

### B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### C. Petitions for Judicial Review

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 April 13, 2004. 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 to approve SIP revisions to the 1-hour ozone ROP plan for the Baltimore area which revise the 1990 and 2005 motor vehicle emissions inventories and 2005 motor vehicle emissions budgets to reflect the use of MOBILE6 may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 6, 2004.

**Richard J. Kampf,**

*Acting Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The citation for part 52 continues to read as follows:

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

#### Subpart V—Maryland

■ 2. Section 52.1076 is amended by adding paragraph (n) to read as follows:

#### § 52.1076 Control strategy plans for attainment and rate-of-progress plan: ozone.

\* \* \* \* \*

(n) EPA approves revisions to the Maryland State Implementation Plan for Post-1996 Rate of Progress (ROP) Plans for the Baltimore severe 1-hour ozone nonattainment area. These revisions were submitted by the Secretary of the Maryland Department of the Environment on December 23, 2003 and consist of the following:

(1) Revisions to the base year 1990 emissions inventory which reflect the use of the MOBILE6 motor vehicle emissions model. These revisions establish motor vehicle emissions inventories for 1990 of 165.14 tons per day of volatile organic compounds (VOC) and 228.21 tons per day of oxides of nitrogen (NO<sub>x</sub>).

(2) Revisions to the year 2005 motor vehicle emissions budgets (MVEBs) for transportation conformity purposes, reflecting the use of the MOBILE6 motor vehicle emissions model. These revisions establish a motor vehicle emissions budget of 55 tons per day of volatile organic compounds (VOC) and 144.5 tons per day of oxides of nitrogen (NO<sub>x</sub>). EPA approved new 2005 MOBILE6-based MVEBs for the Baltimore area's 1-hour ozone attainment demonstration on October 27, 2003 (68 FR 61106). Those MVEBs became effective on November 26, 2003. The approved 2005 attainment plan MVEBs budgets are 55.3 tons per day of VOC and 146.9 tons per day of NO<sub>x</sub>. The MVEBs of the 2005 ROP plan are less than the MVEBs in the approved attainment demonstration. These more restrictive MVEBs, contained in the ROP plan, are the applicable MVEBs to be used in transportation conformity demonstrations for the year 2005 for the Baltimore area.

(3) Revisions to the 2005 ROP plan to reallocate some of the contingency measures established in prior SIP revisions to the control measures portion of the plan. EPA guidance allows states an additional year to adopt new contingency measures to replace those reallocated to the control measures portion of the plan. The State of Maryland's December 23, 2003 SIP revision submittal includes an enforceable commitment to replace those contingency measures reallocated to the control measures portion of the 2005 ROP plan and to submit these additional contingency measures by October 31, 2004.

[FR Doc. 04-3224 Filed 2-12-04; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 60

[FRL-7623-2]

#### Delegation of Authority to the Washington State Department of Ecology, Benton Clean Air Authority, Northwest Air Pollution Authority, Olympic Regional Clean Air Agency, Puget Sound Clean Air Agency, Spokane County Air Pollution Control Authority, Southwest Clean Air Agency, and Yakima Regional Clean Air Authority for New Source Performance Standards

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

**ACTION:** Delegation of authority; technical amendment.

**SUMMARY:** The Washington State Department of Ecology (Ecology), Benton Clean Air Authority (BCAA), Northwest Air Pollution Authority (NWAPA), Olympic Regional Clean Air Agency (ORCAA), Puget Sound Clean Air Agency (PSCAA), Spokane County Air Pollution Control Authority (SCAPCA), Southwest Clean Air Agency (SWCAA), and Yakima Regional Clean Air Authority (YRCAA) have submitted requests for delegation of EPA authority for implementation and enforcement of New Source Performance Standards (NSPS). The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated to these agencies. EPA has reviewed the updated regulations and determined that these State and local air agencies have adequate and effective procedures for the implementation and enforcement of these Federal NSPS standards. This action informs the public of delegations to the above-mentioned State and local air agencies.

EPA is also making a technical amendment to update the names and addresses of the State and local air agencies that have delegation of NSPS standards in Washington and to update the informational table that shows which NSPS standards have been delegated to State and local agencies in Washington. This is a nonregulatory action.

**DATES:** This rule is effective on February 13, 2004. The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** Copies of information relating to this action, including the letters requesting and granting delegation, are available for inspection during normal business hours at the

following locations: EPA Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101. Copies are also available at the offices of Ecology and the local air authorities in Washington at the addresses identified below in the revisions to 40 CFR 60.4(b)(WW).

**FOR FURTHER INFORMATION CONTACT:** Lucita Valiere, EPA Region 10, Office of Air Quality (OAQ-107), (206) 553-8087.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under section 111 of the Clean Air Act (CAA), EPA is authorized to establish new source performance standards (NSPS), which impose Federal technology-based requirements on new and modified stationary sources of pollution. EPA has developed NSPS standards for numerous source categories, which are published at 40 CFR parts 60 and 62. Although EPA has responsibility for implementing and enforcing the NSPS regulations, section 111(c) authorizes EPA to delegate primary implementation and enforcement responsibility to State and local agencies that develop and submit to EPA procedures for implementing and enforcing the NSPS where EPA determines that such procedures are adequate. Even where EPA has delegated primary responsibility for the NSPS to a State or local agency, however, EPA retains concurrent authority to enforce the NSPS. See CAA sections 111(c)(2) and 113.

