

Trust, including salary payments issued to the Presidio Trust employees. This section and § 1011.22 of this subpart C apply when a Federal agency asks the Presidio Trust to offset a payment issued by the Presidio Trust to a person who owes a debt to the United States.

(2) This subpart C does not apply to the collection of debts through tax refund offset.

(b) *Administrative offset (including salary offset); certification.* The Presidio Trust will initiate a requested offset only upon receipt of written certification from the creditor agency that the debtor owes the delinquent, legally enforceable debt in the amount stated, and that the creditor agency has fully complied with all applicable due process and other requirements, and the creditor agency's regulations, as applicable. Offsets will continue until the debt is paid in full or otherwise resolved to the satisfaction of the creditor agency.

(c) *Where a creditor agency makes requests for offset.* Requests for offset under this section must be sent to the Presidio Trust, ATTN: Chief Financial Officer, P.O. Box 29052, San Francisco, CA 94129-0052.

(d) *Incomplete certification.* The Presidio Trust will return an incomplete debt certification to the creditor agency with notice that the creditor agency must comply with paragraph (b) of this section before action will be taken to collect a debt from a payment issued by the Presidio Trust.

(e) *Review.* The Presidio Trust is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(f) *When the Presidio Trust will not comply with offset request.* The Presidio Trust will comply with the offset request of another agency unless the Presidio Trust determines that the offset would not be in the best interests of the United States, or would otherwise be contrary to law.

(g) *Multiple debts.* When two or more creditor agencies are seeking offsets from payments made to the same person, or when two or more debts are owed to a single creditor agency, the Presidio Trust may determine the order in which the debts will be collected or whether one or more debts should be collected by offset simultaneously.

(h) *Priority of debts owed to the Presidio Trust.* For purposes of this section, debts owed to the Presidio Trust generally take precedence over debts owed to other agencies. The Presidio Trust may determine whether to pay debts owed to other agencies before paying a debt owed to the

Presidio Trust. The Presidio Trust will determine the order in which the debts will be collected based on the best interests of the United States.

§ 1011.22 What does the Presidio Trust do upon receipt of a request to offset the salary of a Presidio Trust employee to collect a debt owed by the employee to another Federal agency?

(a) *Notice to the Presidio Trust employee.* When the Presidio Trust receives proper certification of a debt owed by one of its employees, the Presidio Trust will begin deductions from the employee's pay at the next officially established pay interval. The Presidio Trust will send a written notice to the employee indicating that a certified debt claim has been received from the creditor agency, the amount of the debt claimed to be owed to the creditor agency, the date deductions from salary will begin, and the amount of such deductions.

(b) *Amount of deductions from a Presidio Trust employee's salary.* The amount deducted under § 1011.21(b) of this part will be the lesser of the amount of the debt certified by the creditor agency or an amount up to 15% of the debtor's disposable pay. Deductions will continue until the Presidio Trust knows that the debt is paid in full or until otherwise instructed by the creditor agency. Alternatively, the amount offset may be an amount agreed upon, in writing, by the debtor and the creditor agency. See § 1011.12(g) (salary offset process).

(c) *When the debtor is no longer employed by the Presidio Trust.* (1) *Offset of final and subsequent payments.* If the Presidio Trust employee retires or resigns or if his or her employment ends before collection of the debt is complete, the Presidio Trust will continue to offset up to 100% of an employee's subsequent payments until the debt is paid or otherwise resolved. Such payments include a debtor's final salary payment, lump-sum leave payment, and other payments payable to the debtor by the Presidio Trust.

(2) *Notice to the creditor agency.* If the employee's employment with the Presidio Trust terminates before the debt is paid in full, the Presidio Trust will certify to the creditor agency the total amount of its collection. If the Presidio Trust is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, Federal Employee Retirement System, or other similar payments, the Presidio Trust will provide written notice to the agency making such payments that the debtor

owes a debt (including the amount) and that the provisions of 5 CFR 550.1109 have been fully complied with. The creditor agency is responsible for submitting a certified claim to the agency responsible for making such payments before collection may begin. Generally, creditor agencies will collect such monies through the Treasury Offset Program as described in § 1011.9(c) of this part.

(3) *Notice to the debtor.* The Presidio Trust will provide to the debtor a copy of any notices sent to the creditor agency under paragraph (c)(2) of this section.

