

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

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 August 4, 2006. 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 may not

be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations.

Dated: May 24, 2006.

Cyndy Colantoni,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Subpart Y—Minnesota

■ 2. In § 52.1220, the table in paragraph (e) is amended by adding an entry for "Alternative Public Participation Process" after the existing entries to read as follows:

§ 52.1220 Identification of plan.

* * * * *
(e) * * *

EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Alternative Public Participation Process	Statewide	12/07/05	07/05/06 [Insert page number where the document begins].	
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[FR Doc. 06-5052 Filed 6-2-06; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[EPA-R10-OAR-2006-0001; FRL-8177-2]

Partial Approval of the Clean Air Act, Section 112(l), Delegation of Authority to the Washington State Department of Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting partial approval to Washington State Department of Health's (WDOH) request for delegation of authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAP) for radionuclide air emission. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: *Effective Date:* This final rule is effective on July 5, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2006-0001. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly

available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket.

FOR FURTHER INFORMATION CONTACT: Davis Zhen, (206) 553-7660, or by e-mail at zhen.davis@epa.gov.

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I. Background

On June 6, 2005, WDOH submitted a request for delegation of authority to implement and enforce 40 CFR part 61, subparts A, B, H, I, K, Q, R, T, and W (Radionuclide NESHAPs). WDOH's request showed that it had adopted without change or modification all of the provisions of the Radionuclide NESHAPs, as in effect on July 1, 2004. On February 22, 2006, EPA proposed a partial approval of WDOH's delegation request. The reason for EPA's decision to grant partial rather than full approval was that WDOH does not currently have express authority to recover criminal fines for knowingly making a false material statement, representation, or certificate in any form, notice or report, or knowingly rendering inadequate any required monitoring device or method, as required by 40 CFR 70.11(a)(3)(iii) and 40 CFR 63.91(d)(3)(i). Please refer to 71 FR 9059 (February 22, 2006) for a detailed description of our proposed partial approval and delegation.

II. Response to Comments

EPA provided a 30-day period for public comment on our February 22, 2006 proposal, which ended on March 24, 2006. No comments were received

during the public comment period. EPA did receive a comment letter, however, on March 27, 2006, after the close of the public comment period. Although EPA is not legally obligated to respond, a summary of the commenter's concerns and EPA's response to the comments follows. A copy of the comment letter is in the docket.

The commenter states that WDOH's radionuclide regulations are not consistent with and are more stringent than the Radionuclide NESHAPs. The commenter cites a 1983 EPA guidance document regarding delegation of NSPS and NESHAP standards which states that "state regulations dealing with NSPS and NESHAPs must be consistent with the Federal regulations as outlined in 40 CFR Part 60 and 61." Good Practices Manual for Delegation of NSPS and NESHAPs, February 1983. The commenter continues that, although a state regulation is allowed to be more stringent than the corresponding federal regulation, the state regulation should be consistent.

The commenter notes several ways in which it believes WDOH's radionuclide regulations are not consistent with the Radionuclide NESHAPs. First, the commenter states that the WDOH regulations have no *de minimis* exemption from the requirement to obtain a construction permit and that there is no scientific basis for permitting sources below EPA's standard of 0.1 mrem per year. EPA assumes this is a reference to the exemption in 40 CFR 61.96(b) for new construction and modifications with emissions less than 1% of the standard in 40 CFR 61.92 (referred to here as the "*de minimis* exemption" or "*de minimis* level"). The commenter is also concerned that WDOH has allegedly stated that it does not review or assess the economic impact of regulating sources below this *de minimis* level. Second, the commenter states that some of WDOH's exemptions are narrower than those provided in the Radionuclide NESHAPs. As an example, the commenter states that WDOH's exemption to the definition of "modification" for routine maintenance, repair and replacement applies only to abatement technology, whereas EPA's definition of modification has no such limitation. Third, the commenter states that WDOH requires notice of construction applications for accidental releases, whereas the Radionuclide NESHAPs do not. Fourth, the

