

would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538).

#### E. Federalism

This action would not have federalism implications because it is not expected to have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999).

#### F. Indian Tribal Governments

This action would not have tribal implications as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). This action is not expected to have substantial direct effects on Indian Tribes, would not significantly or uniquely affect the communities of Indian Tribal governments, and would not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

#### G. Protection of Children

EPA interprets Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it would not establish an environmental standard intended to mitigate health or safety risks.

#### H. Effect on Energy Supply, Distribution, or Use

This action is not a “significant energy action” as defined in Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### I. Technical Standards

Because this action would not involve any technical standards, section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

#### J. Environmental Justice

This action would not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

#### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 29, 2011.

**Wendy C. Hamnett,**

*Director, Office of Pollution Prevention and Toxics.*

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

#### PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

2. In § 721.10068, add the following definitions in alphabetical order to paragraph (a) and add a new paragraph (b)(2)(viii) to read as follows:

#### § 721.10068 Elemental mercury.

(a) \* \* \*

*Barometer* means an instrument used in various applications to measure atmospheric pressure.

*Hygrometer* or *psychrometer* means an instrument used in various applications to measure humidity of gases.

*Manometer* means an instrument used in various applications to measure pressure of gases or liquids.

(b) \* \* \*

(2) \* \* \*

(viii) Manufacturing or processing of elemental mercury for use in barometers, manometers, hygrometers, and psychrometers except for: Natural gas manometers covered by paragraph (b)(2)(vii) of this section; barometers, manometers, hygrometers, and psychrometers when these articles are in service as of May 6, 2011; and portable battery powered and motor-aspirated psychrometers that contain fewer than seven grams of elemental mercury.

[FR Doc. 2011–11025 Filed 5–5–11; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 48 CFR Part 1511

[EPA–HQ–OARM–2010–0273; FRL–9288–3]

### EPAAR Prescription for Work Assignments

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) amends the EPA Acquisition Regulation (EPAAR) to update policy, procedures, and contract clauses. The proposed rule provides revised language to the prescription for the work assignment clause, incorporating prescriptive language that provides further instructions on use of the related clause.

**DATES:** Comments must be received on or before June 6, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OARM–2010–0273, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [docket.oei@epa.gov](mailto:docket.oei@epa.gov).

- *Fax:* (202) 566–1753.

- *Mail:* EPA–HQ–OARM–2010–0273, OEI Docket, Environmental Protection Agency, 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of three (3) copies.

- *Hand Delivery:* EPA Docket Center—Attention OEI Docket, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OARM–2010–0273. EPA’s policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket, and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov>, or in hard copy at the Office of Environmental Information (OEI) Docket, EPA/DC, EPA West, Room 3334, 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 EPA Docket Center is (202) 566-1752. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Donna S. Blanding, Policy, Training, and Oversight Division, Office of Acquisition Management (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-564-1130; fax number: 202-565-2475; e-mail address: [blanding.donna@epa.gov](mailto:blanding.donna@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

1. *Submitting CBI.* Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the

disk or CD ROM as CBI, and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

##### II. Background

Recent contract file review activities revealed better guidance is needed for EPA Contracting Officers (COs) on the work plan and work assignment processes with regard to when a CO should provide the expected level of service needed to the contractor.

As a result, clarifying policy is being added to the prescription for 1511.011-74. Accordingly, the revised language incorporated into EPAAR prescription 1511.011-74 provides the EPA contracting officer with further instructions on the use of EPAAR clause 1552.211-74, when administering work assignments under Cost Reimbursable type term form contracts.

##### III. Proposed Rule

This rule amends the EPAAR to add policy to the prescription for using the work assignment clause. The original prescription language generally states

that the work assignment clause, 1552.211-74, shall be used when a Cost Reimbursable type term form contract with work assignments will be issued. This policy only adds additional instructive language. The new policy language contained under 1511.011-74, Work Assignments (Deviation), will serve to provide contracting officers with better guidance on issuing a work assignment. Therefore a revision will not be required to the related EPAAR clause, 1552.211-74 Work Assignments; as this change does not affect the meaning of the clause. The revised language communicates to contract personnel and program staff that government cost-related estimates should not be provided to contractors prior to receiving the contractor's work plan (proposal); and how to address exceptions. The exceptions addressed in the policy involve circumstances where a contracting officer may need to be able to provide some of the expected level of service needed to the contractor prior to receipt of the work plan (proposal) due to the nature of the work.

