COLORADO—PM–10

Designated area	Designation date	Type	Classification date	Type
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Prowers County Lamar	12/27/05		Attainment	
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[FR Doc. 05–21262 Filed 10–24–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1504, 1509, 1529, 1536, 1537, and 1552

[FRL–7986–2]

Miscellaneous Revisions to EPAAR Clauses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on administrative changes to the EPA Acquisition Regulation (EPAAR). This action revises the EPAAR, but does not impose any new requirements on Agency contractors. The revisions in this direct final rule will make minor corrections to and streamline Agency acquisition processes to be consistent with and non-duplicative of the Federal Acquisition Regulation (FAR). Some EPAAR clauses will be revised and others will be removed. FAR clauses are available to provide coverage for the EPAAR clauses that are removed by this rule.

DATES: This rule is effective on December 27, 2005 without further notice, unless EPA receives adverse comment by November 25, 2005. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. OARM–2005–0004, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the online instructions for submitting comments.
- E-mail: *oei.docket@epa.gov.*
- Surface Mail: EPA Docket Center, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID # No. OARM–2005–0004.

Instructions: Direct your comments to Docket ID No. OARM–2005–0004. 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.epa.gov/edocket*, 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 EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov Web sites are ''anonymous access'' systems, 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 EDOCKET or 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 EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Tiffany Schermerhorn, Policy, Training and Oversight Division, Office of Acquisition Management, Mail Code 3802R, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; e-mail address: *schermerhorn.tiffany@epa.gov*, telephone (202) 564–9902.

SUPPLEMENTARY INFORMATION:

I. General Information

This rule revises the Environmental Protection Agency Acquisition Regulation (EPAAR) to make administrative changes. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. This rule does not impose any new requirements on Agency contractors. All changes are minor and are consistent with the FAR.

II. Statutory and Executive Order Reviews

A. Executive Order 12866

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

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule does not impose any new information

collection or other requirements on Agency contractors.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

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

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, today's 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 direct final 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. Thus, Executive Order 13132 does not apply to this rule.

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 direct final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, or on the relationship between the Federal government and Indian tribes, as specified in Executive Order 13175. The direct final rule amends acquisition regulations that are administrative in nature. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045

Executive Order 13045: ''Protection of Children from Environmental Health Risks 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 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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 risk.

H. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995

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) 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 does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Submission to Congress and the General Accounting Office

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). This rule will be effective 60 days from date of publication.

List of Subjects in 48 CFR Parts 1504, 1509, 1529, 1535, 1536, 1537, and 1552

Government procurement.

Dated: October 6, 2005.

John C. Gherardini,

Acting Director, Office of Acquisition Management.

■ For the reasons set forth in the Preamble, Chapter 15 of Title 48 Code of Federal Regulations, parts 1504, 1509, 1529, 1536, 1537, and 1552 are amended as follows:

■ 1. The authority citation for 48 CFR parts 1504, 1509, 1529, 1536, 1537, and 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 as amended, 40 U.S.C. 486(c).

PART 1504—ADMINISTRATIVE MATTERS

1504.670 [Removed and reserved]

■ 2. Remove and reserve section 1504.670.

PART 1509—CONTRACTOR QUALIFICATIONS

■ 3. Revise section 1509.507–2(c) to read as follows:

1509.507–2 Contract clause.

* * * * *

(c) The Contracting Officer shall include the clause at 1552.209–74 or its alternates in the following solicitations and contracts for Superfund work in excess of the simplified acquisition threshold and, as appropriate, in simplified acquisition procedures for Superfund work. The Contracting Officer shall include the clause at 1552.209–74 in all Response Action Contract (RAC) solicitations and contracts, except Site Specific solicitations and contracts. The term ''RAC'' in the Limitation of Future Contracting clauses includes not only RAC solicitations and contracts but other long term response action solicitations and contracts that provide professional architect/engineer, technical, and management services to EPA to support remedial response, enforcement oversight and non-time critical removal activities under the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments Reauthorization Act of 1986; and the Robert T. Stafford Natural Disaster Act pursuant to the Federal Response Plan and other laws to help address and/or mitigate endangerment to the public health, welfare or environment during emergencies and natural disasters, and to support States and communities in preparing for the responses to releases of hazardous substances.