(d) *When the debtor transfers to another Federal agency.* (1) *Notice to the creditor agency.* If the debtor transfers to another Federal agency before the debt is paid in full, the Presidio Trust will notify the creditor agency and will certify the total amount of its collection on the debt. The Presidio Trust will provide a copy of the certification to the creditor agency. The creditor agency is responsible for submitting a certified claim to the debtor's new employing agency before collection may begin.

(2) *Notice to the debtor.* The Presidio Trust will provide to the debtor a copy of any notices and certifications sent to the creditor agency under paragraph (d)(1) of this section.

(e) *Request for hearing official.* The Presidio Trust will provide a hearing official upon the creditor agency's request with respect to the Presidio Trust employee.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[R06-OAR-2005-OK-0003; FRL-8006-7]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Oklahoma Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; delegation of authority.

SUMMARY: The Oklahoma Department of Environmental Quality (ODEQ) has submitted updated regulations for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources. These regulations apply to certain NESHAPs promulgated by

EPA, as amended through September 1, 2004. The delegation of authority under this notice applies only to sources located in Oklahoma, and does not extend to sources located in Indian country. EPA is providing notice that it is taking direct final action to approve the delegation of certain NESHAPs to ODEQ.

DATES: This rule is effective on February 13, 2006 without further notice, unless EPA receives relevant adverse comment by January 12, 2006. If EPA receives such comment, EPA 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 Regional Materials in EDocket (RME) ID No. R06-OAR-2005-OK-0003, by one of the following methods:

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

- Agency Web site: <http://docket.epa.gov/rmepub/>, Regional Materials in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

- U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6comment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Jeff Robinson at robinson.jeffrey@epa.gov.

- Fax: Mr. Jeff Robinson, Air Permits Section (6PD-R), at fax number 214-665-7263.

- Mail: Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Regional Materials in EDocket (RME) ID No. R06-OAR-2005-OK-0003. EPA's policy is that all comments received will be included in the public file without change, change and may be made available online at <http://docket.epa.gov/rmepub/>, including any

personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal regulations.gov 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 RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file 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.

Docket: All documents in the electronic docket are listed in the Regional Materials in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. 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 RME or in the official file which is available at the Air Permitting Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA

Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The delegation request is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Oklahoma Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City, Oklahoma 73101.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Robinson, U.S. EPA, Region 6, Multimedia Planning and Permitting Division (6PD), 1445 Ross Avenue, Dallas, TX 75202-2733, telephone (214) 665-6435; fax number 214-665-7263; or electronic mail at robinson.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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I. General Information

A. Tips for Preparing Your Comments

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. 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.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

B. Submitting Confidential Business Information (CBI)

Do not submit this information to EPA through 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.

II. What Does This Notice Do?

EPA is taking direct final action to approve the delegation of certain NESHAPs to ODEQ. With this delegation, ODEQ has the primary responsibility to implement and enforce the delegated standards. See Section VI, below, for a complete discussion of which standards are being delegated and which are not being delegated.

III. What Is the Authority for Delegation?

Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorizes EPA to delegate authority to any state or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air

pollutants. The hazardous air pollutant standards are codified at 40 CFR parts 61 and 63.

IV. What Criteria Must ODEQ's Program Meet To Be Approved?

EPA previously approved ODEQ's program for the delegation of NESHAPs in 40 CFR part 61. 47 FR 17285 (April 22, 1982). EPA also previously approved ODEQ's program for the delegation of certain NESHAP standards in 40 CFR part 63. 66 FR 1584 (January 9, 2001). Section 112(l) of the CAA enables EPA to approve State air toxics programs or rules to operate in place of the Federal air toxics program or rules. 40 CFR part 63, subpart E (subpart E) governs EPA's approval of State rules or programs under Section 112(l).

EPA will approve an air toxics program if we find that:

- (1) the State program is "no less stringent" than the corresponding Federal program or rule;
- (2) the State has adequate authority and resources to implement the program;
- (3) the schedule for implementation and compliance is sufficiently expeditious; and
- (4) the program otherwise complies with Federal guidance.

In order to obtain approval of its program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation), only the criteria of 40 CFR 63.91(d) must be met. 40 CFR 63.91(d)(3) provides that interim or final Title V program approval will satisfy the criteria of 40 CFR 63.91(d) for part 70 sources.