Ecology, BCAA, ORCAA, NWAPA, PSCAA, SCAPCA and SWCAA have had delegation of various NSPS for more than a decade. YRCAA had delegation of early NSPS standards in the 1970s, but has not requested delegation of new or revised standards since that time. In the last two years, all of these Washington agencies requested delegation based on implementation of State or local rules that adopt by reference more current Federal NSPS. EPA approved these requests because these agencies meet the requirements for delegation.

The delegations discussed today are for new and revised NSPS effective on or before the dates specified below and in the table at the end of this notice. These dates vary by State or local agency and NSPS subpart.

**II. Terms of Delegations**

*A. Delegation Letters*

1. Ecology

The delegation of the Federal NSPS to Ecology and the local air agencies is subject to the terms and conditions

contained in the letters from EPA granting the delegation. The letter from EPA granting delegation of the identified NSPS standards to Ecology reads as follows. Note that the version of Attachment A reprinted below is a revised version that accompanied that letter from EPA granting delegation to YRCAA and shows the most current delegation status for Washington air authorities.

February 5, 2003

Reply To Attn Of: OAQ-107

Ms. Mary E. Burg,

*Program Manager, Air Quality Program,  
Washington State Department of  
Ecology, P.O. Box 47600, Olympia, WA  
98504-7600*

Re: Clarification of Previously Updated  
Delegation of Authority for New Source  
Performance Standards

Dear Ms. Burg: The purpose of this letter is to make minor clarifications and corrections to clarify and correct the Environmental Protection Agency, Region 10's (EPA) delegation of authority to the Washington State Department of Ecology (Ecology) for implementing and enforcing New Source Performance Standards, 40 CFR part 60 (NSPS). EPA's November 20, 2001, delegation letter contained minor errors and inconsistencies. Today's letter replaces EPA's November 20th letter, and should be your only reference for your current NSPS delegation.

This letter is in response to Ecology's September 5, 2001, request for updated delegation of authority to implement and enforce the NSPS. EPA has determined that your regulations continue to provide adequate and effective procedures for implementing and enforcing the NSPS. Accordingly, EPA hereby approves your request for an updated delegation of authority to implement and enforce the NSPS.

Ecology's updated delegation of authority covers standards of performance promulgated and revised as of the dates specified in WAC-173-400-115, filed on August 15, 2001 and effective on September 15, 2001. Attachment A contains an updated list of NSPS subparts delegated to Ecology. New or revised NSPS which become effective after the dates cited in the table are not delegated to your agency; these remain the responsibility of EPA.

Consistent with EPA guidance, we are not delegating authorities under 40 CFR part 60 that require rulemaking to implement, that affect the stringency of the standard, or where national oversight is the only way to ensure national consistency. Moreover, some sections of 40 CFR part 60 specifically indicate that the authority may not be delegated to State and local agencies. Attachment B identifies authorities that are excluded from this delegation based on these legal and policy criteria.

With delegation, Ecology becomes the primary implementation and enforcement authority for these delegated NSPS standards. You will be the recipient of all notifications and reports and be the point of contact for

questions and compliance issues. Although EPA looks to you as the lead for implementing the delegated NSPS, we retain authority to enforce any applicable emission standard or requirement. EPA will request notifications and reports from sources, if needed.

This delegation is subject to all Federal law and regulations as well as EPA policy, guidance, and determinations issued pursuant to 40 CFR part 60. The following summarizes the conditions and limitations of your delegation:

1. Enforcement of these standards in your jurisdiction will be the primary responsibility of your agency. Nevertheless, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act with respect to sources which are subject to the NSPS.

2. If both a State or local regulation and a Federal regulation apply to the same source, both must be complied with, regardless of whether the one is more stringent than the other.

3. The EPA Administrator delegates to the Region 10, Office of Air Quality, Director the authority to delegate the NSPS to any State or local agency. The State or local agency that receives delegation from EPA Region 10 does not have the Federally-recognized authority to further delegate the NSPS.

4. If the Region 10, Office of Air Quality, Director determines that your agency's procedure for implementing or enforcing the NSPS is inadequate or is not being effectively carried out, this delegation may be revoked in whole or in part by written notice of the revocation. Any such revocation will be effective as of the date specified in the notice.

5. A new request for delegation will be required for any standard not included in this delegation and any standards promulgated or revised after the effective date of the Federal rules adopted in your regulation. Implementation and enforcement of new or revised standards will remain the sole responsibility of EPA, until your agency revises your regulations and submits and obtains approval of a new delegation request.

a. Acceptance of this delegation does not commit your agency to request or accept delegation of future NSPS standards and requirements.

b. EPA encourages your agency to update your NSPS delegation on an annual basis. This could coincide with the updating of the adoption by reference of NSPS standards, which is important for maintaining EPA approval of your title V operating permit program.