commenter states that WDOH has expressed concern, and even reluctance, to permit some individual sources, even though their effective doses were below the *de minimis* level individually and actual facility-wide emissions are approximately 0.3% of the Radionuclide NESHAPs facility-wide standard of 10 mrem per year because the unabated (uncontrolled) emissions of the Department of Energy's Hanford facility (DOE Hanford) are approaching the facility-wide standard of 10 mrem per year. The commenter concludes that EPA should not delegate the Radionuclide NESHAPs to WDOH unless WDOH promulgates regulations consistent with the regulations and the intent of the Radionuclide NESHAPs or documents substantial evidence other than that compiled by the EPA to reinforce their regulations.

As the commenter notes and as discussed in the proposal, WDOH has, in addition, adopted other provisions as a matter of state law that regulated radionuclide emissions and that apply to sources subject to the Radionuclide NESHAPs. These requirements are additional to and more stringent than the Radionuclide NESHAPs, by, for example, eliminating exemptions that may be available under the Radionuclide NESHAPs. Section 116 of the CAA makes clear, however, that with some exceptions not relevant here, nothing in title I of the CAA precludes or denies the right of any State to adopt or enforce any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement of air pollutant so long as it 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. EPA made clear in proposing to approve WDOH's delegation request that EPA's partial approval and delegation of the Radionuclide NESHAPs to WDOH does not extend to any additional state standards regulating radionuclide emissions. See 71 FR 9062 and 9063. These additional State standards are enforceable as a matter of State law, but are not enforceable under the CAA or in any way part of this delegation.

III. Final Action

EPA is granting partial approval to WDOH's request for partial approval and delegation of authority to implement and enforce the Radionuclide NESHAPs. Pursuant to the

authority of section 112(l) of the CAA, this partial approval is based on EPA's finding that State law, regulations and agency resources meet the requirements for partial program approval and delegation of authority specified in 40 CFR 63.91 and applicable EPA guidance. Except as provided in Section III.B., EPA is delegating to WDOH authority to implement and enforce 40 CFR part 61, subparts A, B, H, I, K, Q, R, T, and W, as in effect on July 1, 2004. NESHAPs that are promulgated or revised substantively after July 1, 2004 are not delegated to WDOH. These remain the responsibility of EPA. Included as part of the delegation is the authority to approve:

1. "Minor changes to monitoring," 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);
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).

For purposes of this paragraph, the terms in quotations have the meaning assigned to them in 40 CFR 63.90.

EPA is also updating the table published at 40 CFR 61.04(c)(10) showing the most recent delegation status of specific part 61 subparts that have been delegated to State and local air pollution control authorities in Region 10.

A. What Authorities Are Excluded From This Partial Approval and Delegation?

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

TABLE 1.—PART 61 AUTHORITIES EXCLUDED FROM PARTIAL APPROVAL AND DELEGATION

Section	Authorities
61.04(b)	Waiver of recordkeeping.
61.12(d)(1)	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(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” For purposes of the previous sentence, the terms in quotes are defined in 40 CFR 63.90.
61.16	Availability of information.
61.23(b)	Subpart B—Radon Emissions from Underground Uranium Mines Alternative compliance demonstration to COMPLY-R (requires EPA Headquarters approval).
61.93(b)(2)(iii), (c)(2)(iii)	Subpart H—Emissions of Radionuclides Other than Radon from DOE Facilities (alternatives to test methods).
61.107(b)(2)(iii), (d)(2)(iii)	Subpart I—Radionuclide Emissions from Federal Facilities Other than NRC licensees and Not Covered in Subpart H (alternatives to test methods).
61.125(a)	Subpart K—Radionuclide Emissions from elemental Phosphorus Plants (alternatives to test methods).
61.206(c), (d), and (e)	Subpart R—Emission from Phosphogypsum Stacks (requires Approval from Assistant Administrator of EPA Office of Air and Radiation).

