



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R06-OAR-2006-0851; FRL-9796-8]

Delegation of National Emission Standards for Hazardous Air Pollutants for the States of
Kentucky and Louisiana, Correcting Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendments.

SUMMARY: On April 14, 2010, EPA published a direct final rule approving delegations of authority for Louisiana. There was an error in the amendatory language which resulted in errors in the codification of the delegated Federal authorities for Kentucky and Louisiana. This action corrects the errors.

DATE: This correction is effective on [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Bill Deese, Air Planning Section, (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7253; fax number 214-665-7263; e-mail address deese.william@epa.gov.

SUPPLEMENTARY INFORMATION:

This action corrects errors in 40 CFR part 63 that resulted from an error in the amendatory language in a 40 CFR parts 60, 61, and 63 Federal Register direct final rule, delegation of authority, entitled “Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the State of Louisiana,” published April 14, 2010 (75 FR 19252). The error resulted in the revised Louisiana 40 CFR part 63 delegation of authority being codified in 40 CFR 63.99(a)(18) for Kentucky rather than in 40 CFR 63.99(a)(19) for Louisiana. Paragraph 63.99(a)(19) for Louisiana remained as previously approved by EPA for Louisiana on April 17, 2006 (71 FR 19652). In this action, EPA is correcting the errors in 40 CFR part 63 by replacing paragraph 63.99(a)(18) with the language approved for Kentucky in a May 13, 2009 (74 FR 22437), direct final rule, and replacing paragraph 63.99(a)(19) with the language approved for Louisiana in the April 14, 2010 Federal Register direct final rule.

EPA has determined that today's action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because today's action to correct errors in 40 CFR part 63 has no substantive impact on EPA's May 13, 2009 (74 FR 22437), and EPA's April 14, 2010 (75 FR 19252), approval of delegation agreements of the 40 CFR part 63 National Emission Standards for Hazardous Air Pollutants for the states of Kentucky and Louisiana. This action makes no substantive difference to EPA's analysis as set out in those rules. In addition, EPA can identify no particular reason why the public would be interested in being notified of the

correction of these paragraphs or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the meaning of EPA's analysis of Kentucky's submittal approved by EPA May 13, 2009, or Louisiana's submittals approved by EPA April 14, 2010. EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely corrects an error in the regulatory text of a prior rule by correcting the 40 CFR part 63 delegations of authority of the 40 CFR Part 63 National Emission Standards for Hazardous Air Pollutants for the states of Kentucky and Louisiana approved by EPA May 13, 2009, and April 14, 2010, respectively. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000). This rule 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 rule merely corrects states requests 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.

This rule does not involve technical standards, 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 [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. 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 63

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

Dated: March 22, 2013.

Samuel Coleman, P.E.,

Acting Regional Administrator, Region 6.

40 CFR part 63 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 paragraph (a)(18) for Kentucky and paragraph (a)(19) for Louisiana to read as follows:

§ 63.99 Delegated Federal Authorities.

(a) * * *

(18) Kentucky.

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

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS--KENTUCKY¹

	Source Category	Subpart	KDEP²	LAPCD³
1	HON	F,G,H,I	X	X
2	Polyvinyl Chloride & Co-polymers VACATED on 5/11/05	J		
3	Coke Ovens	L	X	X
4	Dry Cleaners	M	X	X
5	Chromium Electroplating	N	X	X
6	EtO Commercial Sterilization	O	X	X
7	Chromium Cooling Towers	Q	X	X
8	Gasoline Distribution (stage 1)	R	X	X
9	Pulp & Paper I	S	X	X

10	Halogenated Solvent Cleaning	T	X	X
11	Polymer & Resins 1	U	X	X
12	Polymer & Resins 2	W	X	X
13	Secondary Lead Smelters	X	X	X
14	Marine Tank Vessel Loading	Y	X	X
15	Phosphoric Acid Mfg	AA	X	X
16	Phosphate Fertilizers Prod	BB	X	X
17	Petroleum Refineries	CC	X	X
18	Offsite Waste & Recovery	DD	X	X
	Tanks; Level 1	OO	X	X
	Containers	PP	X	X
	Surface Impoundments	QQ	X	X
	Drain Systems	RR	X	X
	Oil-Water Separators	VV	X	X
19	Magnetic Tape	EE	X	X
20	Aerospace Industry	GG	X	X
21	Oil & Natural Gas Prod	HH	X	X
	Area Source Requirements >>.	X		
22	Shipbuilding and Repair	II	X	X
23	Wood Furniture Mfg	JJ	X	X
24	Printing & Publishing	KK	X	X
25	Primary Aluminum	LL	X	
26	Pulp & Paper II (Combustion sources)	MM	X	X
27	Generic MACT:			
	Control Devices	SS	X	X
	Eq. Leaks--Level 1	TT	X	X
	Eq. Leaks--Level 2	UU	X	X
	Tanks--Level 2	WW	X	X
28	General MACT:			
	Ethylene Mfg	XX & YY	X	X
	Carbon Black	YY	X	X
	Spandex Prod	YY	X	X
	Cyanide Chemical Mfg	YY	X	X
	Acetal Resins	YY	X	X
	Acrylic/Modacrylic Fibers	YY	X	X
	Hydrogen Fluoride Prod	YY	X	X
	Polycarbonates Prod	YY	X	X
29	Steel Pickling	CCC	X	X
30	Mineral Wool Prod	DDD	X	X
31	Hazardous Waste Combustion (Phase I)	EEE	X	X
32	Boilers that burn Haz. Waste (Phase II)	EEE	X	X
33	HCL Prod. Furnaces burning Haz. Waste (P II)	EEE	X	X
34	Pharmaceutical Prod	GGG	X	X
35	Nat. Gas Transmission & Storage	HHH	X	X