V. How Did ODEQ Meet the Subpart E Approval Criteria?

As part of its Title V submission, ODEQ stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 into its regulations. This applied to both existing and future

standards as they applied to part 70 sources. 60 FR 13088-13095 (March 10, 1995), EPA approved ODEQ's program for receiving delegation of existing and future standards when it granted final interim approval to ODEQ's Title V program. 61 FR 4220-4224 (February 5, 1996). EPA granted final approval of Oklahoma's operating Title V operating permits program on November 30, 2001. 66 FR 63170-63175 (December 5, 2001). Under 40 CFR 63.91(d)(2), once a state or local air pollution agency has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals. ODEQ has final Title V program approval and has affirmed that it still meets the up-front approval criteria.

VI. What Is Being Delegated?

EPA received a request to update the NESHAP delegations on June 15, 2005. ODEQ requested the EPA to update the delegation of authority for the following:

- A. NESHAPs (40 CFR Part 61 standards) through September 1, 2004; and
- B. NESHAPs (40 CFR Part 63 standards) through September 1, 2004.

ODEQ's request was for delegation of certain NESHAPs for all sources (both part 70 and non-part 70 sources). The request includes revisions of OAC 252:100-41-15, as adopted by the Oklahoma Department of Environmental Quality. For the Part 61 NESHAPs, this revision included all NESHAPs promulgated by EPA as amended in the **Federal Register** through September 1, 2004, excluding Subparts B, H, I, K, Q, R, T, and W. For the Part 63 NESHAPs, this includes the NESHAPs set forth in Table 1 below. The effective date of the Federal delegation for parts 61 and 63 standards is the effective date of this rule.

TABLE 1.—40 CFR PART 63 NESHAPs FOR SOURCE CATEGORIES DELEGATED TO ODEQ

Subpart	Source category
A	General Provisions.
F	Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI).
G	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater.
H	HON—Equipment Leaks.
I	HON—Certain Processes Negotiated Equipment Leak Regulation.
J	Polyvinyl Chloride and Copolymers Production . ¹
L	Coke Oven Batteries.
M	Perchloroethylene Dry Cleaning.
N	Chromium Electroplating and Chromium Anodizing Tanks.
O	Ethylene Oxide Sterilizers.
Q	Industrial Process Cooling Towers.
R	Gasoline Distribution.
S	Pulp and Paper Industry.
T	Halogenated Solvent Cleaning.

TABLE 1.—40 CFR PART 63 NESHAPS FOR SOURCE CATEGORIES DELEGATED TO ODEQ—Continued

Subpart	Source category
U	Group I Polymers and Resins.
W	Epoxy Resins Production and Non-Nylon Polyamides Production.
X	Secondary Lead Smelting.
Y	Marine Tank Vessel Loading.
AA	Phosphoric Acid Manufacturing Plants.
BB	Phosphate Fertilizers Production Plants.
CC	Petroleum Refineries.
DD	Off-Site Waste and Recovery Operations.
EE	Magnetic Tape Manufacturing.
GG	Aerospace Manufacturing and Rework Facilities.
HH	Oil and Natural Gas Production Facilities.
II	Shipbuilding and Ship Repair Facilities.
JJ	Wood Furniture Manufacturing Operations.
KK	Printing and Publishing Industry.
LL	Primary Aluminum Reduction Plants.
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semicheical Pulp Mills.
OO	Tanks—Level 1.
PP	Containers.
QQ	Surface Impoundments.
RR	Individual Drain Systems.
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
TT	Equipment Leaks—Control Level 1.
UU	Equipment Leaks—Control Level 2 Standards.
VV	Oil-Water Separators and Organic-Water Separators.
WW	Storage Vessels (Tanks)—Control Level 2.
YY	Generic Maximum Achievable Control Technology Standards.
CCC	Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
DDD	Mineral Wool Production.
EEE	Hazardous Waste Combustors.
GGG	Pharmaceuticals Production.
HHH	Natural Gas Transmission and Storage Facilities.
III	Flexible Polyurethane Foam Production.
JJJ	Group IV Polymers and Resins.
LLL	Portland Cement Manufacturing.
MMM	Pesticide Active Ingredient Production.
NNN	Wool Fiberglass Manufacturing.
OOO	Amino/Phenolic Resins.
PPP	Polyether Polyols Production.
QQQ	Primary Copper Smelting.
RRR	Secondary Aluminum Production.
TTT	Primary Lead Smelting.
UUU	Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants.
VVV	Publicly Owned Treatment Works (POTW).
XXX	Ferroalloys Production: Ferromanganese and Silicomanganese.
AAAA	Municipal Solid Waste Landfills.
CCCC	Nutritional Yeast Manufacturing.
DDDD	Plywood and Composite Wood Products.
EEEE	Organic Liquid Distribution.
FFFF	Miscellaneous Organic Chemical Manufacturing.
GGGG	Solvent Extraction for Vegetable Oil Production.
HHHH	Wet Formed Fiberglass Mat Production.
III	Auto & Light Duty Truck.
JJJJ	Paper & Other Web Coating.
KKKK	Surface Coating of Metal Cans.
MMMM	Surface Coating of Miscellaneous Metal Parts and Products.
NNNN	Surface Coating of Large Appliances.
OOOO	Printing, Coating, and Dyeing of Fabrics and Other Textiles.
PPPP	Plastic Parts.
QQQQ	Surface Coating of Wood Building Products.
RRRR	Surface Coating of Metal Furniture.
SSSS	Surface Coating of Metal Coil.
TTTT	Leather Finishing Operations.
UUUU	Cellulose Production Manufacture.
VVVV	Boat Manufacturing.
WWWW	Reinforced Plastic Composites Production.
XXXX	Tire Manufacturing.
YYYY	Stationary Combustion Turbines.
ZZZZ	Reciprocating Internal Combustion Engines.
AAAAA	Lime Manufacturing Plants.
BBBBB	Semiconductor Manufacturing.
CCCCC	Coke Ovens: Pushing, Quenching and Battery Stacks.
EEEEE	Iron and Steel Foundries.

