

US EPA ARCHIVE DOCUMENT

employee of the Interior Department in the performance of his or her duties under this Part may be prosecuted in Federal court under 18 U.S.C. 111.

(b) Any eligible Indian who forcibly assaults, resists, impedes, or interferes with a law enforcement officer, biologist or other authorized employee in the performance of his or her duties under this Part shall be fined not more than \$500, sentenced to jail for a period not to exceed six months and have his or her fishing rights suspended for not more than one hundred eighty days during the fall chinook runs.

12. By adding a new § 250.19 to read as follows:

§ 250.19 Juries.

(a) A jury trial shall be provided upon demand by the defendant in any case in which the court determines, assuming all allegations are proved true, that a jail sentence may be imposed.

(b) A list of eligible jurors shall be developed from the list of eligible Indians.

(c) A jury shall consist of six eligible Indians chosen by the judge pursuant to rules promulgated by the court.

(d) No juror may be seated unless the court concludes beyond a reasonable doubt that he or she is able to render a fair and impartial verdict.

(e) The judge shall instruct the jury in the law governing the case and the jury shall reach a verdict of guilt or innocence as to each count charged.

(f) Verdicts shall be rendered by unanimous vote.

(g) The jury shall return a verdict of guilty if it concludes beyond a reasonable doubt that the defendant committed the offense with which he or she is charged.

(h) Each juror who serves on a jury is entitled to a fee not less than the hourly minimum wage scale established by 29 U.S.C. § 206(a)(1), and any of its subsequent revisions, plus fifteen cents per mile travel costs. Each juror shall receive the travel allowance and pay for a full day (eight hours) for any portion of a day served.

(25 U.S.C. 2, 9 and 13; Reorganization Plan No. 3 of 1950, 64 Stat. 1262)

Dated: September 1, 1983.

Kenneth L. Smith,
Assistant Secretary—Indian Affairs.

[FR Doc. 83-25384 Filed 9-16-83; 8:45 am]

BILLING CODE 4310-02-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1610

Freedom of Information Act; Schedule of Fees

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations on the availability of records so that its schedule of fees for the search of records will reflect increases in the direct costs incurred by the Commission in responding to requests for records.

EFFECTIVE DATE: October 19, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony J. De Marco, Assistant Legal Counsel, Legal Services, Office of the Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506, (202) 634-6592.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission published a notice of proposed rulemaking (48 FR 18837) on April 26, 1983, proposing to amend 29 CFR 1610.15(a). Today's action makes final the amendment of that regulation as proposed in the April 26, 1983 notice. This provision contains a schedule of fees utilized by the Commission for purposes of assessing costs to individuals who seek access to records under the Freedom of Information Act, 5 U.S.C. 552. The present fee schedule has become outdated since it does not reflect increases in direct costs to the Commission for the search for records requested. The higher costs are attributable to increases in the salaries of personnel required to search for records. The last search fee revision occurred in 1978. 43 FR 40223 (Sept. 11, 1978).

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and Executive Order 12291, the Equal Employment Opportunity Commission certifies that the economic effects of this rule have been carefully analyzed, and that it has been determined that neither a regulatory flexibility analysis nor a regulatory impact analysis is required.

This regulation is published pursuant to the requirements of the Freedom of Information Act, 5 U.S.C. 552(a)(4)(A). This provision is also promulgated in accordance with 31 U.S.C. 438a.

Comments: No comments were received regarding the proposed changes in these regulations.

List of Subjects in 29 CFR Part 1610 Freedom of Information.

PART 1610—AVAILABILITY OF RECORDS

Section 1610.15 of Title 29 of the Code of Federal Regulations is hereby amended so that paragraph (a) will read as follows:

§ 1610.15 Schedule of fees and method of payment for services rendered.

(a) Except as otherwise provided, the following specific fees shall be applicable with respect to services rendered to members of the public under this subpart:

(1) For actual search time by clerical personnel—at the rate of \$7.00 per hour.

(2) For actual search time by professional personnel—at the rate of \$17.00 per hour.

(3) For copies made by photocopying machine—\$.15 per page (maximum of 10 copies).

(4) For attestation of each record as a true copy—\$.75 per document.

(5) For certification of each record as a true copy, under the seal of the agency—\$1.00.

(6) For each signed statement of negative result of search for record—\$1.00.