36	Flexible Polyurethane Foam Prod	III	X	X
37	Polymer & Resins 4	JJJ	X	X
38	Portland Cement	LLL	X	X
39	Pesticide Active Ingredients	MMM	X	X
40	Wool Fiberglass	NNN	X	X
41	Polymer & Resins 3 (Amino & Phenolic)	OOO	X	X
42	Polyether Polyols Prod	PPP	X	X
43	Primary Copper	QQQ	X	X
44	Secondary Aluminum Prod	RRR	X	X
45	Primary Lead Smelting	TTT	X	
46	Petro Refineries (FCC units)	UUU	X	X
47	POTW	VVV	X	X
48	Ferroalloys	XXX	X	X
49	Municipal Landfills	AAAA	X	X
50	Nutritional Yeast	CCCC	X	X
51	Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07)	DDDD	X	X
52	Organic Liquids Distribution (non-gas)	EEEE	X	X
53	Misc. Organic NESHAP	FFFF	X	X
54	Vegetable Oil	GGGG	X	X
55	Wet Formed Fiberglass	HHHH	X	X
56	Auto & Light Duty Truck (coating)	IIII	X	X
57	Paper & Other Webs	JJJJ	X	X
58	Metal Can (coating)	KKKK	X	X
59	Misc. Metal Parts (coating)	MMMM	X	X
60	Large Appliances (coating)	NNNN	X	X
61	Printing, Coating, & Dyeing Fabrics	OOOO	X	X
62	Plastic Parts & Products (coating)	PPPP	X	X
63	Wood Building Products	QQQQ	X	X
64	Metal Furniture (coating)	RRRR	X	X
65	Metal Coil (coating)	SSSS	X	X
66	Leather Tanning & Finishing	TTTT	X	X
67	Cellulose Ethers Prod. Misc. Viscose Processes	UUUU	X	X
68	Boat Manufacturing	VVVV	X	X
69	Reinforced Plastic Composites	WWWW	X	X
70	Rubber Tire Mfg	XXXX	X	X
71	Stationary Combustion Turbines	YYYY	X	X
72	Reciprocating Int. Combustion Engines	ZZZZ	X	X
	Area Source Requirements >>.	X		
73	Lime Manufacturing	AAAAA	X	X
74	Semiconductor Production	BBBBB	X	X
75	Coke Ovens: (Push/Quench/Battery/Stacks)	CCCCC	X	X
76	Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07.	DDDDD		

77	Iron Foundries	EEEEEE	X	X
78	Integrated Iron & Steel	FFFFFF	X	X
79	Site Remediation	GGGGG	X	X
80	Misc. Coating Manufacturing	HHHHH	X	X
81	Mercury Cell Chlor-Alkali	IIIII	X	X
82	Brick & Structural Clay Products, VACATED on 6/18/07	JJJJJ		
83	Clay Ceramics Manufacturing, VACATED on 6/18/07	KKKKK		
84	Asphalt Roofing & Processing	LLLLL	X	X
85	Flex. Polyurethane Foam Fabrication	MMMMM	X	X
86	Hydrochloric Acid Prod/Fumed Silica	NNNNN	X	X
87	Engine & Rocket Test Facilities	PPPPP	X	X
88	Friction Materials Manufacturing	QQQQQ	X	X
89	Taconite Iron Ore	RRRRR	X	X
90	Refractories	SSSSS	X	X
91	Primary Magnesium	TTTTT	X	X
Ares Source Rules				
92	Hospital Sterilizers	WWWWW	X	
93	Electric Arc Furnaces Stainless and Nonstainless Steel Mfg	YYYYY	X	
94	Iron & Steel foundries	ZZZZZ	X	
95	Gasoline Distribution--Bulk	BBBBBB	X	
96	Gasoline Dispensing Facilities	CCCCCC	X	
97	PVC & Copolymers Prod	DDDDDD	X	
98	Primary Copper	EEEEEE	X	
99	Secondary Copper Smelting	FFFFFF	X	
100	Primary Nonferrous Metals Paint Stripping.	GGGGGG	X	
101	Auto-Body Refinishing Plastic Parts & Prod. (coating).	HHHHHH	X	
102	Acrylic/Modacrylic Fibers Prod	LLLLLL	X	
103	Carbon Black Prod	MMMMMM	X	
104	Chemical Mfg. Chrom Flex. Polyurethane Foam Fab.	NNNNNN	X	
105	Flex. Polyurethane Foam Prod	OOOOOO	X	
106	Lead Acid Battery Mfg	PPPPPP	X	
107	Wood Preserving	QQQQQQ	X	
108	Clay Ceramics Mfg	RRRRRR		
109	Glass Mfg	SSSSSS		
110	Secondary Nonferrous Metals	TTTTTT		
111	Plating and Polishing	WWWWW		

