



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-R06-OAR-2010-0580; FRL-10009-48-Region 6]

New Source Performance Standards; Delegation of Authority to Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Notice of delegation.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update the Code of Federal Regulations (CFR) to reflect Oklahoma's current New Source Performance Standards (NSPS) delegation status and mailing address for the Oklahoma Department of Environmental Quality (ODEQ). The ODEQ has submitted updated regulations for delegation of the EPA authority for implementation and enforcement of certain NSPS. The updated State regulations incorporate by reference certain NSPS promulgated by the EPA, as they existed through June 30, 2018.

DATES: Written comments on this proposed rule must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2010-0580, at <https://www.regulations.gov> or via email to pitre.randy@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions

(audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Randy Pitre, (214) 665-7229; email: pitre.randy@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Mr. Randy Pitre, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-7229, pitre.randy@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

Section 111(c)(1) of the Clean Air Act (CAA), 42 U.S.C. 7411(c)(1), authorizes the EPA to delegate to a state the authority to implement and enforce NSPS promulgated by the EPA under CAA section 111(b) and codified at part 60 of title 40 of the CFR. CAA section 111(c)(2) states that the EPA retains the authority to enforce any applicable NSPS delegated to a state. On March 25, 1982, the EPA approved the delegation of authority to implement and enforce NSPS to Oklahoma (1982 NSPS Delegation). See 47 FR 1785 (April 22, 1982). On October 8, 1999, the EPA updated Oklahoma's NSPS delegation, including specific provisions setting forth the terms and conditions of the delegation of authority for NSPS responsibility to the ODEQ (1999 NSPS Delegation). See 64 FR 57392 (October 25, 1999). Copies of the initial 1982 NSPS Delegation and the 1999 NSPS Delegation updates are included in the docket for this action, both of which contain provisions specifying conditions and limitations applicable to the EPA's delegation of authority to implement and enforce the NSPS in Oklahoma.

Under the terms and conditions of the 1999 NSPS Delegation, “[f]uture provisions of 40 CFR Part 60 shall be delegated to ODEQ pursuant to this agreement provided that (1) ODEQ requests delegation and provides copies of the proposed or adopted rules, (2) ODEQ adopts the federal standard without change (e.g., incorporation by reference) and (3) EPA does not object to the delegation within thirty (30) days of ODEQ's request.” See Specific Provision 1 of the 1999 NSPS Delegation.

II. ODEQ's December 23, 2019 NSPS Delegation Update

By letter dated December 23, 2019, the ODEQ requested an update to its NSPS delegation. ODEQ reaffirmed that it retains all required authorities set forth in 40 CFR 60.4 for delegation of a CAA section 111(c) program and all authority identified in the 1982 and 1999 NSPS Delegations. ODEQ provided copies of the duly adopted state regulations which incorporate specifically identified NSPS found at 40 CFR part 60 into the Oklahoma Administrative Code (OAC) 252:100-2 and OAC 252:100 Appendix A, as published in the *Oklahoma Register* on September 3, 2019 (36 Okla. Reg. 1573) with an effective date of September 15, 2019.¹ These ODEQ regulations are, therefore, at least as stringent as the EPA's rules. See 40 CFR 60.10(a). ODEQ's December 23, 2019, request included the following NSPS in 40 CFR part 60, as they existed through June 30, 2018: 40 CFR part 60, subparts A (except sections 60.4, 60.9, 60.10, and 60.16), D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, BBa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, XXX, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, OOOOa, TTTT, and Appendices A and B to 40 CFR part 60.² In accordance with the authority provided by CAA section 111(c)(1) and consistent with the provisions of the 1982 NSPS Delegation and the 1999 NSPS Delegation, the EPA has determined that the ODEQ has met the conditions required for approval of the ODEQ's

¹ The ODEQ previously submitted requests to the EPA for updates to the Oklahoma NSPS delegation, by letters dated June 29, 2018, November 2, 2016, March 17, 2015, August 23, 2012, and May 5, 2000. EPA has determined that such requests meet the requirements of the CAA and the 1982 and 1999 NSPS Delegations concerning the approval of the EPA's delegation of authority for the enforcement and implementation of the NSPS in Oklahoma.

