

EIB 16-04(R)

In the Matter of Proposed Amendments to:

**20.2.77 NMAC – New Source Performance
Standards (NSPS)**

**20.2.78 NMAC – Emission Standards for Hazardous
Air Pollutants (NESHAP)**

**20.2.82 NMAC – Maximum Achievable Control
Technology Standards for Source Categories of
Hazardous Air Pollutants (MACT)**

**New Mexico Environment Department's
Notice of Intent to Present Technical
Testimony**

MARK C. JONES

Education:

Environmental Engineering, B.S., minor in Chinese Languages, University of California-Riverside, 2000

Renewable Energy - Photovoltaic System Design and Installation, AAS, San Juan College, 2010

Work History:

Environmental Scientist & Specialist

Planning and Policy Section – Control Strategies
New Mexico Environment Department (NMED)

January 2006-Present

Farmington, New Mexico

Tasks: Led Four Corners Air Quality Initiatives

- Addressed federal ozone standards and Coordinated Four Corners Air Quality Group
 - Worked with stakeholders to develop options and control strategies
 - Led multi-agency Policy Oversight Group
 - Reviewed ozone monitoring data for compliance with the national standards
- Evaluation of NM rules Part 36 and Part 37 on refineries and gas plants
- Prepared and presented analysis, testimony and comments for Environmental Impact Statements & PSD Permit applications
- Participated in NM Clean Power Plan team towards the development of an initial state plan
- Cross-trained and assisted with Compliance/Enforcement on inspections in Northwest NM compressor stations and power plants

Research Engineer

Energy Resource Institute

January 2001-January 2002

Riverside, California

- Served as project coordinator for Ford diesohol/gasohol vehicle demonstration program in Thailand
- Conducted an energy, economic, and environmental life cycle analysis of Ethanol fuel in Thailand
- Represented Ford at 1999 Ethanol Bio-Fuels Conference and 2001 Clean Air World Bank Conference

Technical Publications:

1. A Systems Evaluation on the Effectiveness of a Catalyst Retrofit Program in China. Jones, M.; Wilson, R.; Norbeck, J. M.; Han, W.; Hurley, R.; Schuetzle, D.; Environmental Science & Technology (2001)
2. Reduction of Vehicular Emissions with Catalyst Retrofit, Other Documents and Presentations. Wilson, R.; Durbin, T.; Jones, M.; Schuetzle, D.; Norbeck, J.M.; 10th CRC On-Road Vehicle Emissions Workshop, San Diego, CA, March, 2000.
3. Development of a Low-Emission, Dedicated Ethanol-Fuel Vehicle With Cold-Start Distillation System
Jones, M.; Jehlik, F., Shepard, P.; Society of Automotive Engineering (1999)

RICHARD GOODYEAR

TITLE:

General Manager

Registered professional engineer in NM

EDUCATION:

B.S., United States Military Academy, 1970

M.S., Mechanical Engineering, Iowa State University, 1975

EXPERIENCE (March 17):

Air Permitting Experience with NMED/AQB: 19 years

Total Environmental Experience: 29 years

Total Technical Experience: 46 years

Total Managerial Experience: 38.5 years

TECHNICAL EXPERIENCE:

Environmental

- 1987 - 1991: Planned, organized, and directed the environmental program of a military community - to include compliance with federal, state, and local laws on solid waste, radon, asbestos, hazardous waste, water quality, sewage treatment, and underground storage tanks.
- 1992 - 1993: Processed construction permit applications for the state of New Mexico.
- 1994 - 1996: Organized and directed the air quality operating permit program for the state of New Mexico.
- 1996 - 2011: Directed all air permitting programs for the state of New Mexico.
- May, 2011 to present: Bureau Chief, Air Quality Bureau, NMED

Military

1970 - 1991: Troop unit experience included positions of platoon leader and commander at engineer company level, and personnel officer, logistics officer, equipment maintenance officer, and executive officer at engineer battalion level. Other assignments included deputy project manager for research and development of a subsystem of a military rocket, assistant professor of engineering at the United States Military Academy, and public works director for a military community of 46,000 acres and 1200 buildings, supporting 85,000 personnel.

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED
AMENDMENTS TO AIR QUALITY REGULATIONS
20.2.77, 20.2.78, and 20.2.82**

EIB 16-04(R)

WRITTEN TESTIMONY OF MARK JONES

Witness Qualifications:

Mark Jones is an Environmental Analyst in the Control Strategies Section of the New Mexico Environment Department ("NMED" or "Department") Air Quality Bureau ("Bureau"). He has worked in the Air Quality Bureau since January 2006 in the Farmington, New Mexico Field Office. Mr. Jones helps coordinate projects in the Four Corners area, including the Four Corners Air Quality Group. He has developed technical knowledge and experience in emissions and emission control technology in the oil and gas industry from working in the San Juan Basin. He has also evaluated and conducted outreach on emerging federal oil and gas regulations. Mr. Jones holds a B.S. degree in Environmental Engineering from the University of California, Riverside. His resume is attached as NMED Exhibit 1.

I. Proposed Amendments

The Air Quality Bureau proposes amendments to the following air quality regulations codified in the New Mexico Administrative Code ("NMAC"):

- 20.2.77 NMAC- *New Source Performance Standards* ("Part 77" or "NSPS");
- 20.2.78 NMAC - *Emission Standards for Hazardous Air Pollutants* ("Part 78" or "NESHAP"); and
- 20.2.82 NMAC - *Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants* ("Part 82" or "MACT").

Copies of the proposed amendments are included as NMED Exhibit 4. These rules are federally enforceable, but are not part of the State Implementation Plan ("SIP") because they are developed under a different section of the Clean Air Act.

The federal Clean Air Act ("CAA") requires the EPA to promulgate standards of performance for new stationary sources. [CAA § 111 (42 U.S.C. § 7411)] Regulations promulgated under this authority are known as NSPS and are found at 40 C.F.R. Part 60. CAA Section 112 requires the EPA to promulgate regulations governing hazardous air pollutants. [42 U.S.C. § 7412] Regulations promulgated under this section are known as NESHAP found at 40 C.F.R. Part 61; and MACT standards, found at 40 C.F.R. Part 63.

CAA Section 112(l)(1) provides for delegation to states of authority to implement and enforce standards promulgated under Section 112. [42 U.S.C. § 7412(l)(1)]

1 Adoption of performance and emission standards is authorized by the Air Quality Control Act
2 ("AQCA"), which provides at NMSA 1978, § 74-2-5(C):

3
4 Regulations adopted by the environmental improvement board or the local board may:

5 ...

6 (2) prescribe standards of performance for sources and emission standards for
7 hazardous air pollutants that, except as provided in this subsection:

8 (a) shall be no more stringent than but at least as stringent as required by federal
9 standards of performance; and

10 (b) shall be applicable only to sources subject to such federal standards of performance;

11 ...

12 Incorporation by reference of the federal standards is the best way to ensure that New Mexico's
13 standards comply with all provisions of § 74-2-5(C). The proposed amendments to Parts 77, 78
14 and 82 include NSPS, NESHAP and MACT rules published in the Federal Register from
15 September 15, 2015 to January 15, 2017. To accomplish this incorporation by reference,
16 "through" dates have been changed in several sections of each proposed rule. A table of relevant
17 Federal Register notices, with brief explanations for each and an estimate of the number of
18 facilities that may be affected, is included as NMED Exhibit 5.

19 **II. Effect of Incorporation**

20 Under the CAA, authority to implement and enforce the NSPS, NESHAP and MACT standards
21 may be delegated to states. The EPA, however, retains the authority to enforce the standards
22 directly. See CAA § 111(c) and § 112(1)(7) (NMED Exhibit 6). New Mexico has sought and
23 obtained implementation authority. The EPA initially delegated authority to New Mexico for the
24 NSPS and NESHAP programs on March 15, 1985 in a letter to the
25 governor (NMED Exhibit 7). The EPA initially delegated authority to New Mexico to implement
26 and enforce the MACT program on July 27, 1995 (NMED Exhibit 8). The latest date of EPA
27 approval of NMED requested date changes for all three rules is February 2, 2015. The
28 Department periodically requests that the Environmental Improvement Board ("Board") updates
29 the date of incorporation in the New Mexico Administrative Code to include new rules and
30 amendments made to the federal regulations. Implementation of the standards by the
31 Department is more efficient and effective than reliance on federal implementation. Department
32 personnel inspect affected sources to determine compliance, and Department permit writers
33 develop permit conditions for new and modified sources. Therefore, the Department is well-
34 positioned to determine which standards are applicable to sources and to determine source
35 compliance. While the EPA retains oversight authority through the Region 6 offices in Dallas,
36 they do not have the staff and resources to perform day-to-day implementation. Generally, both
37 the EPA and the regulated community prefer that the Department implement and enforce the air
38 quality regulations.

39 **III. Outreach**

40 Initial outreach commenced on February 2, 2017, with a notice to the Bureau's regulatory
41 listserv announcing the proposed incorporation by reference of federal NSPS, NESHAP, and
42 MACT rules. (NMED Exhibit 10). Notice of the proposed amendments was also published on

1 the department website (https://www.env.nm.gov/aqb/prop_regs.htm) at that time. Additional
2 outreach was conducted for the proposed amendments of Parts 77, 78, and 82 in the form of a
3 public notice (NMED Exhibit 11). The public notice was published in the Albuquerque Journal,
4 in English and Spanish, and New Mexico Register on February 14, 2017. The public notice
5 included an option to request an informational Open House; however, no requests were received.

6 **IV. Proposed Changes to Part 77 (NMED Exhibit 4)**

7 The Board first adopted New Source Performance Standards by reference in 1984. These federal
8 standards are contained within Title 40 of the Code of Federal Regulations Part 60 (40 CFR Part
9 60). The Department proposes that 20.2.77 NMAC be amended to incorporate by reference the
10 federal requirements pertaining to NSPS promulgated by the EPA from September 15, 2015 to
11 January 15, 2017. This involves updating the "as amended through" date to January 15, 2017 in
12 Sections 2 and 9. Section 10 was also amended to exclude 40 CFR Part 60, Subpart DDDD from
13 incorporation since it is a revised emissions guideline and not an NSPS. There are twelve (12)
14 new or revised NSPSs during this period that are proposed for incorporation.

15 **V. Proposed Changes to Part 78 (NMED Exhibit 4)**

16 The Board first adopted National Emission Standards for Hazardous Air Pollutants by reference
17 in 1984. These federal standards are contained within 40 CFR Part 61. The Department proposes
18 that 20.2.78 NMAC be amended to incorporate by reference the federal requirements pertaining
19 to NESHAP promulgated by the EPA from September 15, 2015 to January 15, 2017. This
20 involves updating the "through" date to January 15, 2017 in Sections 2 and 9. There are two (2)
21 revised NESHAPs during this period that are proposed for incorporation.

22 **VI. Proposed Changes to Part 82 (NMED Exhibit 4)**

23 The Board first adopted Maximum Achievable Control Technology Standards for Source
24 Categories of Hazardous Air Pollutants by reference in 1994. These federal standards are
25 contained within 40 CFR Part 63. The Department is proposing that 20.2.82 NMAC be amended
26 to incorporate by reference the federal requirements pertaining to MACT standards promulgated
27 by the EPA from September 15, 2015 to January 15, 2017. This involves updating the "through"
28 date to January 15, 2017 in Sections 2 and 8. There are seventeen (17) new or revised MACTs
29 during this period that are proposed for incorporation.

30 **VII. Federal Register Notices for Revisions to 40 CFR Parts 60, 61, and 63**

31 The Federal Register Notices are formal announcements of new or revised regulations, including
32 NSPSs, NESHAPs, and MACTs. As previously noted, NMED Exhibit 5 is a table of the notices
33 announcing the amendments being proposed for incorporation, including the date of publication,
34 the effective date of the amendments, the Part(s) of 40 CFR (Parts 60, 61 or 63) amended, the
35 title of the notice and a brief description of the changes. If printed, these notices would total 1042
36 pages. For this reason, the full text Federal Register Notices are included on CD only as NMED
37 Exhibit 13. The file name for each rule corresponds to the file name listed in NMED Exhibit 5,
38 Federal Register Notices for Revisions to 40 CFR Parts 60, 61, and 63.

1 **VII. Effect on Small Business**

2 Pursuant to the Small Business Regulatory Relief Act, NMSA 1978, § 14-4A-1 *et seq.*, the
3 Bureau has determined that the regulatory changes proposed in this action will not have an
4 adverse effect on small business. This determination is based on the fact that the proposed
5 amendment will not impose additional substantive requirements on facilities, but will simply
6 retain implementation authority with the State of New Mexico rather than the EPA. Nonetheless,
7 the Department provided the Small Business Regulatory Advisory Commission ("SBRAC") with
8 notice of this hearing, via the letter attached as NMED Exhibit 12. In a response dated March 20,
9 2017, the SBRAC indicated its support for the proposed amendments, and found that the
10 amendments have no adverse implications for small businesses in our state. See SBRAC
11 Response, NMED Exhibit 12. Additionally, the New Mexico Environment Department Small
12 Business Environmental Assistance Program provides ongoing technical assistance for small
13 businesses regarding new and existing environmental regulatory requirements.

14 **VIII. Conclusion**

15 This concludes my testimony to the Board on the NMED proposed amendments to 20.2.77
16 NMAC, 20.2.78 NMAC, and 20.2.82 NMAC. I respectfully request that the Board adopt these
17 (non-SIP) proposed revisions at the conclusion of this hearing.

