

NSPS SUBPARTS DELEGATED TO WASHINGTON AIR AGENCIES—Continued

Subpart ¹	Washington							
	Ecology ²	BCAA ³	NWAPA ⁴	ORCAA ⁵	PSCAA ⁶	SCAPCA ⁷	SWCAA ⁸	YRCAA ⁹
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) .....	.....	.....	.....	.....	.....	.....	.....	.....

¹ 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.

² 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.

³ 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.

⁴ Northwest Air Pollution Authority, for all NSPS delegated, as in effect on July 1, 2000.

⁵ 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.

⁶ Puget Sound Clean Air Authority, for all NSPS delegated, as in effect on July 1, 2002.

⁷ 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.

⁸ Southwest Clean Air Agency, for all NSPS delegated, as in effect on July 1, 2000.

⁹ 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.

¹⁰ 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.

¹¹ 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 Milling, pursuant to Washington State Administrative Code 173-405-012 and 173-410-012.

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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.

II. Terms of Delegations

A. Delegation Letter

The delegation of the Federal NSPS to ODEQ is subject to the terms and conditions contained in the following letter dated December 15, 2003 from EPA granting the delegation:

December 15, 2003.

Andrew Ginsburg, Air Quality Division
Administrator, Oregon Department of
Environmental Quality, 811 SW Sixth
Avenue, Portland, OR 97204.

Re: Delegation of Authority for New Source
Performance Standards

Dear Mr. Ginsburg: This letter is in response to your request for an updated delegation of authority to implement and enforce certain New Source Performance Standards, 40 CFR part 60 (NSPS), as described in your letters of March 10, 2003 and August 26, 2003.

The Environmental Protection Agency, Region 10 (EPA) has determined that your regulations provide adequate and effective procedures for implementing and enforcing the NSPS. Accordingly, effective today, EPA hereby approves your request for an updated delegation of authority to implement and enforce the NSPS, subject to the terms and conditions of this letter. Oregon Department of Environmental Quality's (ODEQ) delegation of authority covers standards of performance promulgated and revised as of July 1, 2002. Attachment A contains an updated list of NSPS subparts delegated to ODEQ. New and revised NSPS which become effective after July 1, 2002, are not delegated to ODEQ; 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, ODEQ becomes the primary implementation and enforcement authority for these delegated NSPS standards within the State of Oregon, except within Lane County and Indian Country. 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 to 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 procedures for implementing or enforcing the NSPS are inadequate or are 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 July 1, 2002, 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 the Federal 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.

7. Implementation and enforcement of the delegated NSPS is subject to the current Compliance Assurance Agreement for Air Quality between EPA and ODEQ. This clearly defines roles and responsibilities, including timely and appropriate enforcement response and the maintenance of the Aerometric Information Retrieval System/Aerometric Facility Subsystem (AIRS/AFS).

8. Your agency will work with owners and operators of affected facilities subject to an NSPS to ensure all required information is submitted to your agency. Your assistance is requested to ensure that this information—including excess emission reports and summaries—is submitted to EPA upon request.

9. Your agency will ensure that all relevant source information and notification and report information is inputted into the AIRS/AFS database system in order to meet your record keeping and reporting requirements.

a. The AIR/AFS reporting elements for "source information" that your agency is expected to provide includes, but is not limited to:

- i. Identification of source
- ii. Pollutants regulated
- iii. Applicability of subparts
- iv. Permit number for specific source or sub-unit
- v. Dates of most recent NSPS compliance inspections
- vi. Compliance status

b. The AIR/AFS reporting elements for "notification and report information" that your agency is expected to provide includes, but is not limited to:

- i. Notification of commencement of construction or reconstruction
- ii. Notification of anticipated and actual start-up
- iii. Notification of any physical change to an existing facility that may increase the emission rate of any air pollutant to which the standard applies
- iv. Notification of when continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a performance test required by 40 CFR 60.8 in lieu of Method 9 observation data, as allowed by 40 CFR 60.11(e)(5)

v. Reports of performance testing results

10. Your agency will require affected facilities to utilize the methods specified in 40 CFR part 60 in performing source tests pursuant to the regulations. See 40 CFR 60.8.