(1) Alternate I shall be used in all Emergency and Rapid Response Services (ERRS) solicitations and contracts, except site specific solicitations and contracts. The term ''ERRS'' in the Limitation of Future Contracting clauses includes not only ERRS solicitations and contracts but other emergency response type solicitations and contracts that provide fast responsive environmental cleanup services for hazardous substances/wastes/contaminants/material and petroleum products/oil. Environmental cleanup response to natural disasters and terrorist activities may also be required. ERRS pilot scale studies are included in the term ''treatability studies.''

(2) Alternate II shall be used in all Superfund Technical Assistance and Removal Team (START) solicitations and contracts. The term ''START'' in the Limitation of Future Contracting clauses include not only START solicitations and contracts but other site removal and technical support solicitations and contracts that include activities related to technical analyses in determining the nature and extent of contamination at a site and making recommendations regarding response technologies.

(3) Alternate III shall be used in all Environmental Services Assistance Team (ESAT) solicitations and contracts.

(4) Alternate IV shall be used in all Enforcement Support Services (ESS) solicitations and contracts. The term ''ESS'' in the Limitation of Future Contracting clauses not only includes ESS solicitation and contracts but other enforcement support type solicitations and contracts that involve removal actions, mandatory notices to Potentially Responsible Parties (PRPs), penalty assessments, public comment periods, negotiations with PRPs, and statutes of limitations for pursuing cost recovery. The enforcement support services required under the contract may be conducted to support EPA enforcement actions under any environmental statute.

(5) Alternate V shall be used in all Superfund Headquarters Support solicitations and contracts. The Contracting Officer is authorized to modify paragraph (c) of Alternate V to reflect any unique limitations applicable to the program requirements.

(6) Alternate VI shall be used in all Site Specific solicitations and contracts.

* * * * *

PART 1529—TAXES

1529.401–70 [Removed]

■ 4. Remove section 1529.401–70.

PART 1536—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

■ 5. Revise section 1536.602–2(a) to read as follows:

1536.602–2 Establishment of evaluation boards.

(a) The Environmental Protection Agency Architect-Engineer Evaluation Board is established as a central permanent Board located at Headquarters EPA under authority delegated to the Director, Office of Acquisition Management, which may be re-delegated.

* * * * *

PART 1537—SERVICE CONTRACTING

1537.110 [Amended]

■ 6. Remove section 1537.110(d) and redesignate paragraphs (e) through (g) as paragraphs (d) through (f).

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1552.204–70 [Removed and reserved]

■ 7. Remove and reserve section 1552.204–70.

■ 8. Section 1552.208–70 is amended by adding an ''Incidental'' definition after the definition of ''Requirement'' in paragraph (a), and revising the heading of the clause and paragraphs (b) and (d)(2) through (d)(4) to read as follows:

1552.208–70 Printing.

* * * * *

Printing (Dec 2005)

(a) * * *

''Incidental'' means a draft and/or proofed document (not a final document) that is not prohibited from printing under EPA contracts.

(b) *Prohibition.* (1) The contractor shall not engage in, nor subcontract for, any printing in connection with the performance of work under this contract. Duplication of more than 5,000 copies of one page or more than 25,000 copies of multiple pages in the aggregate per requirement constitutes printing. The intent of the printing limitation is to eliminate duplication of final documents.

(2) In compliance with EPA Order 2200.4a, EPA Publication Review Procedure, the Office of Communications, Education, and Media Relations is responsible for the review of materials generated under a contract published or issued by the Agency under a contract intended for release to the public.

(c) * * *

(d) * * *

(2) The contractor may perform a requirement involving the duplication of less than 5,000 copies of only one page, or less than 25,000 copies of multiple pages in the aggregate, using one color (black), such pages shall not exceed the maximum image size of 10¾ by 14¼ inches, or 11 by 17 paper stock. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these thresholds, contractors must immediately notify the contracting officer in writing. The contracting officer must obtain a waiver from the U.S. Congress Joint Committee on Printing if it is deemed appropriate to exceed the duplication thresholds. Duplication services of ''incidentals'' in excess of the thresholds, are allowable.