112	Hearing Eq. Mfg Industrial Mach. & Eq. Finishing. Elect. & Electronics Eq. Finishing. Fabricated Metal Prod. Fabricated Plate Work (Boiler Shop). Fabricated Structural Metal Mfg. Iron and Steel Forging. Primary Metals Prod. Mfg. Valves and Pipe Fittings Mfg. Ferroalloys Production.	XXXXXX		
113	Ferro/Silico Manganese	YYYYYY		

¹ State program approved on October 31, 2001. Delegation table last updated on April 1, 2009.

² Kentucky Department for Environmental Protection.

³ Louisville Air Pollution Control District.

(ii) [Reserved]

(19) Louisiana.

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Louisiana Department of Environmental Quality for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after the date of adoption are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS--STATE OF LOUISIANA

Subpart	Source category	LDEQ ¹
A	General Provisions	X
D	Early Reductions	NO
F,G,H & I	SOCMI HON	X
J	Polyvinyl Chloride & Copolymers Production	NO ²
L	Coke Oven Batteries	X
M	Perchloroethylene--Dry Cleaners	X
N	Chromium	X

O	Ethylene Oxide Sterilization	X
Q	Industrial Process Cooling Towers	X
R	Gasoline Distribution	X
S	Pulp & Paper MACT I	X
T	Halogenated Solvent	X
U	Polymers & Resins/Group I	X
W	Epoxy Resins and Non-Nylon Polyamides	X
X	Secondary Lead Smelting	X
Y	Marine Vessel Loading	X
AA/BB	Phosphoric Acid/Phosphate Fertilizers	X
CC	Petroleum Refineries (MACT I)	X
DD	Offsite Waste & Recovery	X
EE	Magnetic Tape Mfg	X
GG	Aerospace Mfg and Rework	X
HH	Oil & Natural Gas Production	X
II	Shipbuilding & Ship Repair	X
JJ	Wood Furniture Manufacturing	X
KK	Printing & Publishing	X
LL	Primary Aluminum Reduction Plants	X
MM	Combustion Sources at Kraft, Soda, and Sulfite Pulp & Paper Mills	X
OO	Storage Vessels (Tanks)--Control Level 1	X
PP	Standards for Containers	X
QQ	Standards for Surface Impoundments	X
RR	Standards for Individual Drain Systems	X
SS	Closed Vent Systems, Control Devices, Recovery Devices & Routing to a Fuel Gas System or a Process	X
TT	Equipment Leaks--Control Level 1	X
UU	Equipment Leaks--Control Level 2	X
VV	Standards for Oil-Water Separators & Organic-Water Separators	X
WW	Storage Vessels (Tanks)--Control Level 2	X
XX	Ethylene Manufacturing Process Units: Heat Exchange Systems & Waste Operations	X
YY	Acetal Resins	X
YY	Acrylic/Modacrylic Fibers	X
YY	Carbon Black Production	X
YY	Cyanide Chemicals Mfg	X
YY	Ethylene Production	X
YY	Hydrogen Fluoride	X
YY	Polycarbonates Production	X
YY	Spandex Production	X
CCC	Steel Pickling--HCL Process Facilities and Hydrochloric Acid Regeneration Plants	X
DDD	Standards for Mineral-Wool Production	X
EEE	Standards for Hazardous Waste Combustors	X