##### IV. Statutory and Executive Order Reviews

###### A. Executive Order 12866: Regulatory Planning and Review

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

###### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* No information is collected under this action.

###### C. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*

The Regulatory Flexibility Act 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 impact of today's final rule on small entities, "small entity" is defined as: (1) A small business that meets the definition of a

small business found in the Small Business Act and codified 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 this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action revises a current EPAAR provision and does not impose requirements involving capital investment, implementing procedures, or record keeping. This rule will not have a significant economic impact 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.

This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Rather, this rule

on work assignments only provides clarification to Contracting Officers when issuing level of effort estimates in a work assignment. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This rule does not have Tribal implications, as specified in Executive Order 13175. Rather, this rule on work assignments only provides clarification to Contracting Officers when issuing level of effort estimates in a work assignment. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicits additional comment on this proposed action from Tribal officials.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045, entitled “Protection of Children from Environmental Health and Safety Risks” (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This proposed rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution of Use” (66 FR 28335, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act of 1995 (NTTAA)*

Section 12(d) (15 U.S.C. 272 note) of NTTA, Public Law 104–113, 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 NTTA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposed rulemaking does not involve human health or environmental effects.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### **List of Subjects in 48 CFR Part 1511**

Environmental protection,  
Government procurement.

Dated: March 16, 2011.

**John R. Bashista,**

*Director, Office of Acquisition Management.*

Therefore, 48 CFR chapter 15 is proposed to be amended as set forth below:

#### **PART 1511—DESCRIBING AGENCY NEEDS**

1. The authority citation for part 1511 continues to read as follows:

**Authority:** 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

2. Revise section 1511.011-74 to read as follows:

**1511.011-74 Work Assignments. (Deviation) (Nov 2009).**

3. Add sections 1511.011-74-1 and 1511.011-74-2 to read as follows:

**1511.011-74-1 Policy.**

When issuing work assignments, the independent government cost estimate shall not be released to the contractor. In most cases the Contracting Officer (CO) should authorize the contractor to expend only the estimated labor hours necessary to develop the work plan and to initiate preliminary tasks which must be performed before work plan approval can be made. However, in cases where the uncertainties involved in the effort are of such a magnitude that there is no reasonable expectation that the contractor can estimate the level of effort required by the tasks, objectives, or outcomes of the requirement, the CO may provide a ceiling level of effort for the entire work assignment at the time of its issuance. In such cases, the specific uncertainties precluding reasonable estimation of the required level of effort on the contractor's part must be documented in the contract file.

**1511.011-74-2 Solicitation provision.**

The CO shall insert the contract clause at 1552.211.74, Work Assignments, in cost-reimbursement type term form contracts when work assignments are used. For Superfund contracts, except for contracts which require annual conflict of interest certificates (e.g., Site Specific contracts, the Contract Laboratory Program (CLP), and Sample Management Office (SMO) contracts), the CO shall use the clause with either Alternate I or Alternate II. Alternate I shall be used for contractors who have at least three (3) years of records that may be searched for certification purposes. Alternate II shall be used for contractors who do not have at least three (3) years of records that may be searched.

[FR Doc. 2011-10422 Filed 5-5-11; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**48 CFR Part 1552**

[EPA-HQ-OARM-2010-0764; FRL-9288-4]

**EPAAR Clause for Compliance with EPA Policies for Information Resources Management**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) amends the EPA Acquisition Regulation (EPAAR) to update policy, procedures, and contract clauses. The proposed rule provides revisions to the clause for Compliance with EPA Policies for Information Resources Management. This revision provides updates to out-dated information currently in the clause.

**DATES:** Comments must be received on or before June 6, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OARM-2010-0764, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* [docket.oei@epa.gov](mailto:docket.oei@epa.gov).
- *Fax:* (202) 566-1753.
- *Mail:* EPA-HQ-OARM-2010-0764, OEI Docket, Environmental Protection Agency, 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of three (3) copies.
- *Hand Delivery:* EPA Docket Center—Attention OEI Docket, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OARM-2010-0764. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you

provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket, and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov>, or in hard copy at the Office of Environmental Information (OEI) Docket, EPA/DC, EPA West, Room 3334, 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 EPA Docket Center is (202) 566-1752. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Donna S. Blanding, Policy, Training, and Oversight Division, Office of Acquisition Management (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202-564-1130; *fax number:* 202-565-2475; *e-mail address:* [blanding.donna@epa.gov](mailto:blanding.donna@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

1. **Submitting CBI.** Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that