This is an amendment to 20.2.77 NMAC, Sections 2, 9, & 10.

20.2.77.2 SCOPE: Any stationary source constructing or modifying and which is subject to the requirements of 40 CFR Part 60, as amended through [~~September 15, 2015~~] January 15, 2017. [06/16/95, 11/19/97, 09/08/99; 20.2.77.2 NMAC - Rn & A, 20 NMAC 2.77.101, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, XX/XX/17]

20.2.77.9 ADOPTION OF 40 CFR PART 60: Except as otherwise provided, the new source performance standards as promulgated by the United States environmental protection agency, 40 CFR Part 60, as amended in the Federal Register through [~~September 15, 2015~~] January 15, 2017, are hereby incorporated into this part (20.2.77 NMAC). [06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.77.9 NMAC - Rn & A, 20 NMAC 2.77.107, 06/02/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; XX/XX/17]

20.2.77.10 MODIFICATIONS AND EXCEPTIONS: The following modifications or exceptions are made to the incorporated federal standards:

A. Amend 40 CFR Part 60, Section 60.2, Definitions, as follows: For the purposes of delegation of authority which the administrator of the United States environmental protection agency may, at the administrator's discretion, delegate to the secretary of the New Mexico environment department, "administrator" means the secretary of the department or the secretary's authorized representative.

B. Exclude 40 CFR - Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters.

C. The federal standards of performance incorporated by this regulation shall not be subject to NMSA 1978, Section 74-2-8 (Variances).

D. Exclude 40 CFR Part 60, Subpart QQQQ - Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.

E. Exclude 40 CFR Part 60, Subpart DDDD - Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units [06/16/95; 20.2.77.10 NMAC - Rn, 20 NMAC 2.77.108, 06/23/00; A, 06/15/07; A, 1/29/16; A, XX/XX/17]

This is an amendment to 20.2.78 NMAC, Sections 2 & 9.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 78 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

20.2.78.2 SCOPE: All sources emitting hazardous air pollutants which are subject to the requirements of 40 CFR Part 61, as amended through [~~September 15, 2015~~] January 15, 2017.
[06/16/95, 11/19/97, 09/08/99; 20.2.78.2 NMAC - Rn 20 NMAC 2.78.101 & A, 06/23/00; A, 02/18/02; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 1/29/16; A, XX/XX/17]

20.2.78.9 ADOPTION OF 40 CFR PART 61: Except as otherwise provided, the national emission standards for hazardous air pollutants as promulgated by the United States environmental protection agency, 40 CFR Part 61, as amended in the Federal Register through [~~September 15, 2015~~] January 15, 2017 are hereby incorporated into this part (20.2.78 NMAC).
[06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.78.9 NMAC - Rn 20 NMAC 2.78.107 & A, 06/23/00; A, 02/18/02; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 1/29/16; A, XX/XX/17]

This is an amendment to 20.2.82 NMAC, Sections 2 & 8.

20.2.82.2 SCOPE: All sources emitting hazardous air pollutants, which are subject to the requirements of 40 CFR Part 63, as amended through [~~September 15, 2015~~] January 15, 2017.

[Rn, 20 NMAC 2.82.2, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.2 NMAC - Rn & A, 20 NMAC 2.82.101, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, XX/XX/17]

20.2.82.8 ADOPTION OF 40 CFR PART 63: Except as otherwise provided in Section 20.2.82.10 NMAC (below), the national emission standards for hazardous air pollutants for source categories as promulgated by the United States environmental protection agency, 40 CFR Part 63, as amended in the Federal Register through [~~September 15, 2015~~] January 15, 2017 are hereby incorporated into this part (20.2.82 NMAC).

[Rn, 20 NMAC 2.82.7, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.8 NMAC - Rn & A, 20 NMAC 2.82.106, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, XX/XX/17]

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from 9/16/2015 to 1/15/2017

PDF name (FR Date)	Effective Date	40 CFR Part (Subpart)	Title	Summary of Changes	# pages in PDF	# facilities in NM
2015-21031 (9/18/2015)	9/18/2015	63 (RRR)	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production	Finalizes residual risk and technology review and rule review: (1) require electronic reporting; (2) provisions to allow changing furnace classifications; (3) accounting requirements during certain compliance testing; (4) alternative options for sweat furnaces; (5) HF compliance provisions; (6) SSM provisions; and (7) other corrections and clarifications	64	0
2015-25137 (10/15/2015)	10/15/2015	63 (LL)	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants	Regulates new hazardous air pollutants from polines using the Soderberg technology to address risk; finalized residual risk & technology review for Primary Aluminum Production source category; sets new emission standards based on review and new emissions test data; adds requirement for electronic reporting; and eliminates SSM exemptions.	39	0
2015-22837 (10/23/2015)	10/23/2015	60 (TTTT)	Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units	Finalizes NSPS for emissions of carbon dioxide from certain newly constructed (after 1/1/14), modified and reconstructed (after 6/18/14) fossil fuel-fired electric utility steam generating units and stationary combustion turbines	152	0

2015-25724 (10/26/2015)	12/28/2015	63 (JJJJ, KKKKK)	NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing	Finalizes maximum achievable control technology (MACT) standards for mercury, non-mercury metal hazardous air pollutants (HAPs) and dioxins/furans; finalizes health-based standards for acid gas HAPs; and finalizes work practice standards.	102	2
2015-29186 (11/20/2015)	11/20/2015	63 (DDDDD)	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters	Retains 130 ppm CO limit and PM continuous parameter monitoring system requirements; minor definition changes for startup and shutdown and minor changes to work practices during these periods; technical corrections and clarifications with no environmental, energy or economic impacts; and denies request to reconsider all other issues requested in January.	49	16
2015-26486 (12/1/2015)	2/1/2016	60 (J, Ja); 63 (Y, CC, WW, UUU)	Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards	Finalizes residual risk and technology review; includes several technical amendments for NESHAP Refinery MACT 1 covering sources not distinctly listed and Refinery MACT 2 covering process vents on catalytic cracking units, catalytic reforming units, and sulfur recovery units. Technical corrections and clarifications of NSPS are also finalized related to the 2008 petition for reconsideration.	178	
2015-30379 (12/4/2015)	12/28/2015	63 (JJJJ, KKKKK)	NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing: Correction	Corrects typographical errors in the 10/26/2015 Federal Register for two references.	1	2

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from 9/16/2015 to 1/15/2017

2015-30356 (12/7/2015)	12/7/2015	63 (GG)	National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review	Adds limitations to reduce organic and inorganic emissions of HAPs from specialty coating application operations; removes exemptions for SSM; and revises recordkeeping and reporting requirements applicable to SSM.	41	0
2016-03757 (2/25/2016)	4/25/2016	63 (Appendix A)	Clarification of Requirements for Method 303 Certification Training	Clarifies and further defines requirements for conducting Method 303 (visible emissions testing from coke ovens) training courses.	4	N/A*
2016-06563 (4/6/2016)	4/6/2016	60 (Da), 63 (UUUUU)	National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units	Procedure revision for calculating compliance with NSPS daily average PM limit using CEMS; clarification that MATS applies only to IGCC; remove affirmative defense provisions in MATS; plus 78 technical corrections and other clarifications.	37	5
2016-09157 (4/20/2016)	4/20/2016	63 (Appendix A)	Clarification of Requirements for Method 303 Certification Training	Withdrawal of final rule published 2/25/2016.	1	N/A*
2016-09429 (4/25/2016)	4/25/2016	63 (UUUUU)	Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units	Coal- and oil-fired electric generating units are properly included in CAA section 112(c) list of regulated sources for hazardous air pollutants that must be regulated under CAA section 112(d) (in response to US Supreme Court decision that EPA must review costs for MATS rule).	34	1

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from 9/16/2015 to 1/15/2017

2016-10989 (5/19/2016)	8/17/2016	60 (LLL, UUUU, DDDD)	Technical Amendments to Performance Specification 18 and Procedure 6	Minor technical amendments to performance specifications and test procedures for HCl continuous emission monitoring systems, and minor amendments to the quality assurance procedures for HCl monitoring systems.	6	17
2016-11971 (6/3/2016)	8/2/2016	60 (OOOO, OOOOa)	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources	Amendments for implementation improvement; new standards for greenhouse gases (specifically methane) and volatile organic compounds, and adds new sources (hydraulically fractured oil well completions, pneumatic pumps and fugitive emissions from well sites and compressor stations).	120	923
2016-13505 (6/13/2016)	9/12/2016	63 (Appendix A, RRR)	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production	Amends final rule published on 9/18/2015 to correct inadvertent errors; clarifies requirements for initial performance tests and malfunction report submittals; provides additional option for compliance testing; clarifies what a change in furnace operating mode is; and updates electronic reporting requirements.	11	N/A*
2016-13687 (6/23/2016)	12/23/2016	60 (CCCC)	Standards of Performance for New Stationary Sources : Commercial and Industrial Solid Waste Incineration Units	Defines "continuous emission monitoring system data during startup and shutdown periods" to be category-specific; clarifies that particulate matter limits for the waste-burning kiln subcategory should be based on test averages; incorporates a fuel variability factor for coal-burning energy recovery units; and defines "kiln" to be consistent with the Portland Cement NESHAP.	80	
2016-15707 (6/30/2016)	6/30/2016	60 (various)	Standards of Performance for New Stationary Sources	Technical corrections: reinstating various symbols, such as "<" and ">."	2	N/A**

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from 9/16/2015 to 1/15/2017

CI-2016-15707 (7/6/2016)		60 (various)	Standards of Performance for New Stationary Sources: CFR Correction	Replaces incorrect symbol "E" with correct number "3" in 6/30/2016 rule.	1	N/A**
2016-16045 (7/7/2016)	9/6/2016	60 (III)	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines	Amends the NSPS to allow manufacturing of temporary override of emission control systems for emergency operation and to comply with Tier 1 emission standards during emergencies; defines "qualified emergency situation"; clarifies procedures and standards to use during emergencies; and aligns definition of "remote areas of Alaska" with 40 CFR 63, subpart ZZZZ.	9	191
2016-19682 (8/8/2016)	8/8/2016	60 (LL, UU, UU, DDDD)	Technical Amendments to Performance Specification 18 and Procedure 6	Partial withdrawal of final rule (5/19/2016) due to adverse comment. The withdrawal pertains only to Procedure 6, sections 4.1.5, 4.1.5.1, 4.1.5.3 and 5.2.4.2 (quality assurance provision).	1	17

2016-17687 (8/29/2016)	10/28/2016	60 (XXX)	Standards of Performance for Solid Waste Landfills	(Requirements in Subpart WWW continue in effect for landfills constructed or modified from 5/30/1991 to 7/17/2014.) Reduces NMOC emissions threshold for gas collection and control system requirement (from 50 to 34 metric tons/year); finalizes an alternative site-specific emission threshold methodology, "Tier 4" surface emission modeling; finalizes criteria for determining timing of capping/removing gas collection & control systems due to declining gas flows; clarifies uses for treated LFG; defines treatment system as one that de-waters and compresses LFG for sale or beneficial use; finalizes wellhead operational standards and surface monitoring requirements; includes periods of SSM in standard; and clarifies timing issues and updates several definitions, including best management practices.	54	0
2016-19642 (8/30/2016)	10/31/2016	60 (A, JJJ), Appendices A-1 through A-8, Appendices B and F), 61 (A, Appendix B), 63 (A, Appendix A)	Revisions to Test Methods, Performance Specifications, and Testing Regulations for Air Emission Sources	Technical and editorial corrections and revisions to regulations related to source testing of emissions, including updating obsolete testing procedures and adding approved alternatives.	28	2583

List of Amendments to 40 CFR 60, 61 and 63 Published in the Federal Register from 9/16/2015 to 1/15/2017

2016-21334 (9/14/2016)	9/14/2016	63 (JJJJ)	National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers	Amendments due to reconsideration of 2/1/2013 final rule: (1) alternative PM standard for new oil-fired boilers; (2) performance testing for PM based on initial compliance test; and (3) fuel sampling for Hg for certain coal-fired boilers based on initial compliance demonstration. Also includes minor revisions to the definitions of startup and shutdown, technical corrections and clarifications. Removes affirmative defense for malfunction. Denies other aspects of the reconsideration requests.	20	0
2016-27849 (11/21/2016)	2/21/2016	60 (Appendix F)	Revisions to Procedure 2—Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems	Updates the procedure that provides the ongoing quality assurance/quality control (QA/QC) procedures for assessing the acceptability of particulate matter (PM) continuous emissions monitoring systems (CEMS). The procedure explains the criteria for passing an annual response correlation audit (RCA) and the criteria for passing an annual relative response audit (RRA).	4	N/A*
2016-28097	12/22/2016	63 (Appendix B)	Clarification of Requirements for Method 303 Certification Training	Finalizes revisions to better define the requirements associated with conducting Method 303 training courses. Method 303 is an air pollution test method used to determine the presence of visible emissions (VE) from coke ovens.	4	N/A*
TOTAL NUMBER OF PAGES					1042	

*Appendix to Part 63 potentially affecting all subparts of Part 63

**Technical correction to Part 60 affecting all subparts of Part 60

Title 42. The Public Health and Welfare
Chapter 85. Air Pollution Prevention and Control
Subchapter I. Programs and Activities
Part A. Air Quality and Emissions Limitations

42 U.S.C. §7411. Standards of performance for new stationary sources

(a) Definitions

For purposes of this section:

(1) The term "standard of performance" means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.

