

**(d) Subject**

Air Transport Association (ATA) of America Code 36, Pneumatic.

**(e) Unsafe Condition**

This AD was prompted by reports of insufficient clearance between the surrounding structure/skin of the aircraft and select bleed air ducts that supply the wing ice protection system (WIPS) in the rear fuselage. The FAA is issuing this AD to address possible interference between the high pressure (HP) shroud and the surrounding structures, which could compromise the HP ducting shroud's capability to provide bleed air leak routing and result in a bleed air leak being undetected. A significant undetected bleed air leak could expose the surrounding structure to heat stress, resulting in reduced structural integrity of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Required Actions**

Within 21 months after the effective date of this AD: Inspect the affected bleed air ducts and surrounding structure for minimum clearance and damage (wear or chafing), and do all applicable corrective actions in accordance with the Accomplishment Instructions of Bombardier Service Bulletin (SB) 700-36-7502, October 28, 2020. Do all applicable corrective actions before further flight.

**(h) No Reporting Requirement**

Although Bombardier Service Bulletin (SB) 700-36-7502, October 28, 2020, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by

the DAO, the approval must include the DAO-authorized signature.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF-2022-05, dated February 24, 2022, for related information. This MCAI may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0886.

(2) For more information about this AD, contact Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-2999; email [ac.yul@aero.bombardier.com](mailto:ac.yul@aero.bombardier.com); internet <https://www.bombardier.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Issued on July 15, 2022.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

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**ENVIRONMENTAL PROTECTION AGENCY**
**40 CFR Part 61**

**[EPA-R10-OAR-2022-0374; FRL-9881-01-R10]**

**National Emissions Standards for Hazardous Air Pollutants; Delegation of Authority to Washington**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to fully approve a delegation request submitted by the Washington State Department of Health (WDOH) for full delegation of authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants for radionuclide air emissions. The EPA granted WDOH partial delegation of authority to implement and enforce these standards effective July 5, 2006. The WDOH has addressed the partial approval issues, has updated its adoption of the applicable Federal standards to address all current Federal

requirements, and has submitted to the EPA a request for full delegation of these standards.

**DATES:** Comments must be received on or before August 22, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2022-0374, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.regulations.gov>. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jim McAuley, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553-1987 or [mcauley.jim@epa.gov](mailto:mcauley.jim@epa.gov).

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**I. Background**

Section 112(l) of the Clean Air Act (CAA) and the Code of Federal Regulations (CFR) at 40 CFR part 63, subpart E, authorize the EPA to delegate to State and local agencies authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPs) if specified requirements are met. The NESHAPs are codified in 40 CFR parts 61 and 63. One option for such delegation is "straight delegation," under which a State or local agency requests delegation based on Federal rules adopted unchanged into State or local rules. Criteria for

straight delegations are set forth in 40 CFR 63.91(d). There are two basic requirements for straight delegation. First, the requesting agency must show it has adequate authority and resources to implement and enforce the specified NESHAP. This criterion must be met for straight delegation as well as for all other types of delegation under CAA section 112(l). Second, for straight delegation, the requesting agency must show that it has adopted the Federal NESHAPs for which it is requesting delegation unchanged into State or local law.

Effective July 5, 2006, the EPA granted WDOH partial approval and delegation to implement and enforce the radionuclides NESHAPs in the State of Washington, specifically, 40 CFR part 61, subparts A, B, H, I, K, Q, R, T, and W (Radionuclides NESHAPs) as in effect on July 1, 2004 (71 FR 32276, June 5, 2006). The EPA granted WDOH partial rather than full approval and delegation of the Radionuclides NESHAPs because WDOH did not at that time have express authority to recover criminal fines for certain actions, as required by 40 CFR 70.11(a)(3)(iii) and 40 CFR 63.91(d)(3)(i)(A). The EPA also approved a streamlined mechanism by which WDOH could receive partial approval and delegation of newly promulgated or revised Radionuclides NESHAPs as provided in 40 CFR 63.91(a)(1) and (d)(2).

## II. WDOH's Delegation Request

The WDOH submitted a request for full approval and delegation of the Radionuclides NESHAPs on February 3, 2012. The WDOH also submitted additional updates to its request in letters dated April 10, 2017, August 11, 2017, September 18, 2016 and February 25, 2022. In its request, WDOH explained that it has since adopted regulations that, together with its existing criminal enforcement authority, address the basis for the EPA granting partial rather than full approval and delegation in 2006. Specifically, WDOH adopted regulations prohibiting the making of a false material statement, representation, or certification in any required submission. See Washington Administrative Code (WAC) 246–247–080(12). The WDOH also adopted regulations prohibiting any person from rendering inaccurate any required monitoring device or method. See WAC 246–247–075(14). The WDOH's submission included a letter from the Washington Attorney General's office

confirming that WDOH now has criminal authorities meeting the requirements of 40 CFR 70.11.

