of section 3(b) of Executive Order 13084 do not apply to this rule.

*E. Paperwork Reduction Act*

Today's action does not impose any new information collection burden. This action revises the part 50 air monitoring regulations for particulate matter to allow for flexibility in the type of containers used and a reduction in unnecessary flow rate calibrations. The Office of Management and Budget (OMB) has previously approved the information collection requirements in the part 50 regulation under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060–0084 (EPA ICR No. 0940.13 and revised by 0940.14).

*F. Impact on Small Entities*

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions whose jurisdictions are less than 50,000 people. This final rule will not have a significant impact on a substantial number of small entities because it does not impact small entities whose jurisdictions cover less than 50,000 people. Pursuant to the provision of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities.

Since this modification is classified as minor, no additional reviews are required.

*G. Unfunded Mandates Reform Act*

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final standards that include a Federal mandate that may result in estimated costs to State, local, or tribal governments, or to the private sector, of, in the aggregate, $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the standard and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the standards. The EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments. Therefore, the requirements of the Unfunded Mandates Act of 1995 do not apply to this action.

*H. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. The search was performed by querying the National Resource for Global Standards Database available on the world wide web at www.nssn.org. This database, maintained by the American National Standards Institute, is a comprehensive data network for national, foreign, regional and international standards and regulatory documents. The search did not identify any voluntary consensus standard that referenced the required use of metal containers or specific flow rate tolerances in standards applicable to particulate matter. Therefore, EPA intends to use the technical standards proposed herein.

*I. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 50**

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Quality assurance requirements, Ambient air quality monitoring network.

Dated: April 9, 1999.

**Carol M. Browner,**

*Administrator.*

* * * * *

For the reasons set forth in the preamble, title 40, chapter I, part 50 of the Code of Federal Regulations is amended as follows:

## PART 50—[AMENDED]

1. The authority citation for part 50 continues to read as follows:

**Authority:** 42 U.S.C. 7410, 7601(a), 7613, 7619.

2. Appendix L is amended by revising section 9.2.5 to read as follows:

**Appendix L to Part 50—Reference Method for the Determination of Fine Particulate Matter as $PM_{2.5}$ in the Atmosphere**

9.2.5 If during a flow rate verification the reading of the sampler's flow rate indicator or measurement device differs by ± 4 percent or more from the flow rate measured by the flow rate standard, a new multipoint calibration shall be performed and the flow rate verification must then be repeated.

3. Appendix L is further amended by revising the second sentence of section 10.10 to read as follows:

10.10 * * * The protective container shall contain no loose material that could be transferred to the filter. * * *

[FR Doc. 99–9593 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 63

**[FRL–6326–2]**

## Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Puget Sound Air Pollution Control Agency in Washington; Amendment

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

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

**SUMMARY:** This action provides an amendment to a direct final **Federal Register** action published on December

1, 1998 (see 63 FR 66054), that granted Clean Air Act, section 112(l), delegation of authority for three local air agencies in Washington, including Puget Sound Air Pollution Control Agency (PSAPCA), to implement and enforce specific 40 CFR parts 61 and 63 federal National Emission Standards for the Hazardous Air Pollutants (NESHAP) regulations which have been adopted into local law. This action amends 40 CFR 63.99 by revising the table outlining PSAPCA's current delegation status.

**DATES:** This amendment is effective on April 22, 1999.

**ADDRESSES:** Copies of the requests for delegation and other supporting documentation are available for public inspection at the following location: U.S. Environmental Protection Agency, Region X, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101.

**FOR FURTHER INFORMATION CONTACT:** Andrea Wullenweber, US EPA, Region X (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553–8760.

**SUPPLEMENTARY INFORMATION:**

## I Administrative Requirements

Under Executive Order (E.O.) 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore, not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. 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)).

## II Clarification

On December 1, 1998, EPA promulgated direct final approval of the Washington Department of Ecology (Ecology) request, on behalf of the Puget Sound Air Pollution Control Agency (PSAPCA), for program approval and delegation of authority to implement and enforce specific 40 CFR parts 61 and 63 federal NESHAP regulations which have been adopted into local law (as apply to both part 70 and non-part 70 sources). Since the February 1, 1999, effective date of that program approval and delegation of authority, Ecology has submitted an updated delegation request on behalf of PSAPCA. In a letter dated March 1, 1999, Ecology requested updated delegation for PSAPCA to implement and enforce specific 40 CFR part 63 National Emission Standards for Hazardous Air Pollutants (NESHAPs) in effect as of July 1, 1998, as these new and revised standards have been adopted unchanged into PSAPCA Regulation III, section 2.02 (as amended on September 10, 1998). Consistent with RCW 70.94.860 and the approved mechanism for streamlined delegation (see page 66057, 63 FR 66054, December 1, 1998), EPA granted this updated delegation request to Ecology for purposes of redelegating to PSAPCA in a letter to Ecology dated March 19, 1999. The effective date of that letter and the updated delegation was March 29, 1999.