GGG	Standards for Pharmaceuticals Production	X
HHH	Standards for Natural Gas Transmission & Storage	X
III	Flexible Polyurethane Foam Production	X
JJJ	Polymers & Resins/Group IV	X
LLL	Portland Cement Manufacturing	X
MMM	Pesticide Active Ingredient Production	X
NNN	Wool Fiberglass	X
OOO	Polymers & Resins III Amino Resins, Phenolic Resins	X
PPP	Polyether Polyols Production	X
QQQ	Primary Copper Smelting	X
RRR	Secondary Aluminum Production	X
TTT	Primary Lead Smelting	X
UUU	Petroleum Refineries (Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants)	X
VVV	Publicly Owned Treatment Works (POTW)	X
XXX	Ferroalloys Production	X
ZZZ	Plywood/Particle Board Manufacturing	NO
AAAA	Municipal Solid Waste Landfills	X
CCCC	Nutritional Yeast Manufacturing	X
DDDD	Plywood & Composite Wood Products	NO
EEEE	Organic Liquids Distribution (Non-Gasoline)	X
FFFF	Miscellaneous Organic	X
GGGG	Solvent Extraction for Vegetable Oil Production	X
HHHH	Wet-Formed Fiberglass Mat Production	X
IIII	Auto & Light Duty Truck (Surface Coating)	X
JJJJ	Paper & Other Webs (Surface Coating)	X
KKKK	Metal Can (Surface Coating)	X
MMMM	Misc. Metal Parts (Surface Coating)	X
NNNN	Large Appliances (Surface Coating)	X
OOOO	Fabric Printing, Coating & Dyeing (Surface Coating)	X
PPPP	Plastic Parts & Products (Surface Coating)	X
QQQQ	Wood Building Products (formerly Flat Wood Paneling) (Surface Coating)	X
RRRR	Metal Furniture (Surface Coating)	X
SSSS	Metal Coil (Surface Coating)	X
TTTT	Leather-Finishing Operations	X
UUUU	Cellulose Products	X
VVVV	Boat Manufacturing	X
WWWW	Reinforced Plastics Composites Production	X
XXXX	Rubber Tire Manufacturing	X
YYYY	Combustion Turbines	X
ZZZZ	Reciprocating Internal Combustion Engines (RICE)	X
AAAAA	Lime Manufacturing Plants	X
BBBBB	Semiconductor Manufacturing	X
CCCCC	Coke Oven; Pushing, Quenching, & Battery Stacks	X

DDDDD	Industrial, Commercial & Institutional Boilers & Process Heaters	NO ²
EEEEEE	Iron & Steel Foundries	X
FFFFFF	Integrated Iron & Steel Manufacturing Facilities	X
GGGGG	Site Remediation	X
HHHHH	Miscellaneous Coating Manufacturing	X
IIIII	Mercury Cell Chlor-Alkali Plants	NO ²
JJJJJ	Brick & Structural Clay Products Manufacturing	NO ²
KKKKK	Clay Ceramics Manufacturing	NO ²
LLLLL	Asphalt Roofing and Processing	X
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X
NNNNN	Hydrochloric Acid Production	X
PPPPP	Engine Test Cells/Stand (Combined w/Rocket Testing Facilities)	X
QQQQQ	Friction Products Manufacturing	X
RRRRR	Taconite Ore Processing	X
SSSSS	Refractory Products Manufacturing	X
TTTTT	Primary Magnesium Refining	X
YYYYY	Electric Arc Furnace Steelmaking Facilities	X
BBBBBB	Gasoline Distribution Terminals	X
CCCCCC	Gasoline Dispensing Facilities	X
DDDDDD	Polyvinyl Chloride and Copolymers Production	X
EEEEEE	Primary Copper Smelting	X
FFFFFF	Secondary Copper Smelting	X
GGGGGG	Primary Nonferrous Metals Zinc, Cadmium, and Beryllium	X
HHHHHH	Paint Stripping and Miscellaneous Surface Coating	X
LLLLLL	Acrylic/Modacrylic Fiber	X
MMMMMM	Carbon Black Production	X
NNNNNN	Chromium Compounds	X
PPPPPP	Lead Acid Battery Mfg.	X
QQQQQQ	Wood Preserving	X
RRRRRR	Clay Ceramics Mfg.	X
SSSSSS	Glass Manufacturing	X
TTTTTT	Secondary Nonferrous Metals Processing (Brass, Bronze, Magnesium, & Zinc)	X
UUUUUU-- VVVVVV	(Reserved).	
WWWWWW	Plating and Polishing Operations	X
XXXXXX	Metal Fabrication & Finishing Source Nine Categories	X
YYYYYY	Ferrous Alloys Production Facilities	X
ZZZZZZ	(Reserved).	

¹Federal Rules Adopted by Louisiana Department of Environmental Quality (LDEQ), unchanged as of June 16, 2006.

²Although previously delegated to some States, this standard has been vacated and remanded to EPA by the U.S. Court of Appeals for District of Columbia Circuit. Therefore, this standard is not delegated at this time to any States in Region 6.

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