(7) All other direct costs of search or duplication shall be charged to the requester in the same amount as incurred by the agency.

(31 U.S.C. 9701)

Signed this 13th day of September, 1983.
For the Commission.

Clarence Thomas,
Chairman.

[FR Doc. 83-25448 Filed 9-16-83; 8:45 am]
BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

(Docket No. AW700DE; A-3-FRL 2430-2)

Standards of Performance for New Stationary Sources; Delegation of Authority to the State of Delaware

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Section 111(c) of the Clean Air Act permits EPA to delegate to the States the authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS). On April 20, 1983, the State of Delaware

requested EPA to delegate to it the authority for additional NSPS source categories. EPA granted the request on July 5, 1983. The State now has authority to implement and enforce NSPS for steel plants: electric arc furnaces, storage vessels for petroleum liquids constructed after May 18, 1978, lead acid battery manufacturing plants, automobile and light duty truck surface coating operations, graphic arts industries, and asphalt processing and asphalt roofing manufacture. In addition, Delaware has amended several State NSPS and NESHAP regulatory requirements. These amendments are acceptable to EPA. Applications and reports required under the NSPS which EPA has delegated Delaware authority to implement and enforce should be sent to the State's Department of Natural Resources and Environmental Control rather than to EPA Region III.

EFFECTIVE DATE: July 5, 1983.

ADDRESSES: Applications and reports required under all NSPS source categories which EPA has delegated Delaware authority to implement and enforce should be addressed to the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover Delaware 19901, rather than to EPA Region III.

FOR FURTHER INFORMATION CONTACT: Daniel Ryan of EPA Region III's Air Management Branch, telephone 215/597-8555.

SUPPLEMENTARY INFORMATION: On April 20, 1983, the State of Delaware requested EPA to delegate to it authority to implement and enforce additional NSPS source categories. Delaware requested these delegations to supplement the delegations for other source categories which the State had already received and of which EPA had published notifications at 43 FR 6771 (1978), 44 FR 70465 (1979), and 46 FR 28402 (1981). In addition, Delaware notified EPA that the State had amended Regulation XX, *New Source Performance Standards*, by including a statement in Section 2—*Standards of Performance for Fuel Burning Equipment*—stating that this section does not apply to certain sources discussed in Section 11—*Standards of Performance for Petroleum Refineries*; by changing Section 4—*Standards of Performance for Storage Vessels for Petroleum Liquids*—by adding to the title the phrase *Constructed before May 18, 1978* to define to what sources the section pertains; and by deleting Section 11, Subsection 60.105(e), which was determined to be in conflict with other

regulatory provisions and to be unnecessary. Finally, Delaware notified EPA that the State had revised Regulations XX, *New Source Performance Standards*, and XXI, *Emission Standards for Hazardous Air Pollutants*, by updating all citations to EPA references. EPA has reviewed all of these State regulatory changes and has found them acceptable.

Delegation of the additional standards was made by the following letter on July 5, 1983:

Honorable John E. Wilson III, Secretary,
Delaware Department of Natural Resources
and Environmental Control,
89 Kings Highway, P.O. Box 1401, Dover, DE
19901

Dear Mr. Wilson: On September 30, 1977, October 9, 1979, and May 11, 1981, EPA delegated to the State of Delaware the authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS) for various NSPS source categories. In your letter of April 20, 1983, you requested that EPA delegate to the State of Delaware the authority to implement and enforce the NSPS for the following additional NSPS source categories: steel plants: electric arc furnaces, storage vessels for petroleum liquids constructed after May 18, 1978, lead acid battery manufacturing plants, automobile and light duty truck surface coating operations, graphic arts industries, and asphalt processing and asphalt roofing manufacture. You also requested EPA's approval of Delaware's adoption by reference of new Test Method 107A of Appendix B of 40 CFR, Part 61, promulgated by EPA at 47 FR 39485 on September 8, 1982; of new Quality Assurance Procedures 1 and 2 to 40 CFR, Part 61 and of revisions to Test Methods 106 and 107 of Appendix B to 40 CFR, Part 61, promulgated by EPA at 47 FR 39168 on September 7, 1982, and of revisions to Test Method 20 of Appendix A to 40 CFR, Part 60, promulgated by EPA at 47 FR 30480 on July 14, 1982.

