facsimile transmission. The Office is waiving this provision at this time in order to assist claimants in the timely filing of their claims.

d. By Mail

Section 259.5(a)(2) directs claimants filing their claims by mail to send the claims to the Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Claimants electing to send their claims by mail are encouraged to send their claims by certified mail return receipt requested, to have the certified mail receipt (PS Form 3800) stamped by the United States Postal Service, and to retain the certified mail receipt in order to provide proof of timely filing, should the claim reach the Office after the last day in February. In the event there is a question as to whether the claim was deposited with the United States Postal Service during the months of January or February, the claimant must produce the certified mail receipt (PS Form 3800) which bears a United States Postal Service postmark, indicating an appropriate date.

Because of delays in mail delivery, claimants are urged not to use the mail as a means of filing their claims to the 2002 DART royalty funds. While the Office is not prohibiting the filing of claims by mail, those who do so assume the risk that their claim will not reach the Office in a timely manner, and/or that the mail, when received by the Office, will be damaged. Claims sent by mail should be addressed in accordance with § 259.5(a)(2), and the Office again strongly encourages the claimant to send the claim by certified mail return receipt requested, to have the certified mail receipt (PS Form 3800) stamped by the United States Postal Service, and to retain the certified mail receipt, as it constitutes the only acceptable proof of timely filing of the claim. Claims dated only with a business meter that are received by the Office after February 28, 2003, will be rejected as being untimely filed.

When filing claims by this method, claimants must follow all provisions set forth in 37 CFR part 259.

Waiver of Regulation

The regulations governing the filing of DART claims require ''the original signature of the claimant or of a duly authorized representative of the claimant,'' 37 CFR 259.3(b), and do not allow claims to be filed by ''facsimile transmission,'' 37 CFR 259.5(d). This document, however, waives these provisions as set forth herein solely for the purpose of filing claims to the 2002 DART royalties. The Office is not, and indeed cannot, waive the statutory deadline for the filing of DART claims. *See, United States* v. *Locke,* 471 U.S. 84, 101 (1985). Thus, claimants are still required to file their claims by February 28, 2003.

Waiver of an agency's rules is ''appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.'' *Northeast Cellular Telephone Company* v. *FCC,* 897 F.2d 1164, 1166 (D.C. Cir. 1990); *see also, Wait Radio* v. *FCC,* 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied,* 409 U.S. 1027 (1972). Under ordinary circumstances, the Office is reluctant to waive its regulations. However, the continuing delays in the delivery of the mail constitutes a special circumstance which has forced the Office to deviate from its usual mail processing procedures. Thus, given the delays in mail delivery, the Office believes that the public interest will best be served by waiving, for this filing period, the requirement that DART claims bear the original signature of the claimant or of a duly authorized representative of the claimant, when, and only when, such claim is filed on-line through the Office's website. *See* 67 FR at 5214.

The Office cannot waive the statutory deadline set forth in 17 U.S.C. 1007 and accept claims filed after February 28, 2003. *See Locke, supra.* Therefore, in order to serve the public interest the Office is providing claimants with alternative methods of filing, in addition to those set forth in the regulations, in order to assist them in timely filing their claims. By allowing claims to be filed on-line and by facsimile transmission, the Office is affording to all claimants an equal opportunity to meet the statutory deadline.

Dated: November 26, 2002.

David O. Carson,

General Counsel.

[FR Doc. 02–30445 Filed 11–29–02; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7415–2]

Clean Air Act Approval of Revision to Operating Permits Program in Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve, as a revision to Washington's title V air operating permits program, revisions to Washington's regulations for insignificant emissions units and other minor revisions to Washington's title V regulations. In a notice of deficiency published in the **Federal Register** on January 2, 2002 (67 FR 73), EPA notified Washington of EPA's finding that Washington's provisions for insignificant emissions units do not meet minimum Federal requirements for program approval. Final approval of this program revision resolves the deficiency identified in the Notice of Deficiency.

EFFECTIVE DATE: January 2, 2003.

ADDRESSES: Copies of Washington's submittal and other supporting information used in developing this action are available for inspection during normal business hours at the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Jeff Kenknight, Office of Air Quality (OAQ–107), U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–6641.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) requires all State and local permitting authorities to develop operating permits programs that meet the requirements of title V of the Act, 42 U.S.C. 7661–7661f, and its implementing regulations, 40 CFR part 70. Washington's operating permits program was submitted in response to this directive. EPA granted interim approval to Washington's air operating permits program on November 9, 1994 (59 FR 55813). EPA repromulgated final interim approval of Washington's operating permits program on one issue, along with a notice of correction, on December 8, 1995 (60 FR 62992).