11. Approval of "major changes," equivalent methods, alternative methods, and shorter sampling times or volumes is not delegated to your agency. Such approvals remain the responsibility of EPA. Approval of "minor" or "intermediate" changes to test methods and "minor" or "intermediate" changes to monitoring is delegated to your agency. Definitions and examples of "major changes," "intermediate changes" and "minor changes" are provided at the end of Attachment B.

Your agency must ensure adequate documentation of any changes to testing and monitoring methods so that periodic review by EPA can confirm that this authority is being exercised properly. Your agency is expected to provide EPA all approvals of minor and intermediate changes in testing and monitoring methods, procedures, and equipment in your Annual Summary, as agreed upon in the current Compliance Assurance Agreement.

12. Your agency's delegation to implement and enforce NSPS does not extend to sources or activities located in Indian Country, as defined in 18 U.S.C.1151. Consistent with previous Federal program approvals or delegations, EPA will continue to implement the NSPS in Indian Country in Oregon because your agency did not adequately demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and in other areas of Indian Country.

13. Your agency's delegation to implement and enforce NSPS does not extend to sources or activities located in Lane County, Oregon. Lane Region Air Pollution Control Authority has authority to implement and enforce delegated NSPS within Lane County, as provided in 48 FR 8570 (March 1, 1983), as corrected by 48 FR 16740 (April 19, 1983).

14. As discussed above, EPA guidance does not permit delegation to a State or local agency of 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. In addition, some sections of 40 CFR part 60 specifically indicate that the authority may not be delegated. Attachment B identifies

authorities that are excluded from this delegation based on these legal and policy criteria.

15. Application of the five day notice provision in ORS 468.126(1) would disqualify ODEQ for delegation of the Federal NSPS. Accordingly, as provided in ORS 468.126(2)(e), the five day notice provision does not apply to OAR 340-238-0010 to -0100.

A notice announcing this delegation will be published in the **Federal Register** in the near future. The notice will inform sources in your jurisdiction that all reports pursuant to the Federal NSPS should be submitted to your agency only. Since this delegation is effective immediately, there is no requirement that your agency notify EPA of

your acceptance. Unless EPA receives a written Notice of Objection within 10 days of the receipt of this letter, it will be deemed that your agency has accepted all terms of this delegation. If you have any questions, please contact Jeff KenKnight at (206) 553-6641 or Lucita Valiere at (206) 553-8087.

Sincerely,
Janis Hastings,
Acting Director, Office of Air Quality.

Attachments:

A. Updated list of NSPS subparts delegated to ODEQ.

B. NSPS authorities excluded from delegation.

cc: w/ attachment
Kathleen Craig, ODEQ
Jeff KenKnight, EPA

ATTACHMENT A.—NSPS SUBPARTS DELEGATED TO OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ) ¹

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

Part 60—Subparts ²		Delegated
A	General Provisions	X
B	Adoption and Submittal of State Plans for Designated Facilities	
C	Emission Guidelines and Compliance Times	
Cb	Large Municipal Waste Combustors that are Constructed on or before September 20, 1994 (Emission Guidelines and Compliance Times)	
Cc	Municipal Solid Waste Landfills (Emission Guidelines and Compliance Times)	
Cd	Sulfuric Acid Production Units (Emission Guidelines and Compliance Times)	
Ce	Hospital/Medical/Infectious Waste Incinerators (Emission Guidelines and Compliance Times)	
D	Fossil-Fuel-Fired Steam Generators for which Construction is Commenced after August 17, 1971	X
Da	Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978	X
Db	Industrial-Commercial-Institutional Steam Generating Units	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	X
E	Incinerators	X
Ea	Municipal Waste Combustors for which Construction is Commenced after December 20, 1989 and on or before September 20, 1994.	X
Eb	Large Municipal Waste Combustors for which Construction Commenced after September 20, 1994 or for which Modification or Reconstruction is Commenced after June 19, 1996.	X
Ec	Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced after June 20, 1996	X
F	Portland Cement Plants	X
G	Nitric Acid Plants	X
H	Sulfuric Acid Plants	X
I	Hot Mix Asphalt Facilities	X
J	Petroleum Refineries	X
K	Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after June 11, 1973 and prior to May 19, 1978.	X
Ka	Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after May 18, 1978 and prior to July 23, 1984.	X
Kb	VOC Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.	X
L	Secondary Lead Smelters	X
M	Secondary Brass and Bronze Production Plants	X
N	Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.	X
Na	Secondary Emissions from Basic Oxygen Process Steel-making Facilities for which Construction is Commenced after January 20, 1983.	X
O	Sewage Treatment Plants	X
P	Primary Copper Smelters	X
Q	Primary Zinc Smelters	X
R	Primary Lead Smelters	X
S	Primary Aluminum Reduction Plants	X
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	X
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	X
Y	Coal Preparation Plants	X
Z	Ferroalloy Production Facilities	X
AA	Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974 and on or before August 17, 1983	X
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 7, 1983.	X
BB	Kraft Pulp Mills	X