We have reviewed the pertinent laws, rules and regulations of the State of Delaware and have determined that they continue to provide an adequate and effective procedure for implementing and enforcing the NSPS regulations. Therefore, we hereby delegate our authority for the implementation and enforcement of the NSPS regulations listed above to the State of Delaware for all sources located or to be located in Delaware that fall under the requirements of these regulations. We also approve Delaware's adoption by reference of the above test methods and test method revisions.

This NSPS delegation is based upon the following conditions:

1. Quarterly reports which may be combined with other reporting information are to be submitted to EPA Region III, Air Enforcement Section (3AW12) by the Delaware Department of Natural Resources and Environmental Control (DNREC) and should include the following:

(i) Source determined to be applicable during that quarter;

(ii) Applicable sources which started operation during that quarter or which started operation prior to that quarter which have not been previously reported;

(iii) The compliance status of the above, including the summary sheet from the compliance test(s); and

(iv) Any legal actions which pertain to these sources.

2. Enforcement of the NSPS regulations in the State of Delaware will be the primary responsibility of the DNREC. Where DNREC determines that such enforcement is not feasible and so notifies EPA, or where DNREC acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the State of Delaware subject to NSPS regulations.

3. Acceptance of this delegation of regulations for the source categories listed above does not commit the State of Delaware to request or accept delegation of other present or future standards and requirements. A new request for delegation will be required for any additional standards or amendments to previously delegated standards.

4. DNREC will not grant a variance from compliance with the applicable NSPS regulations if such variance delays compliance with the Federal Standards. Should DNREC grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulations and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The grant of such variance by the Agency shall also constitute grounds for revocation of delegation by EPA.

5. DNREC and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between DNREC's interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of DNREC.

6. If at any time there is a conflict between a DNREC regulation and Federal regulation found at 40 C.F.R. Part 60, the Federal regulation must be applied if it is more stringent than that of DNREC. If DNREC does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

7. DNREC will utilize the methods specified in 40 CFR Part 60 in performing source tests pursuant to these regulations. However, alternatives to continuous monitoring procedures and requirements may be acceptable upon concurrence by EPA as stipulated in 48 CFR 60.13.

8. If the Director of the Air and Waste Management Division determines that a DNREC program for enforcing or implementing the NSPS regulations is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be

effective as of the date specified in a Notice or Revocation to DNREC.

9. Information shall be made available to the public in accordance with 40 CFR 60.9.

EPA procedures permit delegation of all the Administrator's authorities under 40 CFR Part 60 except for any which require rulemaking in the Federal Register to implement or where Federal overview is the only way to ensure national consistency in the application of standards. Accordingly, the following authorities are not delegable under Section 111 of the Clean Air Act, as amended.

1. *Performance Tests, 60.8(b)(2) and 60.8(b)(3)*. In order to ensure uniformity and technical quality in the test methods used for enforcement of national standards, EPA will retain the authority to approve alternative and equivalent methods which effectively replace a reference method. This restriction on delegation does not apply to 8(b)(1), which allows for approval of minor modifications to reference methods on a case-by-case basis.

Some subparts include general references to the authority in 60.8(b) to approve alternative or equivalent standards. Examples include, but are not necessarily limited to, §§ 60.11(b), 60.274(d), 60.396(a)(1), 60.396(a)(2), and 60.393(c)(1)(i). These references are reminders of the provisions of paragraphs 60.8 and are not separate authorities which can be delegated.

2. *Compliance with Standards and Maintenance Requirements, § 60.11(e)*. The granting of an alternative opacity standard requires a site-specific opacity limit to be adopted under 40 CFR Part 60.

3. *Subpart S, § 60.195(b)*. Development of alternative compliance testing schedules for primary aluminum plants is done by adopting site-specific amendments to Subpart S.

4. *Subpart Da, § 60.45a*. Commercial demonstration permits allow an alternative emission standard for a limited number of utility steam generators.

5. *Subpart GG, §§ 60.332(a)(3) and 60.335(a)(iii)*. These sections pertain to approval of customized factors (fuel nitrogen content and ambient air conditions, respectively) for use by gas turbine manufacturers in assembly-line compliance testing. Since each approval potentially could affect emissions from equipment installed in a number of States, the decisionmaking must be maintained at the Federal level to ensure national consistency. Notice of approval must be published in the Federal Register.

