

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP—Continued

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
Section 45–19–5 .....	Conditions for Permit Approval for Sources Locating In Attainment or Unclassifiable Areas that Would Cause a New Violation of a NAAQS.	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–7 .....	Baseline for Determining Credit for Emission Offsets.	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–8 .....	Location of Emissions Offsets .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–9 .....	Administrative Procedures for Emission Offset Proposals.	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–12 .....	Reasonable Further Progress .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–13 .....	Source Impact Analysis .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–14 .....	Permit Requirements for Major Stationary Sources and Major Modifications.	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–15 .....	Public Review Procedures .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–16 .....	Public Meetings .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–17 .....	Permit Transfer, Cancellation and Responsibility	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–18 .....	Disposition of Permits .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–19 .....	Requirements for Air Quality Models .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–23 .....	Actual PAL .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–24 .....	Conflict with Other Permitting Rules .....	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–19–25 .....	Inconsistency Between Rules .....	6/2/05	11/2/06 [Insert page number where the document begins].	

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 [FR Doc. E6–18277 Filed 11–1–06; 8:45 am]  
 BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 52**  
**[EPA–R03–OAR–2006–0527; FRL–8236–5]**  
**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Amendments to Prevention of Significant Deterioration (PSD) Air Quality Permit Program**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision establishes amendments to the State’s prevention of significant deterioration (PSD) preconstruction air quality permit program regulation. The intended effect of this action is the approval of a State Implementation Plan (SIP) revisions submitted by West Virginia Department of Environmental Protection.  
**DATES:** *Effective Date:* This final rule is effective on December 4, 2006.  
**ADDRESSES:** EPA has established a docket for this action under Docket ID

Number EPA-R03-OAR-2006-0527. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, and 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal is available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, WV 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:**

### I. Background

On August 9, 2006 (71 FR 45485), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of amendments to West Virginia's prevention of significant deterioration (PSD) preconstruction air quality permit program. The formal SIP revision was submitted by West Virginia on December 1, 2005. On December 22, 2005, WVDEP provided supplemental materials consisting of a letter and an attached one page table requesting that EPA exclude from its December 1, 2005 request for SIP approval the provisions of 45 CSR 14, as set forth in the attached table, that pertain to "Clean Unit" and "Pollution Control Project" in order to ensure that their federally-approved regulations are consistent with the United States Court of Appeals for the District of Columbia Circuit's June 24, 2005 ruling in *New York v. EPA*, 413 F.3d 3 (D.C. Cir 2005). In a separate action, EPA will act on changes made by West Virginia to its nonattainment new source review (NSR) permit program, also submitted on December 1, 2005.

The Clean Air Act requires that all states including the District of Columbia to submit revisions to their State Implementation Plans that requires State and local permitting agencies to adopt and submit revision to their part 51 permitting programs, implementing the minimum program elements of the December 31, 2002 "NSR Reform"

rulemaking no later than January 2, 2006 (67 FR 80240). West Virginia amended its regulation to satisfy this requirement.

### II. Summary of SIP Revision

West Virginia amended its regulation (45 CSR 14) to meet the minimum requirements of 40 CFR 51.166 and the Clean Air Act. This approval action will effectively replace the previous-approved version of 45 CSR 14 as approved in the West Virginia SIP on October 22, 1996 (61 FR 54735).

Other specific requirements of West Virginia's existing prevention of significant deterioration (PSD) construction permit program as 45 CSR 14 and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

### III. Final Action

EPA is approving amendments to the State's prevention of significant deterioration (PSD) preconstruction air quality permit program regulations as a revision to the West Virginia SIP.

### IV. 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 tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action merely approves a state rule implementing a Federal requirement, 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 is not economically significant.

In reviewing SIP 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 a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP 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. 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 January 2, 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) This final rule approves West

Virginia's prevention of significant deterioration (PSD) preconstruction air quality permit program.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 16, 2006.  
**William T. Wisniewski,**  
*Acting Regional Administrator, Region III.*

■ 40 CFR Part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

**Subpart XX—West Virginia**

■ 2. In § 52.2520, the table in paragraph (c) is amended by revising the entries for 45 CSR 14 to read as follows:

**§ 52.2520 Identification of plan.**

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 (c) \* \* \*

**EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP**

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
45 CSR 14	Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration			
Section 45–14–1	General	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–14–2	Definitions	6/2/05	11/2/06 [Insert page number where the document begins].	
Section 45–14–3	Applicability	6/2/05	11/2/06 [Insert page number where the document begins].	New Section.
Section 45–14–4	Ambient Air Quality Increments and Ceilings	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–3.
Section 45–14–5	Area Classification	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–4.
Section 45–14–6	Prohibition of Dispersion Enhancement Techniques.	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–5.
Section 45–14–7	Registration, Report and Permit Requirements for Major Stationary Sources and Major Modification.	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–6.
Section 45–14–8	Control Technology Requirements	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–7.
Section 45–14–9	Requirements Relating to the Source's Impact on Air Quality.	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–8.
Section 45–14–10	Modeling Requirements	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–9.
Section 45–14–11	Air Quality Monitoring Requirements	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–10.
Section 45–14–12	Additional Impacts Analysis Requirements	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–11.
Section 45–14–13	Additional Requirements and Variances for Sources Impacting Federal Class I Areas.	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–12.
Section 45–14–14	Procedures for Sources Employing Innovative Control Technology.	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–13.
Section 45–14–15	Exclusions From Increment Consumption	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–14.

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP—Continued

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
Section 45–14–16 .....	Specific Exemptions .....	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–15.
Section 45–14–17 .....	Public Review Procedures .....	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–16.
Section 45–14–18 .....	Public Meetings .....	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–17.
Section 45–14–19 .....	Permit Transfer, Cancellation, and Responsibility.	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–18.
Section 45–14–20 .....	Disposition of Permits .....	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–19.
Section 45–14–21 .....	Conflict with Other Permitting Rules .....	6/2/05	11/2/06 [Insert page number where the document begins].	Formerly Section 45–14–20.
Section 45–14–25 .....	Actual PALs .....	6/2/05	11/2/06 [Insert page number where the document begins].	New Section.
Section 45–14–26 .....	Inconsistency Between Rules .....	6/2/05	11/2/06 [Insert page number where the document begins].	New Section.
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 [FR Doc. E6–18276 Filed 11–1–06; 8:45 am]  
 BILLING CODE 6560–50–P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA–2006–15712]

**Federal Motor Vehicle Safety Standards; Glazing Materials; Correction**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Correcting amendment.

**SUMMARY:** In July 2003, the agency published a final rule updating our Federal motor vehicle safety standard on glazing materials. As part of that rulemaking, boundaries were established for shade bands on vehicle windshields in order to limit their potential encroachment on the driver’s field of view. As part of the new shade band requirements, the Society of Automotive Engineers (SAE) Recommended Practice J100 (rev. June 1995), “Class ‘A’ Vehicle Glazing Shade Bands,” was incorporated by reference into the standard. However, in a July

2005 final rule responding to petitions for reconsideration of that earlier rulemaking, the standard’s provisions related to shade bands requirements were amended, and as a result, a later but substantively identical version of SAE J100 (*i.e.*, the November 1999 revision) was inadvertently included in the standard. The July 2005 final rule should have referenced SAE J100 (rev. June 1995), the document properly incorporated by reference into the safety standard. This document corrects this inconsistency resulting from administrative error.

**DATES:** *Effective date:* This correcting amendment is effective December 4, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eric Stas, Attorney-Advisor, Office of the Chief Counsel, NCC–112, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

**SUPPLEMENTARY INFORMATION:** On July 25, 2003, the agency published a final rule updating Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials* (68 FR 43964). As part of that rulemaking, boundaries were established for shade bands on vehicle windshields in order to limit their potential encroachment on the driver’s field of view. Prior to that rulemaking, the size of the shade band was not explicitly defined under the standard.

As part of the new shade band requirements (*see* S3.2(c)), the final rule incorporated by reference SAE Recommended Practice J100 (rev. June 1995), “Class ‘A’ Vehicle Glazing Shade Bands” into the standard (*see* 68 FR 43964, 43972 (July 25, 2003)).

However, in a July 12, 2005 final rule responding to petitions for reconsideration of that earlier rulemaking, the standard’s provisions related to shade bands requirements were amended, and as a result, a later version of SAE J100 (*i.e.*, the November 1999 revision) was inadvertently included in the standard under paragraph S5.3.1 (*see* 70 FR 39959, 39965). The latest version of SAE J100 (the November 1999 revision) is not substantively different from the prior June 1995 version of that standard; it merely reaffirmed that Recommended Practice as part of SAE’s cyclical review process. Furthermore, the final rule responding to petitions for reconsideration does not reflect any affirmative intention on the part of the agency to adopt the later version of SAE J100. Thus, the July 2005 final rule’s amendments to Standard No. 205 should have referenced SAE J100 (rev. June 1995), the document properly incorporated by reference into the safety standard. This document corrects this inconsistency resulting from administrative error.