ATTACHMENT A.—NSPS SUBPARTS DELEGATED TO OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)¹—
Continued

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

Part 60—Sub- parts ²		Delegated
CC	Glass Manufacturing Plants	X
DD	Grain Elevators	X
EE	Surface Coating of Metal Furniture	X
GG	Stationary Gas Turbines	X
HH	Lime Manufacturing Plants	X
KK	Lead-Acid Battery Manufacturing Plants	X
LL	Metallic Mineral Processing Plants	X
MM	Automobile and Light Duty Truck Surface Coating Operations	X
NN	Phosphate Rock Plants	X
PP	Ammonium Sulfate Manufacture	X
QQ	Graphic Arts Industry: Publication Rotogravure Printing	X
RR	Pressure Sensitive Tape and Label Surface Coating Standards	X
SS	Industrial Surface Coating: Large Appliances	X
TT	Metal Coil Surface Coating	X
UU	Asphalt Processing and Asphalt Roof Manufacture	X
VV	Equipment Leaks of VOC in Synthetic Organic Chemical Manufacturing Industry	X
WW	Beverage Can Coating Industry	X
XX	Bulk Gasoline Terminals	X
AAA	New Residential Wood Heaters.	
BBB	Rubber Tire Manufacturing Industry	X
DDD	VOC Emissions from Polymer Manufacturing Industry	X
FFF	Flexible Vinyl and Urethane Coating and Printing	X
GGG	Equipment Leaks of VOC in Petroleum Refineries	X
HHH	Synthetic Fiber Production Facilities	X
III	VOC Emissions from Synthetic Organic Chemical Manufacturing Industry Air Oxidation Unit Processes	X
JJJ	Petroleum Dry Cleaners	X
KKK	Equipment Leaks of VOC from Onshore Natural Gas Processing Plants	X
LLL	Onshore Natural Gas Processing: SO ₂ Emissions	X
NNN	VOC Emissions from Synthetic Organic Chemical Manufacturing Industry Distillation Operations	X
OOO	Nonmetallic Mineral Processing Plants ³	X
PPP	Wool Fiberglass Insulation Manufacturing Plants	X
QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems	X
RRR	VOCs from Synthetic Organic Chemical Manufacturing Industry Reactor Processes	X
SSS	Magnetic Tape Coating Facilities	X
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines	X
UUU	Calciners and Dryers in Mineral Industries	X
VVV	Polymeric Coating of Supporting Substrates Facilities	X
WWW	Municipal Solid Waste Landfills	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
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
DDDD	Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or before November 30, 1999 (Emission Guidelines and Compliance Times).	

¹ ODEQ's delegation of authority covers standards of performance promulgated and revised as of July 1, 2002. New and revised NSPS which become effective after July 1, 2002, are not delegated to ODEQ; these remain the responsibility of EPA.

² Any authority within any subpart of 40 CFR part 60 that is not delegable, is not delegated.

³ At the request of ODEQ, subpart OOO is delegated for major sources only.

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). (Note: 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.
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
	Note: Subpart B and Subparts C, Cb, Cc, Cd, Ce—Use of term "Administrator" in these subparts refers only to EPA Administrator.
	Note: 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 Plants.
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).
	Subpart DD—Grain Elevators.
60.302(d)(3)	Alternative Particular 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)(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.