In addition, because WDOH does not currently have express authority to recover criminal fines for knowingly making a false material statement, representation, or certificate in any form, notice or report or knowingly rendering inadequate any required monitoring device or method, as required by 40 CFR 70.11(a)(3)(iii) and 40 CFR 63.91(d)(3)(i), EPA will continue to retain primary authority to implement and enforce these authorities. This is the basis for partial rather than full approval.

B. How Will This Partial Approval and Delegation Affect Regulated Community?

Generally speaking, the transfer of authority from EPA to WDOH in this delegation changes EPA’s role from primary implementer and enforcer to overseer. As a result, sources in Washington subject to the delegated Radionuclide NESHAPs should direct questions and compliance issues to WDOH. For authorities that are NOT delegated (those noted in Section III.A. above), affected sources should continue to work with EPA as their primary contact and submit materials directly to EPA. In such cases, affected sources should copy WDOH on all submittals, questions, and requests. EPA will continue to have primary responsibility to implement and enforce Federal regulations that do not have current state or local agency delegations.

C. Where Will the Regulated Community Send Notifications and Reports?

Sources subject to the delegated NESHAPs will be required to send required notifications, reports and requests to WDOH for WDOH’s action and to provide copies to EPA. For authorities that are excluded from this delegation, sources should continue to

send required notifications, reports, and requests to EPA and to provide copies to WDOH.

D. What Are WDOH’s Reporting Obligations?

WDOH must maintain a record of all approved alternatives to all monitoring, testing, recordkeeping, and reporting requirements and provide this list of alternatives to EPA at least semi-annually, or at a more frequent basis if requested by EPA. 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 (either those requirements of the original section 112 requirements, the alternative requirements approved under 40 CFR part 63, subpart A, or the previously approved site-specific alternative 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.

E. What Is the Effect of Other State Laws Regulating Radionuclide Air Emissions?

This partial approval and delegation delegates to WDOH authority to implement and enforce 40 CFR part 61, subparts A, B, H, I, K, Q, R, T, and W, as in effect on July 1, 2004. The partial approval and delegation does not extend to any additional state standards, including other state standards regulating radionuclide air emissions.

However, 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, pursuant to the requirements of section 116 of the Clean Air Act.

F. Delegation of Newly Promulgated and Revised Radionuclide NESHAPs

WDOH may receive partial approval and delegation of newly promulgated or revised Radionuclide NESHAPs by the following streamlined process: (1) WDOH will send a letter to EPA requesting delegation for such new or revised NESHAPs which WDOH has adopted by reference into Washington regulations; (2) EPA will send a letter of response back to WDOH granting partial approval of the delegation request (or explaining why EPA cannot grant the request), and publish only EPA’s approval in the **Federal Register**; (3) WDOH does not need to send a response back to EPA.

G. How Will WDOH Receive Partial Approval and Delegation of Newly Promulgated and Revised Radionuclide NESHAPs?

WDOH is not obligated to request or receive future delegations. However, EPA encourages WDOH, on an annual basis, to revise its rules to incorporate by reference newly promulgated or revised Radionuclide NESHAPs and request updated delegation. Preferably, WDOH should adopt Federal regulations effective July 1, of each year; this corresponds with the publication date of the Code of Federal Regulations (CFR).

H. How Will This Partial Approval and Delegation Affect Indian Country?

This partial approval and delegation to WDOH to implement and enforce the

Radionuclide NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. "Indian country" is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, 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. Consistent with previous Federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country, because WDOH has not adequately demonstrated its authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

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). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, 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.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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).

The 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). Consistent with EPA policy, however, EPA nonetheless initiated consultation with representatives of tribal governments in the process of developing this proposal to permit them to have meaningful and timely input into its development.

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 merely approves a State request to receive delegation of certain Federal standards, and 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.

In reviewing program approval and delegation submissions, EPA's role is to approve submissions provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a delegation submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA to use VCS in place of a delegation submission that otherwise satisfies the provisions of the Clean Air Act. Thus 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 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 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).