6. Your agency and EPA should communicate sufficiently to guarantee that each is fully informed and current regarding interpretation of regulations (including any unique questions about applicability) and the compliance status of subject sources in your jurisdiction.

a. Any records or reports provided to or otherwise obtained by your agency should be made available to EPA upon request.

b. In accordance with 40 CFR 60.9, the availability to the public of information provided to, or otherwise obtained by EPA in connection with this delegation shall be governed by 40 CFR part 2.







ATTACHMENT A.—NSPS SUBPARTS DELEGATED TO WASHINGTON AIR AGENCIES—Continued

[Please refer to Attachment B for a list of specific subsections within the identified subparts that are excluded from this delegation]

Subpart <sup>1</sup>	Washington							
	Ecology <sup>2</sup>	BCAA <sup>3</sup>	NWAPA <sup>4</sup>	ORCAA <sup>5</sup>	PSCAA <sup>6</sup>	SCAPCA <sup>7</sup>	SWCAA <sup>8</sup>	YRCAA <sup>9</sup>
VVV Polymeric Coating of Supporting Substrates Facilities .....	X	X	X	X	X	X	X	X
WWW Municipal Solid Waste Landfills .....	X	X	X	X	X	X	X	X
AAAA Small Municipal Waste Combustion Units for which Construction is Commenced after August 30, 1999 or for which Modification or Reconstruction is Commenced after June 6, 2001 .....	X	X	.....	X	X	X	.....	X
BBBB Small Municipal Waste Combustion Units Constructed on or before August 30, 1999 (Emission Guidelines and Compliance Times) .....	.....	.....	.....	.....	.....	.....	.....	.....
CCCC Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November 30, 1999 or for which Modification or Reconstruction is Commenced on or after June 1, 2001 .....	X	X	.....	X	X	X	.....	X
DDDD Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or before November 30, 1999 (Emission Guidelines and Compliance Times) .....	.....	.....	.....	.....	.....	.....	.....	.....

<sup>1</sup> Any authority within any subpart of this part that is not delegable, is not delegated.  
<sup>2</sup> Washington State Department of Ecology, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>3</sup> Benton Clean Air Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>4</sup> Northwest Air Pollution Authority, for all NSPS delegated, as in effect on July 1, 2000.  
<sup>5</sup> Olympic Regional Clean Air Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>6</sup> Puget Sound Clean Air Authority, for all NSPS delegated, as in effect on July 1, 2002.  
<sup>7</sup> Spokane County Air Pollution Control Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>8</sup> Southwest Clean Air Agency, for all NSPS delegated, as in effect on July 1, 2000.  
<sup>9</sup> Yakima County Clean Air Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>10</sup> Subpart S of this part is not delegated to local agencies in Washington because the Washington State Department of Ecology retains sole authority to regulate Primary Aluminum Plants, pursuant to Washington Administrative Code 173-415-010.  
<sup>11</sup> Subpart BB of this part is not delegated to local agencies in Washington because the Washington State Department of Ecology retains sole authority to regulate Kraft and Sulfite Pulping Mills, pursuant to Washington State Administrative Code 173-405-012 and 173-410-012.

**Attachment B—NSPS Authorities Excluded From Delegation**

EPA guidance permits delegation to a State or local agency of all the EPA Administrator's authorities under 40 CFR part 60 except

those that require rulemaking to implement, that affect the stringency of the standard, or where national oversight is the only way to ensure national consistency. In addition, some sections of 40 CFR part 60 specifically

indicate that the authority may not be delegated. Listed below are authorities that are excluded from this delegation based on the legal and policy criteria discussed above.  
 Statutory Authorities:

Section 111(h)(3) of Clean Air Act.	<i>Equivalency Determinations</i> —Approval of alternatives to any design, equipment, work practice, or operational standard [e.g., 40 CFR 60.114(a) and 60.302(d)(3)] is accomplished through the rulemaking process and is adopted as a change to the individual subpart. This authority may not be delegated.
Section 111(j) of Clean Air Act.	<i>Innovative Technology Waivers</i> —Innovative technology waivers must be adopted as site-specific amendments to the individual subpart. The authority to grant waivers is not delegated. However, agencies may be delegated the authority to enforce any waivers granted by the EPA.

General Provisions Authorities:

Section	Authorities
60.8(b)(2), 60.8(b)(3) (partial limitation).	Approval of "Major Change to Test Methods" (See below for definition and examples). <b>(Note:</b> Any references to the authority in section 60.8(b) are reminders of the provisions of section 60.8 and are not separate authorities which can be delegated.)
60.9 .....	Availability of Information Procedure for EPA—not applicable to State/local agencies.
60.11(b) (partial limitation)	Approval of "Major Change to Test Methods"—alternative to "Method 9" test method.
60.11(e)(7), 60.11(e)(8) .....	Approval of Alternative Opacity Standard.

Section	Authorities
60.13(a) (partial limitation)	Approval of "Major Change to Monitoring" (See below for definition and examples)—specification of continuous monitoring systems requirements.
60.13(d)(2) (partial limitation).	Approval of "Major Change to Monitoring"—continuous opacity monitoring systems.
60.13(g)(1) .....	Approval of installation of fewer monitoring systems when one affected facility/source vents through more than one point (this is a major change to monitoring).
60.13(i) (partial limitation) ...	Approval of "Major Change to Monitoring".

