



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R09-OAR-2012-0117; FRL-9635-7]

Delegation of National Emission Standards for Hazardous Air  
Pollutants for Source Categories; Nevada

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is amending certain regulations to reflect the current delegation status of national emission standards for hazardous air pollutants (NESHAP) in Nevada. Several NESHAP were delegated to the Nevada Division of Environmental Protection on October 6, 2011. The purpose of this action is to update the listing in the Code of Federal Regulations.

**DATES:** This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the Federal Register to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2012-0117, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. Mail or delivery: Andrew Steckel (AIR-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any

form of encryption, and be free of any defects or viruses.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. 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 in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Rynda Kay, EPA Region IX, (415) 947-4118, [kay.rynda@epa.gov](mailto:kay.rynda@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

## Table of Contents

- I. Background
  - A. Delegation of NESHAP
  - B. NDEP delegations
- II. EPA Action
- III. Statutory and Executive Order Reviews

## I. Background

A. *Delegation of NESHAP*

Section 112(1) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to State or local air pollution control agencies the authority to implement and enforce the standards set out in the Code of Federal Regulations, Title 40 (40 CFR), Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR Part 63, Subpart E (hereinafter referred to as "Subpart E"), establishing procedures for EPA's approval of State rules or programs under section 112(1) (see 58 FR 62262). Subpart E was later amended on September 14, 2000 (see 65 FR 55810).

Any request for approval under CAA section 112(1) must meet the approval criteria in 112(1)(5) and Subpart E. To streamline the approval process for future applications, a State or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the State or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

*B. NDEP delegations*

On May 27, 1998, EPA published a direct final action delegating to the NDEP several NESHAP and approving NDEP's delegation mechanism for future standards (see 63 FR 28906). That action explained the procedure for EPA to grant future delegations to NDEP by letter, with periodic Federal Register listings of standards that have been delegated. On August 19, 2011, NDEP requested delegation of the following NESHAP contained in 40 CFR Part 63:

- The amendments to Subpart LLL - NESHAP from the Portland Cement Manufacturing Industry, as set forth in 75 FR 54970 (September 9, 2010)
- The amendments to Subpart ZZZZ - NESHAP for Stationary Reciprocating Internal Combustion Engines, as set forth in 75 FR 51570 (August 20, 2010) and 76 FR 12863 (March 9, 2011)
- Subpart DDDDD - NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters
- Subpart BBBBBB - NESHAP for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities
- Subpart CCCCCC - NESHAP for Source Category: Gasoline Dispensing Facilities
- Subpart HHHHHH - NESHAP: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources
- Subpart JJJJJJ - NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources
- Subpart VVVVVV - NESHAP for Chemical Manufacturing Area Sources
- Subpart WWWWWW - NESHAP: Area Source Standards for Plating and Polishing Operations
- Subpart XXXXXX - NESHAP Area Source Standards for Nine Metal Fabrication and Finishing Source Categories
- Subpart ZZZZZZ - NESHAP: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries
- Subpart AAAAAA - NESHAP for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing

- Subpart BBBB BBB - NESHAP for Area Sources: Chemical Preparations Industry
- Subpart CCCCCC - NESHAP for Area Sources: Paints and Allied Products Manufacturing
- Subpart EEEEEEE NESHAP: Gold Mine Ore Processing and Production Area Source Category

On October 6, 2011, EPA granted delegation to NDEP for these NESHAP, along with any amendments made to previously-delegated NESHAP as of July 1, 2010. Today's action is serving to notify the public of the October 6, 2011, delegation and to codify these delegations into the Code of Federal Regulations.

## **II. EPA Action**

Today's document serves to notify the public of the delegation of NESHAP to NDEP on October 6, 2011. Today's action will codify these delegations into the CFR.

## **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve delegation requests that comply with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7412(1); 40 CFR 63.91(b). Thus, in reviewing delegation submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the delegations are not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**AUTHORITY:** This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. Section 7412.

**List of Subjects in 40 CFR Part 63**

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

Dated: February 13, 2012.