In addition, WDOH's submittal showed that it has updated its adoption by reference of the Radionuclides NESHAPs, without change, to include the Federal rules in effect as of July 1, 2021. See WAC 246–247–035. The WDOH also committed to undertaking updates to its adoption by reference of the Radionuclides NESHAPs as needed to ensure they remain consistent with the Federal regulations.

The WDOH's submission also included an updated agreement with the Washington Department of Ecology under which WDOH is required to make entries into EPA's Integrated Compliance Information System for Air (ICIS-Air).

## III. EPA Action

### A. What authorities are included?

Based on WDOH's request for full approval and delegation, the EPA has determined that WDOH has addressed the partial approval issue discussed in the EPA's 2006 partial approval and delegation of the Radionuclides NESHAPs, and that WDOH continues to meet the other requirements for straight delegation of the Radionuclides NESHAPs. First, together with the authority to pursue criminal penalties for knowing violations provided by the Revised Code of Washington (RCW) 70A.15.3130 and 70A.15.3150,<sup>1</sup> WDOH now has all the criminal authorities required by 40 CFR 70.11(a)(3)(iii) and 63.91(d)(3)(i).<sup>2</sup> Second, WDOH has updated its regulations, specifically, its incorporation by reference of the Radionuclides NESHAPs as of July 1, 2021, so that it can fully implement and enforce the Radionuclides NESHAPs as currently in effect. See WAC 246–247–035. Finally, WDOH has confirmed that it continues to meet all other criteria of 40 CFR 63.91 that provided the basis for its 2006 partial delegation. See 40 CFR 63.91(a)(1) and (d)(2).

Therefore, except as provided in Section III.B. of this preamble, the EPA is granting full approval and delegation to WDOH of authority to implement and enforce the Radionuclides NESHAPs as

<sup>1</sup> Previously codified at RCW 70.94.422 and 70.94.430.

<sup>2</sup> The EPA has previously determined that virtually identical provisions meet the requirements of 40 CFR 70.11(a)(3)(iii) with respect to the Washington Department of Ecology. See 66 FR 16, pp. 17–18 (January 2, 2001).

in effect on July 1, 2021. Radionuclides NESHAPs that are promulgated or revised substantively after that date are not delegated to WDOH. These remain the responsibility of the EPA.

Included in this full approval and delegation is the authority to approve:

1. "Minor changes to monitoring"<sup>3</sup> including the use of the specified monitoring requirements and procedures with minor changes in methodology as described in 40 CFR 61.14(g)(1)(i);
2. "Intermediate changes to monitoring;"
3. "Minor changes to recordkeeping/reporting;"
4. "Minor changes in test methods," including the use of a reference method with minor changes in methodology as described in 40 CFR 61.13(h)(1)(i); and
5. Waiver of the requirement for emission testing because the owner or operator of a source has demonstrated by other means to WDOH's satisfaction that the source is in compliance with the standard as described in 40 CFR 61.13(h)(1)(iii).

Any authorities not addressed in this letter and not identified in any delegated subpart of the Radionuclides NESHAPs as authorities that cannot be delegated shall be considered delegated. See 67 FR 3106, January 23, 2002, p. 3109, footnote 3.

In previously granting partial approval and delegation, we noted that WDOH does, as a matter of State law, have additional regulations and requirements that sources of radionuclide air emissions must meet. As discussed in more detail below, those additional authorities and requirements are not part of this full approval and delegation.

### B. What authorities are excluded?

The EPA is not delegating authorities under 40 CFR part 61 that specifically indicate they cannot be delegated, that require rulemaking to implement, that affect the stringency of the standard, equivalency determinations, or where national oversight is the only way to ensure national consistency. The following Table 1 identifies specific authorities within 40 CFR part 61, subparts A, B, H, I, K, Q, R, T, and W, that the EPA is excluding from this delegation.

<sup>3</sup> For purposes of this paragraph, the terms in quotations have the meaning assigned to them in 40 CFR 63.90.