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 August 4, 2006. 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 may not be challenged later in proceedings to enforce its requirements (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 61

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

Dated: May 19, 2006.

L. Michael Bogert,
Regional Administrator, Region 10.

■ 40 CFR part 61 is amended to read as follows:

PART 61—[AMENDED]

■ 1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7413, 7414, 7416, 7601 and 7602.

Subpart A—General Provisions

■ 2. Section 61.04 is amended by revising the table in paragraph (c)(10) to read as follows:

§ 61.04 Address.

*	*	*	*	*
(c)	*	*	*	
(10)	*	*	*	

DELEGATION STATUS FOR PART 61 STANDARDS—REGION 10¹

	AK	OR		WA									
		IDEQ ⁴	ODEQ ⁵	LRAPA ⁶	Ecol-ogy ⁷	BCAA ⁸	NWCAA ⁹	ORCAA ¹⁰	PSCAA ¹¹	SWCAA ¹²	SCAPCA ¹³	YRCAA ¹⁴	WDOH ¹⁵
Subparts ²													
A General Provisions ¹⁶	X	X	X	X	X	X	X	X	X	X	X	X	X
B Radon from Underground Uranium Mines		X	X	X	X	X	X	X	X	X	X	X	X
C Beryllium		X	X	X	X	X	X	X	X	X	X	X	X
D Beryllium Rocket Motor Firing		X	X	X	X	X	X	X	X	X	X	X	X
E Mercury	X	X	X	X	X	X	X	X	X	X	X	X	X
F Vinyl Chloride		X	X	X	X	X	X	X	X	X	X	X	X
H Radionuclide other than Radon from Dept. of Energy Facilities													
I Radionuclide from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H													
J Equipment Leaks of Benzene	X	X	X	X	X	X	X	X	X	X	X	X	X
K Radionuclide from Elemental Phosphorus Plants													
L Benzene from Coke By-Product Recovery Plants		X	X	X	X	X	X	X	X	X	X	X	X
M Asbestos	X												
N Inorganic Arsenic from Glass Manufacturing Plants		X	X	X	X	X	X	X	X	X	X	X	X
O Inorganic Arsenic from Primary Copper Smelters		X	X	X	X	X	X	X	X	X	X	X	X
P Inorganic Arsenic emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities		X	X	X	X	X	X	X	X	X	X	X	X
Q Radon from Dept. of Energy Facilities													
R Radon from Phosphogypsum Stacks													
T Radon from Disposal Uranium Mill Tailings													
V Equipment Leaks (Fugitive Sources)	X	X	X	X	X	X	X	X	X	X	X	X	X
W Radon from Operating Mill Tailings													
Y Benzene from Benzene Storage Vessels		X	X	X	X	X	X	X	X	X	X	X	X
BB Benzene from Benzene Transfer Operations		X	X	X	X	X	X	X	X	X	X	X	X
FF Benzene Waste Operations	X	X	X	X	X	X	X	X	X	X	X	X	X

1. Table last updated on July 5, 2006.
 2. Any authority within any subpart of this part (i.e. under "Delegation of Authority") that is identified as not delegable, is not delegated.
 3. Alaska Department of Environmental Conservation (01/18/1997). Note: Alaska received delegation for §61.145 and §61.154 of subpart M (Asbestos), along with other sections and appendices which are referenced in §61.145, as §61.145 applies to sources required to obtain an operating permit under Alaska's regulations. Alaska has not received delegation for subpart M for sources not required to obtain an operating permit under Alaska's regulations.
 4. Idaho Department of Environmental Quality (07/01/2003). Note: Delegation of these part 61 subparts applies only to those sources in Idaho required to obtain an operating permit under title V of the Clean Air Act.
 5. Oregon Department of Environmental Quality (07/01/2004).
 6. Lane Regional Air Pollution Authority (07/01/2001).
 7. Washington Department of Ecology (02/20/2001). Note: Delegation of part 61, subpart M, applies only to sources required to obtain an operating permit under title V of the Clean Air Act, including Hanford. (Pursuant to RCW 70.105.240, only Ecology can enforce non-radionuclide regulations at Hanford).
 8. Benton Clean Air Authority (02/20/2001). Note: Delegation of part 61, subpart M, excludes Hanford, see note #7.
 9. Northwest Clean Air Agency (07/01/2003).
 10. Olympic Regional Clean Air Agency (07/01/2000). Note: Delegation of part 61, subpart M applies only to sources required to obtain an operating permit under title V of the Clean Air Act.