TABLE 1.—40 CFR PART 63 NESHAPS FOR SOURCE CATEGORIES DELEGATED TO ODEQ—Continued

Subpart	Source category
FFFFF	Integrated Iron and Steel.
GGGGG	Site Remediation.
HHHHH	Miscellaneous Coating Manufacturing.
IIIII	Mercury Cell Chlor-Alkali Plants.
JJJJJ	Brick and Structural Clay Products.
KKKKK	Clay Ceramics Manufacturing.
LLLLL	Asphalt Roofing and Processing.
MMMMM	Flexible Polyurethane Foam Fabrication Operation.
NNNNN	Hydrochloric Acid Production.
PPPPP	Engine Test Cells/Stands.
QQQQQ	Friction Products Manufacturing.
RRRRR	Taconite Iron Ore Processing.
SSSSS	Refractory Products Manufacturing.
TTTTT	Primary Magnesium Refining.

¹ The ODEQ has adopted the subpart unchanged and applied for delegation of the standard. The standard was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit. See, *Mossville Environmental Action Network v. EPA*, 370 F. 3d 1232 (DC Cir. 2004). Because of the DC Circuit Court's holding this standard is not being delegated to ODEQ at this time.

VII. What Is Not Being Delegated?

As mentioned above, ODEQ has not been delegated the authority for the following standards:

- 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);
- 40 CFR Part 60, Subpart WWW, (Standards of Performance for Municipal Solid Waste Landfills);
- 40 CFR Part 60, Subpart Cc, (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills);
- 40 CFR Part 61, Subpart B (National Emission Standards for Radon Emissions from Underground Uranium Mines);
- 40 CFR Part 61, Subpart H (National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities);
- 40 CFR Part 61, Subpart I (National Emission Standards for Radionuclide Emissions from Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H);
- 40 CFR Part 61, Subpart K—(National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants);
- 40 CFR Part 61, Subpart Q (National Emission Standards for Radon Emissions from Department of Energy facilities);
- 40 CFR Part 61, Subpart R (National Emission Standards for Radon Emissions from Phosphogypsum Stacks);
- 40 CFR Part 61, Subpart T (National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings); and
- 40 CFR Part 61, Subpart W (National Emission Standards for Radon

Emissions from Operating Mill Tailings).

In addition, EPA cannot delegate to a State any of the Category II Subpart A authorities set forth in 40 CFR 63.91(g)(2). These include the following provisions: § 63.6(g), Approval of Alternative Non-Opacity Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; and § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. Also, some MACT standards have certain provisions that cannot be delegated to the States (e.g. 40 CFR 63.106(b)). Therefore, any MACT standard that EPA is delegating to ODEQ that provides that certain authorities cannot be delegated are retained by EPA and not delegated. Furthermore, no authorities are delegated that require rulemaking in the **Federal Register** to implement, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA Section 112. Finally, Section 112(r), the accidental release program authority, is not being delegated by this approval.