Washington's title V operating permits program is implemented by the Washington Department of Ecology (Ecology), the Washington Energy Facility Site Evaluation Commission (EFSEC), and seven local air pollution control authorities: The Benton Clean Air Authority (BCAA); the Northwest Air Pollution Authority (NWAPA); the Olympic Regional Clean Air Authority (ORCAA); the Puget Sound Clean Air Agency (PSCAA); the Spokane County Air Pollution Control Authority

(SCAPCA); the Southwest Clean Air Agency (SWCAA); and the Yakima Regional Clean Air Authority (YRCAA). After these State and local agencies revised their operating permits programs to address the conditions of the interim approval, EPA promulgated final full approval of Washington's title V operating permits program on August 13, 2001 (66 FR 42439).

On May 15, 2002, Ecology proposed revisions to its regulations for insignificant emissions units (IEU), as well as other minor revisions to its title V regulations. The proposed revisions to Ecology's IEU regulations were intended to resolve a deficiency in Washington's title V program identified by EPA in a notice of deficiency published in the **Federal Register** on January 2, 2002 (67 FR 73). On June 28, 2002, EPA proposed to approve Ecology's proposed revisions to its title V regulations at the same time that Ecology was considering and taking public comment on the proposed changes. *See* 67 FR 43575. The public comment period on the Ecology regulations ended on June 21, 2002. In response to comments received by Ecology during that public comment process, Ecology made minor changes to its proposed title V revisions. On September 26, 2002, Ecology submitted the final revisions to its title V regulations and asked EPA to give final approval to the revisions.

EPA received no comments on its proposal to approve Ecology's proposed revisions to its title V regulations. EPA has reviewed Ecology's final submittal and has determined that the minor changes made by Ecology in response to public comment at the state level do not change the substance of the regulatory revisions proposed by Ecology and continue to meet the requirements of part 70. Accordingly, EPA is taking final action to approve Ecology's final revisions to its IEU provisions, as well as the other minor revisions to its title V regulations.

The version of WAC 173–401–530 (Ecology's IEU provision) finalized by Ecology is identical to the proposed rule submitted to EPA in May 2002. Ecology did make a minor change to the definition of ''continuous compliance,'' which is used in the IEU provision as well as elsewhere in Ecology's title V regulations in describing the compliance certification obligations of permittees. The definition of ''continuous compliance'' proposed by Ecology was identical to the definition in the instructions to the standard annual compliance certification form developed by EPA for use by permittees subject to the Federal operating permits program. *See http://www.epa.gov/oar/oaqps/permits/p71forms.html.* Under that definition, a permittee could certify continuous compliance if there were no ''deviations and no other information that indicates deviations, except for malfunctions or upsets during which compliance is not required.'' The final definition adopted by Ecology states that a permittee could certify continuous compliance if there were no ''deviations and no other information that indicates deviations, except for unavoidable excess emissions or other operating conditions during which compliance is not required.'' Ecology has clarified that nothing in the final definition of ''continuous compliance'' it adopted was intended to take a position on whether compliance is or is not required during unavoidable excess emissions or other operating conditions. EPA therefore continues to believe that the definition of ''continuous compliance'' is approvable. As noted by EPA in the proposal and by Ecology during its rulemaking process, however, Ecology would be required to later revise its definition of ''continuous compliance'' if EPA later adopts a definition of this term after notice and comment rulemaking and Ecology's definition is not consistent with the Federal definition. *See* 67 FR 43577.

Ecology also added a sentence to the proposed definition of ''intermittent compliance,'' which is also used in describing the compliance certification obligations of permittees. The added sentence clarifies that a certification of intermittent compliance is appropriate where the monitoring data or other information shows there are periods of noncompliance or periods of time during which monitoring required by the permit was not performed or recorded. EPA finds this definition approvable, subject again to the qualification that if EPA later adopts a definition of ''intermittent compliance'' after notice and comment rulemaking and if the Ecology definition is not consistent with the Federal definition, Ecology would be required to later revise its definition.

