air quality permit program; and

WHEREAS, The General Assembly finds that, for the Department to be able to implement an approved State Title V air quality permit program, the standing requirements for judicial review of operating permits issued pursuant to Title V of the Clean Air Act must be broadened; and

WHEREAS, The General Assembly declares that this Act is intended to expand standing for the Title V air quality operating permit program without creating any precedent for any other permit program; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Environment

2-404.1.

(A) EXCEPT FOR AN APPLICANT WHO ELECTS TO PROCEED UNDER SUBSECTION (D) OF THIS SECTION, A FINAL DECISION BY THE DEPARTMENT ON THE ISSUANCE, RENEWAL, OR REVISION OF AN OPERATING PERMIT ISSUED PURSUANT TO TITLE V OF THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990 IS SUBJECT TO JUDICIAL REVIEW BY ANY PERSON WHO:

(1) MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL CONSTITUTIONAL LAW; AND

(2) PARTICIPATED IN A PUBLIC PARTICIPATION PROCESS THROUGH THE SUBMISSION OF WRITTEN OR ORAL COMMENTS, UNLESS AN OPPORTUNITY FOR PUBLIC PARTICIPATION WAS NOT REQUIRED BY STATUTE OR REGULATION.

(B) 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:

(1) THAT THE OBJECTIONS WERE NOT REASONABLY ASCERTAINABLE DURING THE COMMENT PERIOD; OR

(2) THAT GROUNDS FOR THE OBJECTIONS AROSE AFTER THE COMMENT PERIOD.

(C) UNLESS OTHERWISE REQUIRED BY STATUTE, A PETITION FOR JUDICIAL REVIEW BY A PERSON WHO MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION SHALL BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY IN WHICH ANY PARTY RESIDES OR HAS A PRINCIPAL PLACE OF BUSINESS.