All of the inquiries and requests concerning implementation and enforcement of the excluded standards in the State of Oklahoma should be directed to the EPA Region 6 Office.

This delegation to ODEQ to implement and enforce certain NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. Under this definition, EPA treats as reservations, trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a

reservation. Consistent with previous Federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country because ODEQ has not adequately demonstrated its authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.²

VIII. How Will Applicability Determinations Under Section 112 Be Made?

In approving this delegation, ODEQ will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the CAA or 40 CFR part 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

IX. What Authority Does EPA Have?

We retain the right, as provided by CAA section 112(l)(7), to enforce any applicable emission standard or requirement under Section 112. EPA

² The Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 includes a provision relating to Oklahoma and EPA programs, providing:

Notwithstanding any other provision of law, if the Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator") determines that a regulatory program submitted by the State of Oklahoma for approval by the Administrator under a law administered by the Administrator meets applicable requirements of the law, and the Administrator approves the State to administer the State program under the law with respect to areas in the State that are not Indian country, on request of the State, the Administrator shall approve the State to administer the State program in the areas of the State that are in Indian country, without any further demonstration of authority by the State.

H.R. 3, Section 10211(a). Oklahoma has not applied to administer the NESHAPS program in Indian country in accordance with this statute.

also has the authority to make certain decisions under the General Provisions (subpart A) of part 63. We are granting ODEQ some of these authorities, and retaining others, as explained in Sections VI and VII above. In addition, EPA may review and disapprove of State determinations and subsequently require corrections. (See 40 CFR 63.91(g) and 65 FR 55810, 55823, September 14, 2000.)

Furthermore, we retain any authority in an individual emission standard that may not be delegated according to provisions of the standard. Also, listed in the footnotes of the part 63 delegation table at the end of this rule are the authorities that cannot be delegated to any State or local agency which we therefore retain.

X. What Information Must ODEQ Provide to EPA?

In delegating the authority to implement and enforce these rules and in granting a waiver of EPA notification requirements, we require ODEQ to input all source information into the Aerometric Information Retrieval System (AIRS) for both point and area sources. ODEQ must enter this information into the AIRS system and update the information by September 30 of every year. ODEQ must provide any additional compliance related information to EPA, Region 6, Office of Enforcement and Compliance Assurance within 45 days of a request under 40 CFR 63.96(a).

In receiving delegation for specific General Provisions authorities, ODEQ must submit to EPA Region 6 on a semi-annual basis, copies of determinations issued under these authorities. For part 63 standards, these determinations include: Applicability determinations (§ 63.1); approval/disapprovals of construction and reconstruction (§ 63.5(e) and (f)); notifications regarding the use of a continuous opacity monitoring system (§ 63.6(h)(7)(ii)); finding of compliance (§ 63.6(h)(8)); approval/disapprovals of compliance extensions (§ 63.6(i)); approvals/disapprovals of minor (§ 63.7(e)(2)(i) or intermediate (§ 63.7(e)(2)(ii) and (f) alternative test methods; approval of shorter sampling times and volumes (§ 63.7(e)(2)(iii)); waiver of performance testing (§ 63.7(e)(2)(iv) and (h)(2), (3)); approvals/disapprovals of minor or intermediate alternative monitoring methods (§ 63.8(f)); approval of adjustments to time periods for submitting reports (§§ 63.9 and 63.10); and approvals/disapprovals of minor alternatives to recordkeeping and reporting (§ 63.10(f)).

Additionally, EPA's Emission Measurement Center of the Emissions Monitoring and Analysis Division must receive copies of any approved intermediate changes to test methods or monitoring. (Please note that intermediate changes to test methods must be demonstrated as equivalent through the procedures set out in EPA method 301.) This information on approved intermediate changes to test methods and monitoring will be used to compile a database of decisions that will be accessible to State and local agencies and EPA Regions for reference in making future decisions. (For definitions of major, intermediate and minor alternative test methods or monitoring methods, see 40 CFR 63.90). The ODEQ should forward these intermediate test methods or monitoring changes via mail or facsimile to: Chief, Source Categorization Group A, EPA (MD-19), Research Triangle Park, NC 27711, Facsimile telephone number: (919) 541-1039.