(2) The term "new source" means any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

(3) The term "stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant. Nothing in subchapter II of this chapter relating to nonroad engines shall be construed to apply to stationary internal combustion engines.

(4) The term "modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

(5) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(6) The term "existing source" means any stationary source other than a new source.

(7) The term "technological system of continuous emission reduction" means —

(A) a technological process for production or operation by any source which is inherently low-polluting or nonpolluting, or

(B) a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air, including precombustion cleaning or treatment of fuels.

(8) A conversion to coal (A) by reason of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 792(a)] or any amendment thereto, or any subsequent enactment which supersedes such Act [15 U.S.C. 791 et seq.], or (B) which qualifies under section 7413(d)(5)(A)(ii) ¹ of this title, shall not be deemed to be a modification for purposes of paragraphs (2) and (4) of this subsection.

SELECTED PROVISIONS OF THE CLEAN AIR ACT, SECTIONS 111 & 112

(b) List of categories of stationary sources; standards of performance; information on pollution control techniques; sources owned or operated by United States; particular systems; revised standards

- (1) (A) The Administrator shall, within 90 days after December 31, 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.

(B) Within one year after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall publish proposed regulations, establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one year after such publication, such standards with such modifications as he deems appropriate. The Administrator shall, at least every 8 years, review and, if appropriate, revise such standards following the procedure required by this subsection for promulgation of such standards. Notwithstanding the requirements of the previous sentence, the Administrator need not review any such standard if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard. Standards of performance or revisions thereof shall become effective upon promulgation. When implementation and enforcement of any requirement of this chapter indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.

(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards.

(3) The Administrator shall, from time to time, issue information on pollution control techniques for categories of new sources and air pollutants subject to the provisions of this section.

(4) The provisions of this section shall apply to any new source owned or operated by the United States.

(5) Except as otherwise authorized under subsection (h) of this section, nothing in this section shall be construed to require, or to authorize the Administrator to require, any new or modified source to install and operate any particular technological system of continuous emission reduction to comply with any new source standard of performance.

(6) The revised standards of performance required by enactment of subsection (a)(1)(A)(i) and (ii) ¹ of this section shall be promulgated not later than one year after August 7, 1977. Any new or modified fossil fuel fired stationary source which commences construction prior to the date of publication of the proposed revised standards shall not be required to comply with such revised standards.

(c) State implementation and enforcement of standards of performance

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards.

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard of performance under this section.

* * * *

42 U.S.C. §7412. Hazardous air pollutants

* * * *

(d) Emission standards

(1) In general

The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c) of this section in accordance with the schedules provided in subsections (c) and (e) of this section. The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) of this section as the result of the authority provided by this sentence.

(2) Standards and methods

Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to, measures which—

- (A) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications,
- (B) enclose systems or processes to eliminate emissions,
- (C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point,
- (D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in subsection (h) of this section, or
- (E) are a combination of the above.

None of the measures described in subparagraphs (A) through (D) shall, consistent with the provisions of section 7414(c) of this title, in any way compromise any United States patent or United States trademark right, or any confidential business information, or any trade secret or any other intellectual property right.

* * * *

SELECTED PROVISIONS OF THE CLEAN AIR ACT, SECTIONS 111 & 112

(l) State programs

(1) In general

Each State may develop and submit to the Administrator for approval a program for the implementation and enforcement (including a review of enforcement delegations previously granted) of emission standards and other requirements for air pollutants subject to this section or requirements for the prevention and mitigation of accidental releases pursuant to subsection (r) of this section. A program submitted by a State under this subsection may provide for partial or complete delegation of the Administrator's authorities and responsibilities to implement and enforce emissions standards and prevention requirements but shall not include authority to set standards less stringent than those promulgated by the Administrator under this chapter.

(2) Guidance

Not later than 12 months after November 15, 1990, the Administrator shall publish guidance that would be useful to the States in developing programs for submittal under this subsection. The guidance shall also provide for the registration of all facilities producing, processing, handling or storing any substance listed pursuant to subsection (r) of this section in amounts greater than the threshold quantity. The Administrator shall include as an element in such guidance an optional program begun in 1986 for the review of high-risk point sources of air pollutants including, but not limited to, hazardous air pollutants listed pursuant to subsection (b) of this section.

(3) Technical assistance

The Administrator shall establish and maintain an air toxics clearinghouse and center to provide technical information and assistance to State and local agencies and, on a cost recovery basis, to others on control technology, health and ecological risk assessment, risk analysis, ambient monitoring and modeling, and emissions measurement and monitoring. The Administrator shall use the authority of section 7403 of this title to examine methods for preventing, measuring, and controlling emissions and evaluating associated health and ecological risks. Where appropriate, such activity shall be conducted with not-for-profit organizations. The Administrator may conduct research on methods for preventing, measuring and controlling emissions and evaluating associated health and environment risks. All information collected under this paragraph shall be available to the public.

(4) Grants

Upon application of a State, the Administrator may make grants, subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in developing and implementing a program for submittal and approval under this subsection. Programs assisted under this paragraph may include program elements addressing air pollutants or extremely hazardous substances other than those specifically subject to this section. Grants under this paragraph may include support for high-risk point source review as provided in paragraph (2) and support for the development and implementation of areawide area source programs pursuant to subsection (k) of this section.

(5) Approval or disapproval

Not later than 180 days after receiving a program submitted by a State, and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such program. The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

(A) the authorities contained in the program are not adequate to assure compliance by all sources within the State with each applicable standard, regulation or requirement established by the Administrator under this section;

SELECTED PROVISIONS OF THE CLEAN AIR ACT, SECTIONS 111 & 112

(B) adequate authority does not exist, or adequate resources are not available, to implement the program;

(C) the schedule for implementing the program and assuring compliance by affected sources is not sufficiently expeditious; or

(D) the program is otherwise not in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the objectives of this chapter.

If the Administrator disapproves a State program, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State may revise and resubmit the proposed program for review and approval pursuant to the provisions of this subsection.

(6) Withdrawal

Whenever the Administrator determines, after public hearing, that a State is not administering and enforcing a program approved pursuant to this subsection in accordance with the guidance published pursuant to paragraph (2) or the requirements of paragraph (5), the Administrator shall so notify the State and, if action which will assure prompt compliance is not taken within 90 days, the Administrator shall withdraw approval of the program. The Administrator shall not withdraw approval of any program unless the State shall have been notified and the reasons for withdrawal shall have been stated in writing and made public.

(7) Authority to enforce

Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard or requirement under this section.

(8) Local program

The Administrator may, after notice and opportunity for public comment, approve a program developed and submitted by a local air pollution control agency (after consultation with the State) pursuant to this subsection and any such agency implementing an approved program may take any action authorized to be taken by a State under this section.

(9) Permit authority

Nothing in this subsection shall affect the authorities and obligations of the Administrator or the State under subchapter V of this chapter.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VI
1201 ELM STREET
DALLAS, TEXAS 75270

File EPA
Correspondence

TA FYI

84-05-10

3/17/85

3/27/85
EII

March 15, 1985

Honorable Toney Anaya
Governor of New Mexico
Santa Fe, New Mexico 87503

Dear Governor Anaya:

In response to your letter of October 19, 1984, I am pleased to grant your request for delegation of authority for implementation and enforcement of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants to the New Mexico Environmental Improvement Division.

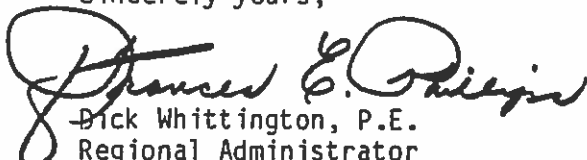
The pertinent laws of the State of New Mexico and the rules and regulations of the New Mexico Environmental Improvement Division have been reviewed and have been found to provide an adequate and effective procedure for implementation and enforcement of the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants by the New Mexico Environmental Improvement Division and the State of New Mexico. The resources and capabilities of the New Mexico Environmental Improvement Division have been found to be adequate to implement and enforce these programs.

Therefore, I am delegating authority to the New Mexico Environmental Improvement Division to implement and enforce New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, promulgated by the Environmental Protection Agency (EPA) through March 14, 1984, and December 9, 1983, respectively. This delegation of authority is granted pursuant to Sections 111(c) and 112(d) of the Clean Air Act, and is subject to the conditions and limitations stated in the delegation. Except as specifically limited in this letter, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Part 60 and 40 CFR Part 61 as of the date of this letter are delegated to the New Mexico Environmental Improvement Division. Any of such authority and responsibilities may be redelegated by the Division to its Director or staff.

In addition, the New Mexico Environmental Improvement Division will maintain partial delegation of authority for the technical and administrative review of New Source Performance Standards promulgated or revised after March 14, 1984, and of National Emission Standards for Hazardous Air Pollutants promulgated or revised after December 9, 1983. This partial delegation of authority is also subject to the conditions and limitations stated in the delegation.

Since this delegation is effective immediately, there is no requirement that the State notify the EPA of its acceptance. Unless the EPA receives from the State of New Mexico a written notice of objection within ten days of the date of receipt of this letter, the State of New Mexico and the New Mexico Environmental Improvement Division will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,


Dick Whittington, P.E.
Regional Administrator

Enclosure

cc: Denise Fort, Director
New Mexico Environmental Improvement Division
P. O. Box 968, Crown Building
Santa Fe, New Mexico 87504-0968

PROVISIONS

for

FULL DELEGATION

for the

NATIONAL EMISSION STANDARDS FOR

HAZARDOUS AIR POLLUTANTS (NESHAP) AUTHORITY

and

NEW SOURCE PERFORMANCE STANDARDS (NSPS) AUTHORITY

to the

STATE OF NEW MEXICO

(40 CFR Parts 60 and 61)

EFFECTIVE DATE:

March 15, 1985

Introduction

On October 19, 1984, the Governor of New Mexico requested that the U.S. Environmental Protection Agency (EPA) delegate full authority to New Mexico for the New Source Performance Standards (NSPS) program and for the National Emission Standards for Hazardous Air Pollutants (NESHAP) program. The Governor based his request upon the adoption by the New Mexico Environmental Improvement Board of Air Quality Control Regulation 750 (New Source Performance Standards), and Air Quality Control Regulation 751 (Emission Standards for Hazardous Air Pollutants) on July 13, 1984.

Under the New Mexico Air Quality Control Act, the City of Albuquerque and Bernalillo County have established a program for the local administration and enforcement of the Air Quality Control Act, in lieu of the New Mexico Environmental Improvement Board. The authority delegated in this document excludes those sources located within the boundaries of Bernalillo County.

Full Delegation

EPA has reviewed the Governor's request, Air Quality Control Regulations 750 and 751, and all other available information on the New Mexico Environmental Improvement Division (NMEID), including its implementation of the partial delegation of these programs. EPA finds that the NMEID has an adequate and effective procedure for implementing and enforcing the NSPS and NESHAP programs in the State of New Mexico, except for Indian lands, as defined at 18 U.S.C. §1151. Therefore, EPA hereby delegates the following authority for the implementation and enforcement of the NSPS and NESHAP to the State of New Mexico, subject to the conditions and limitations specified below:

1. Authority for all sources located in the State of New Mexico, outside Indian lands, subject to the NSPS promulgated in 40 CFR Part 60 through March 14, 1984.
2. Authority for all sources located in the State of New Mexico, outside Indian lands, subject to the NESHAP promulgated in 40 CFR Part 61 through December 9, 1983.

Conditions and Limitations

1. Implementation and enforcement of NSPS and NESHAP in the State of New Mexico, outside Indian lands, will be the primary responsibility of the NMEID. If the State of New Mexico or the NMEID determines that such implementation or enforcement is not possible or feasible, either with respect to an individual source, a class of sources, or generally, the NMEID shall, within 30 days, notify EPA Region 6 of such impossibility or infeasibility so that EPA may timely exercise its concurrent authority with respect to sources within the State of New Mexico.
2. Acceptance of this delegation constitutes agreement by the State of New Mexico and the NMEID to follow all interpretations, past and future, made by EPA of 40 CFR Parts 60 and 61, including determinations of appli-

cability. Prior EPA concurrence shall be obtained on any matter involving the interpretation of Sections 111 or 112 of the Clean Air Act or 40 CFR Parts 60 or 61 to the extent that application, implementation, administration, or enforcement of these sections have not been covered by prior EPA determinations or guidance.

3. The State of New Mexico and the NMEID are not authorized to approve or disapprove any application, exemption, variance, or grant waiver of compliance with any provision of 40 CFR Part 61. The State of New Mexico or the NMEID are, however, authorized to receive, review, evaluate, and recommend to EPA approval or disapproval of an application, exemption, variance or waiver.

4. The Federal NSPS regulations in 40 CFR Part 60, as amended, do not have provisions for granting waivers by class of testing requirements or variances, hence this delegation does not convey to the State of New Mexico or the NMEID authority to grant waivers by class of testing requirements or variances from NSPS regulations.

5. The State of New Mexico and the NMEID shall utilize the methods specified in applicable Appendices and Subparts of 40 CFR Parts 60 or 61 in determining compliance with the regulations, including requiring tests at the times required by the regulations.

Authority is delegated to approve minor modifications to the reference test methods in 40 CFR Parts 60 and 61, during either a pre-test meeting or the actual sampling period. These minor modifications would have to produce results essentially identical to the reference method results. Approval of these minor modifications should be based on sound engineering judgment. Under no circumstances are modifications to be used which might result in the non-uniform application of the standards.