Specific Subpart Authorities (the following list does not include approving alternative standards or major changes to test methods or monitoring, which are discussed above):

Section	Authorities
	<b>Note:</b> Subpart B and Subparts C, Cb, Cc, Cd, Ce— Use of term "Administrator" in these subparts refers only to EPA Administrator.
	<b>Note:</b> Subparts C, Cb, Cc, Cd, Ce—These subparts are emission guidelines and compliance times for large municipal waste combustors, municipal solid waste landfills, sulfuric acid production units, and hospital/medical/infectious waste units. They are the basis for State control plans developed in accordance with Sections 111(d) and 129 of the Clean Air Act. Enforcement of these subparts require submission of a plan to EPA for approval.
	Subpart Da—Fossil Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971.
60.45a .....	Approval of emerging technology.
	Subpart Db—Industrial-Commercial-Institutional Steam Generating Units.
60.44b(f) .....	Approval of site-specific nitrogen oxide limit for sources combusting byproduct/waste or hazardous waste with natural gas or oil.
60.44b(g) .....	Approval of waiver of nitrogen oxide limit for sources burning hazardous waste with natural gas or oil.
60.49b(a)(4) .....	Approval of emerging technology.
	Subpart Dc—Small Industrial-Commercial-Institutional Steam Generating Units.
60.48c(a)(4) .....	Approval of emerging technology.
	Subpart Ec—Hospital/Medical/Infectious Waste Incinerators for Which Construction Is Commenced After June 20, 1996.
60.56c(i) .....	Alternative site-specific operating parameters.
Plus .....	Any other approval of alternative compliance demonstration (specifically restricted by 60.51c(i), therefore not limited to "major changes").
	Subpart J—Petroleum Refineries.
60.105(a)(13)(iii) .....	Alternative monitoring methods.
60.106(i)(12) .....	Alternative method of determining compliance.
	Subpart Ka—Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978 and Prior to July 23, 1984.
60.114a .....	Alternative means of limiting emissions.
	Subpart Kb—Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.
60.111b(f)(4) .....	Alternative maximum true vapor pressure.
60.114b .....	Alternative means of limiting emissions.
60.116b(e)(3)(iii) .....	Alternative measure of vapor pressure.
60.116b(e)(3)(iv) .....	Alternative calculation of vapor pressure.
60.116b(f)(2)(iii) .....	Alternative measure of vapor pressure.
	Subpart O—Sewage Treatment Plans.
60.153(e) .....	Plan for monitoring and recording incinerator and control device operation parameters.
	Subpart S—Primary Aluminum Plants.
60.194(d) .....	Alternative testing requirements (less frequently).
	<b>Note:</b> Washington law gives Ecology sole authority to regulate Kraft and Sulfite Mills (WAC 173–405–012 and 173–410–012) on a State-wide basis. Therefore, local agencies in Washington are not delegated Subpart S.
	Subpart BB—Kraft Pulp Mills.
	<b>Note:</b> Washington law gives Ecology sole authority to regulate Primary Aluminum Plants (WAC 173–415–010) on a State-wide basis. Therefore, local agencies in Washington are not delegated subpart BB.
	Subpart DD—Grain Elevators.
60.302(d)(3) .....	Alternative particulate matter emission controls.
	Subpart EE—Surface Coating of Metal Furniture.
60.313(c)(1)(i)(B) .....	Alternative transfer efficiencies.
	Subpart GG—Stationary Gas Turbines.
60.332(a)(3) .....	Development of customized factors—fuel nitrogen content.
60.335(f)(1) .....	Development of customized factors—adjusting nitrogen oxides emission level based on ambient air conditions.
	Subpart MM—Automobile and Light Duty Truck Surface Coating Operations.
60.393(c)(1)(i)(C) .....	Approval of alternative transfer coefficients.
60.398 .....	Innovative Technology Waivers.
	Subpart RR—Pressure Sensitive Tape and Label Surface Coating Operations.
60.446(c) .....	Approval of testing of representative number of stacks rather than all stacks.
	Subpart SS—Industrial Surface Coating: Large Appliances.
60.453(b) .....	Alternative procedures for estimating transfer efficiencies, volume of coating.
60.456(d) .....	Approval of testing of representative number of stacks rather than all stacks.
	Subpart TT—Metal Coil Surface Coating.
60.466(d) .....	Approval of testing of representative number of stacks rather than all stacks.