(3) The contractor may perform a requirement involving the multi-color duplication of no more than 100 pages in the aggregate using color copier technology, such pages shall not exceed the maximum image size of 10¾ by 14¼ inches, or 11 by 17 paper stock. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the contracting officer in writing. The contracting officer must obtain a waiver from the U.S. Congress Joint Committee on Printing.

(4) The contractor may perform the duplication of no more than a total of 100 diskettes or CD–ROM's. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these thresholds, contractors must immediately notify the contracting officer in writing. The contracting officer must obtain a waiver from the U.S. Congress Joint Committee on Printing.

* * * * *

■ 9. In section 1552.209–74, revise the clause heading; revise paragraphs (c) through (i) and remove paragraph (j), revise the heading and paragraph (d) of Alternate I; revise the heading and paragraph (d) of Alternate II; revise the headings of Alternate III and Alternate IV; revise the heading and paragraph (c) of Alternate V; and revise the heading and paragraphs (d) introductory text and (d)(1) of Alternate VI to read as follows:

1552.209–74 Limitation of future contracting.

* * * * *

Limitation of Future Contracting (RAC) (Apr 2004)

* * * * *

(c) The following applies when work is performed under this contract: Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of the work assignment, task order, or tasking document and for a period of five (5) years after the completion of the work assignment, task order, or tasking document, agrees not to enter into a contract with or to represent any party, other than EPA, with respect to: (1) Any work relating to CERCLA activities which pertain to a site where the Contractor previously performed work for EPA under this contract; or (2) any work that may jeopardize CERCLA enforcement actions which pertain to a site where the Contractor previously performed work for the EPA under this contract.

(d) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

(e) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(f) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(g) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (g) unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(h) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(i) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

(End of Clause)

Limitation of Future Contracting Alternate I (ERRS) (Apr 2004)

* * * * *

(d) During the life of this contract, including any options, the Contractor agrees that unless otherwise authorized by the Contracting Officer:

(1) It will not provide any Superfund Technical Assistance and Removal Team (START); type activities (*e.g.*, START contracts) to EPA within the Contractor's ERRS assigned geographical area(s), either as a prime contractor, subcontractor, or consultant.

(2) It will not provide any START type activities (*e.g.*, START contracts) to EPA as a prime contractor, subcontractor or consultant at a site where it has performed or plans to perform ERRS work.

(3) It will be ineligible for award of START type activities contracts for sites within its respective ERRS assigned geographical

area(s) which result from a CERCLA administrative order, a CERCLA or RCRA consent decree or a court order.

* * * * *

Limitation of Future Contracting Alternate II (Start) (Apr 2004)

* * * * *

(d) During the life of this contract, including any options, the Contractor agrees that unless otherwise authorized by the Contracting Officer:

(1) It will not provide to EPA cleanup services (*e.g.*, Emergency and Rapid Response Services (ERRS) contracts) within the Contractor's START assigned geographical area(s), either as a prime Contractor, subcontractor, or consultant.

(2) Unless an individual design for the site has been prepared by a third party, it will not provide to EPA as a prime contractor, subcontractor or consultant any remedial construction services at a site where it has performed or plans to perform START work. This clause will not preclude START contractors from performing construction management services under other EPA contracts.

(3) It will be ineligible for award of ERRS type activities contracts for sites within its respective START assigned geographical area(s) which result from a CERCLA administrative order, a CERCLA or RCRA consent decree or a court order.

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Limitation of Future Contracting Alternate III (ESAT) (Apr 2004)

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Limitation of Future Contracting Alternate IV (TES) (Apr 2004)

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Limitation of Future Contracting Alternate V (Headquarters Support) (Apr 2004)

* * * * *

(c) The Contractor, during the life of this contract, will be ineligible to enter into a contract with EPA to perform response action work (*e.g.*, Response Action Contract (RAC), Emergency and Rapid Response Services (ERRS), Superfund Technical Assistance and Removal Team (START), and Enforcement Support Services (ESS) contracts), unless otherwise authorized by the Contracting Officer.