² See EPA Docket No. EPA-R06-OAR-2010-0580 in www.regulations.gov.

requested update to its NSPS delegation, as described above. All authorities not affirmatively and expressly requested by the ODEQ are not delegated. In addition, the provisions and conditions contained in the 1982 and 1999 NSPS Delegations remain in effect, including Specific Provision 7 of the 1999 NSPS Delegation which states that the delegation excludes the State's authority for sources located on Indian lands.³ 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. All inquiries and requests concerning implementation and enforcement of the excluded standards in the State of Oklahoma should be directed to the EPA Region 6 Office of Enforcement and Compliance Assurance. Furthermore, the EPA retains any authority in an individual NSPS that may not be delegated according to provisions of the standard. Finally, the EPA retains the authorities stated in the 1982 and 1999 NSPS Delegations.

III. Proposed Action

Apart from the notification of the updated NSPS delegation to the ODEQ as discussed above, the EPA is proposing to amend 40 CFR part 60 to include a table of the specific NSPS delegated to the ODEQ and update the mailing address for the ODEQ. If finalized as proposed, 40 CFR 60.4(b)(38) will be amended to read: State of Oklahoma: State of Oklahoma, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677, and the following language and table will be added to 40 CFR 60.4(e):

³ For purposes of the ODEQ's NSPS delegation, the term "Indian lands" is synonymous with the term "Indian county," as defined at 18 U.S.C. 1151.

DELEGATION STATUS FOR PART 60 STANDARDS - STATE OF OKLAHOMA
[Excluding Indian Country]

SUBPART	SOURCE CATEGORY	ODEQ
A	General Provisions (except Sections 60.4, 60.9, 60.10 and 60.16)	Yes
D	Fossil Fueled Steam Generators (>250 MM BTU/hr)	Yes
Da	Electric Utility Steam Generating Units (>250 MM BTU/hr)	Yes
Db	Industrial-Commercial-Institutional Steam Generating Units (100 to 250 MM BTU/hr)	Yes
Dc	Industrial-Commercial-Institutional Small Steam Generating Units (10 to 100 MM BTU/hr)	Yes
E	Incinerators (> 50 tons per day)	Yes
Ea	Municipal Waste Combustors	Yes
Eb	Large Municipal Waste Combustors	Yes
Ec	Hospital/Medical/ Infectious Waste Incinerators	Yes
F	Portland Cement Plants	Yes
G	Nitric Acid Plants	Yes
Ga	Nitric Acid Plants (after October 14, 2011)	Yes
H	Sulfuric Acid Plants	Yes
I	Hot Mix Asphalt Facilities	Yes
J	Petroleum Refineries	Yes
Ja	Petroleum Refineries (After May 14, 2007)	Yes
K	Storage Vessels for Petroleum Liquids (After 6/11/73 & Before 5/19/78)	Yes
Ka	Storage Vessels for Petroleum Liquids (After 6/11/73 & Before 5/19/78)	Yes
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Stg/Vessels) After 7/23/84	Yes

L	Secondary Lead Smelters	Yes
M	Secondary Brass and Bronze Production Plants	Yes
N	Primary Emissions from Basic Oxygen Process Furnaces (Construction Commenced After June 11, 1973)	Yes
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities Construction is Commenced After January 20, 1983	Yes
O	Sewage Treatment Plants	Yes
P	Primary Copper Smelters	Yes
Q	Primary Zinc Smelters	Yes
R	Primary Lead Smelters	Yes
S	Primary Aluminum Reduction Plants	Yes
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Plants	Yes
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	Yes
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	Yes
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	Yes
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	Yes
Y	Coal Preparation Plants	Yes
Z	Ferroalloy Production Facilities	Yes
AA	Steel Plants: Electric Arc Furnaces After 10/21/74 & On or Before 8/17/83	Yes
AAa	Steel Plants: Electric Arc Furnaces & Argon-Oxygen Decarburization Vessels After 8/07/83	Yes
BB	Kraft Pulp Mills	Yes
BBa	Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013	Yes
CC	Glass Manufacturing Plants	Yes