6. *Equivalency Determinations, Section 111(h)(3) of the Clean Air Act*. Approval of alternative to any design, equipment, work practice, or operational standard, e.g., §§ 60.114(a) and 60.302(d)(3) is accomplished through the rulemaking process and is adopted as a change to the individual subpart.

7. *Innovative Technology Waiver, Section 111(f) of the Clean Air Act*. Innovative technology waivers must be adopted as site-specific amendments to the individual subpart. Any applications or questions pertaining to such waivers should be sent to the Director, Air and Waste Management Division, Region III. (States may be delegated the authority to enforce waiver provisions if the State has been delegated the authority to enforce NSPS).

8. *Determination of Construction or Modification (Applicability), § 60.5*. In order to ensure uniformity in making applicability determinations pertaining to sources, EPA will retain this authority. The delegated agency may exercise judgement based on the *Compendium of Applicability Determinations* issued by EPA annually, and updated quarterly. Any applicability determinations not explicitly treated in the EPA Compendium must be referred to EPA for a determination. Also, any determinations made by the State agency based on the Compendium must be sent to EPA for informational purposes in order for EPA to maintain national consistency.

A Notice announcing this delegation will be published in the Federal Register in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the above-enumerated Federal NSPS regulations by sources located in the State of Delaware should be submitted to the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, DE 19901, in addition to EPA Region III. Any original reports which have been or may be received by EPA Region III will be promptly transmitted to DNREC.

Since this delegation is effective immediately, there is no requirement that DNREC notify EPA of its acceptance. Unless EPA receives from DNREC written notice of objections within ten (10) days of receipt of this letter, DNREC will be deemed to have accepted all of the terms of the delegation.

Sincerely Yours,

Stanley L. Laskowski,
Acting Regional Administrator.

Effective immediately, all applications, reports, and other correspondence required under the NSPS for steel plants: electric arc furnaces (Subpart AA), storage vessels for petroleum liquids constructed after May 18, 1978 (Subpart Ka), lead acid battery manufacturing plants (Subpart KK), automobile and light duty truck surface coating operations (Subpart MM), graphic arts industries (Subpart QQ), and asphalt processing and asphalt roofing manufacture (Subpart UU) should be sent to the Delaware Department of Natural Resources and Environmental Control (address above) rather than to the EPA Region III Office in Philadelphia.

(Sec. 111(c), Clean Air Act (42 U.S.C. 7411(c))

Dated: August 23, 1983.

Thomas P. Eichler,
Regional Administrator.

PART 60—[AMENDED]

Accordingly, Part 60 of 40 CFR Chapter I is amended as follows:

Section 60.4(b)(I) is amended by revising the address of the Delaware Department of Natural Resources and Environmental Control as follows:

§ 60.4 Address.

(b) * * *
(I) * * *

Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901

(Sec. 111(c) of the Clean Air Act, (42 U.S.C. 7411(c))

[FR Doc. 83-24623 Filed 9-18-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 5-10

[APD 2800.2 Chge. 33]

Bonds and Insurance

AGENCY: General Services Administration.

ACTION: Final rule

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to eliminate the requirement for use of bid guarantees on construction contracts awarded to the Small Business Administration (SBA) under the Section 8(a) program, to permit the use of payment bonds on building service contracts, to provide additional guidance on determining the acceptability of bonds, and to establish a mechanism for excluding individuals under certain circumstances from acting as an individual surety on bonds and submitted by offerors on GSA procurements. In addition, obsolete material referring to SBA's authority to waive bonding requirements on Section 8(a) contracts is deleted and material referring to the recently enacted Pub. L. 98-47 of July 13, 1983, is substituted.

EFFECTIVE DATE: September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Richard H. Hopf, Director, Office of GSA Acquisition Policy and Regulations, (202-566-1224).

List of Subjects in 41 CFR Part 5-10

Bonds and insurance and Government procurement.

PART 5-10—BONDS AND INSURANCE

1. The table of contents of Part 5-10 is amended by adding the following new entries:

Sec.
5-10.103-3 Invitation for bids provision.
5-10.201 General.
5-10.203 Individual sureties.
5-10.250 Acceptability of bonds and sureties.
5-10.251 Exclusion of individual sureties.