

**ACTIONS:** Waiver of rule requiring certain specified pixel count for drawings submitted electronically.

**SUMMARY:** The United States Patent and Trademark Office ("Office") is waiving the requirement that drawings filed through the Trademark Electronic Application System ("TEAS") have a length and width of no less than 250 pixels and no more than 944 pixels.

**DATES:** *Applicability Date:* The requirement of 37 CFR 2.53(c) are hereby waived as of October 6, 2004.

**FOR FURTHER INFORMATION CONTACT:** Cheryl L. Black, Office of the Commissioner for Trademarks, by telephone at (703) 308-8910, ext. 153, or by e-mail to [cheryl.black@uspto.gov](mailto:cheryl.black@uspto.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

A final rule amending the Trademark Rules of Practice was published on September 26, 2003, at 68 FR 55748. The purpose of the final rule was to clarify and improve the procedures for processing trademark applications, and to implement the Madrid Protocol Implementation Act of 2002, Public Law 107-273, 116 Stat. 1758, 1913-1921 ("MPIA"), which provide a system for obtaining an international registration. The MPIA amended the Trademark Act of 1946 to implement the provisions of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ("Madrid Protocol"). The final rule added a new § 2.53, setting forth the requirements for a drawing filed through TEAS. Section 2.53(c) provides as follows:

(c) *Requirements for digitized image:* The image must be in .jpg format and scanned at no less than 300 dots per inch and no more than 350 dots per inch with a length and width of no less than 250 pixels and no more than 944 pixels. All lines must be clean, sharp and solid, not fine or crowded, and produce a high quality image when copied.

These requirements were deemed necessary to ensure that the Office's database contains a clear and accurate reproduction of the mark and meets the 8 cm by 8 cm size limit that is required for an international application under the Madrid Protocol.

The Office has determined that it is not always necessary to have the pixel count required by the rule in order to produce a clear and accurate reproduction of a mark.

**Partial Waiver of § 2.53(c)**

Accordingly, until further notice, the Office hereby waives the requirement of § 2.53(c) that drawings filed through

TEAS must have a length and width of no less than 250 pixels and no more than 944 pixels. Although the requirement is hereby waived, the Office encourages applicants to continue to submit drawings with a length and width of no less than 250 pixels and no more than 944 pixels.

The other requirements of § 2.53(c) remain in effect. That is, a drawing filed through TEAS must be in .jpg format and scanned at no less than 300 dots per inch and no more than 350 dots per inch. All lines must be clean, sharp and solid, not fine or crowded, and produce a high quality image when copied.

**Other Considerations**

The change addressed in this rule is limited to waiving a requirement that drawings filed through TEAS have a length and width of no less than 250 pixels and no more than 944 pixels. This change involves rules of agency practice and procedure under 5 U.S.C. 553(b)(A). Therefore, prior notice and opportunity for public comment, and thirty-day advance publication, are not required pursuant to 5 U.S.C. 553 (or any other law). As a result, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. See 5 U.S.C. 603.

Dated: September 24, 2004.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 04-22365 Filed 10-5-04; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 35**

[OW-2004-0034; FRL-7825-2]

**Revised Allotment Formula for Interstate Monies Appropriated Under Section 106 of the Clean Water Act**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation revises the allotment formula for allotting funds appropriated under section 106 of the Clean Water Act (CWA) to interstate agencies for use in implementing specific elements of Clean Water Act programs. Section 106 of the CWA authorizes the Environmental Protection Agency (EPA) to provide grants to states, interstate agencies, and Indian tribes qualified under CWA section 518(e) to assist them in administering

programs for the prevention, reduction, and elimination of water pollution. The allotment formulas for the state and tribal portions of the CWA section 106 Grant Program are not affected by this action.

**DATES:** This regulation is effective October 6, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. OW-2004-0034. All documents in the docket are listed in the EDOCKET Index at <http://www.epa.gov/edocket>. Although listed in the index, 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 in EDOCKET or in hard copy at the Water Docket in the EPA Docket Center (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

**FOR FURTHER INFORMATION CONTACT:** Carol Crow, Office of Wastewater Management (4201M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The telephone number is (202) 564-0644; facsimile number (202) 501-2399; and e-mail address is [crow.carol@epa.gov](mailto:crow.carol@epa.gov).