Section	Authorities
60.472(b)(5) .....	Subpart UU—Asphalt Processing and Asphalt Roofing Manufacture.
60.474(g) .....	Refers to 60.474(g). Alternative opacity standard.
60.482–1(c)(2) .....	Subpart VV—Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
60.484 .....	Approval of alternative/equivalent means of emission limitation.
60.493(b)(2)(i)(A), 60.496(c)	Approval of alternative/equivalent means of emission limitation.
60.502(e)(6) .....	Subpart WW—Beverage Can Surface Coating Industry Alternative Method for Determining Fraction of VOC Emitted. Shorter sampling times and approval of testing of representative number of stacks rather than all stacks.
60.502(e)(6) .....	Subpart XX—Bulk Gasoline Terminals.
60.543(c)(2)(ii)(B) .....	Approval of alternative procedures for gasoline tank truck loading.
60.562–2(c) .....	Subpart AAA—New Residential Wood Heaters. <b>Note:</b> Entire Subpart AAA may not be delegated. (Wood Heater Program is administered entirely by EPA HQ. States can create rules that impose additional requirements for wood-burning appliances as part of their SIPs.)
60.592(c) .....	Subpart BBB—Rubber Tire Manufacturing Industry.
60.613(f) .....	Approval of alternative test method—determining fraction of VOC at affected facility.
60.623 .....	Subpart DDD—Volatile Organic Compound Emissions (VOC) From the Polymer Manufacturing Industry.
60.632(c) .....	Approval of alternative method of emission limitation.
60.634 .....	Subpart GGG—Equipment Leaks of VOC in Petroleum Refineries.
60.663(f) .....	Approval of alternative method of emission limitation.
60.694 .....	Subpart III—VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
60.703(e) .....	Demonstration of compliance for use of other control devices.
60.711(a)(16) .....	Subpart JJJ—Petroleum Dry Cleaners.
60.713(b)(1)(i) .....	Equivalent equipment and procedures.
60.713(b)(1)(ii) .....	Subpart KKK—Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.
60.713(b)(5)(i) .....	Alternative means of emission limitation.
60.713(d) .....	Alternative means of emission limitation.
60.715(a) .....	Subpart NNN—VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
60.716 .....	Demonstration of compliance for use of other control devices.
60.723(b)(1) .....	Subpart QQQ—VOC Emissions From Petroleum Refinery Wastewater Systems.
60.723(b)(2)(i)(C) .....	Permission to use alternative means of emission limitation.
60.723(b)(2)(iv) .....	Subpart RRR—VOC Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
60.724(e) .....	Approval of use of control devices not described in regulation.
60.725(b) .....	Subpart SSS—Magnetic Tape Coating Facilities.
60.743(a)(3)(v)(A) .....	Alternative temporary enclosure.
60.743(a)(3)(v)(B) .....	Approval of measured value for RS <sub>i</sub> .
60.743(e) .....	Approval of measurement techniques.
60.745(a) .....	Approval of total enclosure.
60.746 (also as referred to by 60.743(b)(1)).	Approval of measured value for RS <sub>i</sub> .
60.752(b)(2)(i)(C), (D) and 60.759(a).	Approval of measured value for RS <sub>i</sub> .
60.754(a)(5) .....	Approval of use of control device other than absorber, condenser, incinerator.
60.756(d) .....	Approval of coating formulation data equivalent to Method 24.
60.756(e) .....	Permission to use alternative means of emission limitation.
60.2025 .....	Subpart TTT—Industrial Surface Coating: Surface Coating of Plastic Parts of Business Machines.
60.2100(b)(2) .....	Alternative test method—other than Method 24.
60.2115 .....	Alternative transfer efficiencies.
Also: (60.2110) .....	Determination of compliance—facilities using add-on controls.
60.752(b)(2)(i)(C), (D) and 60.759(a).	Alternative recordkeeping and reporting—facilities using add-on controls.
60.754(a)(5) .....	Alternative test methods—to determine VOC content of coating.
60.756(d) .....	Subpart VVV—Polymeric Coatings of Supporting Substrates Facilities.
60.756(e) .....	Approval of measured value for RS <sub>i</sub> .
60.754(a)(5) .....	Approval of measured value for RS <sub>i</sub> .
60.756(d) .....	Approval of use of control device other than absorber, condenser, incinerator.
60.756(e) .....	Approval of coating formulation data equivalent to Method 24.
60.2025 .....	Permission to use alternative means of emission limitation.
60.2100(b)(2) .....	Subpart WWW—Municipal Solid Waste Landfills.
60.2115 .....	Approval of alternative collection and control system design plan.
Also: (60.2110) .....	Approval of alternative methods for determining NMOC concentration or a site-specific k.
60.752(b)(2)(i)(C), (D) and 60.759(a).	Approval of monitoring methods for operators seeking to comply with standards using something other than an open flare or an enclosed combustor.
60.754(a)(5) .....	Approval of monitoring methods for operators installing alternative collection systems.
60.756(d) .....	Subpart CCCC—New Commercial and Industrial Solid Waste Incineration Units.
60.756(e) .....	Approval of petition for exemption.
60.2025 .....	Approval to continue operation.
60.2100(b)(2) .....	Approval of petition for specific operating parameters.
60.2115 .....	Approval of alternatives to the emission limitations in Table 1 and operating limits established under 60.2110.
Also: (60.2110) .....	<b>Note:</b> Subparts BBBB and DDDD are guidelines, not standards.
60.2115 .....	Additionally, EPA does not delegate any authority for which sections of 40 CFR part 60 specifically indicate that the authority may not be delegated.



Changes to Monitoring and Test Methods (based on definitions in 40 CFR 63.91(a), which are also used for purposes of delegation under 40 CFR part 60 as provided in "How To Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants," February 1999):

*Intermediate change to monitoring* means a modification to federally required monitoring involving "proven technology" (generally accepted by the scientific community as equivalent or better) that is applied on a site-specific basis and that may have the potential to decrease the stringency of the compliance and enforcement measures for the relevant standard. Though site-specific, an intermediate decrease may set a national precedent for a source category and may ultimately result in a revision to the federally required monitoring. Examples of intermediate changes to monitoring include, but are not limited to:

- (1) Use of a continuous emission monitoring system (CEMS) in lieu of a parameter monitoring approach;
- (2) Decreased frequency for non-continuous parameter monitoring or physical inspections;
- (3) Changes to quality control requirements for parameter monitoring; and
- (4) Use of an electronic data reduction system in lieu of manual data reduction.