6. If at any time there is a conflict between any State regulation and any provision of 40 CFR Parts 60 or 61, the Federal regulation must be applied to the extent that it is more stringent than that of the State. If the State of New Mexico or the NMEID does not have the authority to enforce the more stringent Federal regulation, the NMEID shall immediately notify EPA Region 6 pursuant to Condition 1 above. This delegation may be revoked by EPA, in whole or in part, in the event any such conflict makes implementation or enforcement of NSPS or NESHAP administratively impractical.

7. If a claim of confidentiality or any other reason should ever legally prevent the State of New Mexico and the NMEID from providing to EPA any or all information required by or pertaining to the implementation of NSPS and NESHAP, the NMEID shall, upon request, assist EPA Region 6 in obtaining that information directly from the source. At a minimum, such assistance shall consist of providing to EPA an identification of the nature of the information which the State cannot provide. In the absence of such a legal reason, the State and the NMEID shall make available to any designated representative of EPA upon request all records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of 40 CFR Parts 60 or 61.

8. All matters in process at the time of delegation of authority may be processed through to completion by EPA Region 6, or may, at the request of the NMEID and at the discretion of EPA, be transferred to the NMEID for completion. Appropriate reproduction of pertinent file material in the EPA Region 6 files in relation to source regulation under NSPS and NESHAP shall be provided through mutual cooperation of the staffs of the respective offices.

9. Existing monthly reports normally submitted to EPA Region 6 for the Compliance Data System (CDS) shall be expanded to contain pertinent information relating to the status of sources subject to 40 CFR Parts 60 or 61. As a minimum, the following information must be provided to EPA: the name, address, type and size of each facility; date that operation at the facility commenced and dates of most recent compliance test; the compliance status of each facility with accompanying explanations of noncompliance where applicable; notice of enforcement actions brought against facilities because of violations of 40 CFR Parts 60 or 61; surveillance actions undertaken for each facility; and the results of all reports relating to emissions data, including excess emissions reports.

10. Emission data, as defined in 40 CFR 2.301(a)(2), shall be made available to the public. Emission data is to be correlated with applicable emission limitations or other measures in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions which are allowable under the applicable emission limitations. If any information which is defined as emission data is found to be not available to the public by reason of State law or other legal requirement, the NMEID shall so notify EPA, Region 6, so that EPA may take the action necessary to release such data.

11. No authority is granted to the State or the NMEID to take any action which would require rulemaking by EPA. This limit on authority includes the grant of a waiver of testing requirements for any class of sources.

Partial Delegation

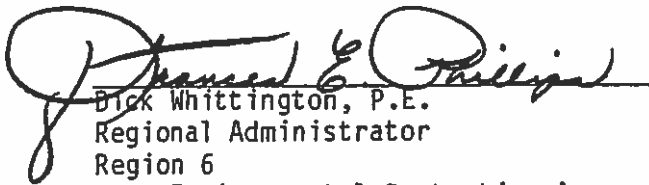
The NMEID has requested that it have partial delegation for sources for which new regulations or revised regulations are promulgated, except for sources in Indian lands, as defined at 18 U.S.C. §1151. EPA hereby delegates the following partial authority for the implementation of the NSPS and NESHAP to the State of New Mexico subject to the following conditions and limitations:

1. Authority for all sources located in the State of New Mexico, outside Indian lands, subject to NSPS promulgated in 40 CFR Part 60 after March 14, 1984, for which full delegation has not been granted above.
2. Authority for all sources located in the State of New Mexico, outside Indian lands, subject to NESHAP promulgated in 40 CFR Part 61 after December 9, 1983, for which full delegation has not been granted above.
3. Authority for all sources located in the State of New Mexico, outside Indian lands, subject to NSPS for which full delegation is granted above, when part or all of that NSPS has been revised after March 14, 1984.
4. Authority for all sources located in the State of New Mexico, outside Indian lands, subject to NESHAP for which full delegation is granted above, when part or all of that NESHAP has been revised after December 9, 1983.

Conditions and Limitations

1. The NMEID shall conduct only the technical and administrative review including determination of applicability, review and evaluation of NSPS and NESHAP applications, review and evaluation of requests for waivers of compliance under 40 CFR 61.11 and/or waivers of emission tests under 40 CFR 61.13, performance and evaluation of inspections, and observance and evaluation of compliance tests and continuous emission monitoring tests.
2. All conditions and limitations specified above for full delegation apply also to this partial delegation.

A notice of this delegation of authority will be published in the Federal Register in the near future. The notice will state, among other things, that effective immediately, all reports required pursuant to the Federal NSPS and NESHAP by sources located in the State of New Mexico should be submitted to the New Mexico Health and Environment Department, Environmental Improvement Division, P. O. Box 968, Crown Building, Santa Fe, New Mexico, 87504-0968. Any such reports which may be received by EPA, Region 6, after the effective date of this delegation will be promptly transmitted to the NMEID.


Dick Whittington, P.E.
Regional Administrator
Region 6
U.S. Environmental Protection Agency
Dallas, Texas

March 15, 1985
Date

Long



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JUL 27 1995



Mr. Mark Weidler
Secretary
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502-6110

Dear Mr. Weidler:

Our office has completed review of your November 9, 1994, submittal for delegation of authority under 40 Code of Federal Regulations (CFR) Part 63, Subpart E to implement and enforce the following regulations: the New Mexico Air Quality Control Regulation (AQCR) 780, since renamed as 20 New Mexico Administrative Code (NMAC) 2.82 - Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants; and the New Mexico AQCR 755, since renamed 20 NMAC 2.83 - Construction or Modification of Major Sources of Hazardous Air Pollutants and amendments to AQCR 702.

Specifically, your submittal seeks delegation of authority to implement and enforce the following Federal standards:

- 1) the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: General Provisions for 40 CFR Part 63, Subpart A, promulgated March 16, 1994;
- 2) NESHAP for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks - Hazardous Organic NESHAP, 40 CFR Part 63, Subparts F, G, H, and I promulgated April 22, 1994, and subsequent correction notices;
- 3) NESHAP for Source Categories: Coke Oven Batteries promulgated October 27, 1994, and subsequent correction notice, January 13, 1994;
- 4) NESHAP for Source Categories: Perchloroethylene Dry Cleaning Facilities promulgated September 22, 1993, and the associated amendment published on December 20, 1993.

Your submittal was found to be complete with respect to the information necessary to grant authority to implement and enforce these Maximum Achievable Control Technology (MACT) standards and

General Provisions; thus with this letter, we are delegating to the New Mexico Environment Department the authority to implement and enforce these standards as they apply to major sources in New Mexico.

Your letter also requests that the Environmental Protection Agency (EPA) grant the New Mexico Environment Department (NMED) full authority to implement and enforce the requirements of section 112(g) of the Clean Air Act Amendments of 1990 which was adopted to govern modifications to hazardous air pollutant (HAP) sources. Your submittal includes 20 NMAC 2.83 which addresses the modification, construction, and reconstruction of HAP sources.

On February 14, 1995, an Interpretive Notice regarding the 112(g) rule was published in the Federal Register. This interpretive ruling postpones the effective date of section 112(g) until after the EPA has promulgated a rule addressing that provision. As a result, it is EPA's understanding that the NMED has decided not to promulgate this regulation and has withdrawn this rule from EPA's consideration. Therefore, Region 6 is returning the 20 NMAC 2.83 rule to the NMED for future action by the State.

Region 6 is pleased that the NMED is actively pursuing delegation of federally promulgated MACT standards and looks forward to working closely with you to accomplish this goal. If you have any questions or comments regarding the contents of this letter, please contact Ms. Adele Cardenas at (214) 665-7210.

Sincerely yours,

A. Stanley Meiburg
Acting Regional Administrator

cc: Mr. Bill Blankenship
New Mexico Environment Department ✓ ;

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 2015. 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 15, 2015.

Samuel Coleman,

Acting Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart GG—New Mexico

■ 2. In § 52.1620, paragraph (c), the second table titled "EPA Approved Albuquerque/Bernalillo County, NM Regulations" is amended by revising the entry for Part 1 (20.11.1 NMAC) and adding in sequential order an entry for Part 47 (20.11.47 NMAC).

The amendments read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
New Mexico Administrative Code (NMAC) Title 20—Environmental Protection Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board				
Part 1 (20.11.1 NMAC)	General Provisions	12/15/2010	2/2/2015 [Insert Federal Reg- ister citation].
Part 47 (20.11.47 NMAC)	Emissions Inventory Require- ments.	10/18/2012	2/2/2015 [Insert Federal Reg- ister citation].

* * * * *

[FR Doc. 2015-01792 Filed 1-30-15; 8:45 am]
BILLING CODE 5560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[EPA-R06-OAR-2007-0488; FRL-9921-77-Region 6]

New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to New Mexico

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; delegation of authority.

SUMMARY: The New Mexico Environment Department (NMED) has submitted updated regulations for receiving delegation of the Environmental Protection Agency (EPA) authority for implementation and enforcement of New Source Performance Standards (NSPS) and National Emission Standards for

Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). The delegation of authority under this action does not apply to sources located in Bernalillo County, New Mexico, or sources located in Indian Country. EPA is providing notice that it has approved delegation of certain NSPS to NMED, and taking direct final action to approve the delegation of certain NESHAPs to NMED.

DATES: This rule is effective on April 3, 2015 without further notice, unless EPA receives relevant adverse comment by March 4, 2015. If EPA receives such comment, EPA will publish a timely withdrawal in the *Federal Register* informing the public that the updated NESHAPs delegation will not take effect; however, the NSPS delegation will not be affected by such action.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2007-0488, by one of the following methods:

• www.regulations.gov. Follow the online instructions.

• **Email:** Mr. Rick Barrett at barrett.richard@epa.gov. Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

• **Mail or delivery:** Mr. Rick Barrett, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket No. EPA-R06-OAR-2007-0488. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through <http://www.regulations.gov> or email, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you

provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email 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 along with any disk or CD-ROM submitted. 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 and any form of encryption and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the FOR FURTHER INFORMATION CONTACT paragraph below or Mr. Bill Deese at (214) 665-7253.

FOR FURTHER INFORMATION CONTACT: Rick Barrett or Aimee Wilson, U.S. EPA, Region 6, Multimedia Planning and Permitting Division (6PD), 1445 Ross Avenue, Dallas, TX 75202-2733, telephone (214) 665-7227 or (214) 665-7596; fax number (214) 665-7263; or electronic mail at barrett.richard@epa.gov or wilson.aimee@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," or "our" refers to EPA.

Table of Contents

- I. What does this action do?
- II. What is the authority for delegation?
- III. What criteria must New Mexico's programs meet to be approved?
- IV. How did NMED meet the approval criteria?
- V. What is being delegated?
- VI. What is not being delegated?
- VII. How will applicability determinations be made?
- VIII. What authority does EPA have?
- IX. What information must NMED provide to EPA?
- X. What is EPA's oversight role?
- XI. Should sources submit notices to EPA or NMED?

XII. How will unchanged authorities be delegated to NMED in the future?

XIII. Final Action

XIV. Statutory and Executive Order Reviews

I. What does this action do?

EPA is providing notice that it is delegating authority for implementation and enforcement of certain NSPS to NMED. EPA is also taking direct final action to approve the delegation of certain NESHAPs to NMED. With this delegation, NMED has the primary responsibility to implement and enforce the delegated standards.

II. What is the authority for delegation?

Section 111(c)(1) of the Clean Air Act (CAA) authorizes EPA to delegate authority to any state agency which submits adequate regulatory procedures for implementation and enforcement of the NSPS program. The NSPS standards are codified at 40 CFR part 60.

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 an adequate regulatory program 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.

III. What criteria must New Mexico's programs meet to be approved?

In order to receive delegation of NSPS, a state must develop and submit to the EPA a procedure for implementing and enforcing the NSPS in the state, and their regulations and resources must be adequate for the implementation and enforcement of the NSPS. EPA initially approved New Mexico's program for the delegation of NSPS on June 6, 1986 (51 FR 20648). EPA reviewed the laws of the State and the rules and regulations of the New Mexico Environmental Improvement Division (now the NMED) and determined the State's procedures, regulations and resources adequate for the implementation and enforcement of the Federal standards. The NSPS delegation was most recently updated on December 11, 2003 (68 FR 69036). This action notifies the public that EPA is updating NMED's delegation to implement and enforce certain additional NSPS.

As to the NESHAP standards in 40 CFR parts 61 and 63, section 112(l)(5) 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 programs or rules under section 112(l).

EPA will approve the State's submittal of a program for implementation and enforcement of the NESHAPs 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), a State must demonstrate that it meets the approval criteria of 40 CFR 63.91(d). 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 (sources required to obtain operating permits pursuant to Title V of the Clean Air Act).

IV. How did NMED meet the NSPS and NESHAPs program approval criteria?

As to the NSPS standards in 40 CFR part 60, NMED adopted the Federal standards via incorporation by reference. The NMED regulations are, therefore, at least as stringent as EPA's rules. See 40 CFR 60.10(a). Also, in the EPA initial approval of NSPS delegation, we determined that the State developed procedures for implementing and enforcing the NSPS in the State, and that the State's regulations and resources are adequate for the implementation and enforcement of the Federal standards. See 51 FR 20648 (June 6, 1986).