Therefore, PSAPCA now has the authority to implement and enforce 40 CFR part 63 NESHAPs in effect as of July 1, 1998. This update includes any revisions to previously delegated 40 CFR part 63 standards, and the following new NESHAPs: Subpart S (Pulp & Paper), Subpart LL (Primary Aluminum), and Subpart EEE (Hazardous Waste Combustors).

PSAPCA is now the primary point of contact with respect to these delegated NESHAPs. Pursuant to 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii), EPA waived the requirement that notifications and reports for delegated standards be submitted to EPA in addition to PSAPCA. Therefore, sources within PSAPCA's jurisdiction should send notification and reports for delegated NESHAPs to PSAPCA, and do not need to send a copy to EPA.

This updated delegation for PSAPCA to implement and enforce NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151, except for those non-trust lands within the 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, such as PSAPCA, authority over activities on non-trust lands within the 1873 Survey Area. Therefore, PSAPCA will implement and enforce the NESHAPs on these non-trust lands within the 1873 Survey Area. EPA will continue to implement the NESHAPs in all other Indian country, consistent with previous federal program approvals or delegations, because PSAPCA does not have authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

## List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 8, 1999.

**Chuck Clarke,**

*Regional Administrator, Region X.*

40 CFR Part 63 is amended as follows:

## PART 63—[AMENDED]

1. The authority citation for Part 63 continues to read as follows:

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

## Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by revising the table in paragraph (a) (47)(i) to read as follows:

**§ 63.99 Delegated Federal Authorities**

(a) * * *

(47) * * *

(i) * * *

DELEGATION STATUS FOR PART 63 STANDARDS—WASHINGTON

| Subpart | | Ecology [1] | BCAA [2] | NWAPA [3] | OAPCA [4] | PSAPCA [5] | SCAPCA [6] | SWAPCA [7] | YRCAA [8] |
|---|---|---|---|---|---|---|---|---|---|
| A | General Provisions [9] | | | X | | X | | X | |
| D | Early Reductions | | | X | | X | | X | |
| F | HON-SOCMI | | | X | | X | | X | |
| G | HON-Process Vents | | | X | | X | | X | |
| H | HON-Equipment Leaks | | | X | | X | | X | |
| I | HON-Negotiated Leaks | | | X | | X | | X | |
| L | Coke Oven Batteries | | | X | | X | | X | |
| M | Perc Dry Cleaning | | | X | | X | | X | |
| N | Chromium Electroplating | | | X | | X | | X | |
| O | Ethylene Oxide Sterilizers | | | X | | X | | X | |
| Q | Industrial Process Cooling Towers. | | | X | | X | | X | |
| R | Gasoline Distribution | | | X | | X | | X | |
| S | Pulp and Paper | | | | | X | | | |
| T | Halogenated Solvent Cleaning | | | X | | X | | X | |
| U | Polymers and Resins I | | | X | | X | | | |
| W | Polymers and Resins II-Epoxy | | | X | | X | | X | |
| X | Secondary Lead Smelting | | | X | | X | | X | |
| Y | Marine Tank Vessel Loading | | | X | | X | | X | |
| CC | Petroleum Refineries | | | X | | X | | X | |
| DD | Off-Site Waste and Recovery | | | X | | X | | X | |
| EE | Magnetic Tape Manufacturing | | | X | | X | | X | |
| GG | Aerospace Manufacturing & Rework. | | | X | | X | | X | |
| II | Shipbuilding and Ship Repair | | | X | | X | | X | |
| JJ | Wood Furniture Manufacturing Operations. | | | X | | X | | X | |
| KK | Printing and Publishing Industry. | | | X | | X | | X | |
| LL | Primary Aluminum | | | | | X | | | |
| OO | Tanks—Level 1 | | | X | | X | | | |
| PP | Containers | | | X | | X | | | |
| QQ | Surface Impoundments | | | X | | X | | | |
| RR | Individual Drain Systems | | | X | | X | | | |
| VV | Oil-Water Separators and Organic-Water Separators. | | | X | | X | | | |
| EEE | Hazardous Waste Combustors. | | | | | X | | | |
| JJJ | Polymers and Resins IV | | | X | | X | | X | |