**SUPPLEMENTARY INFORMATION:** CWA section 106(a) provides general authority for grants to states, interstate agencies, and Indian tribes qualified under CWA section 518(e) to assist them in administering programs for the prevention, reduction, and elimination of water pollution. Section 106(b) of the CWA directs the EPA Administrator to make allotments from sums appropriated by Congress in each fiscal year "on the basis of the extent of the pollution problem in the respective states." National data quantifying the extent of the pollution problem in each state have increased in reliability and availability since the first CWA section 106 grants to states and interstates were made in 1972. To reflect this improvement, the formulae for making state and interstate allocations on the basis of the extent of the pollution problem underwent several revisions. The most recent revision was published

as a final rule in the May 3, 1999, **Federal Register** (64 FR 23734). To prevent sudden fluctuations in annual state section 106 grant funding that could compromise the effectiveness of state programs, the revised formula for allotting funds to the states established a funding floor based on each state's previous level of funding. This "hold harmless" provision ensures that unless there is a decrease in the CWA section 106 state appropriation, each state will receive at least the same level of funding as the previous year.

The state funding floor is adjusted for inflation when the funds appropriated for states under the Water Pollution Control State grant program increase from the preceding fiscal year. These adjustments are made on the basis of the cumulative change in the Consumer Price Index (CPI), published by the U.S. Department of Labor, since the most recent year in which Water Pollution Control State grant funding increased. Inflation adjustments for states are capped at the lesser of the percentage of change in appropriated funds or the cumulative percentage change in the inflation rate.

The section 106 interstate formula historically has not used a funding floor to allocate funds. However, due to fluctuations in interstate allocations since the implementation of the most recent section 106 state and interstate formula revisions, and in response to a request from eligible interstate agencies, EPA is modifying the interstate allotment formula to incorporate a funding floor and an inflation factor so that it is consistent with the current state allocation formula. This "hold harmless" provision will ensure that unless there is a decrease in the CWA section 106 state appropriation, each interstate agency will receive, at a minimum, the same level of section 106 funding received in the previous fiscal year.

The funding floor will be adjusted for inflation when the funds appropriated for states under the Water Pollution Control State grant program increase from the preceding fiscal year. These adjustments will be made on the basis of the cumulative change in the CPI, published by the U.S. Department of Labor, since the most recent year in which the Water Pollution Control State grant funding increased. Inflation adjustments to the interstate agency funding floor will be capped at the lesser of the percentage of change in appropriated funds or the cumulative percentage change in the inflation rate. Any section 106 appropriated funds allocated to the interstate agencies through the interstate set-aside above

the amount needed to meet the funding floor described above will be distributed based on "the extent of the pollution problem in the respective states." Specifically, in the case of interstate agencies, this additional allotment will be based on the extent of the pollution problem in those states within the drainage basin or watershed area covered by the compact of each interstate agency. This variable component of the current interstate allotment formula remains unchanged by this action.

**Regulated Entities:** The six interstate agencies eligible to receive grants under section 106 of the Clean Water Act are regulated by this rule. They are: the New England Interstate Water Pollution Control Commission; Interstate Environmental Commission; Interstate Commission of the Potomac River Basin; Delaware River Basin Commission; Susquehanna River Basin Commission; and the Ohio River Valley Water Sanitation Commission.

**Background:** The current CWA section 106 interstate agency allotment formula was finalized in FY 1999. Since FY 1999, the interstate set-aside has been set at the level of 2.6 percent of the total funds appropriated for states under the CWA Section 106 Grant Program. The current section 106 interstate agency allotment formula consists of two parts: (1) a base allotment; and (2) a variable allotment. See, 40 CFR 35.162(c)(1) and (2).

The base allotment of the current formula ensures that each interstate agency receives a minimum base allotment of \$125,000 to provide for coordination activities among its member states. However, no more than 50 percent of the total funding available through the interstate set-aside may be allocated as part of the base allotment. If, given the 50 percent limitation placed on the base allotment, the amount of funding available through the interstate set-aside is insufficient to provide each interstate agency with \$125,000, then each interstate agency receives a base allotment equal to 50 percent of the total interstate set-aside divided by six; the number of interstate agencies.

The variable allotment provides for funds to be allocated to interstate agencies on the basis of "the extent of the pollution problem in the respective States;" specifically, in the case of the allotment to interstate agencies, those states within the drainage basin or watershed area covered by the compact of each interstate agency. Funds not allotted under the base allotment are allocated to interstate agencies based on each interstate agency's share of their

member states' section 106 allotment ratios. The state allotment ratios for those states involved in compacts with more than one interstate agency are allocated among such interstate agencies based on the percentage of each state's territory that is situated within the drainage basin or watershed area covered by each compact. Updates to the data sources used to determine the state allotments under the CWA section 106 state allocation formula automatically result in corresponding updates to the variable allotment to the interstate agencies.