As to the NESHAP standards in 40 CFR parts 61 and 63, as part of its Title V submission NMED stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 standards into its regulations. This commitment applied to both existing and future standards as they applied to part 70 sources. EPA's final interim approval of New Mexico's Title V operating permits program delegated the authority to implement certain NESHAPs, effective December 19, 1994 (59 FR 59656). On November 26, 1996, EPA promulgated final full approval of the State's operating permits program, effective January 27, 1997 (61 FR 60032). These interim and final title V program approvals satisfy the upfront approval criteria of 40 CFR 63.91(d). Under 40 CFR 63.91(d)(2), once a state has satisfied the up-front approval

criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals for delegation of the section 112 standards. NMED has affirmed that it still meets the up-front approval criteria.

V. What is being delegated?

By letter dated May 2, 2007, EPA received a request from New Mexico to update NMED's NSPS delegation and NESHAPs delegation. With certain exceptions noted in section VI below, New Mexico's request included NSPS in 40 CFR part 60, as amended between September 2, 2002 and November 30, 2006; NESHAPs in 40 CFR part 61, as amended between September 2, 2001 and November 30, 2006; and NESHAPs in 40 CFR part 63, as amended between September 2, 2002 and November 30, 2006.

By letter dated August 27, 2009, EPA received a second request from New Mexico to update NMED's NSPS delegation and NESHAPs delegation. With certain exceptions noted in section VI below, New Mexico's request included NSPS in 40 CFR part 60, and NESHAPs in 40 CFR parts 61 and 63, as amended between December 1, 2006 and January 31, 2009.

By letter dated August 31, 2011, EPA received a third request from New Mexico to update NMED's NSPS delegation and NESHAPs delegation. With certain exceptions noted in section VI below, New Mexico's request included NSPS in 40 CFR part 60, and NESHAPs in 40 CFR parts 61 and 63, as amended between February 1, 2009 and December 31, 2010.

By letter dated December 16, 2013, EPA received a fourth request from New Mexico to update NMED's NSPS delegation and NESHAPs delegation. With certain exceptions noted in section VI below, New Mexico's request included NSPS in 40 CFR part 60, as amended between January 1, 2011, and September 23, 2013; and NESHAPs in 40 CFR part 63, as amended between January 1, 2011 and August 29, 2013.

VI. What is not being delegated?

The following part 60, 61 and 63 authorities listed below are not delegated. All of the inquiries and requests concerning implementation and enforcement of the excluded standards in the State of New Mexico should be directed to the EPA Region 6 Office.

- 40 CFR part 60, subpart AAA (Standards of Performance for New Residential Wood Heaters);
- 40 CFR part 60, subpart HHHH (Emission Guidelines and Compliance

Times for Coal-Fired Electric Steam Generating Units);

- 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 Part 63 standards have certain provisions that cannot be delegated to the States. Therefore, any Part 63 standard that EPA is delegating to NMED 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.

In addition, this delegation to NMED to implement and enforce certain NSPS and 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 NSPS and NESHAPs in Indian country because NMED has not submitted information to demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

VII. How will applicability determinations be made?

In approving the NSPS delegation, NMED will obtain concurrence from EPA on any matter involving the interpretation of section 111 of the CAA or 40 CFR part 60 to the extent that application, implementation, administration, or enforcement of these provisions have not been covered by prior EPA determinations or guidance. See 51 FR 20649 (June 6, 1986).

In approving the NESHAPs delegation, NMED will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the CAA or 40 CFR parts 61 and 63 to the extent that application, implementation, administration, or enforcement of these provisions have not been covered by prior EPA determinations or guidance.

VIII. What authority does EPA have?

We retain the right, as provided by CAA section 111(c)(2), to enforce any applicable emission standard or requirement under section 111.

We retain the right, as provided by CAA section 112(l)(7), to enforce any applicable emission standard or requirement under section 112. EPA also has the authority to make certain decisions under the General Provisions (subpart A) of part 63. We are granting NMED some of these authorities, and retaining others, as explained in sections V and VI above. In addition, EPA may review and disapprove State determinations and subsequently require corrections. (See 40 CFR 63.91(g) and 65 FR 55810, 55823, September 14, 2000, as amended at 70 FR 59887, October 13, 2005; 72 FR 27443, May 16, 2007.)

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.

Finally, we retain the authorities stated in the original delegation agreement. See 51 FR 20648–20650 (June 6, 1986).

IX. What information must NMED provide to EPA?

Under 40 CFR 60.4(b), all notifications under NSPS must be sent to both EPA and to NMED. Please send notifications and reports to Chief, Air/Toxics Inspection and Coordination Branch at the EPA Region 6 office.

NMED 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, NMED must submit to EPA Region 6, on a semi-annual basis, copies of determinations issued under these authorities. For 40 CFR parts 61 and 63 standards, these determinations include: Section 63.1, Applicability Determinations; Section 63.6(e), Operation and Maintenance Requirements—Responsibility for Determining Compliance; Section 63.6(f), Compliance with Non-Opacity Standards—Responsibility for Determining Compliance; Section 63.6(h), Compliance with Opacity and Visible Emissions Standards—Responsibility for Determining Compliance; Sections 63.7(c)(2)(i) and (d), Approval of Site-Specific Test Plans; Section 63.7(e)(2)(i), Approval of Minor Alternatives to Test Methods; Section 63.7(e)(2)(ii) and (f), Approval of Intermediate Alternatives to Test Methods; Section 63.7(e)(iii), Approval of Shorter Sampling Times and Volumes When Necessitated by Process Variables or Other Factors; Sections 63.7(e)(2)(iv), (h)(2), and (h)(3), Waiver of Performance Testing; Sections 63.8(c)(1) and (e)(1), Approval of Site-Specific Performance Evaluation (Monitoring) Test Plans; Section 63.8(f), Approval of Minor Alternatives to Monitoring; Section 63.8(f), Approval of Intermediate Alternatives to Monitoring; Section 63.9 and 63.10, Approval of Adjustments to Time Periods for Submitting Reports; Section 63.10(f), Approval of Minor Alternatives to Recordkeeping and Reporting; Section 63.7(a)(4), Extension of Performance Test Deadline.

X. What is EPA's oversight role?

EPA must oversee NMED'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 NMED made decisions that decreased the stringency of the delegated standards, then NMED 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. See 51 FR 20648 (June 6, 1986).

XI. Should sources submit notices to EPA or NMED?

All of the information required pursuant to the Federal NSPS and NESHAPs (40 CFR parts 60, 61 and 63) should be submitted by sources located outside the boundaries of Bernalillo County and areas outside of Indian country, directly to the NMED at the following address: New Mexico Environment Department, P.O. Box 5469, Santa Fe, New Mexico 87502–5469. The NMED is the primary point of contact with respect to delegated NSPS and NESHAPs. 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 NMED, in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii). Also, see 51 FR 20648 (June 6, 1986). For those standards that are not delegated, sources must continue to submit all appropriate information to EPA.

XII. How will unchanged authorities be delegated to NMED in the future?

In the future, NMED will only need to send a letter of request to update their delegation to EPA, Region 6, for those NSPS which they have adopted by reference. EPA will amend the relevant portions of the Code of Federal Regulations showing which NSPS standards have been delegated to NMED. Also, in the future, NMED will only need to send a letter of request for approval to EPA, Region 6, for those NESHAPs regulations that NMED 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 action will be published to inform the public and affected sources of the delegation, indicate 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 NMED.

XIII. 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 they apply to part 70 sources, May 19, 1994, for the proposed interim approval of NMED's Title V operating permits program; and on November 26, 1996, for the proposed final approval of NMED's Title V operating permits program. In EPA's final full approval of New Mexico's Operating Permits Program on November 26, 1996, the EPA discussed the public comments on the proposed final delegation of the Title V operating permits program. In today's action, the public is given the opportunity to comment on the approval of NMED'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 New Mexico'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 NESHAPs delegation of authority described in this action if adverse comments are received. This action will be effective April 3, 2015 without further notice unless the Agency receives relevant adverse comments by March 4, 2015.

If EPA receives relevant adverse comments, we will publish a timely withdrawal in the Federal Register informing the public the rule will not take effect with respect to the updated NESHAPs delegation. 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 relevant 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 a relevant adverse comment.

XIV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the

Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

The delegation is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the delegation is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. 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 (64 FR 43255, August 10, 1999). This action merely approves a state request to receive delegation of certain Federal standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This 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), because it is not economically significant.

In reviewing delegation submissions, EPA's role is to approve submissions, provided that they meet the criteria of the Clean Air Act. 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 April 3, 2015. 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 60

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

40 CFR Part 61

Environmental protection, Administrative practice and procedure, Air pollution control, Arsenic, Benzene, Beryllium, Hazardous substances, Mercury, Intergovernmental relations, Reporting and recordkeeping requirements, Vinyl chloride.

40 CFR Part 63

Environmental protection, Administrative practice and procedure,

Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 19, 2014.

Ron Curry,
Regional Administrator, Region 6.

For the reasons stated in the preamble, 40 CFR parts 60, 61, and 63 are amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

■ 2. Section 60.4 is amended by revising paragraph (b)(GG) introductory text, and revising paragraph (e)(1) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(GG) State of New Mexico: New Mexico Environment Department, P.O. Box 5469, Santa Fe, New Mexico 87502-5469. Note: For a list of delegated standards for New Mexico (excluding Bernalillo County and Indian country), see paragraph (e)(1) of this section.

* * * * *

(e) * * *

(1) *New Mexico.* The New Mexico Environment Department has been delegated all part 60 standards promulgated by EPA, except subpart AAA—Standards of Performance for New Residential Wood Heaters; and subpart HHHH—Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units, as amended in the Federal Register through September 23, 2013.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

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

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

Subpart A—General Provisions

■ 4. Section 61.04 is amended by revising paragraphs (b)(GG) introductory text and (c)(6)(iii) to read as follows:

§ 61.04 Address.

(b) * * *

(GG) State of New Mexico: New Mexico Environment Department, P.O. Box 5469, Santa Fe, New Mexico

87502–5469. For a list of delegated standards for New Mexico (excluding Bernalillo County and Indian country), see paragraph (c)(6) of this section.

(c) * * *
(6) * * *
(iii) *New Mexico*. The New Mexico Environment Department (NMED) has been delegated the following part 61

standards promulgated by EPA, as amended in the *Federal Register* through December 31, 2010. 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 NEW MEXICO**

[Excluding Bernalillo County and Indian Country]

Subpart	Source category	NMED ¹
A	General Provisions	X
B	Radon Emissions From Underground Uranium Mines	X
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 (Fugitives 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 New Mexico Environment Department (NMED).

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 5. 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

■ 6. Section 63.99 is amended by revising paragraph (a)(32)(i) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *
(32) * * *
(i) The following table lists the specific part 63 standards that have been delegated unchanged to the New

Mexico Environment Department 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 August 29, 2013, are not delegated.

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

Subpart	Source category	NMED ^{1 2}	ABCAQCB ^{1 3}
A	General Provisions	X	X
D	Early Reductions	X	X
F	Hazardous Organic NESHA (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI).	X	X
G	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Waste-water.	X	X
H	HON—Equipment Leaks	X	X

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

Subpart	Source category	NMED ^{1,2}	ABCAQCB ^{1,3}
I	HON—Certain Processes Negotiated Equipment Leak Regulation	X	X
J	Polyvinyl Chloride and Copolymers Production	(4)	(4)
K	(Reserved)		
L	Coke Oven Batteries	X	X
M	Perchloroethylene Dry Cleaning	X	X
N	Chromium Electroplating and Chromium Anodizing Tanks	X	X
O	Ethylene Oxide Sterilizers	X	X
P	(Reserved)		
Q	Industrial Process Cooling Towers	X	X
R	Gasoline Distribution	X	X
S	Pulp and Paper Industry	X	X
T	Halogenated Solvent Cleaning	X	X
U	Group I Polymers and Resins	X	X
V	(Reserved)		
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X	X
X	Secondary Lead Smelting	X	X
Y	Marine Tank Vessel Loading	X	X
Z	(Reserved)		
AA	Phosphoric Acid Manufacturing Plants	X	X
BB	Phosphate Fertilizers Production Plants	X	X
CC	Petroleum Refineries	X	X
DD	Off-Site Waste and Recovery Operations	X	X
EE	Magnetic Tape Manufacturing	X	X
FF	(Reserved)		
GG	Aerospace Manufacturing and Rework Facilities	X	X
HH	Oil and Natural Gas Production Facilities	X	X
II	Shipbuilding and Ship Repair Facilities	X	X
JJ	Wood Furniture Manufacturing Operations	X	X
KK	Printing and Publishing Industry	X	X
LL	Primary Aluminum Reduction Plants	X	X
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semichemical Pulp Mills.	X	X
NN	(Reserved)		
OO	Tanks-Level 1	X	X
PP	Containers	X	X
QQ	Surface Impoundments	X	X
RR	Individual Drain Systems	X	X
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.	X	X
TT	Equipment Leaks—Control Level 1	X	X
UU	Equipment Leaks—Control Level 2 Standards	X	X
VV	Oil-Water Separators and Organic-Water Separators	X	X
WW	Storage Vessels (Tanks)—Control Level 2	X	X
XX	Ethylene Manufacturing Process Units Heat Exchange Systems and Waste Operations.	X	
YY	Generic Maximum Achievable Control Technology Standards	X	X
ZZ-BBB	(Reserved)		
CCC	Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration	X	X
DDD	Mineral Wool Production	X	X
EEE	Hazardous Waste Combustors	X	X
FFF	(Reserved)		
GGG	Pharmaceuticals Production	X	X
HHH	Natural Gas Transmission and Storage Facilities	X	X
III	Flexible Polyurethane Foam Production	X	X
JJJ	Group IV Polymers and Resins	X	X
KKK	(Reserved)		
LLL	Portland Cement Manufacturing	X	X
MMM	Pesticide Active Ingredient Production	X	X
NNN	Wool Fiberglass Manufacturing	X	X
OOO	Amino/Phenolic Resins	X	X
PPP	Polyether Polyols Production	X	X
QQQ	Primary Copper Smelting	X	X
RRR	Secondary Aluminum Production	X	X
SSS	(Reserved)		
TTT	Primary Lead Smelting	X	X
UUU	Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants.	X	X
VVV	Publicly Owned Treatment Works (POTW)	X	X
WWW	(Reserved)		
XXX	Ferroalloys Production: Ferromanganese and Silicomanganese	X	X
AAAA	Municipal Solid Waste Landfills	X	X

