

does not involve decisions intended to mitigate environmental health or safety risks that may disproportionately affect children.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)(RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (Public Law No. 104-121)(SBREFA), provides that whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available an initial regulatory flexibility analysis, unless it certifies that the proposed rule, if promulgated, will not have "a significant economic impact on a substantial number of small entities," 5 U.S.C. 605(b). Courts have interpreted the RFA to require a regulatory flexibility analysis only when small entities will be subject to the requirements of the rule. See, *Motor and Equip. MFRS. Ass'n v. Nichols*, 142 F.3d 449 (D.C. Cir. 1998); *United Distribution Cos. v. FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1985) (agency's certification need

only consider the rule's impact on entities subject to the rule).

The SIP Call would not establish requirements applicable to small entities. Instead, it would require Alabama to develop, adopt, and submit an attainment demonstration and would leave to Alabama the task of determining how to obtain those reductions, including which entities to regulate. Moreover, because Alabama would have discretion to choose which sources to regulate and how much emissions reductions each selected source would have to achieve EPA could not predict the effect of the rule on small entities.

For these reasons, EPA appropriately certified that the proposed rule would not have a significant impact on a substantial number of small entities. Accordingly, the Agency did not prepare an initial RFA for the proposed rule.

This rule would not have a significant impact on a substantial number of small entities because the rule does not establish requirements applicable to small entities. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

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 rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule 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 rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new

regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 6, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI23-01-6258; FRL-6510-2]

Approval and Promulgation of State Implementation Plans; Michigan; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The United States Environmental Protection Agency (EPA) is extending the comment period for a proposed action published November 9, 1999 (64 FR 61046). On November 9, 1999, the EPA proposed disapproval of requested revisions to the Michigan State Implementation Plan (SIP). The SIP revisions relate to the review of new and modified stationary sources of air pollution. At the request of the Michigan Department of Environmental Quality, the EPA is extending the comment period for 45 days.

DATES: The comment period is extended until January 24, 2000.

ADDRESSES: Send written comments to: Robert Miller, Chief, Permits and Grants Section (MI/MN/WI), Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Eaton Weiler, Environmental Engineer, Permits and Grants Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6041.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, New source review, Nitrogen dioxide, Ozone, Volatile Organic Compounds, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: December 6, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 99-32648 Filed 12-15-99; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815, 1819, and 1852

Elimination of Elements as a Category in Evaluations

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the NASA FAR Supplement (NFS) by eliminating the term "elements" as a category in evaluations. NASA does not numerically weight and score "elements" and therefore they have ceased to have significance in the evaluation and award of NASA's contracts.

DATES: Comments should be submitted on or before February 14, 2000.

ADDRESSES: Interested parties should submit written comments to Paul Brundage, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20456. Comments may also be submitted by e-mail to paul.brundage@hq.nasa.gov.

FOR FURTHER INFORMATION CONTACT: Paul Brundage, (202) 358-0481.

SUPPLEMENTARY INFORMATION:

A. Background

NASA does not numerically weight and score "elements" and therefore they have ceased to have significance in the evaluation and award of NASA's contracts. This proposed change will eliminate the term "element" as a category in evaluations from NFS Parts 1815, 1819, and 1852.

B. Regulatory Flexibility Act

NASA certifies that this rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the change modifies administrative procedures and does not impose any new requirements on offerors or contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose record keeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Lists of Subjects in 48 CFR Parts 1815, 1819, and 1852

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1815, 1819, and 1852 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 1815, 1819, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1815—CONTRACTING BY NEGOTIATION

2. In section 1815.303, paragraph (b)(i)(A) is amended by removing the words "and elements,".

3. In section 1815.304-70, paragraphs (a) and (b) are revised to read as follows:

1815.304-70 NASA evaluation factors.

(a) Typically, NASA establishes three evaluation factors: Mission Suitability, Cost/Price, and Past Performance. Evaluation factors may be further defined by subfactors. Evaluation subfactors should be structured to identify significant discriminators, or "key swingers"—the essential information required to support a source selection decision. Too many subfactors undermine effective proposal evaluation. All evaluation subfactors should be clearly defined to avoid overlap and redundancy.

(b) Mission Suitability factor.

(1) This factor indicates the merit or excellence of the work to be performed or product to be delivered. It includes, as appropriate, both technical and management subfactors. Mission Suitability shall be numerically weighted and scored on a 1000-point scale.

(2) The Mission Suitability factor may identify evaluation subfactors to further define the content of the factor. Each Mission Suitability subfactor shall be weighted and scored. The adjectival rating percentages in 1815.305(a)(3)(A) shall be applied to the subfactor weight to determine the point score. The number of Mission Suitability subfactors is limited to five. The Mission Suitability evaluation subfactors and their weights shall be identified in the RFP.

(3) For cost reimbursement acquisitions, the Mission Suitability evaluation shall also include the results of any cost realism analysis. The RFP shall notify offerors that the realism of proposed costs may significantly affect their Mission Suitability scores.

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4. In section 1815.370, paragraphs (b), (d)(4), and (h)(2) are revised; paragraphs (h)(3)(ii) is amended by removing "elements,"; paragraph (i)(3) is amended by removing "and elements,"; and paragraphs (i)(6)(ii) and (i)(7) are revised to read as follows:

1815.370 NASA source evaluation boards.

* * * * *

(b) The SEB assists the SSA by providing expert analyses of the offerors' proposals in relation to the evaluation factors and subfactors contained in the solicitation. The SEB will prepare and present its findings to the SSA, avoiding trade-off judgments among either the individual offerors or among the evaluation factors. The SEB will not make recommendations for selection to the SSA.

* * * * *

(d) * * *

(4) An SEB committee functions as a factfinding arm of the SEB, usually in a broad grouping of related disciplines (e.g., technical or management). The committee evaluates in detail each proposal, or portion thereof, assigned by the SEB in accordance with the approved evaluation factors and subfactors and summarizes its evaluation in a written report to the SEB. The committee will also respond to requirements assigned by the SEB, including further justification or reconsideration of its findings. Committee chairpersons shall manage the administrative and procedural matters of their committees.

* * * * *

(h) * * *

(2) The presentation shall focus on the significant strengths, deficiencies, and significant weaknesses found in the proposals, the probable cost of each proposal, and any significant issues and