While the current interstate "base allotment" ensures a minimum \$125,000 base level of funding for all interstate agencies, increases in funding available to interstate agencies since the formula revisions in 1999 have increased each interstate agency's total allotment. As a result, the base allotment level of funding is no longer sufficient to protect each interstate agency from potentially significant fluctuations in total funding resulting from the regularly scheduled updates to the support data for the section 106 state formula. This has resulted in unexpected decreases in funding for some interstates and has impacted their ability to plan for and implement their program activities. This revision is meant to protect the interstate agencies from the most detrimental impacts of such adjustments in the allocation of section 106 funds.

**Statutory and Executive Order Reviews:** Under Executive Order 12866 (58 FR 51735, October 4, 1993), this regulation is not a "significant regulatory action" and is therefore not subject to OMB review. Because this grant regulation is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104-4). In addition, this regulation does not significantly or uniquely affect small governments. This regulation does not have tribal implications, as specified in Executive Order 13175 (63 FR 67249, November 9, 2000). This regulation will not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This regulation is not subject to 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 significant regulatory action under Executive Order 12866. This regulation does not involve technical standards; 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 regulation does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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. Since this final grant rule contains legally binding requirements, it is subject to the Congressional Review Act, 5 U.S.C. 801 *et seq.*, and EPA will submit this rule in its report to Congress under the Act.

#### List of Subjects in 40 CFR Part 35

Environmental protection, Administrative practices and procedures, Environmental program grants, Water pollution control.

Dated: September 30, 2004.

Mike O. Leavitt,  
Administrator.

■ EPA amends 40 CFR part 35 as follows:  
■ 1. The authority citation for part 35, subpart A continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*; 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 300f *et seq.*; 42 U.S.C. 6901 *et seq.*; 7 U.S.C. 136 *et seq.*; 15 U.S.C. 2601 *et seq.*; 42 U.S.C. 13101 *et seq.*; Pub. L. 104–134, 110 Stat. 1321, 1321–299 (1966); Pub. L. 105–65, 111 Stat. 1344, 1373 (1997).

#### Subpart A—Amended

■ 2. Section 35.162 is amended by revising paragraphs (c) introductory text and (c)(1) to read as follows:

##### § 35.162 Basis for allotment.

\* \* \* \* \*

(c) *Interstate allotment formula.* EPA will set-aside 2.6 percent of the funds appropriated for the Water Pollution Control State grant program for interstate agencies. The interstate agency Water Pollution Control grant allotment formula consists of two parts: a funding floor with provisions for periodic adjustments for inflation, and a variable allotment.

(1) *Funding Floor.* A funding floor is established for each interstate agency. Each interstate's funding floor for FY 2005 will be at least equal to its FY 2003 allotment. Beginning in FY 2006, the interstate funding floor will ensure that unless there is a decrease in the CWA section 106 state appropriation, each interstate will receive at a minimum, the same level of funding received in the

previous fiscal year. The funding floor for each interstate agency will be adjusted for inflation when the funds appropriated for states under the Water Pollution Control State grant program increase from the preceding fiscal year. These adjustments will be made on the basis of the cumulative change in the Consumer Price Index (CPI), published by the U.S. Department of Labor, since the most recent year in which Water Pollution Control State grant funding increased. Inflation adjustments to the interstate agency funding floor will be capped at the lesser of the percentage of change in appropriated funds or the cumulative percentage change in the inflation rate. If the appropriation for states under the Water Pollution Control State grant program decreases in future years, the funding floor will be disregarded and all interstate agency allotments will be reduced by an equal percentage.

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[FR Doc. 04–22523 Filed 10–6–04; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[VA156–5084a; FRL–7824–2]

### Approval and Promulgation of Air Quality Implementation Plans; Virginia; NO<sub>x</sub> RACT Determinations for Washington Gas Company

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Virginia State Implementation Plan (SIP). The revision consists of a reasonably available control technology (RACT) for the control of nitrogen oxides (NO<sub>x</sub>) from Washington Gas Company, Ravensworth Station, Registration No. 72277, located in Fairfax County, Virginia. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on December 6, 2004 without further notice, unless EPA receives adverse written comment by November 5, 2004. 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 VA156–5084 by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

B. *E-mail:* [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

C. *Mail:* Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, 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. VA156–5084. EPA's policy is that all comments received will be included in the public docket without change, 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 [regulations.gov](http://www.regulations.gov) or e-mail. The Federal [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 [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.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Commonwealth of Virginia, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Betty Harris, (215) 814–2168, or by e-mail at [harris.betty@epa.gov](mailto:harris.betty@epa.gov).

**SUPPLEMENTARY INFORMATION:**