

**Federal Register**, NARA is proposing to revise the reproduction fee schedule in 36 CFR part 1258 to reflect the current costs of providing copies of archival records. In the past, NARA has applied the fee schedule in § 1258.12 to our records center holdings when the agency that owns the records did not have a separate fee schedule.

NARA provides records storage services at the Federal Records Center Program (FRCP) national and regional records centers on a reimbursable basis to Federal agencies. The FRCP charges the agencies for the use of the space, retrieving and refiling records, and other administrative matters related to agency records. The records of other agencies stored in Federal records centers still belong to the agencies that created and maintained them, and NARA provides public access to those records only as authorized by the owning agency.

As a fully reimbursable program, FRCP must recover all costs for making copies of agency records from the agency or the agency's customer. Because we are providing copies in accordance with the owning agency's instructions, the agency, not NARA, must determine the extent to which the costs will be borne by the agency or the agency's customer. Thus, it is not appropriate to include the records center program in the fee schedule set forth in part 1258.

This interim final rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it affects individual researchers. This regulation does not have any federalism implications. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

#### List of Subjects in 36 CFR Part 1258

Archives and records.

■ For the reasons set forth in the preamble, NARA amends part 1258 of title 36, Code of Federal Regulations, as follows:

#### PART 1258—FEES

■ 1. The authority citation for part 1258 continues to read as follows:

**Authority:** 44 U.S.C. 2116(c) and 2307.

■ 2. Amend § 1258.2 by removing paragraph (b) and redesignating paragraph (c) as paragraph (b) to read as follows:

#### § 1258.2 What does the NARA reproduction fee schedule cover?

\* \* \* \* \*

(b) Records filed with the Office of the Federal Register.

Dated: February 20, 2007.

**Allen Weinstein,**

*Archivist of the United States.*

[FR Doc. E7-3162 Filed 2-23-07; 8:45 am]

**BILLING CODE 7515-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[EPA-R03-OAR-2006-0625; FRL-8280-8]

#### State Operating Permit Programs; West Virginia; Amendment to the Definitions of a "Major Source" and "Volatile Organic Compound"

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to amend the State of West Virginia's operating permit program to correct the definitions of "major source" and "volatile organic compound." West Virginia's revision was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to submit to EPA program revisions in accordance with the Federal Title V regulations. EPA granted final approval of West Virginia's operating permit program on November 23, 2001. West Virginia amended its operating permit program to address the Federal EPA amendment to the Federal Title V regulations, which went into effect on November 27, 2001, and this action approves this amendment. Any parties interested in commenting on this action granting approval of West Virginia's amendment to the Title V operating permit program should do so at this time.

**DATES:** This rule is effective on April 27, 2007 without further notice, unless EPA receives adverse written comment by March 28, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2006-0625 by one of the following methods:

A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

B. E-mail: [campbell.dave@epa.gov](mailto:campbell.dave@epa.gov).

C. Mail: EPA-R03-2006-0625, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. **Hand Delivery:** At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-2006-0625. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov>

or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650

Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, West Virginia 25304.

**FOR FURTHER INFORMATION CONTACT:**

Rosemarie Nino, (215) 814-3377, or by e-mail at [nino.rose@epa.gov](mailto:nino.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:**

On September 10, 2003, the State of West Virginia submitted an amendment to its State operating permit program. This amendment is the subject of this document and this section provides additional information on the amendment by addressing the following questions:

*What is the State operating permit program?*  
*What are the State operating permit program requirements?*

*What is being addressed in this document?*  
*What is not being addressed in this document?*

*What changes to West Virginia's operating permit program is EPA approving?*  
*Changes to West Virginia's Operating Permit Program That Corrects a Deficiency*  
*What action is being taken by EPA?*

**What is the State operating permit program?**

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet certain Federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of "major" sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen

oxides, or particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

**What are the State operating permit program requirements?**

The minimum program elements for an approvable operating permit program are those mandated by Title V of the Clean Air Act Amendments of 1990 and established by EPA's implementing regulations at title 40, part 70—"State Operating Permit Programs" in the Code of Federal Regulations (40 CFR part 70). Title V required state and local air pollution control agencies to develop operating permit programs and submit them to EPA for approval by November 23, 2001. Under Title V, State and local air pollution control agencies that implement operating permit programs are called "permitting authorities".