TABLE 1—PART 61 AUTHORITIES EXCLUDED FROM APPROVAL AND DELEGATION

Section	Authorities
61.04(b) .....	Waiver of recordkeeping.
61.04(c) .....	Delegations to state and local agencies.
61.05(c) .....	Waivers/exemptions.
61.11 .....	Waiver of compliance.
61.12(d) .....	Approval of alternative means of emission limitation.
61.13(h)(1)(ii) .....	Approval of alternatives to test methods (except as provided in 40 CFR 61.13(h)(1)(i)).
61.14(d) .....	Combined effluents.
61.14(g)(1)(ii) .....	Approval of alternatives to monitoring that do not qualify as “Minor changes to monitoring,” “Intermediate changes to monitoring,” or “Minor changes to recordkeeping/reporting.” <sup>4</sup>
61.16 .....	Availability of information.
61.23(b) .....	Subpart B—Radon Emissions from Underground Uranium Mines Alternative; compliance demonstration to COMPLY–R.
61.93(b)(2)(iii), (c)(2)(iii) .....	Subpart H—Emissions of Radionuclides Other than Radon from DOE Facilities.
61.107(b)(2)(iii), (d)(2)(iii) .....	Subpart I—Radionuclide Emissions from Federal Facilities Other than NRC Licensees and Not Covered by Subpart H.
61.125(a) .....	Subpart K—Radionuclide Emissions from Elemental Phosphorus Plants.
61.206(c), (d), and (e) .....	Subpart R—Radon Emission from Phosphogypsum Stacks.

**IV. Implications**

As with the previous partial delegation and approval and consistent with other delegations to the State of Washington, under this full delegation and approval:

1. Sources in Washington subject to the delegated Radionuclides NESHAPs should continue to direct questions and compliance issues to WDOH except with respect to those authorities that are not delegated (those noted in Section III.B. of this preamble). For those authorities noted in Section III.B of this preamble, affected sources should continue to work with the EPA as their primary contact and submit materials directly to the EPA, copying WDOH on all submittals, questions, and requests.

2. Sources subject to the Radionuclides NESHAPs continue to be required to send required notifications, reports and requests to WDOH for WDOH’s action and to provide copies to the EPA. For authorities that are excluded from this delegation (see Section III.B of this preamble), sources should continue to send required notifications, reports, and requests to the EPA and to provide copies to WDOH.

3. Any records or reports provided to or otherwise obtained by WDOH relating to the Radionuclides NESHAPs should be made available to the EPA upon request. In accordance with 40 CFR 61.16 and 63.15, the availability to the public of information provided to or otherwise obtained by the EPA in connection with this delegation shall be governed by 40 CFR part 2. The EPA may request notifications and reports from owners/operators and/or WDOH.

4. The WDOH must continue to maintain a record of all approved alternatives to all monitoring, testing, recordkeeping, and reporting requirements and provide this list of alternatives to the EPA at least semi-annually, or at a more frequent basis if requested by the EPA. The EPA may audit the WDOH-approved alternatives and disapprove any that it determines are inappropriate, after discussion with WDOH. If changes are disapproved, WDOH must notify the source that it must revert to the original applicable monitoring, testing, recordkeeping, and/or reporting requirements. Also, in cases where the source does not maintain the conditions which prompted the approval of the alternatives to the monitoring testing, recordkeeping, and/or reporting requirements, WDOH must require the source to revert to the original monitoring, testing, recordkeeping, and reporting requirements, or more stringent requirements, if justified.

5. The WDOH shall require affected facilities to use the methods specified in 40 CFR part 61 in performing source tests pursuant to the regulations. See 40 CFR 61.7.

6. Enforcement of these delegated Radionuclides NESHAPs in WDOH’s jurisdiction will be the primary responsibility of WDOH. Nevertheless, the EPA may exercise its concurrent enforcement authority pursuant to sections 112(l)(7) and 113 of the CAA and 40 CFR 63.90(d)(2) with respect to sources which are subject to the Radionuclides NESHAPs.

7. Implementation and enforcement of the delegated NESHAP are subject to the *Environmental Performance Partnership Agreement* between the State of Washington and the EPA and its successor documents. The Agreement

defines roles and responsibilities, including timely and appropriate enforcement response and the maintenance of ICIS-Air via the Exchange Network. Your agency will ensure that all relevant source notification and report information is entered as provided in the Agreement into the specified EPA database system to meet your recordkeeping/reporting requirements.

8. This full approval and delegation delegates to WDOH authority to implement and enforce the Radionuclides NESHAPs, as in effect on July 1, 2021. Radionuclides NESHAPs that that are promulgated or revised substantively after that date are not delegated to WDOH.