Section	Authorities
60.466(d)	Subpart TT—Metal Coil Surface Coating. Approval of testing of representative number of stacks rather than all stacks.
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)	Approval of alternative/equivalent means of emission limitation.
60.496(c)	Subpart WW—Beverage Can Surface Coating Industry. Alternative method for determining fraction of VOC emitted.
60.502(e)(6)	Shorter sampling times and approval of testing of representative number of stacks rather than all stacks. Subpart XX—Bulk Gasoline Terminals. Approval of alternative procedures for gasoline tank truck loading.
	Subpart AAA—Residential Wood Heaters. Note: 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 apart of their SIPs.)
60.543(c)(2)(ii)(B)	Subpart BBB—Rubber Tire Manufacturing Industry. Approval of alternative test method—determining fraction of VOC at affected facility.
60.562–2(c)	Subpart DDD—Volatile Organic Compound Emissions (VOC) from the Polymer Manufacturing Industry. Approval of alternative method of emission limitation.
60.592(c)	Subpart GGG—Equipment Leaks of VOC in Petroleum Refineries. Approval of alternative method of emission limitation.
60.613(f)	Subpart III—VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes. Demonstration of compliance for use of other control devices.
60.623	Subpart JJJ—Petroleum Dry Cleaners. Equivalent equipment and procedures.
60.632(c)	Subpart KKK—Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.
60.634	Alternative means of emission limitation.
60.663(f)	Alternative means of emission limitation.
60.694	Subpart NNN—VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations. Demonstration of compliance for use of other control devices.
	Subpart QQQ—VOC Emissions from Petroleum Refinery Wastewater Systems.
60.703(e)	Permission to use alternative means of emission limitation. Subpart RRR—VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
60.711(a)(16)	Approval of use of control devices not described in regulation.
60.713(b)(1)(i)	Subpart SSS—Magnetic Tape Coating Facilities.
60.713(b)(1)(ii)	Alternative temporary enclosure.
60.713(b)(5)(i)	Approval of measured value for RS _i .
60.713(d)	Approval of measurement techniques.
60.715(a)	Approval of total enclosure.
60.716	Necessary operating specifications.
60.723(b)(1)	Plant coating formulation data equivalent to Method 24.
60.723(b)(2)(i)(C)	Alternative means of limiting emissions.
60.723(b)(2)(iv)	Subpart TTT—Industrial Surface Coating: Surface Coating of Plastic Parts of Business Machines.
60.724(e)	Alternative test method—other than Method 24.
60.725(b)	Alternative transfer efficiencies.
60.743(a)(3)(v)(A)	Determination of compliance—facilities using add-on controls.
60.743(a)(3)(v)(B)	Alternative recordkeeping and reporting—facilities using add-on controls.
60.743(e)	Alternative test methods—to determine VOC content of coating.
60.745(a)	Subpart VVV—Polymeric Coatings of Supporting Substrates Facilities.
60.746	Approval of measured value for RS _i .
(Also as referred to by 60.743(b)(1)).	Approval of measured value for RS _i .
60.752(b)(2)(i)(C),(D) and 60.759(a).	Approval of use of control device other than absorber, condenser, incinerator.
60.754(a)(5)	Approval of coating formulation data equivalent to Method 24.
60.756(d)	Permission to use alternative means of emission limitation.
60.756(e)	Subpart WWW—Municipal Solid Waste Landfills. Approval of alternative collection and control system design plan.
60.2025	Approval of alternative methods for determining NMOC concentration or a site-specific k.
60.2100(b)(2)	Approval of monitoring methods for operators seeking to comply with standards using something other than an open flare or an enclosed combustor.
60.2115	Approval of monitoring methods for operators installing alternative collection systems.
Also: (60.2110)	Subpart CCC—New Commercial and Industrial Solid Waste Incineration Units. Approval of petition for exemption.
	Approval to continue operation.
	Approval of petition for specific operating parameters.
	Approval of alternatives to the emission limitations in Table 1 and operating limits established under 60.2110.
	Note: Subparts BBBB and DDDD are guidelines, not standards.

Section	Authorities
	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 § 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 is 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."

