

Accordingly, a disputed question of fact concerning a beneficiary's enrollment will not be considered an appealable issue under the provisions of this section, but shall be resolved in accordance with paragraph (c) of this section and the dental plan contractor's enrollment policies and procedures.

(2) Decisions relating to the issuance of a nonavailability statement (NAS) in each case are made by the Uniformed Services. Disputes over the need for an NAS or a refusal to issue an NAS are not appealable under this section. The one exception is when a dispute arises over whether the facts of the case demonstrate a dental emergency for which an NAS is not required. Denial of payment in this one situation is an appealable issue.

(3) Any decision or action on the part of the dental plan contractor to include a provider in their network or to designate a provider as participating is not appealable under this section. Similarly, any decision or action on the part of the dental plan contractor to exclude a provider from their network or to deny participating provider status is not appealable under this section.

(vii) *Amount in dispute.*—(A) *General.* An amount in dispute is required for an adverse determination to be appealed under the provisions of this section, except as set forth or further explained in § 199.10(a)(7)(ii), (iii) and (iv).

(B) *Calculated amount.* The amount in dispute is calculated as the amount of money the dental plan contractor would pay if the services involved in the dispute were determined to be authorized benefits of the TDP. Examples of amounts of money that are excluded by this section from payments for authorized benefits include, but are not limited to:

(1) Amounts in excess of the dental plan contractor's—determined allowable charge.

(2) The beneficiary's cost-share amounts.

(3) Amounts that the beneficiary, or parent, guardian, or other responsible person has no legal obligation to pay.

(4) Amounts excluded under the provisions of § 199.8 of this part.

(viii) *Levels of appeal.* See § 199.10(a)(8)(i). Initial determinations involving the sanctioning (exclusion, suspension, or termination) of TDP providers shall be appealed directly to the hearing level.

(ix) *Appeal decision.* See § 199.10(a)(9).

(2) *Reconsideration.* See § 199.10(b).

(3) *Formal review.* See § 199.10(c).

(4) *Hearing.*—(i) *General.* See §§ 199.10(d) and 199.10(d)(1) through

(d)(5) and (d)(7) through (d)(12) for information on the hearing process.

(ii) *Authority of the hearing officer.* The hearing officer, in exercising the authority to conduct a hearing under this part, will be bound by 10 U.S.C., chapter 55, and this part. The hearing officer in addressing substantive, appealable issues shall be bound by the dental benefits brochure applicable for the date(s) of service, policies, procedures, instructions and other guidelines issued by the ASD(HA), or a designee, or by the Director, OCHAMPUS, or a designee, in effect for the period in which the matter in dispute arose. A hearing officer may not establish or amend the dental benefits brochure, policy, procedures, instructions, or guidelines. However, the hearing officer may recommend reconsideration of the policy, procedures, instructions or guidelines by the ASD (HA), or a designee, when the final decision is issued in the case.

(5) *Final decision.* See §§ 199.10(e)(1) and 199.10(e)(1)(i) for information on final decisions in the appeal and hearing process, with the exception that no recommended decision shall be referred for review by ASD(HA).

#### § 199.21 [Removed and Reserved]

3. Section 199.21 is removed and reserved.

Dated: February 13, 2001.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[TN-2001-01; FRL-6941-7]

### New Stationary Sources; Supplemental Delegation of Authority to Knox County, TN

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

**ACTION:** Delegation of authority.

**SUMMARY:** The Knox County Department of Air Quality Management located in Knoxville, Tennessee has requested that EPA delegate authority for implementation and enforcement of existing New Source Performance Standards (NSPS) which have been previously adopted by the Knox County Department of Air Quality Management (KCDAQM or local agency) but have remained undelegated by EPA, and to

approve the mechanism for delegation (adopt-by-reference) of future NSPS. The purpose of the local agency request for approval of its delegation mechanism is to streamline existing administrative procedures by eliminating any unnecessary steps involved in the federal delegation process. With this NSPS delegation mechanism in place, a new or revised NSPS promulgated by EPA will become effective in Knox County on the date the NSPS is adopted if the local agency adopts the NSPS without change. No further local agency requests for delegation will be necessary. Likewise, no further **Federal Register** notices will be published. EPA reserves the right to implement the federal NSPS directly and continues to retain concurrent enforcement authority. The EPA's review of the local agency's pertinent laws, rules, and regulations indicate that adequate and effective procedures are in place for the implementation and enforcement of these Federal standards. This document was written to inform the public of delegations that were made to KCDAQM for which a **Federal Register** notice was not previously written and to inform the public of the local agency's new mechanism for delegation of future NSPS.

**EFFECTIVE DATE:** The effective date is March 1, 2001.

**ADDRESSES:** Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air and Radiation Technology Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Knox County Department of Air Quality Management, City/County Building, Suite 459, 400 West Main Street, Knoxville, Tennessee 37902-2405.

Effective March 1, 2001, all requests, applications, reports and other correspondence required pursuant to the delegated standards should not be submitted to the Region 4 office, but should instead be submitted to the following address:

Knox County Department of Air Quality Management, City/County Building, Suite 459, 400 West Main Street, Knoxville, Tennessee 37902-2405.