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

Subpart	Source category	NMED ^{1 2}	ABCAQCB ^{1 3}
CCCC	Nutritional Yeast Manufacturing	X	X
DDDD	Plywood and Composite Wood Products	⁵ X	
EEEE	Organic Liquids Distribution	X	X
FFFF	Misc. Organic Chemical Production and Processes (MON)	X	
GGGG	Solvent Extraction for Vegetable Oil Production	X	X
HHHH	Wet Formed Fiberglass Mat Production	X	X
IIII	Auto & Light Duty Truck (Surface Coating)	X	
JJJJ	Paper and other Web (Surface Coating)	X	X
KKKK	Metal Can (Surface Coating)	X	X
MMMM	Misc. Metal Parts and Products (Surface Coating)	X	
NNNN	Surface Coating of Large Appliances	X	X
OOOO	Fabric Printing Coating and Dyeing	X	X
PPPP	Plastic Parts (Surface Coating)	X	X
QQQQ	Surface Coating of Wood Building Products	X	X
RRRR	Surface Coating of Metal Furniture	X	X
SSSS	Surface Coating for Metal Coil	X	X
TTTT	Leather Finishing Operations	X	X
UUUU	Cellulose Production Manufacture	X	X
VVVV	Boat Manufacturing	X	X
WWWW	Reinforced Plastic Composites Production	X	X
XXXX	Rubber Tire Manufacturing	X	X
YYYY	Combustion Turbines	X	X
ZZZZ	Reciprocating Internal Combustion Engines (RICE)	X	
AAAAA	Lime Manufacturing Plants	X	X
BBBBB	Semiconductor Manufacturing	X	X
CCCCC	Coke Ovens: Pushing, Quenching and Battery Stacks	X	X
DDDDD	Industrial/Commercial/Institutional Boilers and Process Heaters	⁶ X	
EEEEE	Iron Foundries	X	X
FFFFF	Integrated Iron and Steel	X	X
GGGGG	Site Remediation	X	X
HHHHH	Miscellaneous Coating Manufacturing	X	X
IIIII	Mercury Cell Chlor-Alkali Plants	X	X
JJJJJ	Brick and Structural Clay Products Manufacturing	(⁷)	X
KKKKK	Clay Ceramics Manufacturing	(⁷)	X
LLLLL	Asphalt Roofing and Processing	X	X
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X	X
NNNNN	Hydrochloric Acid Production, Fumed Silica Production	X	X
OOOOO	(Reserved)		
PPPPP	Engine Test Facilities	X	X
QQQQQ	Friction Products Manufacturing	X	X
RRRRR	Taconite Iron Ore Processing	X	X
SSSSS	Refractory Products Manufacture	X	X
TTTTT	Primary Magnesium Refining	X	X
UUUUU	Coal and Oil-Fired Electric Utility Steam Generating Units	⁸ X	
VVVVV	(Reserved)		
WWWWW	Hospital Ethylene Oxide Sterilizers	X	
XXXXX	(Reserved)		
YYYYY	Electric Arc Furnace Steelmaking Area Sources	X	
ZZZZZ	Iron and Steel Foundries Area Sources	X	
AAAAAA	(Reserved)		
BBBBBB	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities	X	
CCCCCC	Gasoline Dispensing Facilities	X	
DDDDDD	Polyvinyl Chloride and Copolymers Production Area Sources	X	
EEEEEE	Primary Copper Smelting Area Sources	X	
FFFFFF	Secondary Copper Smelting Area Sources	X	
GGGGGG	Primary Nonferrous Metals Area Source: Zinc, Cadmium, and Beryllium	X	
HHHHHH	Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	X	
IIIIII	(Reserved)		
JJJJJJ	Industrial, Commercial, and Institutional Boilers Area Sources	X	
KKKKKK	(Reserved)		
LLLLLL	Acrylic and Modacrylic Fibers Production Area Sources	X	
MMMMMM	Carbon Black Production Area Sources	X	
NNNNNN	Chemical Manufacturing Area Sources: Chromium Compounds	X	
OOOOOO	Flexible Polyurethane Foam Production and Fabrication Area Sources	X	
PPPPPP	Lead Acid Battery Manufacturing Area Sources	X	
QQQQQQ	Wood Preserving Area Sources	X	
RRRRRR	Clay Ceramics Manufacturing Area Sources	X	
SSSSSS	Glass Manufacturing Area Sources	X	
TTTTTT	Secondary Nonferrous Metals Processing Area Sources	X	
UUUUUU	(Reserved)		
VVVVVV	Chemical Manufacturing Area Sources	X	

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

Subpart	Source category	NMED ^{1,2}	ABCAQCB ^{1,3}
WWWWWW	Plating and Polishing Operations Area Sources	X	
XXXXXX	Metal Fabrication and Finishing Area Sources	X	
YYYYYY	Ferroalloys Production Facilities Area Sources	X	
ZZZZZZ	Aluminum, Copper, and Other Nonferrous Foundries Area Sources	X	
AAAAAA	Asphalt Processing and Asphalt Roofing Manufacturing Area Sources	X	
BBBBBB	Chemical Preparation Industry Area Sources	X	
CCCCCC	Paints and Allied Products Manufacturing Area Sources	X	
DDDDDD	Prepared Feeds Areas Sources	X	
EEEEEE	Gold Mine Ore Processing and Production Area Sources	X	
FFFFFF—GGGGGG	(Reserved)		
HHHHHH	Polyvinyl Chloride and Copolymers Production Major Sources	X	

¹ Authorities which may not be delegated include: § 63.6(g), Approval of Alternative Non-Opacity Emission 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; § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting; and all authorities identified in the subparts (e.g., under "Delegation of Authority") that cannot be delegated.

² Program delegated to New Mexico Environment Department (NMED) for standards promulgated by EPA, as amended in the **Federal Register** through August 29, 2013.

³ Program delegated to Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) for standards promulgated by EPA, as amended in the **Federal Register** through July 1, 2004.

⁴ The NMED was previously delegated this subpart on February 9, 2004 (68 FR 69036). The ABCAQCB has adopted the subpart unchanged and applied for delegation of the standard. The subpart 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 DC Court's holding this subpart is not delegated to NMED or ABCAQCB at this time.

⁵ This subpart was issued a partial vacatur on October 29, 2007 (72 FR 61060) by the United States Court of Appeals for the District of Columbia Circuit.

⁶ Final rule. See 78 FR 7138 (January 31, 2013).

⁷ This subpart was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit on March 13, 2007. See, *Sierra Club v. EPA*, 479 F. 3d 875 (D.C. Cir. 2007). Because of the DC Court's holding this subpart is not delegated to NMED at this time.

⁸ Initial Final Rule on February 16, 2012 (77 FR 9304). Final on reconsideration of certain new source issues on April 24, 2013 (78 FR 24073). Portions of this subpart are in proposed reconsideration pending final action on June 25, 2013 (78 FR 38001, 2013).

[FR Doc. 2015-01190 Filed 1-30-15; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R10-OAR-2013-0567; FRL-9922-34-Region 34]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Idaho and Oregon: Negative Declarations

AGENCY: Environmental Protection Agency.

ACTION: Final rule; notice of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is notifying the public that it has received negative declarations from the States of Idaho and Oregon for existing sewage sludge incinerator (SSI) units and from the State of Idaho for existing commercial and industrial solid waste incinerators (CISWI) units. A negative declaration is a certification from a state under the Clean Air Act (CAA) that it has no subject incinerator units under its jurisdiction.

The EPA is also amending the Code of Federal Regulations (CFR) to update the states and source categories for which the EPA has received negative declarations. This is a non-regulatory action.

DATES: This action is effective March 4, 2015.

ADDRESSES: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., confidential business information 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. Publicly available docket materials are available either electronically at www.regulations.gov or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101.

FOR FURTHER INFORMATION CONTACT: Heather Valdez at (206) 553-6220, valdez.heather@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, it is

intended to refer to the EPA. Information is organized as follows:

Table of Contents

- I. Background
- II. Sewage Sludge Incinerators
 - A. Idaho
 - B. Oregon
- III. Commercial and Industrial Solid Waste Incinerators
 - A. Idaho
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. Background

Sections 111(d) and 129 of the CAA require submittal of plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same source category and the EPA has established emission guidelines for such existing sources. When designated facilities are located in a state, the state must then develop and submit a plan for the control of the designated pollutant. Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants from designated facilities



Public Hearings April 28, 2017

New Mexico Environment Department sent this bulletin at 02/02/2017 01:00 PM MST



Air Quality Bureau

Regulatory and SIP Bulletin

Having trouble viewing this email? [View it as a Web page.](#)

Two air quality public hearings are scheduled for April 28, 2017 at 9:30 a.m. in Room 307 of the State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501. The first hearing will consider proposed incorporation by reference of federal NSPS, NESHAP, and MACT rules. The second will consider a proposal to adopt a state plan to implement the emission guidelines for existing solid waste municipal landfills (MSWLs). This proposed state plan includes proposed amendments to 20.2.64 NMAC (Municipal Solid Waste Landfills).

NSPS, NESHAP, and MACT Updates

In order to keep current with federal rulemakings, the New Mexico Environment Department (NMED) periodically requests that the Environmental Improvement Board approve amendments to the air quality rules (20.2.77, 20.2.78 and 20.2.82 NMAC) by updating the "through date" (or date of incorporation) into the New Mexico Administrative Code. The last update for Parts 77, 78 and 82 was

September 15, 2015. Since the most recent date of incorporation, the U.S. Environmental Protection Agency (EPA) has made 28 changes to various federal standards. Approval of incorporation by reference will change the "through date" in Parts 77, 78 and 82 to incorporate into the NMAC the changes made at the federal level through January 15, 2017.

Municipal Solid Waste Landfills Emission Guidelines

The EPA's July 2016 promulgation of emission guidelines for existing MSWLs requires states, tribes and local authorities with jurisdiction over existing landfills to develop a plan to implement this rule, under Section 111(d) of the Clean Air Act. The state plan must include, among other elements, a demonstration of authority to implement the emission guidelines; a list of existing open and closed facilities; an emissions inventory for active MSWLs; and a federally enforceable mechanism to implement the emission guidelines (for New Mexico, amendments to 20.2.64 NMAC (Municipal Solid Waste Landfills)).

Additional Information

Public notices and other available documents for both proposed changes are available on the NMED Air Quality Bureau website proposed regulations page: <https://www.env.nm.gov/air-quality/proposed-regs/>.

Please contact Mark Jones at mark.jones@state.nm.us or at (505) 566-9746 with questions about incorporation by reference of federal NSPS, NESHAP, and MACT rules; or contact Cindy Hollenberg at (505) 476-4356 or cindy.hollenberg@state.nm.us about proposed amendments to 20.2.64 NMAC (Municipal Solid Waste Landfills) and the proposed 111(d) state plan.

For questions concerning this bulletin, please contact Cindy Hollenberg, (505) 476-4356, cindy.hollenberg@state.nm.us.