The State was granted final full approval effective on November 23, 2001. On September 10, 2003, West Virginia submitted an amendment to its currently EPA-approved Title V operating permit program. In general, West Virginia amended its operating permit program regulation (45 CSR 30) to correct (1) the definition of "major source;" (2) strike the existing definition of "volatile organic compound" (VOC) and insert in its place the reference to the federal definition of VOC; and, (3) to make other administrative corrections, i.e., revise Director to Secretary, Division to Department, Office to Division and filing and effective date changes. These changes will make regulation 45 CSR 30 consistent with the corresponding provisions of 40 CFR part 70, which went into effect on November 27, 2001.

**What is being addressed in this document?**

West Virginia has revised 45 CSR 30, Section 2, Definitions of the State of West Virginia Regulations Governing the Control of Air Pollution to be consistent with the provisions of 40 CFR part 70.2 which went into effect on November 27, 2001. West Virginia amended the definition of a "major source" by removing part of the existing definition which stated "All other stationary source categories regulated by a standard promulgated under section 111 or section 112 of the Clean Air Act,

but only with respect to those air pollutants that have been regulated for that category" and inserted in its place "Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Clean Air Act." This would require a source belonging to a source category subject to federal New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants Standards (NESHAPs) standard to include fugitive emissions of all regulated pollutants, not just the pollutants regulated by the particular NSPS or NESHAP, in its calculation of major source status only if the relevant standard was promulgated as of August 7, 1980.

West Virginia has stricken the definition of "volatile organic compound" (VOC) and inserted in its place the reference to the Federal definition of VOC. This change will make this aspect of 45 CSR 30 consistent with the Federal rule. EPA has no objection to this revision.

In addition, West Virginia included the following administrative corrections: (1) Revise Director to Secretary, Division to Department, Office to Division; (2) filing date from June 21, 2001 to April 21, 2003, the effective date from July 1, 2001 to June 1, 2003; and the former rule dates for filing from April 27, 1994 to June 21, 2001 and effective April 27, 1994 to July 1, 2001. EPA has no objection to these revisions.

**What is not being addressed in this document?**

EPA is not opening the entirety of West Virginia's Title V operating permit program up to public comment, we are only addressing changes listed above.

**What changes to West Virginia's operating permit program is EPA approving?**

West Virginia has revised 45 CSR 30—Definitions ("major source," "volatile organic compound," and other administrative changes as mentioned above) of the State of West Virginia Regulations Governing the Control of Air Pollution to be consistent with the provision of 40 CFR part 70, which went into effect on November 27, 2001.

**Changes to West Virginia's Operating Permit Program That Corrects a Deficiency**

EPA has reviewed West Virginia's September 10, 2003 program amendment in conjunction with the portion of West Virginia's program that was earlier approved. Based on this review, EPA is granting full approval of

West Virginia's amended operating permit program. EPA has determined that this amendment to West Virginia's operating permit program adequately addresses any deficiency. West Virginia's operating permit program, including this amendment submitted on September 10, 2003, fully meets the minimum requirements of 40 CFR part 70.

#### What action is being taken by EPA?

The State of West Virginia has satisfactorily addressed a program deficiency when EPA made a change to the Federal rule. The operating permit program amendment that is the subject of this document considered together with that portion of West Virginia's operating permit program that was earlier approved fully satisfy the requirements of 40 CFR part 70 and the Clean Air Act. Therefore, EPA is taking direct final action to fully approve the West Virginia Title V operating permit program in accordance with 40 CFR 70.2 definitions of "a major source" and "volatile organic compound."

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rule" section of today's **Federal Register** EPA is publishing a separate document that will serve as the proposal to approve this amendment to West Virginia's operating permit program if adverse comments are filed relevant to the issues discussed in this action. This rule will be effective on April 27, 2007. If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### Statutory and Executive Order Reviews

##### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by

State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing State operating permit program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of an operating permit program submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for

affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

##### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 27, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action fully approving West Virginia's Title V operating permit program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Operating permits, Reporting and recordkeeping requirements.

Dated: February 16, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 70 is amended as follows:

**PART 70—[AMENDED]**

■ 1. The authority citation for part 70 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

■ 2. Appendix A to Part 70 is amended by adding paragraph (e) in the entry for West Virginia to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**West Virginia**

\* \* \* \* \*

(e) The West Virginia Department of Natural Resources and Environmental Control submitted program amendment on September 10, 2003. This rule amendment contained in the September 10, 2003 submittal is necessary to make the current definitions of a “major source” and “volatile organic compound” consistent with the corresponding provisions of 40 CFR part 70, which went into effect on November 27, 2001. The State is hereby granted approval effective on April 27, 2007.

