

appropriate as well as within the Department's budgetary constraints, VA has required non-VA providers to obtain preauthorization before the purchase or rental of DME for a CHAMPVA beneficiary when the cost of the DME exceeds \$300.

We propose to amend § 17.273(e) by increasing the dollar amount above which preauthorization will be required for purchase or rental of DME. The proposed rule would increase the dollar amount above which preauthorization would be required from \$300 to \$2,000.

This increase in the dollar amount above which preauthorization is required is necessary to remove an administrative inefficiency in the CHAMPVA claims process. Since the \$300 ceiling was put into place in 1973, the cost of common DME items has steadily increased. We conducted a review of a sample of our claims that demonstrated we had approved 98 percent of all requests for DME, but only 93 percent of requests for DME having a purchase or total rental price of over \$2,000. When DME claims are disapproved, it is generally because the DME is determined by VA not to be medically necessary and appropriate. We concluded that it is not cost effective to review claims of \$2,000 or less for medical necessity twice, i.e., to review a request when submitted for preauthorization and again when the claim is officially submitted for payment.

Raising the dollar amount to \$2,000 would make the administrative processing of DME claims easier for CHAMPVA beneficiaries and providers, as well as for VA. We expect that it would not affect the number of claims that are approved. As noted, 98 percent of these claims are currently already approved for payment.

#### **Regulatory Flexibility Act**

The Secretary of Veterans Affairs hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Individuals eligible for CHAMPVA benefits are widely dispersed geographically and thus services provided to them would not have a significant impact on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

#### **Paperwork Reduction Act of 1995**

This document contains no provisions constituting a new collection of

information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, or tribal governments, or on the private sector.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a “significant regulatory action” requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

#### **Catalog of Federal Domestic Assistance**

This proposed rule affects the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), for which there is no Catalog of Federal Domestic Assistance program number.

#### **List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—Health, Health facilities, Health professionals, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Travel and transportation expenses, and Veterans.

Approved: August 19, 2008.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

For the reasons stated above, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

#### **PART 17—MEDICAL**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1721, and as noted in specific sections.

#### **§ 17.273 [Amended]**

2. Amend § 17.273(e) by removing “\$300.00” and adding, in its place, “\$2,000.00”.

[FR Doc. E8–25646 Filed 10–27–08; 8:45 am]

**BILLING CODE 8320–01–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[EPA–R03–OAR–2008–0694; FRL–8735–9]

#### **Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ambient Air Quality Standards**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision pertains to establishing ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide, and lead equivalent to the national primary and secondary ambient air quality standards. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before November 28, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–

R03–OAR–2008–0694 by one of the following methods:

A. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

B. E-mail:

[Fernandez.cristina@epa.gov](mailto:Fernandez.cristina@epa.gov).

C. Mail: EPA–R03–OAR–2008–0694, Cristina Fernandez, Chief, Air Quality Planning, 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. EPA–R03–OAR–2008–0694. 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 <http://www.regulations.gov> or e-mail. The <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 <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 <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:

Gobeil McKinley, (215) 814–2033, or by e-mail at [mckinley.gobeil@epa.gov](mailto:mckinley.gobeil@epa.gov).

**SUPPLEMENTARY INFORMATION:** On April 25, 2008, the West Virginia Department of Environmental Protection submitted a revision to its State Implementation Plan. The SIP revision restructures and consolidates all of the West Virginia ambient air quality standards into Rule 45CSR8 to be consistent with 40 CFR Part 50.

#### I. Summary of SIP Revision

On April 25, 2008, the State of West Virginia submitted as a SIP revision Rule 45CSR8—Ambient Air Quality Standards, which updates and incorporates all six criteria pollutants to be equivalent to the NAAQS in 40 CFR Part 50. The revision repeals rules 45CSR9—Ambient Air Quality Standards for Carbon Monoxide and Ozone, and 45CSR12—Ambient Air Quality Standard for Nitrogen Dioxide, and moves these ambient air quality standards into Rule 45CSR8.

The revision includes a correction of the sulfur dioxide annual primary standard from 0.003 to 0.030 ppm; removes the annual PM<sub>10</sub> standard, and incorporates the annual PM<sub>2.5</sub> standard, the 24-hour PM<sub>2.5</sub> standard of 35 µg/m<sup>3</sup>, the primary and secondary standards for lead, and the primary and secondary 1-hour and 8-hour ozone standards. The SIP revision includes the revocation of the 1-hour ozone standard except for Berkeley and Jefferson Counties and it identifies the 1-hour ozone maintenance areas. The SIP revision also adds new reference conditions for PM<sub>2.5</sub> and measurement methods for PM<sub>2.5</sub> and lead.

#### II. Proposed Action

EPA is proposing to approve the West Virginia SIP revision for establishing ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide, and lead. EPA is soliciting public comments on the issues discussed in this

document. These comments will be considered before taking final action.

#### III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - 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);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this proposed rule, establishing ambient air quality standards in West Virginia, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: October 20, 2008.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. E8-25655 Filed 10-27-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R10-RCRA-2008-0588; FRL-8734-9]

#### Idaho: Proposed Authorization of State Hazardous Waste Management Program Revision Extension of Comment Period

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** In the **Federal Register** of September 30, 2008, EPA announced that Idaho has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA). EPA has reviewed Idaho's application, has preliminarily determined that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's changes. This is an administrative extension of the public comment period for this proposed rule. The public comment period for this proposed rule has been extended from October 30, 2008 to November 20, 2008.

**DATES:** Comments on this proposed rule must be submitted on or before November 20, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-RCRA-2008-0588, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* [Kocourek.Nina@epa.gov](mailto:Kocourek.Nina@epa.gov).

- *Mail:* Nina Kocourek, U.S. Environmental Protection Agency, Region 10, Office of Air, Waste & Toxics (AWT-122), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-RCRA-2008-0588. 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 <http://www.regulations.gov>, or e-mail. The <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 <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 or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the U.S. Environmental Protection Agency, Region 10, Office of Air, Waste & Toxics, Mailstop AWT-122, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, contact: Nina Kocourek, phone number: (206) 553-6502; or the Idaho

Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho, contact: John Brueck, phone number: (208) 373-0458.

**FOR FURTHER INFORMATION CONTACT:** Nina Kocourek, U.S. Environmental Protection Agency, Region 10, Office of Air, Waste & Toxics (AWT-122), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone number: (206) 553-6502, e-mail: [kocourek.nina@epa.gov](mailto:kocourek.nina@epa.gov).

**SUPPLEMENTARY INFORMATION:** Refer to the **Federal Register** of September 30, 2008 (73 FR 56775) (FRL-8722-5), for additional supplemental information about this proposed rulemaking.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This proposed action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 20, 2008.

**Elin D. Miller,**

*Regional Administrator, Region 10.*

[FR Doc. E8-25685 Filed 10-27-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 272

[EPA-R06-RCRA-2008-0753; FRL-8729-5]

#### New Mexico: Incorporation by Reference of State Hazardous Waste Management Program

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to codify in the regulations entitled "Approved State Hazardous Waste Management Programs," New Mexico's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act (RCRA). In the "Rules and Regulations" section of this **Federal Register**, the EPA is codifying and incorporating by reference the State's