*Intermediate change to a test method* means a within-method modification to a federally enforceable test method involving "proven technology" (generally accepted by the scientific community as equivalent or better) that is applied on a site-specific basis and that may have the potential to decrease the stringency of the associated emission limitation or standard. Though site-specific, an intermediate change may set a national precedent for a source category and may ultimately result in a revision to the federally enforceable test method. In order to be approved, an intermediate change must be validated according to EPA Method 301 (Part 63, Appendix A) to demonstrate that it provides equal or improved accuracy and precision. Examples of intermediate changes to a test method include, but are not limited to:

- (1) Modifications to a test method's sampling procedure including substitution of sampling equipment that has been demonstrated for a particular sample matrix, and use of a different impinger absorbing solution;
- (2) Changes in sample recovery procedures and analytical techniques, such as changes to sample holding times and use of a different analytical finish with proven capability for the analyte of interest; and
- (3) "Combining" a federally required method with another proven method for application to processes emitting multiple pollutants.

*Major change to monitoring* means a modification to federally required monitoring that uses "unproven technology or procedures" (not generally accepted by the scientific community) or is an entirely new method (sometimes necessary when the

required monitoring is unsuitable). A major change to monitoring may be site-specific or may apply to one or more source categories and will almost always set a national precedent. Examples of major changes to monitoring include, but are not limited to:

- (1) Use of a new monitoring approach developed to apply to a control technology not contemplated in the applicable regulation;
- (2) Use of a predictive emission monitoring system (PEMS) in place of a required continuous emission monitoring system (CEMS);
- (3) Use of alternative calibration procedures that do not involve calibration gases or test cells;
- (4) Use of an analytical technology that differs from that specified by a performance specification;
- (5) Decreased monitoring frequency for a continuous emission monitoring system, continuous opacity monitoring system, predictive emission monitoring system, or continuous parameter monitoring system;
- (6) Decreased monitoring frequency for a leak detection and repair program; and
- (7) Use of alternative averaging times for reporting purposes.

*Major change to recordkeeping/reporting means:*

- (1) A modification to federally required recordkeeping or reporting that:
  - (i) May decrease the stringency of the required compliance and enforcement measures for the relevant standards;
  - (ii) May have national significance (*e.g.*, might affect implementation of the applicable regulation for other affected sources, might set a national precedent); or
  - (iii) Is not site-specific.
- (2) Examples of major changes to recordkeeping and reporting include, but are not limited to:
  - (i) Decreases in the record retention for all records;
  - (ii) Waiver of all or most recordkeeping or reporting requirements;
  - (iii) Major changes to the contents of reports; or
  - (iv) Decreases in the reliability of recordkeeping or reporting (*e.g.*, manual recording of monitoring data instead of required automated or electronic recording, or paper reports where electronic reporting may have been required).

*Major change to test method* means a modification to a federally enforceable test method that uses "unproven technology or procedures" (not generally accepted by the scientific community) or is an entirely new method (sometimes necessary when the required test method is unsuitable). A major change to a test method may be site-specific, or may apply to one or more sources or source categories, and will almost always set a national precedent. In order to be approved, a major change must be validated according to EPA Method 301 (Part 63, Appendix A). Examples of major changes to a test method include, but are not limited to:

- (1) Use of an unproven analytical finish;
- (2) Use of a method developed to fill a test method gap;
- (3) Use of a new test method developed to apply to a control technology not

contemplated in the applicable regulation; and

(4) Combining two or more sampling/analytical methods (at least one unproven) into one for application to processes emitting multiple pollutants.

*Minor change to monitoring means:*

- (1) A modification to federally required monitoring that:
  - (i) Does not decrease the stringency of the compliance and enforcement measures for the relevant standard;
  - (ii) Has no national significance (*e.g.*, does not affect implementation of the applicable regulation for other affected sources, does not set a national precedent, and individually does not result in a revision to the monitoring requirements); and
  - (iii) Is site-specific, made to reflect or accommodate the operational characteristics, physical constraints, or safety concerns of an affected source.
- (2) Examples of minor changes to monitoring include, but are not limited to:
  - (i) Modifications to a sampling procedure, such as use of an improved sample conditioning system to reduce maintenance requirements;
  - (ii) Increased monitoring frequency; and
  - (iii) Modification of the environmental shelter to moderate temperature fluctuation and thus protect the analytical instrumentation.