\* \* \* \* \*

[FR Doc. 07–847 Filed 2–23–07; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL–8281–3]

**Idaho: Final Authorization of State Hazardous Waste Management Program Revision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Idaho applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). On November 9, 2006, EPA published a proposed rule to authorize the changes and opened a public comment period under Docket ID No. EPA–R10–RCRA–2006–0830. The comment period closed on December 11, 2006. EPA has decided that these revisions to the Idaho hazardous waste management program satisfy all of the requirements necessary to qualify for final authorization and is authorizing these revisions to Idaho’s authorized hazardous waste management program in this final rule.

**DATES:** *Effective Date:* Final authorization for the revisions to the hazardous waste program in Idaho shall be effective at 1 p.m. e.s.t on February 26, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt, Mail Stop AWT–122, U.S. EPA Region 10, Office of Air, Waste, and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101, phone (206) 553–0256. *E-mail:* hunt.jeff@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the hazardous waste program. Under RCRA Section 3009, States are not allowed to impose any requirements which are less stringent than the Federal program. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA’s regulations in Title 40 of the Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

Idaho’s hazardous waste management program received final authorization effective on April 9, 1990 (55 FR 11015, March 29, 1990). EPA also granted authorization for revisions to Idaho’s program effective on June 5, 1992 (57 FR 11580, April 6, 1992), on August 10, 1992 (57 FR 24757, June 11, 1992), on June 11, 1995 (60 FR 18549, April 12, 1995), on January 19, 1999 (63 FR 56086, October 21, 1998), on July 1, 2002 (67 FR 44069, July 1, 2002), on March 10, 2004 (69 FR 11322, March 10, 2004), and on July 22, 2005 (70 FR 42273, July 22, 2005).

Today’s final rule addresses a program revision application that Idaho submitted to EPA in June 2006, in accordance with 40 CFR 271.21, seeking authorization of changes to the State program. On November 9, 2006, EPA published a proposed rule announcing its intent to grant Idaho final authorization for revisions to Idaho’s hazardous waste program and provided a period of time for the receipt of public comments. The proposed rule can be found at 71 FR 65765.

**B. What Were the Comments to EPA’s Proposed Rule?**

EPA received one comment letter, dated December 4, 2006, from Mr. Chuck Broschious on behalf of the Environmental Defense Institute, Keep Yellowstone Nuclear Free, and David B. McCoy, collectively, “the commenters.” The comment letter focused on the Idaho Department of Environmental Quality’s (DEQ) permitting and oversight of the Idaho National Laboratory (INL) facility located near Idaho Falls, Idaho. In short, the commenters question whether continued authorization of the revised hazardous waste program in Idaho is appropriate given concerns the commenters previously raised with EPA and its Office of the Inspector General (OIG) with respect to the permitting of the INL facility. Specifically, the commenters question whether Idaho’s program provides adequate enforcement of compliance with the requirements of Subchapter C of RCRA given the application of the program at the INL facility.

The comment letter focuses on recent permitting activities conducted by DEQ at the INL facility. In a petition submitted to OIG on April 28, 2006, the commenters requested that OIG review DEQ’s permitting activities at the INL facility. Similar questions were raised in petitions submitted to EPA on August 8, 2000, on September 13, 2001, and in follow-up letters and correspondence in 2003, 2004, and 2006 related to the 2000 and 2001 petitions.

In the 2001 petition, the commenters sought EPA’s withdrawal of Idaho’s authorization to implement the hazardous waste program under RCRA after citing permitting concerns at the INL facility. EPA, in response to that petition, conducted an informal investigation and determined that sufficient evidence did not exist to initiate formal withdrawal proceedings. EPA’s determination was issued on March 20, 2002, with a follow-up response on June 20, 2002. The supporting documentation was provided to the commenters at that time and the documentation is currently available to the public under the Freedom of Information Act.

In 2003, the OIG requested that Region 10 conduct a second investigation to answer a series of follow-up questions related to the 2001 petition. EPA conducted this second investigation and issued its findings in 2003. These investigation results were also provided to Mr. David McCoy, one of the current commenters, as part of an October 13, 2004 Freedom of