Ecology also made a further change to the definition of ''major source'' in its final title V revisions. *See* WAC 173–401–200. In the final rule adopted by Ecology, the definition of ''major source'' is consistent with EPA's recent amendments to the definition of ''major source'' in part 70 in all respects. *See* 66 FR 59161 (November 27, 2001). As originally proposed, the Ecology definition was more stringent than EPA's definition in one respect. *See* 67 FR 43577. Because the final definition of ''major source'' adopted by Ecology is consistent with the definition in part 70, EPA continues to believe that Ecology's final change to the definition of ''major source'' is approvable.

Finally, Ecology made a minor change to its proposed revision to the time for reporting of deviations that do not represent a potential threat to human health or safety.[1] *See* WAC 173–401–615(3)(b). As proposed, such a deviation was required to be reported no later than 30 days after the end of the month during which the deviation is discovered or as part of routine emission monitoring reports, whichever occurred first. In the final version, the rule requires such deviations to be reported no later than 30 days after the end of the month during which the deviation is discovered. This is still more stringent that the previous version of Ecology's rule which gave permitting authorities the discretion to require reporting of ''other deviations'' (that is, deviations that do not represent a potential threat to human health or safety) either no later than 30 days after the end of the month during which the deviation is discovered or as part of routine emission monitoring reports. EPA therefore continues to believe that the final rule adopted by Ecology is consistent with the requirements of part 70.

II. Final Action

EPA is taking final action to approve as a revision to Ecology's title V air operating permits program revisions to Ecology's regulations for IEUs, specifically, revisions to WAC 173–401–530(2)(c) and the deletion of WAC 173–401–530(2)(d). EPA has determined that these changes meet the requirements of title V and part 70 relating to IEUs, and adequately address the deficiency identified in the notice of deficiency published in the **Federal Register** on January 2, 2002 (67 FR 73). EPA is also approving the addition of definitions for ''continuous compliance'' and ''intermittent compliance,'' the change to the definition of ''major source,'' changes to clarify that the use of a standard application form is not required if all required information is provided by the applicant, and a change to the time frame for the prompt reporting of permit deviations. Because the revisions chapter 173–401 apply throughout the State of Washington, this approval applies to all State and local agencies that implement Washington's operating permits program. As discussed above, those agencies include

[1] Reporting of deviations that represent a potential threat to human health and safety continues to be required as soon as possible, but in no case later than twelve hours after the deviation is discovered. WAC 173–401–615(3)(b).

Ecology, EFSEC, BCAA, NWAPA, ORCAA, PSCAA, SCAPCA, SWCAA, and YRCAA.

Consistent with EPA's proposal to approve these revisions, this approval does not extend to ''Indian Country,'' as defined in 18 U.S.C. 1151, except with respect to non-trust lands within the 1873 Survey Area of the Puyallup Reservation.[2] *See* 66 FR 42439, 42440 (August 13, 2001); 64 FR 8247, 8250–8251 (February 19, 1999); 59 FR 42552, 42554 (August 18, 1994).

III. Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (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. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities because it merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under State law and does not impose any additional enforceable duties beyond that required by State law. 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, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will 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, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely approves existing requirements under State law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government 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) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, *see* 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. 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 State 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, to use VCS in place of a State program 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.

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 31, 2003. 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* CAA section 307(b)(2).

List of Subjects in 40 CFR Part 70

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

Dated: November 20, 2002.

Ronald A. Kreizenbeck,

Deputy Regional Administrator, Region 10.

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. In appendix A to part 70, the entry for Washington is revised to read as follows:

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

* * * * *

Washington

(a) Department of Ecology (Ecology): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(b) Energy Facility Site Evaluation Council (EFSEC): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(c) Benton Clean Air Authority (BCAA): Submitted on November 1, 1993; interim approval effective on

[2] As these terms are defined in the Agreement dated August 27, 1988, among the Puyallup Tribe of Indians, local governments in Pierce County, the State of Washington, the United States, and certain private property owners.

December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(d) Northwest Air Pollution Authority (NWAPA): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(e) Olympic Regional Clean Air Authority (ORCAA): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(f) Puget Sound Clean Air Agency (PSCAA): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(g) Spokane County Air Pollution Control Authority (SCAPCA): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(h) Southwest Clean Air Agency (SWCAA): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

(i) Yakima Regional Clean Air Authority (YRCAA): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 26, 2002; revision approved January 2, 2003.

* * * * *

[FR Doc. 02–30465 Filed 11–29–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps ((FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2878 or (e-mail) *michael.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of the final determinations of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator, Federal Insurance and Mitigation Administration, has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under