XI. What Is EPA's Oversight of This Delegation to ODEQ?

EPA must oversee ODEQ's decisions to ensure the delegated authorities are being adequately implemented and enforced. We will integrate oversight of the delegated authorities into the existing mechanisms and resources for oversight currently in place. If, during oversight, we determine that ODEQ made decisions that decreased the stringency of the delegated standards, then ODEQ shall be required to take corrective actions and the source(s) affected by the decisions will be notified, as required by 40 CFR 63.91(g)(1)(ii). We will initiate withdrawal of the program or rule if the corrective actions taken are insufficient.

XII. Should Sources Submit Notices to EPA or ODEQ?

All of the information required pursuant to the Federal NESHAP (40 CFR parts 61 and 63) should be submitted by sources located outside of Indian country directly to the ODEQ at the following address: Oklahoma Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677. The ODEQ is the primary point of contact with respect to delegated NESHAPs in Oklahoma (excluding Indian country). Sources do not need to send a copy to EPA. EPA Region 6 waives the requirement that notifications and reports for delegated standards be submitted to EPA in addition to ODEQ in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii).

XIII. How Will Unchanged Authorities Be Delegated to ODEQ in the Future?

In the future, ODEQ will only need to send a letter of request to EPA, Region 6, for those NSPS and NESHAP regulations that ODEQ has adopted by reference. The letter must reference the previous up-front approval demonstration and reaffirm that it still meets the up-front approval criteria. We will respond in writing to the request stating that the request for delegation is either granted or denied. A **Federal Register** notice will be published to inform the public and affected sources of the delegation, indicating where source notifications and reports should be sent, and to amend the relevant portions of the Code of Federal Regulations showing which NESHAP standards have been delegated to ODEQ.

XIV. Final Action

The public was provided the opportunity to comment on the proposed approval of the program and mechanism for delegation of Section 112 standards, as applied to part 70 sources, on March 10, 1995. The proposal was part of EPA's proposed approval of the Oklahoma Department of Environmental Quality's operating permits program. 60 FR 13088. The EPA did not receive adverse public comments on the proposed delegation of Section 112 standards. 61 FR 4220 (February 5, 1996). In this action, the public is given the opportunity to comment on the approval of ODEQ's request for delegation of authority to implement and enforce certain Section 112 standards for all sources (both part 70 and non-part 70 sources) which have been adopted by reference into Oklahoma's state regulations. However, the Agency views the approval of these requests as a noncontroversial action and anticipates no adverse comments. Therefore, EPA is publishing this rule without prior proposal. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the program and delegation of authority described in this action if adverse comments are received. This action will be effective February 13, 2006 without further notice unless the Agency receives relevant adverse comments by January 12, 2006.

If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not

institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

XVI. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, "Regulatory Planning and Review." (58 FR 51735 (October 4, 1993)). This proposed rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments in accordance with section 203 of UMRA.

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, (November 9, 2000)). This action also does not have federalism

implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, (August 10, 1999)). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, (April 23, 1997)). EPA interprets Executive Order 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 proposed rule is not subject to Executive Order 13045 because it approves a state program.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272 note) 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. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a delegation submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA to use VCS in place of a delegation submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 13, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 61

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

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 7411 and 7412.

Dated: November 29, 2005.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

■ 40 CFR parts 61 and 63 are amended as follows:

PART 61—[AMENDED]

■ 1. The authority citation for part 61 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 61.04 is amended by:

- A. Revising paragraph (b)(LL) introductory text; and
- B. Revising paragraph (c)(6)(iv) and reserving paragraph (c)(6)(v) to read as follows:

§ 61.04 Address.

(b) * * *

(LL) State of Oklahoma, Oklahoma Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677. For a list of delegated standards for Oklahoma

(excluding Indian country), see paragraph (c)(6) of this section.

* * * * *
 (c) * * *
 (6) * * *
 * * * * *

(iv) The Oklahoma Department of Environmental Quality has been delegated the following part 61 standards promulgated by EPA, as amended in the **Federal Register** through September 1, 2004. The (X) symbol is used to indicate each subpart that has been delegated.