9. This approval and delegation does not extend to any additional State standards or requirements, including other State standards or requirements regulating radionuclide air emissions. Section 116 of the CAA provides that, with some exceptions not applicable here, nothing in the CAA precludes or denies the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement of air pollution so long as the State requirement is not less stringent than a standard or limitation in effect under an applicable implementation plan or under section 111 or 112 of the CAA. Washington State standards that are more stringent than the Radionuclides NESHAPs are enforceable as provided under State law, but are not enforceable under the CAA or in any way part of this full approval and delegation of the Radionuclides NESHAPs to WDOH.

10. The WDOH may receive full approval and delegation of newly

<sup>4</sup> For purposes of this Table, the terms in quotations have the meaning assigned to them in 40 CFR 63.90.

promulgated or revised Radionuclides NESHAPs by the following streamlined process: (1) WDOH will send a letter to the EPA requesting delegation for such new or revised Radionuclides NESHAPs which WDOH has adopted by reference into Washington regulations, reference its previous demonstration, and reaffirm that it still meets the criteria for any full approval and delegation of the NESHAPs; (2) the EPA will send a letter of response back to WDOH granting approval of the delegation request (or explaining why the EPA cannot grant the request), and publish notice of the EPA's approval in the **Federal Register**; (3) WDOH does not need to send a response back to the EPA.

11. Although WDOH is not obligated to request or receive future delegations of the Radionuclides NESHAPs, the EPA encourages WDOH, on an annual basis if the Federal standards have changed, to revise its rules to incorporate by reference newly promulgated or revised Radionuclides NESHAPs and request updated delegation of those standards.

#### V. Summary of Proposed Action

The EPA proposes to fully approve WDOH's request for approval and delegation of authority to implement and enforce the Radionuclides NESHAPs. Pursuant to the authority of section 112(l) of the CAA, this approval is based on the EPA's finding that State law, regulations, and agency resources meet the requirements for full straight program approval and delegation of authority as specified in 40 CFR 63.91. The purpose of this full approval and delegation is to acknowledge WDOH's ability to implement a Radionuclides NESHAPs program within the State of Washington (except with respect to Indian country, as discussed in Section VI. of this preamble, and to continue the transfer of primary implementation and enforcement responsibility for this program from the EPA to WDOH. Although the EPA will look to WDOH as the lead for implementing delegated Radionuclides NESHAPs for its sources, the EPA retains authority under section 113 of the CAA to enforce any applicable emission standard or requirement, if needed. With this approval, WDOH may request newly promulgated or revised Radionuclides NESHAPs by way of a streamlined process.

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to approve NESHAP delegation requests that comply with CAA section 112(l) and applicable Federal regulations. In reviewing

NESHAP delegation requests, the EPA's role is to approve State choices, provided that they meet the criteria and objectives of the CAA and the EPA's implementing regulations. Accordingly, this proposed action would merely approve the State's request as meeting Federal requirements and does not impose additional requirements under the CAA 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practical and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This proposed full approval and delegation of the Radionuclides NESHAPs would not apply to sources or activities located in Indian country, as defined in 18 U.S.C. 1151.<sup>5</sup> Consistent with previous Federal program approvals or delegations, the EPA will continue to implement the NESHAPs in

<sup>5</sup> Under this definition, the EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.

Indian country in Washington because WDOH has not adequately demonstrated authority over sources and activities located within the exterior boundaries of Indian reservations and in other areas of Indian country. In those areas of Indian country, this proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The one exception is within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided State and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

#### List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Intergovernmental relations, Radionuclides, Reporting and recordkeeping requirements.

Dated: July 15, 2022.

#### Casey Sixkiller,

*Regional Administrator, Region 10.*

[FR Doc. 2022-15553 Filed 7-20-22; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 224

[Docket No. FRA-2021-0080, Notice No. 1]

RIN 2130-AC77

#### Reflectorization of Rail Freight Rolling Stock; Codifying Existing Waivers

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** FRA proposes to amend its standards for Reflectorization of Rail Freight Rolling Stock (Reflectorization Standards) to codify waivers and remove the outdated implementation schedule. The proposed changes are expected to enhance safety, promote innovation, clarify existing requirements, and reduce unnecessary paperwork burdens. The proposed amendments are consistent with the mandate of the Infrastructure Investment and Jobs Act (IIJA), which requires FRA to review and analyze certain longstanding waivers to determine whether incorporating the