DD	Grain Elevators	Yes
EE	Surface Coating of Metal Furniture	Yes
GG	Stationary Gas Turbines	Yes
HH	Lime Manufacturing Plants	Yes
KK	Lead-Acid Battery Manufacturing Plants	Yes
LL	Metallic Mineral Processing Plants	Yes
MM	Automobile & Light Duty Truck Surface Coating Operations	Yes
NN	Phosphate Manufacturing Plants	Yes
PP	Ammonium Sulfate Manufacture	Yes
QQ	Graphic Arts Industry: Publication Rotogravure Printing	Yes
RR	Pressure Sensitive Tape and Label Surface Coating Operations	Yes
SS	Industrial Surface Coating: Large Appliances	Yes
TT	Metal Coil Surface Coating	Yes
UU	Asphalt Processing and Asphalt Roofing Manufacture	Yes
VV	VOC Equipment Leaks in the SOCFMI Industry	Yes
VVa	VOC Equipment Leaks in the SOCFMI Industry (After November 7, 2006)	Yes
WW	Beverage Can Surface Coating Industry	Yes
XX	Bulk Gasoline Terminals	Yes
AAA	New Residential Wood Heaters	No
BBB	Rubber Tire Manufacturing Industry	Yes
DDD	Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry	Yes
FFF	Flexible Vinyl and Urethane Coating and Printing	Yes
GGG	VOC Equipment Leaks in Petroleum Refineries	Yes

GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction or Modification Commenced After November 7, 2006	Yes
HHH	Synthetic Fiber Production	Yes
III	VOC Emissions from the SOCOMI Air Oxidation Unit Processes	Yes
JJJ	Petroleum Dry Cleaners	Yes
KKK	VOC Equipment Leaks From Onshore Natural Gas Processing Plants	Yes
LLL	Onshore Natural Gas Processing: SO2 Emissions	Yes
NNN	VOC Emissions from SOCOMI Distillation Operations	Yes
OOO	Nonmetallic Mineral Processing Plants	Yes
PPP	Wool Fiberglass Insulation Manufacturing Plants	Yes
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems	Yes
RRR	VOC Emissions from SOCOMI Reactor Processes	Yes
SSS	Magnetic Tape Coating Operations	Yes
TTT	Industrial Surface Coating: Plastic Parts for Business Machines	Yes
UUU	Calciners and Dryers in Mineral Industries	Yes
VVV	Polymeric Coating of Supporting Substrates Facilities	Yes
WWW	Municipal Solid Waste Landfills	Yes
XXX	Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification after July 17, 2014	Yes
AAAA	Small Municipal Waste Combustion Units (Construction is Commenced After 8/30/99 or Modification/Reconstruction is Commenced After 6/06/2001	Yes
CCCC	Commercial & Industrial Solid Waste Incineration Units (Construction is Commenced After 11/30/1999 or Modification/Reconstruction is Commenced on or After 6/01/2001	Yes
EEEE	Other Solid Waste Incineration Units (Constructed after 12/09/2004 or Modification/Reconstruction is commenced on or after 06/16/2004)	Yes

III	Stationary Compression Ignition Internal Combustion Engines	Yes
JJJ	Stationary Spark Ignition Internal Combustion Engines	Yes
KKKK	Stationary Combustion Turbines (Construction Commenced After 02/18/2005)	Yes
LLLL	New Sewage Sludge Incineration Units	Yes
OOOO	Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced After August 23, 2011, and on or before September 18, 2015.	Yes
OOOOa	Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015.	Yes
TTTT	Greenhouse Gas Emissions for Electric Generating Units	Yes
N/A	Appendices A (Test Methods) and B (Performance Specifications)	Yes

IV. Statutory and Executive Order Reviews

Under the CAA, the EPA previously delegated to the ODEQ the authority to implement and enforce certain NSPS for sources located in Oklahoma, as provided for under 42 U.S.C. 7411(c)(1); see also 40 CFR 60.4(b). Pursuant the terms and conditions of that delegation, this action informs the public that the EPA has found the ODEQ's December 23, 2019, request to update the delegation status for NSPS meets Federal requirements and does not impose additional requirements beyond those imposed by state law. Through this action, the EPA is proposing to add a table to 40 CFR part 60 listing the specific NSPS currently delegated to the ODEQ and update the ODEQ's address for submittal of documents required under the delegated NSPS provisions. For these reasons, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because NSPS delegation updates are exempted under Executive Order 12866;
- 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the Oklahoma NSPS delegation does not extend to Indian country. If finalized as proposed, the EPA's action will not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 60

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

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

Dated: May 14, 2020.

David Garcia,

Director, Air & Radiation Division, Region 6.

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