*Minor change to recordkeeping/reporting means:*

- (1) A modification to federally required recordkeeping or reporting that:
    - (i) Does not decrease the stringency of the compliance and enforcement measures for the relevant standards;
    - (ii) Has no national significance (*e.g.*, does not affect implementation of the applicable regulation for other affected sources, does not set a national precedent, and individually does not result in a revision to the recordkeeping or reporting requirement); and
    - (iii) Is site-specific.
  - (2) Examples of minor changes to recordkeeping or reporting include, but are not limited to:
    - (i) Changes to recordkeeping necessitated by alternatives to monitoring;
    - (ii) Increased frequency of recordkeeping or reporting, or increased record retention periods;
    - (iii) Increased reliability in the form of recording monitoring data, *e.g.*, electronic or automatic recording as opposed to manual recording of monitoring data;
    - (iv) Changes related to compliance extensions granted pursuant to Sec. 63.6(i);
    - (v) Changes to recordkeeping for good cause shown for a fixed short duration, *e.g.*, facility shutdown;
    - (vi) Changes to recordkeeping or reporting that are clearly redundant with equivalent recordkeeping/reporting requirements; and
    - (vii) Decreases in the frequency of reporting for area sources to no less than once a year for good cause shown, or for major sources to no less than twice a year as required by title V, for good cause shown.
- Minor change to test method means:*
- (1) A modification to a federally enforceable test method that:
    - (i) Does not decrease the stringency of the emission limitation or standard;

(ii) Has no national significance (*e.g.*, does not affect implementation of the applicable regulation for other affected sources, does not set a national precedent, and individually does not result in a revision to the test method); and

(iii) Is site-specific, made to reflect or accommodate the operational characteristics, physical constraints, or safety concerns of an affected source.

(2) Examples of minor changes to a test method include, but are not limited to:

(i) Field adjustments in a test method's sampling procedure, such as a modified sampling traverse or location to avoid interference from an obstruction in the stack, increasing the sampling time or volume, use of additional impingers for a high moisture situation, accepting particulate emission results for a test run that was conducted with a lower than specified temperature, substitution of a material in the sampling train that has been demonstrated to be more inert for the sample matrix; and

(ii) Changes in recovery and analytical techniques such as a change in quality control/quality assurance requirements needed to adjust for analysis of a certain sample matrix.

**Note:** The authority to approve decreases in sampling times and volumes when necessitated by process variables has typically been delegated in conjunction with the minor changes to test methods, but these types of changes are not included within the scope of minor changes. See Memorandum from John S. Seitz, Director OAQPS, Delegation of 40 CFR part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies, July 10, 1998.

## 2. Local Air Authorities

The terms and conditions of the letters delegating authority to BCAA, NWAPA, ORCAA, PSCAA, SCAPCA, SWCAA, and YRCAA including Attachments A and B to the letters, are the same in the Ecology delegation letter with the following exceptions:

a. The NSPS delegated and the dates of the NSPS that are delegated vary. Attachment A to the Ecology letter identifies the NSPS subparts delegated to each agency and the date of the NSPS.

b. Only PSCAA, along with Ecology, has delegation of authority over sources and activities on non-trust land within the 1873 Survey Area of the Puyallup Indian Reservation.

c. Based on an opinion letter from an attorney for PSCAA, EPA has determined that the restriction on the issuance of civil penalties in Chapter 43.05 of the Revised Code of Washington (RCW), often referred to as "House Bill 1010," does not apply to local air authorities in Washington.

Copies of the delegation letters can be obtained by contacting EPA at the address above.

## B. Effective Date of Delegations

The letters granting delegation to these State and local air agencies specify that the updated delegations of the identified NSPS are effective November 20, 2001 for Ecology, BCAA, and SWCAA; February 5, 2002 for ORCAA; February 5, 2003, for NWAPA, PSCAA, and SCAPCA; and December 15, 2003, 2003, for YRCAA. The letters specified that the delegations were effective immediately as of the signature date of the letters and that if the recipient agency did not agree to the terms of the delegation, they could submit a written Notice of Objection within 10 days of the receipt of the letter and EPA would withdraw delegation. No agency submitted a Notice of Objection.

## C. Submission of Notices and Reports

All reports required to be submitted to EPA pursuant to the Federal NSPS from sources located within Washington, except for sources in Indian Country<sup>1</sup> and sources regulated by the EFSEC, should be submitted to Ecology or the local agency that has delegation for the relevant NSPS standard at the address set forth in 40 CFR 60.4(b)(WW). All reports required to be submitted pursuant to the Federal NSPS from sources located in Indian Country in Washington and sources regulated by the EFSEC should be submitted to EPA Region 10, Director, Office of Air Quality, OAQ-107, 1200 Sixth Avenue, Seattle, WA 98101.

## III. Conclusion

EPA is notifying the public of recent updates to NSPS delegations for Ecology, BCAA, NWAPA, ORCAA, PSCAA, SCAPCA, SWCAA, and YRCAA. These actions are already final and were granted by letters from the Director, Office of Air Quality, EPA, Region 10, to the air program directors at Ecology, BCAA, NWAPA, ORCAA, PSCAA, SCAPCA, SWCAA, and YRCAA. These delegations are subject to all EPA policy, guidance and determinations issued pursuant to 40 CFR Part 60 and to the conditions in the letters granting the delegation.

The table in paragraph 40 CFR 60.4(b)(WW)(ix) is being revised to show the specific NSPS subparts delegated to each Washington air agency. The names and addresses of the delegated Washington State and local

<sup>1</sup> As discussed in the delegation letters for Ecology and PSCAA, Ecology and PSCAA have delegation of the identified NSPS for sources located on non-trust lands within the 1873 Survey Area of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Therefore, these sources should send all required NSPS notices to Ecology or PSCAA, as appropriate.

air agencies are also being revised to reflect current information.

## IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). The Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule 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).

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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action does not alter the relationship or the distribution of power and responsibilities 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), because it is not economically significant.

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 rule 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.*, 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







NSPS SUBPARTS DELEGATED TO WASHINGTON AIR AGENCIES—Continued

Subpart <sup>1</sup>	Washington							
	Ecology <sup>2</sup>	BCAA <sup>3</sup>	NWAPA <sup>4</sup>	ORCAA <sup>5</sup>	PSCAA <sup>6</sup>	SCAPCA <sup>7</sup>	SWCAA <sup>8</sup>	YRCAA <sup>9</sup>
CCCC Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November, 30, 1999 or for which Modification or Reconstruction is Commenced on or after June 1, 2001 .....	X	X	.....	X	X	X	.....	X
DDDD Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or before November 30, 1999 (Emission Guidelines and Compliance Times) .....	.....	.....	.....	.....	.....	.....	.....	.....

<sup>1</sup> Any authority within any subpart of this part that is not delegable, is not delegated. Please refer to Attachment B to the delegation letters for a listing of the NSPS authorities excluded from delegation.  
<sup>2</sup> Washington State Department of Ecology, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>3</sup> Benton Clean Air Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>4</sup> Northwest Air Pollution Authority, for all NSPS delegated, as in effect on July 1, 2000.  
<sup>5</sup> Olympic Regional Clean Air Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>6</sup> Puget Sound Clean Air Authority, for all NSPS delegated, as in effect on July 1, 2002.  
<sup>7</sup> Spokane County Air Pollution Control Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>8</sup> Southwest Clean Air Agency, for all NSPS delegated, as in effect on July 1, 2000.  
<sup>9</sup> Yakima Regional Clean Air Authority, for 40 CFR 60.17(h)(1), (h)(2), (h)(3) and 40 CFR part 60, subpart AAAA, as in effect on June 6, 2001; for 40 CFR part 60, subpart CCCC, as in effect on June 1, 2001; and for all other NSPS delegated, as in effect February 20, 2001.  
<sup>10</sup> Subpart S of this part is not delegated to local agencies in Washington because the Washington State Department of Ecology retains sole authority to regulate Primary Aluminum Plants, pursuant to Washington Administrative Code 173-415-010.  
<sup>11</sup> Subpart BB of this part is not delegated to local agencies in Washington because the Washington State Department of Ecology retains sole authority to regulate Kraft and Sulfite Pulp Mill, pursuant to Washington State Administrative Code 173-405-012 and 173-410-012.

\* \* \* \* \*  
 [FR Doc. 04-3227 Filed 2-12-04; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 60**  
**[FRL-7622-6]**  
**Delegation of Authority to the Oregon Department of Environmental Quality for New Source Performance Standards**  
**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Delegation of authority; technical amendment.

**SUMMARY:** The Oregon Department of Environmental Quality (ODEQ) has submitted a request for an updated delegation of authority for implementation and enforcement of New Source Performance Standards (NSPS). The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated to ODEQ. EPA has reviewed ODEQ's updated regulations and determined that ODEQ has adequate and effective procedures for the implementation and enforcement of

these Federal NSPS standards. This action informs the public of the updated delegation to ODEQ.  
 EPA is also making a technical amendment to update the addresses of delegated air agencies in Oregon. This is a nonregulatory action.  
**DATES:** The amendments to update the addresses of delegated air agencies in Oregon will be effective on February 13, 2004. The letter granting delegation to ODEQ specifies that the updated delegation is effective December 15, 2003.  
**ADDRESSES:** Copies of information relating to this action, including the letters requesting and granting delegation, are available for inspection during normal business hours at the following locations: EPA Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101. Copies are also available at ODEQ, 811 SW Sixth Avenue, Portland, OR 97204-1390.  
**FOR FURTHER INFORMATION CONTACT:** Lucita Valiere, EPA Region 10, Office of Air Quality (OAQ-107), (206) 553-8087.  
**SUPPLEMENTARY INFORMATION:**  
**I. Background**  
 Under section 111 of the Clean Air Act (CAA), EPA is authorized to establish new source performance

standards (NSPS), which impose Federal technology-based requirements on new and modified stationary sources of pollution. EPA has developed NSPS standards for numerous source categories, which are published at 40 CFR parts 60 and 62. Although EPA has responsibility for implementing and enforcing the NSPS regulations, section 111(c) authorizes EPA to delegate primary implementation and enforcement responsibility to State and local agencies that develop and submit to EPA procedures for implementing and enforcing the NSPS where EPA determines that such procedures are adequate. Even where EPA has delegated primary responsibility for the NSPS to a State or local agency, however, EPA retains concurrent authority to enforce the NSPS. See CAA sections 111(c)(2) and 113.  
 ODEQ has had delegation of various NSPS since 1976. In letters dated March 10, 2003 and August 26, 2003, ODEQ requested an updated delegation based on implementation of State rules that adopt by reference more current Federal NSPS. EPA approved these requests because ODEQ meets the requirements for delegation. The delegation discussed today is for new and revised NSPS effective on or before July 1, 2002.