[1] Washington Department of Ecology
[2] Benton Clean Air Authority
[3] Northwest Air Pollution Authority (5/14/98)
[4] Olympic Air Pollution Control Authority
[5] Puget Sound Air Pollution Control Agency (7/1/98)
[6] Spokane County Air Pollution Control Authority
[7] Southwest Air Pollution Control Authority (8/1/96)
[8] Yakima Regional Clean Air Authority
[9] Authorities which are not delegated include: 40 CFR 63.6(g); 63.6(h)(9); 63.7(e)(2)(ii) and (f) for approval of major alternatives to test methods; 63.8(f) for approval of major alternatives to monitoring; 63.10(f); and all authorities identified in the subparts (i.e., under ''Delegation of Authority'') that cannot be delegated. For definitions of minor, intermediate, and major alternatives to test methods and monitoring, see memorandum from John Seitz, Office of Air Quality Planning and Standards, dated July, 10, 1998, entitled, ''Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies.''

Note to paragraph (a)(47): Dates in parenthesis indicate the effective date of the federal rules that have been adopted by and delegated to the state or local air pollution control agency. Therefore, any amendments made to these delegated rules after this effective date are not delegated to the agency.

[FR Doc. 99–9606 Filed 4–21–99; 8:45 am]
**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 42

**[CC Docket No. 96–61; FCC 99–47]**

### Nondominant Interexchange Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this Second Order on Reconsideration, the Commission consider again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms, and conditions for all of their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created ''filed-rate'' doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate, interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

**EFFECTIVE DATE:** May 24, 1999.

**FOR FURTHER INFORMATION CONTACT:** Andrea Kearney, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Order On Reconsideration and Erratum adopted March 18, 1999, and released March 31, 1999 (FCC 99–47). The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 425 12th Street, SW, Washington, D.C. the complete text also may be obtained through the World Wide Web, at http:/www.fcc.gov/Bureaus/Common Carrier/Order/fcc9947.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

### Synopsis of Second Order on Reconsideration and Erratum Overview

*A. Overview*

1. In this Second Order on Reconsideration, we consider again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms, and conditions for all of their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created ''filed-rate'' doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate, interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

2. With the advent of competition in the provision of interstate, interexchange services, however, tariffing became less beneficial and, in some ways, harmful to consumers. The Commission previously has concluded that tariffing can discourage competitive pricing, restrict the flexibility of carriers seeking to offer service arrangements tailored to an individual customer's needs, and impose unnecessary regulatory costs on carriers. In view of these concerns as well as the potentially harsh consequences of the ''filed-rate'' doctrine for consumers, and pursuant to a statutory amendment contained in the Telecommunications Act of 1996, the Commission in the *Second Report and Order,* 61 FR 59340 (November 22, 1996) required the complete detariffing of interstate, domestic, interexchange services offered by nondominant carriers.

3. At the same time, the Commission sought to retain the one aspect of tariffing that continued to serve the public interest, i.e., giving consumers access to information about the rates, terms and conditions of services offered by these carriers. Thus, in the same order in which the Commission eliminated tariffing of interstate, domestic, interexchange services, the Commission imposed a public disclosure requirement.

4. Following a stay of the *Second Report and Order* by the Court of Appeals for the District of Columbia Circuit, and upon the petitions of a number of parties who claimed that the public disclosure requirement would lead to some of the same ills that prompted the Commission to order complete detariffing, the Commission eliminated the public disclosure requirement in the *Order on Reconsideration.* Acting on petitions for reconsideration of that order, we now conclude that in a detariffed and increasingly competitive environment, consumers should have ready access to information concerning the rates, terms, and conditions governing the provision of interstate, domestic, interexchange services offered by nondominant IXCs. We therefore reinstate the public disclosure requirement that was originally established in the *Second Report and Order,* and also require nondominant IXCs that have Internet websites to post this information on-line.

*B. Procedural Background*

5. On October 29, 1996, the Commission adopted the *Second Report and Order* in its proceeding reviewing the regulation of interstate, domestic, interexchange telecommunications services. Throughout this proceeding, the Commission's objective has remained constant: to foster increased competition in the market for interstate, domestic, interexchange telecommunications services by eliminating unnecessary regulation, in accordance with the goals established by Congress in the 1996 Act. The 1996 Act added section 10 to the Communications Act, which requires the Commission to forbear from applying any provision of the Communications Act, or any of the Commission's regulations, to a telecommunications carrier or telecommunications service, or class thereof, if the Commission makes certain specified findings with respect to such provisions or regulations.