B. Effective Date of Delegation

The letter granting delegation to ODEQ specifies that the updated delegation of the identified NSPS is effective December 15, 2003. The letter specifies that the delegation was effective immediately as of the signature date of the letter and that if ODEQ did not agree to the terms of the delegation, ODEQ could submit a written Notice of Objection within 10 days of the receipt of the letter and EPA would withdraw

delegation. ODEQ did not submit 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 Oregon, except for sources in Indian Country and in Lane County, should be submitted to ODEQ. All reports required to be submitted pursuant to the Federal NSPS from sources located in Indian Country in Oregon should be submitted to EPA Region 10, Director, Office of Air Quality, OAQ-107, 1200 Sixth Avenue, Seattle, WA 98118. All reports required to be submitted pursuant to the Federal NSPS for sources located in Lane County should be submitted to Lane Region Air Pollution Control Authority (LRAPA) if the federal NSPS standard has been delegated to LRAPA and to EPA Region 10 in all other cases. The current delegation to LRAPA is discussed in 48 FR 8570 (March 1, 1983), as corrected by 48 FR 16740 (April 19, 1983).

III. Conclusion

EPA is notifying the public of a recent update to the NSPS delegation for ODEQ. This action is already final and was granted by a letter from the Director, Office of Air Quality, EPA, Region 10, to Air Quality Division Administrator for ODEQ. This delegation is subject to all EPA policy, guidance and determinations issued pursuant to 40 CFR part 60 and to the conditions in the letter granting the delegation.

The addresses of the delegated agencies in Oregon are 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 (Public Law 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 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 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 may not be challenged later in proceedings to

enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 60

Administrative practice and procedure, Air pollution control, Aluminum, Ammonium sulfate plants, Batteries, Beverages, Carbon monoxide, Cement industry, Chemicals, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Graphic arts industry, Heaters, Household appliances, Insulation, Intergovernmental relations, Iron, Labeling, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Polymers, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Sulfuric acid plants, Tires, Urethane, Vinyl, Volatile organic compounds, Waste treatment and disposal, Zinc.

Dated: January 29, 2004.

Ronald Kreizenbeck,

Acting Regional Administrator, Region 10.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 60.4 is amended by revising paragraph (b)(MM) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(MM) State of Oregon. (i) Oregon Department of Environmental Quality (ODEQ), 811 SW Sixth Avenue, Portland, OR 97204–1390, <http://www.deq.state.or.us>.

(ii) Lane Regional Air Pollution Authority (LRAPA), 1010 Main Street, Springfield, Oregon 97477, <http://www.lrapa.org>.

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[FR Doc. 04–3225 Filed 2–12–04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7622–8]

RIN 2040–AD90

National Primary and Secondary Drinking Water Regulations: Approval of Additional Method for the Detection of Coliforms and E. Coli in Drinking Water

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In today's final rule, the Environmental Protection Agency (EPA) approves the Colitag™ method to support previously established requirements for National Primary Drinking Water Regulation (NPDWR) compliance monitoring for total coliforms and *E. coli* in finished

drinking water. This method was proposed on March 7, 2002, and a Notice of Data Availability was published on December 2, 2002, which provided additional information on the Colitag™ method. This action provides water utilities and certified laboratories an additional analytical method option to test for total coliforms and *E. coli*.

DATES: This regulation is effective March 15, 2004. The incorporation by reference of the method listed in the rule is approved by the Director of the Federal Register as of March 15, 2004. For purposes of judicial review, this final rule is promulgated as of 1 p.m. eastern time February 27, 2004, as provided in 40 CFR 23.7.

ADDRESSES: The official public docket for this rule is located at EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC, 20004.

FOR FURTHER INFORMATION CONTACT: For information regarding the actions included in this final rule contact Gregory J. Carroll, EPA, 26 West Martin Luther King Dr. (MLK 140), Cincinnati, Ohio, 45268, (513) 569–7948, or e-mail at carroll.gregory@epa.gov. General information may also be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding legal holidays, from 9 a.m. to 4:30 p.m., Eastern Time.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Potentially Regulated Entities

Use of the Colitag™ method approved in this action is voluntary. If, however, it is used to support compliance monitoring, then compliance with the procedures specified in the method is required.

Category	Examples of potentially regulated entities	NAICS
State, Local, & Tribal Governments	States, local and Tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; States, local and Tribal governments that themselves operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor.	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

¹ North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not

listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 141.21 of title 40 the Code of Federal Regulations (CFR). If you have questions regarding

the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.