NMED Air Quality Bureau

525 Camino de los Marquez, Suite 1

Santa Fe, New Mexico, 87505-1816

(505) 476-4300

Stay Connected with New Mexico Environment Department



Having trouble viewing this email? [View it as a Web page.](#)

SUBSCRIBER SERVICES:

[Manage Subscriptions](#) | [Unsubscribe All](#) | [Help](#)

Powered by

GOVDELIVERY 

RECEIVED

MAR 07 2017

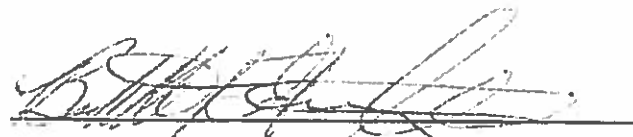
Air Quality Bureau

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO

County of Bernalillo SS

Bernadette Gonzales, the under signed, on oath states that she is an authorized Representative of The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

02/14/2017


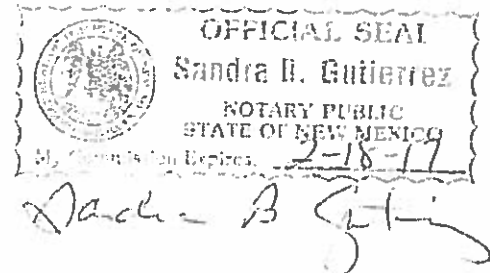
Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

14 day of February of 2017

PRICE \$144.68

Statement to come at the end of month

ACCOUNT NUMBER 1007594



AFFIDAVIT OF PUBLICATION

RECEIVED

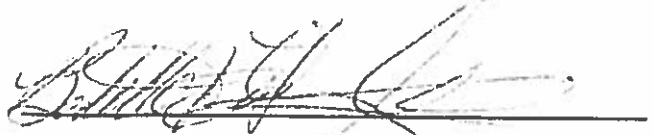
MAR 07 2017

Air Quality Bureau

STATE OF NEW MEXICO

County of Bernalillo SS

Bernadette Gonzales, the under signed, on oath states that she is an authorized Representative of The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

02/14/2017


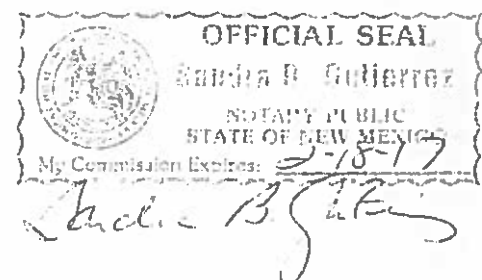
Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

14 day of February of 2017

PRICE \$131.16

Statement to come at the end of month

ACCOUNT NUMBER 1007594



DIRECCIÓN DE MEJORAS
MEDIOAMBIENTALES DE
NUEVO MÉXICO

AVISO DE REUNIÓN PÚBLICA
Y AUDIENCIA DE
REGLEMENTACIÓN

La Dirección de Mejoras Medioambientales de Nuevo México ("Dirección") tendrá una audiencia pública el 28 de abril del 2017 a las 9:30 a.m. en la sala 307 del edificio del Capitolio Estatal, 490 Old Santa Fe Trail, Santa Fe, Nuevo México 87501. El propósito de la audiencia es considerar el asunto de la EIB 16-04 (H), enmiendas propuestas a las reglas de control de calidad del aire codificadas en el Código



NEW MEXICO
ENVIRONMENTAL
IMPROVEMENT BOARD
NOTICE OF RULEMAKING
HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on April 28, 2017 at 9:30 a.m. in Room 307 of the State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501. The purpose of the hearing is to consider the matter of EIB 16-04(H), proposed amendments to the Air Quality Control Regulations codified in the New Mexico Administrative Code (NMAC) at 20.2.77 NMAC

NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe 87507 US
(505) 476-7913

Invoice

Environment Department - EPD
Cindy Hollenberg
1190 St Francis Dr
Santa Fe, NM 87505

ISSUE	DATE	TOTAL DUE	DUE DATE	ENCLOSURE
2081	02/14/2017	\$324.00	02/14/2017	

ISSUE	PUBLICATION	P.O. NUMBER
3	2/14/2017	66700-0000027209

DATE	DESCRIPTION	QTY	RATE	AMOUNT
02/14/2017	NM Register - 431902 Notice of Public Meeting and Rulemaking Hearing - English/Spanish, on 4/28/2017.	53	3.00	159.00
02/14/2017	NM Register - 431902 Notice of Rulemaking Hearing - English/Spanish, on 4/28/2017.	55	3.00	165.00

I, Matt Ortiz, certify that the agency noted above has published legal
notices or rules in the NEW MEXICO REGISTER, VOL. XXVIII, and that
payment has been assessed for said legal notice or publication, which
appears on the publication date and issue number noted above.

BALANCE DUE

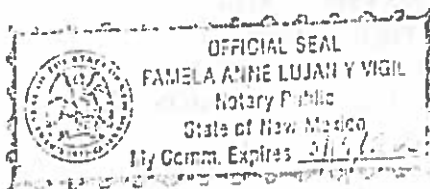
\$324.00

Affiant
Publisher New Mexico Register

Subscribed, sworn and acknowledged before me this 16th day of
February, 2017.

Notary Public

My Commission Expires 1/17/2020



RECEIVED

Feb 22 2017

OK to pay
P. Lujan

Fe Trail, Santa Fe, Nuevo México 87501. El propósito de la audiencia es considerar el asunto de la EIB 16-06 (R), enmiendas propuestas a las reglas de control de calidad del aire codificadas en el Código Administrativo de Nuevo México (NMAC, por sus siglas en inglés) en 20.2.64 NMAC – (Vertederos municipales de residuos sólidos) y modificar el plan del estado para implementar las pautas federales de emisiones para vertederos municipales de residuos sólidos.

Estas aplicación y modificaciones reglamentarias las propone el Departamento del Medio Ambiente de Nuevo México, (NMED, por sus siglas en inglés).

El propósito de la audiencia es enmendar 20.2.64 NMAC, incorporar por referencia las pautas federales de emisiones codificadas en la 40 CFR 60 Subparte Cf. La regla del estado es una parte del propuesto plan modificado que la Agencia de Protección Ambiental de EE. UU. requiere que el estado desarrolle, demostrando que el NMED es capaz de implementar las pautas de emisiones. Otras partes del propuesto plan modificado deben incluir un inventario de emisiones de vertedero, un listado completo de los vertederos activos y clausurados sobre los cuales el NMED tiene jurisdicción, prueba de autoridad para implementar las pautas de emisiones y una prueba de que los procedimientos de audiencias públicas se siguieron, de acuerdo con los requisitos del Artículo 111(d) de la Ley de Aire Limpio.

Las enmiendas reglamentarias propuestas y el plan modificado pueden revisarse durante horas hábiles en la oficina de Calidad del Aire del NMED, 525 Camino de los Márquez, Santa Fe, NM 87505, en el sitio en la red del NMED: <https://www.env.nm.gov/air-quality/proposed-regs/>, o comunicándose con Cindy Hollenberg en el (505) 476-4356 o por el correo electrónico a cindy.hollenberg@state.nm.us. También puede comunicarse con Cindy Hollenberg si está

interesado en asistir a una reunión informativa sobre las propuestas enmiendas y modificaciones.

La audiencia se llevará a cabo de acuerdo con los 20.1.1 NMAC Procedimientos de reglamentación – Dirección de Mejoras Medioambientales, la Ley de Mejoras Medioambientales, Artículo 74-1-9 NMSA 1978, la Ley de Control de Calidad del Aire, Artículo 72-2-6 NMSA 1978 y otros procedimientos que apliquen.

A todos los interesados se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, información, puntos de vista y argumentos, orales o escritos, para presentar pruebas e interrogar testigos. Las personas que deseen dar testimonio técnico deben presentar a la Dirección un aviso de intención escrito. El aviso de intención debe:

- (1) identificar a la persona por quién el testigo (los testigos) dará(n) testimonio;
- (2) identificar a cada testigo técnico que la persona presentará, indicar la capacidad educativa del testigo e incluir una descripción de sus antecedentes educativos y profesionales;
- (3) resumir o incluir una copia del testimonio directo de cada testigo técnico e indicar el tiempo que se anticipa tomará el testimonio de ese testigo;
- (4) listar y describir, o adjuntar, cada prueba que la persona vaya a presentar en la audiencia; y,
- (5) adjuntar el texto de cualquier modificación recomendada a las propuestas reglas nuevas y modificadas.

Los avisos de intención para presentar testimonio técnico en la audiencia deben recibirse en la oficina de la Dirección a más tardar las 5:00 p.m. del 7 de abril del 2017 y deben hacer referencia al número EIB 16-06 (R) y a la fecha de la audiencia. Los avisos de intención para presentar testimonio técnico deben presentarse a:

Pam Castaneda, Board Administrator
Environmental Improvement Board
P.O. Box 5469
Santa Fe, NM 87502]
Teléfono (505) 827-2425
Fax (505) 827-2836]
Correo electrónico: pam.castaneda@state.nm.us

Cualquier miembro del público puede dar testimonio en la audiencia. No se requiere avisar con antelación para presentar testimonio que no sea técnico en la audiencia. Dicha persona también puede presentar pruebas relacionadas con ese testimonio, siempre y cuando las pruebas no sean repetitivas del testimonio.

Un miembro del público que desee presentar una declaración escrita para que conste en el acta, en lugar de dar declaraciones orales en la audiencia, deberá presentar una declaración por escrito antes de la audiencia o en la audiencia.

Las personas discapacitadas que necesiten a alguien que les lea, amplifique o interprete en lenguaje de señas, o cualquier otro tipo de asistencia o servicio para asistir o participar en la audiencia deben comunicarse con Pam Castaneda a más tardar el 18 de abril del 2017 al (505) 827-2425 o pam.castaneda@state.nm.us.

La Dirección puede tomar una decisión sobre las enmiendas reglamentarias propuestas al concluir la audiencia o puede convocar a una reunión después de la audiencia para considerar qué hacer sobre la propuesta.

ENVIRONMENT DEPARTMENT ENVIRONMENTAL PROTECTION DIVISION

NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on April

28, 2017 at 9:30 a.m. in Room 307 of the State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501. The purpose of the hearing is to consider the matter of EIB 16-04(R), proposed amendments to the Air Quality Control Regulations codified in the New Mexico Administrative Code (NMAC) at 20.2.77 NMAC (New Source Performance Standards), 20.2.78 NMAC (Emission Standards for Hazardous Air Pollutants), and 20.2.82 NMAC (Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants).

The proponent of these regulatory amendments is the New Mexico Environment Department (NMED).

The purpose of the public hearing is to consider and take possible action on a petition from NMED to amend 20.2.77 NMAC, 20.2.78 NMAC and 20.2.82 NMAC by incorporating by reference the new rules, corrections, revisions and amendments to the federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) and Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants (MACT) which were promulgated by the U.S. Environmental Protection Agency (EPA) and published in the Federal Register from the most recent date of incorporation by reference (September 15, 2015) through January 15, 2017.

The proposed revised regulations and the list of federal standards to be incorporated by reference may be reviewed during regular business hours at the NMED Air Quality Bureau office, 525 Camino de los Marquez, Santa Fe, New Mexico, on NMED's web site at <https://www.env.nm.gov/air-quality/proposed-regs/>, or by contacting Mark Jones at 505-566-9746 or mark.jones@state.nm.us. You may also contact Mark Jones if you are interested in attending an informational open house on the

proposed incorporation by reference.

The hearing will be conducted in accordance with 20.1.1 NMAC Rulemaking Procedures – Environmental Improvement Board, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Air Quality Control Act Section 74-2-6 NMSA 1978, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- (4) list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing; and
- (5) attach the text of any recommended modifications to the proposed new and revised regulations.

Notices of intent to present technical testimony at the hearing must be received in the Office of the Board not later than 5:00 pm on March 24, 2017, and should reference the docket number, EIB 16-04(R) and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Pam Castañeda, Board Administrator
Environmental Improvement Board
P. O. Box 5469
Santa Fe, NM 87502
Phone (505) 827-2425
Fax (505) 827-2836

email: pam.castaneda@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with that testimony as long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing.

Persons having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pam Castañeda no later than April 4, 2017 at (505) 827-2425 or pam.castaneda@state.nm.us.

The Board may make a decision on the proposed revised regulations at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

AVISO DE REUNIÓN PÚBLICA Y AUDIENCIA DE REGLAMENTACIÓN

La Dirección de Mejoras Medioambientales de Nuevo México ("Dirección") tendrá una audiencia pública el 28 de abril del 2017 a las 9:30 a.m. en la sala 307 del edificio del Capitolio Estatal, 490 Old Santa Fe Trail, Santa Fe, Nuevo México 87501. El propósito de la audiencia es considerar el asunto de la EIB 16-04 (R), enmiendas propuestas a las reglas de control de calidad del aire codificadas en el Código Administrativo de Nuevo México (NMAC, por sus siglas en inglés) en 20.2.77 NMAC – (Estándares de desempeño para fuentes nuevas), 20.2.78 NMAC (Estándares de emisiones para contaminantes del aire peligrosos) y 20.2.82 NMAC (Estándares de control tecnológico

de máximo rendimiento para las diferentes fuentes de contaminantes del aire peligrosos).

Estas enmiendas reglamentarias las propone el Departamento del Medio Ambiente de Nuevo México, (NMED, por sus siglas en inglés).

El propósito de la audiencia es enmendar 20.2.77 NMAC, 20.2.78 NMAC y 20.2.82 NMAC, incorporando por referencia las reglas nuevas, correcciones, modificaciones y enmiendas a los Estándares de desempeño para fuentes nuevas (NSPS, por sus siglas en inglés), Estándares de emisiones nacionales para contaminantes del aire peligrosos (NESHAP, por sus siglas en inglés) y Estándares de control tecnológico de máximo rendimiento para las diferentes fuentes de contaminantes del aire peligrosos (MACT, por sus siglas en inglés), las cuales fueron promulgadas por la Agencia de Protección Ambiental de EE. UU. (EPA, por sus siglas en inglés) y publicadas en el Registro Federal a partir de la fecha de incorporación por referencia más reciente (el 15 de septiembre del 2015) hasta el 15 de enero del 2017.

Las propuestas reglas modificadas propuestas y la lista de estándares federales a incorporarse por referencia pueden revisarse durante horas hábiles en la oficina de Calidad del Aire del NMED, 525 Camino de los Márquez, Santa Fe, NM 87505, en el sitio en la red del NMED: <https://www.env.nm.gov/air-quality/proposed-regs/>, o comunicándose con Mark Jones en el (505) 566-9746 o por el correo electrónico a mark.jones@state.nm.us. También puede comunicarse con Mark Jones si está interesado en asistir a una reunión informativa sobre las propuestas enmiendas y modificaciones.

La audiencia se llevará a cabo de acuerdo con los 20.1.1 NMAC Procedimientos de reglamentación – Dirección de Mejoras Medioambientales, la Ley de Mejoras Medioambientales, Artículo 74-1-9

NMSA 1978, la Ley de Control de Calidad del Aire, Artículo 72-2-6 NMSA 1978 y otros procedimientos que apliquen.