* * * * *

Limitation of Future Contracting Alternate VI (Site Specific) (Apr 2004)

* * * * *

(d) During the life of this contract, including any options, the Contractor agrees that unless otherwise authorized by the Contracting Officer:

(1) It will not provide any Superfund Technical Assistance and Removal Team (START) type activities (*e.g.*, START contracts) to EPA on the site either as a prime contractor, subcontractor, or consultant.

* * * * *

1552.215–76 [Removed and reserved]

■ 10. Remove and reserve section 1552.215–76.

1552.229–70 [Removed and reserved]

■ 11. Remove and reserve section 1552.229–70.

1552.237–73 [Removed and reserved]

■ 12. Remove and reserve section 1552.237–73.

[FR Doc. 05–21196 Filed 10–24–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket No. RSPA–04–16855; Amdt. 192–101 and 195–85]

RIN 2137—AD97

Pipeline Safety: Standards for Direct Assessment of Gas and Hazardous Liquid Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: Under current regulations governing integrity management of gas transmission lines, if an operator uses direct assessment to evaluate corrosion risks, it must carry out the direct assessment according to PHMSA standards. In response to a statutory directive, this Final Rule prescribes similar standards operators must meet when they use direct assessment on certain other onshore gas, hazardous liquid, and carbon dioxide pipelines. PHMSA believes broader application of direct assessment standards will enhance public confidence in the use of direct assessment to assure pipeline safety.

DATES: This Final Rule takes effect November 25, 2005. Incorporation by reference of NACE Standard RP0502–2002 in this rule is approved by the Director of the **Federal Register** as of November 25, 2005.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow by phone at 202–366–4559, by fax at 202–366–4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, or by e-mail at *buck.furrow@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

This Final Rule concerns direct assessment, a process of managing the effects of external corrosion, internal corrosion, or stress corrosion cracking on pipelines made primarily of steel or iron. The process involves data collection, indirect inspection, direct examination, and evaluation. Operators use direct assessment not only to find existing corrosion defects but also to prevent future corrosion problems.

Congress recognized the advantages of using direct assessment on U.S. Department of Transportation (DOT) regulated gas, hazardous liquid, and carbon dioxide pipeline facilities. Section 14 of the Pipeline Safety Improvement Act of 2002 (Pub. L. 107–355; Dec. 17, 2002) directs DOT to issue regulations on using internal inspection, pressure testing, and direct assessment to manage the risks to gas pipeline facilities in high consequence areas. In addition, Section 23 directs DOT to issue regulations prescribing standards for inspecting pipeline facilities by direct assessment.

In response to the first statutory directive, Section 14, DOT's Research and Special Programs Administration (RSPA) [1] published regulations in 49 CFR part 192, subpart O, that require operators to follow detailed programs to manage the integrity of gas transmission line segments in high consequence areas. Subpart O also requires an operator electing to use direct assessment in its integrity management program, to carry out the direct assessment according to § § 192.925, 192.927, and 192.929, as appropriate.[2]

Sections 192.925, 192.927, and 192.929 cross-reference the American Society of Mechanical Engineers' (ASME), ASME B31.8S–2001, ''Managing System Integrity of Gas Pipelines.'' ASME B31.8S–2001 describes a comprehensive process to assess and mitigate the likelihood and consequences of gas pipeline risks. In addition, § 192.925 cross-references a

[1] The Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108–426, 118; November 30, 2004) reorganized RSPA into two new DOT administrations: the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Research and Innovative Technology Administration. RSPA's regulatory authority over pipeline and hazardous materials safety was transferred to PHMSA.

[2] The standard on external corrosion direct assessment § 192.925) requires operators to integrate data on physical characteristics and operating history, conduct indirect aboveground inspections, directly examine pipe surfaces, and evaluate the effectiveness of the assessment process. Under the standard for direct assessment of internal corrosion (§ 192.927), operators must predict locations where electrolytes may accumulate in normally dry-gas pipelines, examine those locations, and validate the assessment process. The standard for direct assessment of stress corrosion cracking (§ 192.929) involves collecting data relevant to stress corrosion cracking, assessing the risk of pipeline segments, and examining and evaluating segments at risk.