**FOR FURTHER INFORMATION CONTACT:** Katy Forney, Air and Radiation Technology Branch, Environmental Protection Agency, Region 4, 61 Forsyth St. SW., Atlanta, Georgia 30303, 404-562-9130. E-mail: reeves.kathleen@epa.gov

**SUPPLEMENTARY INFORMATION:** Section 301, in conjunction with sections 110 and 111(c)(1) of the Clean Air Act as amended November 15, 1990, authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards (NSPS).

On May 20, 1977, the EPA initially delegated the authority for implementation and enforcement of the NSPS program to Knox County. This agency has subsequently requested a delegation of authority for implementation and enforcement of the previously adopted, undelegated part 60 NSPS categories listed below as well as future NSPS categories codified in 40 CFR part 60.

Delegation Requested on May 8, 1997: 40 CFR part 60, Subpart VV, as amended 6-12-96  
40 CFR part 60, Subpart Dc, as amended 5-8-96

Delegation Requested on October 18, 1996:

40 CFR part 60, Subpart Ea, as amended 12-19-95  
40 CFR part 60, Subpart Eb, as amended 12-19-95  
40 CFR part 60, Subpart WWW, promulgated 3-12-96

All current NSPS categories are delegated with the exception of the following sections within those subparts that may not be delegated. Future NSPS regulations will contain a list of sections that will not be delegated for that subpart.

1. Subpart A—§ 60.8(b) (2) and (3), § 60.11(e) (7) and (8), § 60.13 (g), (i) and (j)(2).
2. Subpart B—§ 60.22, § 60.27, and § 60.29.
3. Subpart Da—§ 60.45a.
4. Subpart Db—§ 60.44b(f), § 60.44b(g), § 60.49b(a)(4).
5. Subpart Dc—§ 60.48c(a)(4).
6. Subpart Ec—§ 60.56(c)(i).
7. Subpart J—§ 60.105(a)(13)(iii), § 60.106(i)(12).
8. Subpart Ka—§ 60.114a.
9. Subpart Kb—§ 60.111b(f)(4), § 60.114b, § 60.116b(e)(3) (iii) and (iv), § 60.116b(f)(2)(iii).
10. Subpart O—§ 60.153(e).
11. Subpart EE—§ 60.316(d).
12. Subpart GG—§ 60.334(b)(2), § 60.335(f)(1).
13. Subpart RR—§ 60.446(c).
14. Subpart SS—§ 60.456(d).
15. Subpart TT—§ 60.466(d).
16. Subpart UU—§ 60.474(g).
17. Subpart VV—§ 60.482-1(c)(2) and § 60.484.
18. Subpart WW—§ 60.496(c).
19. Subpart XX—§ 60.502(e)(6).
20. Subpart AAA—§ 60.531, § 60.533, § 60.534, § 60.535, § 60.536(i)(2), § 60.537, § 60.538(e), § 60.539.

21. Subpart BBB—§ 60.543(c)(2)(ii)(B).
22. Subpart DDD—§ 60.562-2(c).
23. Subpart III—§ 60.613(e).
24. Subpart NNN—§ 60.663(e).
25. Subpart RRR—§ 60.703(e).
26. Subpart SSS—§ 60.711(a)(16), § 60.713(b)(1)(i), § 60.713(b)(1)(ii), § 60.713(b)(5)(i), § 60.713(d), § 60.715(a), § 60.716.
27. Subpart TTT—§ 60.723(b)(1), § 60.723(b)(2)(i)(C), § 60.723(b)(2)(iv), § 60.724(e), § 60.725(b).
28. Subpart VVV—§ 60.743(a)(3)(v)(A) and (B), § 60.743(e), § 60.745(a), § 60.746.
29. Subpart WWW—§ 60.754(a)(5).

After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for all source categories. All sources subject to the requirements of 40 CFR part 60 will now be under the jurisdiction of the appropriate above mentioned agency.

Since review of the pertinent laws, rules, and regulations for the local agency has shown them to be adequate for implementation and enforcement of existing, previously adopted, undelegated NSPS and future NSPS, EPA hereby notifies the public that it has delegated the authority for existing, previously adopted and undelegated NSPS as well as the mechanism for delegation (adopt-by-reference) of future NSPS source categories upon publication of this **Federal Register** document.

#### Administrative Requirements

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

The Congressional Review Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (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. However, Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 1, 2001. 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

**Authority:** This document is issued under the authority of sections 101, 110, 111, 112 and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: January 16, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 70 and 71

[FRL-6934-5]

RIN 2060-AJ04

### State and Federal Operating Permits Programs: Amendments Compliance Certification Requirements

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

**ACTION:** Direct final rule.

**SUMMARY:** We, the EPA, are taking direct final action to amend the State Operating Permits Program and the Federal Operating Permits Program. The amendments are in response to the United States Circuit Court of Appeals October 29, 1999, decision to remand to us part of the October 22, 1997, Compliance Assurance Monitoring rulemaking that included revisions describing the ongoing compliance certification content requirements. In particular, the Court ruled that the compliance certification must address whether the affected facility or source has been in continuous or intermittent compliance. This action will revise only certain sections to carry through the revisions to the compliance certification requirements.

**EFFECTIVE DATE:** This final rule amendment is effective on April 30, 2001 without further notice, unless we receive adverse comments on this direct final rule by April 2, 2001 or we receive a request for a hearing by March 16, 2001. If we receive timely adverse comment or a timely hearing request, we will publish a withdrawal in the **Federal Register** informing you, the public, that this direct final rule will not take effect.

**ADDRESSES:** *Comments.* You may submit comments on this rulemaking in writing