11. Puget Sound Clean Air Agency (07/01/2005).
12. Southwest Clean Air Agency (08/01/1998).
13. Spokane County Air Pollution Control Authority (02/20/2001).
14. Yakima Regional Clean Air Authority (07/01/2000).
15. Washington State Department of Health (07/01/2004). Note: WDOH is only delegated the Radionuclide NESHAPs. Other NESHAPs will be enforced by Washington State Department of Ecology and local air agencies, as applicable.
16. General Provisions Authorities which are not delegated include: §§61.04(b); 61.12(d)(1); 61.13(h)(1)(ii) for approval of major alternatives to test methods; §61.14(g)(1)(ii) for approval of major alternatives to monitoring; §61.16; §61.53(c)(4); and any sections in the subparts pertaining to approval of alternative standards (*i.e.*, alternative means of emission limitations), or approval of major alternatives to test methods or monitoring. For definitions of *minor*, *intermediate*, and *major* alternatives or changes to test methods and monitoring, see 40 CFR 63.90.
17. General Provisions Authorities which are not delegated include: waiver of recordkeeping, approval of alternative means of emission limitation, approval of alternatives to test methods, except as provided in 40 CFR 61.13(h)(1)(i), approval of alternative to monitoring that do not qualify as "Minor changes to monitoring," "intermediate changes to monitoring," or "Minor changes to recordkeeping/reporting" as defined in 40 CFR 63.90, and availability of information.

[FR Doc. E6-8470 Filed 6-2-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1532 and 1552

[FRL-8179-6]

EPAAR Prescription and Clause—Simplified Acquisition Procedures Financing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revising the EPA Acquisition Regulation (EPAAR) Subparts 1532 and 1552 to implement a procedure for simplified acquisition procedures financing. This EPAAR revision adds a prescription and clause for contracting officers to use when approving advance or interim payments on simplified acquisitions. The prescription and clause apply to commercial item orders at or below the simplified acquisition threshold. This action revises the EPAAR, but does not impose any new requirements on Agency contractors. The procedure allows contractors to invoice for advance and interim payments in accordance with standard commercial practices when authorized by the contracting officer and identified in the clause payment schedule.

DATES: This final rule is effective on June 5, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-OARM-2006-0126. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., 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 OEI Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: Tiffany Schermerhorn, Policy, Training

and Oversight Division, Office of Acquisition Management, Mail Code 3802R, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-9902; fax number: (202) 565-2475; e-mail address: schermerhorn.tiffany@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

The EPAAR additions are necessary so that contracting officers may provide simplified acquisition procedures financing that is appropriate or customary in the commercial marketplace when purchasing commercial items at or below the simplified acquisition threshold. This rule does not impose any new requirements regarding submission of invoices or vouchers since Agency contractors currently submit invoices or vouchers for payment of orders. The EPAAR changes are consistent with the Federal Acquisition Regulation. No public comments were received in response to the proposed rule published on March 13, 2006. However, a minor revision to the proposed language has been made in response to an internal agency comment.

II. Statutory and Executive Order Reviews

A. Executive Order 12866

It has been determined that this rule is not a “significant regulatory action” under the terms of Executive Order 12866 and is therefore not subject to OMB review.

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.* This rule does not impose any new information collection or other requirements on Agency contractors.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s rule on small entities, small entity is defined as: (1) A small business

as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today’s proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any new requirements on small entities.

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 EPA to 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