DELEGATION STATUS FOR NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (PART 61 STANDARDS) FOR OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY [Excluding Indian Country]¹

Subpart	Source category	ODEQ
A	General Provisions	X
B	Radon Emissions From Underground Uranium Mines	
C	Beryllium	X
D	Beryllium Rocket Motor Firing	X
E	Mercury	X
F	Vinyl Chloride	X
G	(Reserved)	
H	Emissions of Radionuclides Other Than Radon From Department of Energy Facilities	
I	Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.	
J	Equipment Leaks (Fugitive Emission Sources) of Benzene	X
K	Radionuclide Emissions From Elemental Phosphorus Plants	
L	Benzene Emissions From Coke By-Product Recovery Plants	X
M	Asbestos	X
N	Inorganic Arsenic Emissions From Glass Manufacturing Plants	X
O	Inorganic Arsenic Emissions From Primary Copper Smelters	X
P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities	X
Q	Radon Emissions From Department of Energy Facilities	
R	Radon Emissions From Phosphogypsum Stacks	
S	(Reserved)	
T	Radon Emissions From the Disposal of Uranium Mill Tailings	
U	(Reserved)	
V	Equipment Leaks (Fugitive Emission Sources)	X
W	Radon Emissions From Operating Mill Tailings	
X	(Reserved)	
Y	Benzene Emissions From Benzene Storage Vessels	X
Z-AA	(Reserved)	
BB	Benzene Emissions From Benzene Transfer Operations	X
CC-EE	(Reserved)	
FF	Benzene Waste Operations	X

¹ Program delegated to Oklahoma Department of Environmental Quality (ODEQ).

(v) [Reserved.]
 * * * * *

PART 63—[AMENDED]

■ 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 paragraph (a)(36)(i) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *
 (36) * * *

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Oklahoma Department of Environmental

Quality for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after this effective date are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF OKLAHOMA
[Excluding Indian Country]

Subpart	Source category	Order ¹²
A	General Provisions ²	X
F	Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI)	X
G	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater	X
H	HON—Equipment Leaks	X
I	HON—Certain Processes Negotiated Equipment Leak Regulation	X
J	Polyvinyl Chloride and Copolymers Production	(³)
K	(Reserved)	
L	Coke Oven Batteries	X
M	Perchloroethylene Dry Cleaning	X
N	Chromium Electroplating and Chromium Anodizing Tanks	X
O	Ethylene Oxide Sterilizers	X
P	(Reserved)	
Q	Industrial Process Cooling Towers	X
R	Gasoline Distribution	X
S	Pulp and Paper Industry	X
T	Halogenated Solvent Cleaning	X
U	Group I Polymers and Resins	X
V	(Reserved)	
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X
X	Secondary Lead Smelting	X
Y	Marine Tank Vessel Loading	X
Z	(Reserved)	
AA	Phosphoric Acid Manufacturing Plants	X
BB	Phosphate Fertilizers Production Plants	X
CC	Petroleum Refineries	X
DD	Off-Site Waste and Recovery Operations	X
EE	Magnetic Tape Manufacturing	X
FF	(Reserved)	
GG	Aerospace Manufacturing and Rework Facilities	X
HH	Oil and Natural Gas Production Facilities	X
II	Shipbuilding and Ship Repair Facilities	X
JJ	Wood Furniture Manufacturing Operations	X
KK	Printing and Publishing Industry	X
LL	Primary Aluminum Reduction Plants	X
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semichemical Pulp Mills	X
NN	(Reserved)	
OO	Tanks—Level 1	X
PP	Containers	X
QQ	Surface Impoundments	X
RR	Individual Drain Systems	X
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process	X
TT	Equipment Leaks—Control Level 1	X
UU	Equipment Leaks—Control Level 2 Standards	X
VV	Oil-Water Separators and Organic-Water Separators	X
WW	Storage Vessels (Tanks)—Control Level 2	X
XX	(Reserved)	
YY	Generic Maximum Achievable Control Technology Standards	X
ZZ-BBB	(Reserved)	
CCC	Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration	X
DDD	Mineral Wool Production	X
EEE	Hazardous Waste Combustors	X
FFF	(Reserved)	
GGG	Pharmaceuticals Production	X
HHH	Natural Gas Transmission and Storage Facilities	X
III	Flexible Polyurethane Foam Production	X
JJJ	Group IV Polymers and Resins	X
KKK	(Reserved)	
LLL	Portland Cement Manufacturing	X
MMM	Pesticide Active Ingredient Production	X
NNN	Wool Fiberglass Manufacturing	X
OOO	Amino/Phenolic Resins	X
PPP	Polyether Polyols Production	X
QQQ	Primary Copper Smelting	X
RRR	Secondary Aluminum Production	X
SSS	(Reserved)	
TTT	Primary Lead Smelting	X
UUU	Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants	X
VVV	Publicly Owned Treatment Works (POTW)	X
WWW	(Reserved)	
XXX	Ferrous Alloys Production: Ferromanganese and Silicomanganese	X
AAAA	Municipal Solid Waste Landfills	X

DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF OKLAHOMA—Continued
 [Excluding Indian Country]

Subpart	Source category	Order ^{1 2}
CCCC	Nutritional Yeast Manufacturing	X
DDDD	Plywood and Composite Wood Products	X
EEEE	Organic Liquids Distribution	X
FFFF	Miscellaneous Organic Chemical Production and Processes (MON)	X
GGGG	Solvent Extraction for Vegetable Oil Production	X
HHHH	Wet Formed Fiberglass Mat Production	X
IIII	Auto & Light Duty Truck	X
JJJJ	Paper and other Web (Surface Coating)	X
KKKK	Metal Can (Surface Coating)	X
MMMM	Surface Coating of Miscellaneous Metal Parts and Products	X
NNNN	Surface Coating of Large Appliances	X
OOOO	Fabric Printing Coating and Dyeing	X
PPPP	Plastic Parts (Surface Coating)	X
QQQQ	Surface Coating of Wood Building Products	X
RRRR	Surface Coating of Metal Furniture	X
SSSS	Surface Coating for Metal Coil	X
TTTT	Leather Finishing Operations	X
UUUU	Cellulose Production Manufacture	X
VVVV	Boat Manufacturing	X
WWWW	Reinforced Plastic Composites Production	X
XXXX	Tire Manufacturing	X
YYYY	Combustion Turbines	X
ZZZZ	Reciprocating Internal Combustion Engines (RICE)	X
AAAAA	Lime Manufacturing Plants	X
BBBBB	Semiconductor Manufacturing	X
CCCCC	Coke Ovens: Pushing, Quenching and Battery Stacks	X
DDDDD	Industrial/Commercial/Institutional Boilers and Process Heaters	X
EEEEE	Iron Foundries	X
FFFFF	Integrated Iron and Steel	X
GGGGG	Site Remediation	X
HHHHH	Miscellaneous Coating Manufacturing	X
IIIII	Mercury Cell Chlor-Alkali Plants	X
JJJJJ	Brick and Structural Clay Products Manufacturing	X
KKKKK	Clay Ceramics Manufacturing	X
LLLLL	Asphalt Roofing and Processing	X
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X
NNNNN	Hydrochloric Acid Production, Fumed Silica Production	X
PPPPP	Engine Test Facilities	X
QQQQQ	Friction Products Manufacturing	X
RRRRR	Taconite Iron Ore Processing	X
SSSSS	Refractory Products Manufacture	X
TTTTT	Primary Magnesium Refining	X

¹ Program delegated to Oklahoma Department of Environmental Quality (ODEQ), as amended in the **Federal Register** through September 1, 2004.

² Authorities that cannot be delegated include § 63.6(g), Approval of Alternative Non-Opacity Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; and § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. In addition, all authorities identified in the certain subparts that EPA has designated that cannot be delegated.

³ The ODEQ has adopted the subpart unchanged and applied for delegation of the standard. The standard was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit. See, *Mossville Environmental Action Network v. EPA*, 370 F. 3d 1232 (D.C. Cir. 2004). Because of the D.C. Circuit Court's holding this standard is not being delegated to ODEQ at this time.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-8007-9]

RIN 2060-AN13

Protection of Stratospheric Ozone; Process for Exempting Critical Uses of Methyl Bromide for the 2005 Supplemental Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With this action EPA is authorizing the use of 610,665 kilograms of methyl bromide for supplemental critical uses in 2005 through the allocation of additional critical stock allowances (CSAs). This allocation supplements the critical use allowances (CUAs) and CSAs previously allocated for 2005, as published in the **Federal Register** on December 23, 2004 (69 FR 76982). Further, EPA is amending the existing list of exempted critical uses to add uses authorized by the Parties to the Montreal Protocol at their Sixteenth Meeting in November 2004. Today's