Deborah Jordan,  
Director, Air Division,  
Region IX.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

**PART 63 - [AMENDED]**

1. The authority citation for Part 63 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 7401, et seq.

**Subpart E - Approval of State Programs and Delegation of Federal Authorities**

2. Section 63.99 is amended by revising the table in paragraph (a) (29) (i) to read as follows:

**§63.99 Delegated Federal authorities.**

- (a) \* \* \*
- (29) \* \* \*
- (i) \* \* \*

Delegation Status for Part 63 Standards - Nevada

Subpart	Description	NDEP <sup>1</sup>	Washoe <sup>2</sup>	Clark <sup>3</sup>
A	General Provisions	X	X	X
F	Synthetic Organic Chemical Manufacturing Industry	X		X
G	Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater	X		X
H	Organic Hazardous Air Pollutants: Equipment Leaks	X		X
I	Organic Hazardous Air Pollutants: Certain Processes Subject to the Negotiated Regulation for Equipment Leaks	X		X
J	Polyvinyl Chloride and Copolymers Production	X		X
L	Coke Oven Batteries	X		X
M	Perchloroethylene Dry Cleaning	X	X	X

N	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	X	X	X
O	Ethylene Oxide Sterilization Facilities	X	X	X
Q	Industrial Process Cooling Towers	X		X
R	Gasoline Distribution Facilities	X	X	X
S	Pulp and Paper	X		X
T	Halogenated Solvent Cleaning	X	X	X
U	Group I Polymers and Resins	X		X
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X		X
X	Secondary Lead Smelting	X		X
Y	Marine Tank Vessel Loading Operations	X		
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 Operations	X		X
GG	Aerospace Manufacturing and Rework Facilities	X		X
HH	Oil and Natural Gas Production Facilities	X		X
II	Shipbuilding and Ship Repair (Surface Coating)	X		X
JJ	Wood Furniture Manufacturing Operations	X		X
KK	Printing and Publishing Industry	X	X	X
LL	Primary Aluminum Reduction Plants	X		X
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicemical Pulp Mills	X		X
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	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		X
YY	Generic MACT Standards	X		X
CCC	Steel Pickling	X		X
DDD	Mineral Wool Production	X		X
EEE	Hazardous Waste Combustors	X		X
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
LLL	Portland Cement Manufacturing Industry	X		X
MMM	Pesticide Active Ingredient Production	X		X
NNN	Wool Fiberglass Manufacturing	X		X
OOO	Manufacture of Amino/Phenolic Resins	X		X
PPP	Polyether Polyols Production	X		X
QQQ	Primary Copper Smelting	X		X
RRR	Secondary Aluminum Production	X		X
TTT	Primary Lead Smelting	X		X
UUU	Petroleum Refineries: Catalytic Cracking, Catalytic Reforming, and Sulfur Recovery Units	X		X
VVV	Publicly Owned Treatment Works	X	X	X
XXX	Ferroalloys Production	X		X
AAAA	Municipal Solid Waste Landfills	X		X
CCCC	Manufacturing of Nutritional Yeast	X		X
DDDD	Plywood and Composite Wood Products	X		X
EEEE	Organic Liquids Distribution (non-gasoline)	X	X	X
FFFF	Miscellaneous Organic Chemical Manufacturing	X		X

GGGG	Solvent Extraction for Vegetable Oil Production	X		X
HHHH	Wet-Formed Fiberglass Mat Production	X		X
IIII	Surface Coating of Automobiles and Light-Duty Trucks	X		X
JJJJ	Paper and Other Web Coating	X		X
KKKK	Surface Coating of Metal Cans	X		X
MMMM	Miscellaneous Metal Parts and Products	X		X
NNNN	Large Appliances	X		X
OOOO	Printing, Coating, and Dyeing of Fabrics and Other Textiles	X		X
PPPP	Surface Coating of Plastic Parts and Products	X		X
QQQQ	Wood Building Products	X		X
RRRR	Surface Coating of Metal Furniture	X		X
SSSS	Surface Coating of Metal Coil	X		X
TTTT	Leather Finishing Operations	X		X
UUUU	Cellulose Products Manufacturing	X		X
VVVV	Boat Manufacturing	X		X
WWWW	Reinforced Plastics Composites Production	X	X	X
XXXX	Tire Manufacturing	X		X
YYYY	Stationary Combustion Turbines	X		X
ZZZZ	Stationary Reciprocating Internal Combustion Engines	X	X	X
AAAAA	Lime Manufacturing Plants	X		X
BBBBB	Semiconductor Manufacturing	X		X
CCCCC	Coke Oven: Pushing, Quenching and Battery Stacks	X		X
DDDDD	Industrial, Commercial, and Institutional Boiler and Process Heaters	X		X
EEEEE	Iron and Steel Foundries	X		X
FFFFF	Integrated Iron and Steel	X		X
GGGGG	Site Remediation	X		X
HHHHH	Miscellaneous Coating Manufacturing	X		X

