

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 40**

[EPA-HQ-ORD-2007-0419; FRL-8466-9]

RIN 2080-AA12

Revising the Budget Period Limitation for Research Grants and Cooperative Agreements**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action on Revising the Budget Period Limitation for Research Grants and Cooperative Agreements. This amendment will remove the budget period limitation for research and demonstration grants and cooperative agreements. This change is administrative in nature. The current rule sets forth a maximum budget period of 24 months for all grants and cooperative agreements awarded for research and demonstration projects, which can be extended on a case-by-case basis. Extensions are often requested creating an administrative burden for the EPA. All research and demonstration grants will continue to adhere to the project period limitation of five years. This change will not adversely affect any current or future research or demonstration efforts.

DATES: This rule is effective on November 13, 2007 without further notice, unless EPA receives adverse comments by October 12, 2007. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-ORD-2007-0419 by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: ord.docket@epa.gov.
- *Fax*: 202-566-9744.
- *Mail*: Office of Research and Development (ORD) Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery*: EPA Docket Center (EPA/DC), Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-ORD-2007-0419. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-HQ-ORD-2007-

0419. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or e-mail. The *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 *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. 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 *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 *www.regulations.gov* or in hard copy at the ORD Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the ORD Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: John J. Nanartowicz III, Office of Research and Development (ORD) Mail Code 8102R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The

telephone number is (202) 564-4756; facsimile number is (202) 565-2904; and e-mail is Nanartowicz.John@epa.gov.

SUPPLEMENTARY INFORMATION:

Constituency Effected: All Office of Research and Development award recipients for research grants and cooperative agreements.

I. Background

Forty CFR part 40 establishes the applicable policies and procedures governing the award of research and demonstration grants by the EPA. The provisions found in part 40 are the principal mechanisms that ORD uses to provide grant assistance. This direct final rule will address an issue that has become an administrative burden for the EPA. The current regulation at § 40.125-1(a) restricts the budget period for research and demonstration projects to 24 months. This restriction is in conflict with 40 CFR Part 30 (Subpart A, Section 30.2(z)), which stipulates that the project period for grants is established through the award document, during which Federal sponsorship begins and ends. This section allows for the creation of project periods of up to 5 years through the award document (grant or cooperative agreement).

Project period definitions are historically based on grantee applications. The budget period limitation specified at § 40.125-1(a) has become a burden for EPA in both programmatic and administrative terms. This self imposed restriction has impacted active assistance agreements by requiring that grantees apply for budget period extensions for their project grants. Accordingly, the Agency is compelled to respond to these requests. Due to the unpredictability of research, many projects fail to adhere to the two-year time limitation set forth in part 40. These deviation requests have become a routine occurrence for many research grants. A recent procedures and policy review by the Grants Administration Division (GAD) identified this issue to the Agency and highlighted the administrative burden that has accompanied the processing of these rule deviations.

EPA's amendment of the rule is the final solution for the restrictive budget period limitation. This change will substantially reduce the administrative burden for the Agency and grantees by minimizing the number of administrative actions (i.e., deviations) that will be processed during the life of a grant or cooperative agreement. This change will not adversely affect any current or future research efforts.

II. Additional Supplementary Information

This action announces EPA's amendment of 40 CFR 40.125.

III. Statutory and Executive Order Reviews

A. Executive Order 12866

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, since the proposed change addresses an administrative requirement, which is internal to the Agency. No information will be collected from either current or future grantees by way of this proposed change.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

This direct final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This direct final rule is not subject to notice and comment requirements under the APA or any other statute because this rule

pertains to grant award and administration matters which the APA expressly exempts from notice and comment rulemaking requirements (5 U.S.C. 553(a)(2)).

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires that EPA identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. The EPA has determined that this rule change contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. Additionally, the rule change does not contain any regulatory requirements that might significantly or uniquely affect small governments. UMRA does not apply to rules that govern the award and administration of grants. Thus, today's direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132—Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law, unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This proposed direct final rule does not have federalism implications. It will 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Further, because this rule regulates the use of federal financial assistance, it will not impose substantial direct compliance costs to the states.

F. Executive Order 13175 (Consultation And Coordination With Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal

government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This proposed direct final rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, 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 in Executive Order 13175. This rule applies to the terms that define the availability of use for federal financial assistance for research and demonstration grants. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that is determined to be: (1) “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed direct final rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), EPA is required to use voluntary consensus standards in its regulatory activities unless to do so

would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

This proposed direct final rule does not involve any technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations, because it does not affect the level of protection provided to human health or the environment. This rule change pertains to grant award and administration matters.

K. Congressional Review Act

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**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective November 13, 2007.

List of Subjects in 40 CFR Part 40

Environmental protection, Administrative practice and procedure, Research and demonstration grants, Grant programs—environmental protection, Grant limitations, and Reporting and recordkeeping requirements.

Dated: September 6, 2007.

Stephen L. Johnson,
Administrator.

■ For the reasons set out in the preamble, 40 CFR part 40 is amended as follows:

PART 40—[AMENDED]

■ 1. The authority citation for part 40 is revised to read as follows:

Authority: 42 U.S.C. 1857 *et seq.*

§ 40.125–1 [Amended]

■ 2. Section 40.125–1 is amended by removing and reserving paragraph (a).

[FR Doc. E7–18000 Filed 9–11–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–NC–0004–200704(a); FRL–8465–4]

Approval and Promulgation of Implementation Plans North Carolina: Mecklenburg County Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the North Carolina State Implementation Plan (SIP). On February 16, 2005, the North Carolina Department of Environment and Natural Resources submitted revisions to the Mecklenburg County Air Pollution Control Ordinance (MCAPCO) to be incorporated into the Mecklenburg County portion of the North Carolina SIP. The revisions include changes to MCAPCO 2.0902, “Applicability,” and 2.0933, “Petroleum Liquid Storage in External Floating Roof Tanks.” These changes were made to maintain consistency with State and federal regulations, and are part of Mecklenburg County’s strategy to attain and maintain the 8-hour ozone National Ambient Air Quality Standard (NAAQS), by reducing precursors to ozone. EPA is approving this SIP revision pursuant to section 110 of the Clean Air Act (CAA).