A todos los interesados se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, información, puntos de vista y argumentos, orales o escritos, para presentar pruebas e interrogar testigos. Las personas que deseen dar testimonio técnico deben presentar a la Dirección un aviso de intención escrito. El aviso de intención debe:

- (1) identificar a la persona por quién el testigo (los testigos) dará(n) testimonio.
- (2) identificar a cada testigo técnico que la persona presentará, indicar la capacidad educativa del testigo e incluir una descripción de sus antecedentes educativos y profesionales;
- (3) resumir o incluir una copia del testimonio directo de cada testigo técnico e indicar el tiempo que se anticipa tomará el testimonio de ese testigo;
- (4) listar y describir, o adjuntar, cada prueba que la persona vaya a presentar en la audiencia; y,
- (5) adjuntar el texto de cualquier modificación recomendada a las propuestas reglas nuevas y modificadas.

Los avisos de intención para presentar testimonio técnico en la audiencia deben recibirse en la oficina de la Dirección a más tardar las 5:00 p.m. del 7 de abril del 2017 y deben hacer referencia al número EIB 16-04 (R) y a la fecha de la audiencia. Los avisos de intención para presentar testimonio técnico deben presentarse a:

Pam Castaneda, Board Administrator
Environmental Improvement Board
P.O. Box 5469
Santa Fe, NM 87502]
Teléfono (505) 827-2425
Fax (505) 827-2836]
Correo electrónico: pam.castaneda@state.nm.us

Cualquier miembro del público puede

dar testimonio en la audiencia. No se requiere avisar con antelación para presentar testimonio que no sea técnico en la audiencia. Dicha persona también puede presentar pruebas relacionadas con ese testimonio, siempre y cuando las pruebas no sean repetitivas del testimonio.

Un miembro del público que desee presentar una declaración escrita para que conste en el acta, en lugar de dar declaraciones orales en la audiencia, deberá presentar una declaración por escrito antes de la audiencia o en la audiencia.

Las personas discapacitadas que necesiten a alguien que les lea, amplifique o interprete en lenguaje de señas, o cualquier otro tipo de asistencia o servicio para asistir o participar en la audiencia deben comunicarse con Pam Castaneda a más tardar el 18 de abril del 2017 al (505) 827-2425 o pam.castaneda@state.nm.us.

La Dirección puede tomar una decisión sobre las enmiendas reglamentarias propuestas al concluir la audiencia o puede convocar a una reunión después de la audiencia para considerar qué hacer sobre la propuesta.

ENVIRONMENT DEPARTMENT RADIATION CONTROL BUREAU

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO 20.3.1 NMAC, 20.3.3 NMAC, 20.3.4 NMAC, 20.3.5 NMAC, 20.3.7 NMAC, 20.3.12 NMAC, AND 20.3.15 NMAC OF THE RADIATION PROTECTION REGULATIONS

The New Mexico Environmental Improvement Board (Board) will hold a public hearing beginning at 9:30 a.m. on Friday, April 28, 2017, and continuing thereafter as necessary at the New Mexico State Capitol Building, Room 307, 490 Old Santa



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lt. Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT

Harold Runnels Building
1190 Saint Francis Drive, PO Box 5469
Santa Fe, NM 87502-5469
Phone (505) 827-2990 Fax (505) 827-1628
www.env.nm.gov



BUTCH TONGATE
Cabinet Secretary

J. C. BORREGO
Deputy Secretary

March 14, 2017

Via Email

Small Business Regulatory Advisory Commission
New Mexico Economic Development Department
1100 St. Francis Drive
Santa Fe, New Mexico 87505

Re: Proposed Amendments to Air Quality Regulations 20.2.77, 78, and 82 NMAC

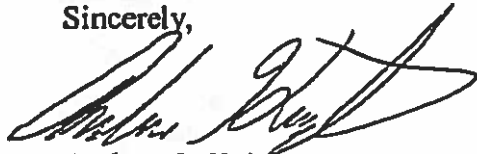
Dear Chairman and members of the Commission:

The New Mexico Environment Department hereby provides notice, pursuant to NMSA 1978, Section 14-4A-1, that the Department's Air Quality Bureau has filed a petition to amend sections 20.2.77, 78, and 82 NMAC. The proposed amendments would incorporate by reference a number of new or revised federal air quality rules promulgated under 40 C.F.R. Parts 60, 61 and 63, for which New Mexico has been delegated enforcement authority by the federal EPA. In order to keep current with federal rulemakings, the Department periodically requests that the Environmental Improvement Board (EIB) update the date of incorporation into the NMAC to include new rules and amendments made to the federal regulations. The last update was in 2015. Since that time, the EPA has promulgated 21 new rules or rule revisions.

Adoption of these amendments is considered routine, and the Department does not anticipate any opposition at the hearing before the EIB, currently scheduled for April 28, 2017. Furthermore, adoption of these changes to federal regulations is a requirement for New Mexico to maintain its "primacy", i.e. the ability for these regulations to be enforced at the state level, rather than by EPA. The proposed amendments are not expected to have a significant impact on small businesses in New Mexico. Businesses in New Mexico subject to these requirements will continue to be subject regardless of whether New Mexico adopts these rule revisions.

Please feel free to contact me directly at (505) 222-9540, or by email at andrew.knight@state.nm.us with any questions regarding this regulatory change.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew P. Knight', written over a horizontal line.

Andrew P. Knight
Assistant General Counsel
New Mexico Environment Department
Office of General Counsel

JASANA MARTINEZ
GOVERNOR

MATTHEW GEISEL
CABINET SECRETARY



March 20, 2017

Mr. Andrew P. Knight
Assistant General Counsel
New Mexico Environment Department

Dear Mr. Knight,

Thank you for the notice to the Small Business Regulatory Advisory Commission (SBRAC) that the NM Environment Department has filed a petition to amend sections 20.2.77, 78 and 82 NMAC to incorporate a number of new or revised federal air quality rules promulgated under 40 C.F.R. Parts 60, 61 and 63 for which New Mexico has been delegated enforcement authority by the federal EPA.

The SBRAC has reviewed the proposed regulatory amendments and finds no adverse implications for small businesses in our state. The SBRAC Chair has indicated support for the proposed regulatory amendments. As such this letter can be used as responsive testimony for the hearing scheduled on Friday, April 28, 2017.

Thank you for the notice and opportunity to comment.

Regards

Barbara Brazil
Deputy Secretary
NM Economic Development Department

cc: SBRAC

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED AMENDMENTS TO
20.2.77 NMAC – *New Source Performance Standards*
(*NSPS*); 20.2.78 NMAC – *Emission Standards for Hazardous*
Air Pollutants (NESHAP); and 20.2.82 NMAC – *Maximum*
Achievable Control Technology Standards for Source Categories
*of Hazardous Air Pollutants (MACT)***

No. EIB 16-04(R)

**New Mexico Environment Department,
*Petitioner.***

ORDER AND STATEMENT OF REASONS

This matter comes before the New Mexico Environmental Improvement Board (“Board”) upon a petition filed by the Air Quality Bureau (“Bureau”) of the New Mexico Environment Department (“NMED” or “Department”), proposing revisions to 20.2.77, 20.2.78, and 20.2.82 NMAC to incorporate newly promulgated federal standards within programs for which authority has been delegated to New Mexico by the U.S. Environmental Protection Agency (“EPA”). A public hearing was held in Santa Fe, New Mexico on April 28, 2017, with a quorum of the Board present during the hearing. The Board heard technical testimony from the Department and admitted exhibits into the record. On April 28, 2017, the Board deliberated and voted to adopt the proposed amendments for the reasons that follow:

I. STATEMENT OF REASONS

1. The federal Clean Air Act (“CAA”) requires the EPA to promulgate standards of performance for new stationary sources. CAA § 111 (42 U.S.C. § 7411). Regulations

promulgated under this authority are known as New Source Performance Standards (“NSPS”) and are found at 40 C.F.R. Part 60.

2. CAA Section 111(c) provides for delegation to states of the authority to implement and enforce the standards promulgated under Section 111. 42 U.S.C. § 7411(c).
3. CAA Section 112 requires the EPA to promulgate regulations governing hazardous air pollutants. 42 U.S.C. § 7412. Regulations promulgated under this section are known as National Emission Standards for Hazardous Air Pollutants (“NESHAP”), found at 40 C.F.R. Part 61; and National Emission Standards for Hazardous Air Pollutants for Source Categories, also known as Maximum Achievable Control Technology, or “MACT” standards, found at 40 C.F.R. Part 63.
4. CAA Section 112(l)(1) provides for delegation to states of authority to implement and enforce standards promulgated under Section 112. 42 U.S.C. § 7412(l)(1).
5. In 1985, the EPA approved delegation of authority to New Mexico to implement and enforce the NSPS and NESHAP. See NMED Exhibit 7.
6. In 1995, the EPA approved delegation of authority to New Mexico to implement and enforce the MACT standards. See NMED Exhibit 8.
7. NMED periodically submits updated regulations to EPA to receive delegation of EPA authority for implementation and enforcement of NSPS, NESHAP, and MACT standards.
8. New Mexico incorporates the federal standards found at 40 C.F.R. Parts 60, 61, and 63 into the New Mexico Administrative Code (“NMAC”) at 20.2.77, 20.2.78, and 20.2.82 NMAC, respectively.

9. The Department periodically petitions the Board to update the dates of incorporation of the federal standards in 20.2.77, 20.2.78, and 20.2.82 NMAC, to incorporate recently promulgated revisions to federal standards. See NMED Exhibit 9.
10. The most current EPA approval of our date change was February 2, 2015 for NSPS, NESHAP, and MACT standards. See NMED Exhibit 9.
11. Pursuant to Subsection A of 20.1.1.200 NMAC, any person may petition the Board to adopt, amend, or repeal regulations within the jurisdiction of the Board.
12. On December 12, 2016 NMED filed a petition with the Board for a public hearing in this matter. See Petition in Record Proper.
13. On January 13, 2017, at a meeting conducted in compliance with the Open Meetings Act and other applicable requirements, the Board granted the Department's request for a hearing and scheduled the hearing for April 28, 2017. The Board appointed Matthew Holt as the hearing officer.
14. On February 14, 2017, public notice of the hearing was published in the New Mexico Register and in the Albuquerque Journal, in English and Spanish. See Exhibit 11. The public notice stated that the Board may decide on the proposed amendments after the hearing, or may convene later to consider action on the proposal.
15. NMED filed a Notice of Intent to Present Technical Testimony ("NOI") on April 6, 2017, in accordance with 20.1.1.302 NMAC.
16. No other party filed an NOI.
17. A hearing in this matter was held in Santa Fe, New Mexico on April 28, 2017, at which a reasonable opportunity was provided for all interested persons to be heard.

18. Pursuant to Section 74-2-5 of the Air Quality Control Act, NMSA 1978, Sections 74-2-1 and -22 (2009), the Board has the authority to adopt the proposed NMED amendments.
19. The standards adopted by the regulatory change are federal standards, in compliance with NMSA 1978, Section 74-2-5 (C)(2).
20. In considering the proposed amendments, the Board is required to give the weight it deems appropriate to all facts and circumstances, including but not limited to: (1) character and degree of injury to or interference with health, welfare, visibility and property; (2) the public interest, including the social and economic value of the sources and subjects of air contaminants; and (3) technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved. NMSA 1978, § 74-2-5(E) (2007).
21. The Board considered all facts and circumstances, and concluded that the proposed amendments do not cause injury to or interfere with health, welfare, visibility or property. The Board found the proposed amendments to be technically practical, economically reasonable, and in the public interest.
22. The federal NSPS are established by the EPA based on the best system of emission reductions which have been adequately demonstrated, considering the costs of achieving such reductions and any non-air quality health and environmental impact and energy requirements. 42 U.S.C. § 7411(a)(1).
23. The federal NESHAP and MACT standards are established by the EPA for categories and subcategories of sources of emissions of hazardous air pollutants, based on the maximum degree of reduction of emissions achievable, taking into consideration the cost of achieving

the reductions, any non-air quality health and environmental impacts and energy requirements. 42 U.S.C. § 7412 (d)(2).

24. EPA's determination of NSPS, NESHAP, and MACT standards therefore considers the character and degree of injury to or interference with health and welfare; the public interest, including the social and economic value of the sources and subjects of air contaminants; and the technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved.
25. Incorporation by reference of the federal standards into the New Mexico Administrative Code does not change the substantive standards applicable to affected sources in New Mexico because the EPA retains authority for direct enforcement of the regulations. See NMED Exhibit 6. Accordingly, this regulatory change will not result in any additional economic hardship for sources or any increase in air contaminant emissions, but will increase the efficiency of implementation of the regulations. See *Id.* This serves the public interest.
26. The proposed amendments therefore satisfy each of the statutory requirements of the Air Quality Control Act, NMSA 1978, Section 74-2-5(E).
27. The notice and hearing requirements of NMSA 1978, Section 74-2-6 and of 20.1.1 NMAC were satisfied in this rulemaking process.
28. The proposed amendments are adopted for any or all the reasons stated above.

II. ORDER

By majority vote of a quorum of the Board members, the proposed amendments to New Mexico's Air Quality Regulations, to incorporate newly promulgated federal standards within programs for which authority has been delegated to New Mexico by the EPA, were approved by the Board on April 28, 2017. Amendments to 20.2.77, 20.2.78, and 20.2.82 NMAC, along with any appropriate corrections of typographical errors or formatting, shall be filed with the New Mexico State Records Center, and shall be submitted as expeditiously as possible by the Department to the EPA for approval of delegation authority.

JOHN VOLKERDING
Chair, Environmental Improvement Board

Dated: _____