IIIII	Mercury Emissions from Mercury Cell Chlor-Alkali Plants			X
JJJJJ	Brick and Structural Clay Products Manufacturing	X		X
KKKKK	Clay Ceramics Manufacturing	X		X
LLLLL	Asphalt Roofing and Processing	X		X
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X		X
NNNNN	Hydrochloric Acid Production	X		X
PPPPP	Engine Test Cells/Stands	X		X
QQQQQ	Friction Products Manufacturing	X		X
RRRRR	Taconite Iron Ore Processing			X
SSSSS	Refractory Products Manufacturing	X		X
TTTTT	Primary Magnesium Refining			X
WWWWW	Hospital Ethylene Oxide Sterilizers	X	X	X
YYYYY	Electric Arc Furnace Steelmaking Facilities (area sources)	X		X
ZZZZZ	Iron and Steel Foundries Area Sources	X		X
BBBBBB	Gasoline Distribution Bulk Terminals, Bulk Plants and Pipeline Facilities	X	X	X
CCCCCC	Gasoline Dispensing Facilities	X	X	X
DDDDDD	Polyvinyl Chloride and Copolymers Production Area Sources	X		X
EEEEEE	Primary Copper Smelting Area Sources	X		X
FFFFFF	Secondary Copper Smelting Area Sources	X		X
GGGGGG	Primary Nonferrous Metals Area Sources – Zinc, Cadmium, and Beryllium	X		X
HHHHHH	Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	X	X	X
JJJJJJ	Industrial, Commercial, and Institutional Boilers and Process Heaters – Area Sources	X		
LLLLLL	Acrylic and Modacrylic Fibers Production Area Sources	X		X
MMMMMM	Carbon Black Production Area Sources	X		X

NNNNNN	Chemical Manufacturing Area Sources: Chromium Compounds	X		X
OOOOOO	Flexible Polyurethane Foam Production and Fabrication Area Sources	X	X	X
PPPPPP	Lead Acid Battery Manufacturing Area Sources	X		X
QQQQQQ	Wood Preserving Area Sources	X		X
RRRRRR	Clay Ceramics Manufacturing Area Sources	X		X
SSSSSS	Glass Manufacturing Area Sources	X		X
TTTTTT	Secondary Nonferrous Metals Processing Area Sources	X		X
VVVVVV	Chemical Manufacturing Industry – Area Sources	X		
WWWWWW	Area Source Standards for Plating and Polishing Operations	X	X	X
XXXXXX	Area Source Standards for Nine Metal Fabrication and Finishing Source Categories	X	X	X
YYYYYY	Area Sources: Ferroalloys Production Facilities			X
ZZZZZZ	Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries	X		X
AAAAAA	Asphalt Processing and Asphalt Roofing Manufacturing – Area Sources	X		
BBBBBB	Chemical Preparations Industry – Area Sources	X		
CCCCCC	Paint and Allied Products Manufacturing – Area Sources	X		
EEEEEE	Gold Mine Ore Processing and Production – Area Sources	X		

<sup>1</sup> Nevada Division of Environmental Protection

<sup>2</sup> Washoe County Air Quality Management Division

<sup>3</sup> Clark County Department of Air Quality Management

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[FR Doc. 2012-4563 Filed 02/24/2012 at 8:45 am; Publication Date:  
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