



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[EPA-R06-OAR-2019-0615; FRL-10013-04-Region 6]

New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Albuquerque-Bernalillo County Air Quality

Control Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; delegation of authority.

SUMMARY: The Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) has submitted updated regulations for receiving delegation and approval of a program for the implementation and enforcement of certain New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources (both Title V and non-Title V sources). These updated regulations apply to certain NSPS promulgated by the EPA, as amended between September 14, 2013, and January 23, 2017; certain NESHAP promulgated by the EPA, as amended between September 14, 2013, and January 23, 2017; and other NESHAP promulgated by the EPA, as amended between September 14, 2013, and January 23, 2017, as adopted by the ABCAQCB. The EPA is providing notice that it is updating the delegation of certain NSPS to ABCAQCB and taking final action to approve the delegation of certain NESHAP to ABCAQCB. The delegation of authority under this action does not apply to sources located in areas defined as Indian Country.

DATES: This rule is effective on **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice, unless the EPA receives relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that the updated NESHAP 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-2019-0615, at <http://www.regulations.gov> or via email to barrett.richard@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 Rick Barrett, (214) 665-7227; email: barrett.richard@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://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., copyrighted material or CBI).

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett, EPA Region 6 Office, Air Permits Section, 214-665-7227; email: barrett.richard@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 “we,” “us,” and “our” means the EPA.

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I. What does this action do?

The EPA is providing notice that it is updating the delegation for the implementation and enforcement of certain NSPS. The EPA is also taking direct final action to approve the delegation of certain NESHAP to ABCAQCB. With this delegation, ABCAQCB has the primary responsibility to implement and enforce the delegated standards. See sections VII and VIII, below, for a discussion of which standards are being delegated and which are not being delegated.

II. What is the authority for delegation?

Upon the EPA's finding that the procedures submitted by a state or local agency for the implementation and enforcement of standards of performance for new sources located in the state or local agency are adequate, Section 111(c)(1) of the Clean Air Act (CAA) authorizes the EPA to delegate its authority to implement and enforce such standards. The NSPS are codified at 40 CFR part 60.

Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorize the EPA to delegate authority for the implementation and enforcement of NESHAP to a state or local agency that satisfies the statutory and regulatory requirements in subpart E. The NESHAP are codified at 40 CFR parts 61 and 63.

III. What criteria must ABCAQCB'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, or in the local agency's

jurisdiction as discussed above, and their regulations and resources must be adequate for the implementation and enforcement of the NSPS. The EPA initially approved ABCAQCB's program for the delegation of NSPS on December 20, 1989 (54 FR 52031). The EPA reviewed the rules and regulations of the ABCAQCB and determined ABCAQCB's procedures, regulations and resources adequate for the implementation and enforcement of the Federal standards. The NSPS delegation was most recently updated on February 19, 2015 (80 FR 8799). This action notifies the public that the EPA is updating ABCAQCB's delegation to implement and enforce certain additional NSPS since the last update.

Section 112(l)(5) of the CAA requires the EPA to disapprove any program submitted by a state for the delegation of NESHAP if the EPA determines that:

(A) The authorities contained in the program are not adequate to assure compliance by the sources within the state with respect to each applicable standard, regulation, or requirement established under section 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 EPA under section 112(l)(2) or is not likely to satisfy, in whole or in part, the objectives of the CAA.

In carrying out its responsibilities under section 112(l), the EPA promulgated regulations at 40 CFR part 63, subpart E setting forth criteria for the approval of submitted programs. For example, in order to obtain approval of a program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation), a state must demonstrate that it meets

the 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).¹

The NESHAP delegation for ABCAQCB, as it applies to both Title V and non-Title V sources, was most recently approved on February 19, 2015 (80 FR 8799).

IV. How did ABCAQCB meet the NSPS and NESHAP program approval criteria?

As to the NSPS in 40 CFR part 60, ABCAQCB adopted the Federal standards via incorporation by reference into State regulations. The ABCAQCB regulations are, therefore, at least as stringent as the 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 54 FR 52031 (December 20, 1989).

As to the NESHAP in 40 CFR parts 61 and 63, ABCAQCB's Title V program submission dated April 4, 1994, stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 standards into its regulations. See 60 FR 2527 (January 10, 1995). This commitment applied to both existing and future standards as they applied to part 70 sources. The EPA's final interim approval of ABCAQCB's Title V operating permits program delegated the authority to implement certain NESHAP. See 60 FR 13046 (March 10, 1995). On November 26, 1996, the EPA promulgated final full approval of ABCAQCB's operating permits program, effective January 27, 1997 (61 FR 60032). These

¹ Some NESHAP do not require a source to obtain a Title V permit (e.g., certain area sources that are exempt from the requirement to obtain a Title V permit). For these non-Title V sources, the EPA believes that the state must assure the EPA that it can implement and enforce the NESHAP for such sources. See 65 FR 55810, 55813 (Sept. 14, 2000).

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. As stated in its May 24, 2017, submittal, ABCAQCB has affirmed that it still meets the up-front approval criteria. With respect to non-Title V sources, the EPA has previously approved delegation of NESHAP authorities to ABCAQCB after finding adequate authorities to implement and enforce the NESHAP for non-Title V sources. See 70 FR 73138 (December 9, 2005).

V. What is being delegated?

By letter dated May 24, 2017, the EPA received a request from ABCAQCB to update its NSPS delegation and NESHAP delegation. With certain exceptions noted in section VI below, ABCAQCB's request includes certain NSPS promulgated by the EPA at 40 CFR part 60, as amended between September 13, 2013, and January 23, 2017; certain NESHAP promulgated by the EPA at 40 CFR part 61, as amended between September 13, 2013, and January 23, 2017; and other NESHAP promulgated by the EPA at 40 CFR part 63, as amended between September 13, 2013, and January 23, 2017, as adopted by the ABCAQCB.

VI. What is not being delegated?

All authorities not affirmatively and expressly delegated by this action are not delegated. These include the following part 60, 61 and 63 authorities listed below:

- 40 CFR part 60, subpart AAA (Standards of Performance for New Residential Wood Heaters);
- 40 CFR part 60, subpart QQQQ (Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces);

- 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);
- 40 CFR part 61, subpart W (National Emission Standards for Radon Emissions From Operating Mill Tailings).

In addition, the EPA regulations provide that we cannot delegate to a state any of the Category II 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 61 and Part 63 standards have

certain provisions that cannot be delegated to the states. 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, this action does not delegate any authority under section 112(r), the accidental release program.

All inquiries and requests concerning implementation and enforcement of the excluded standards in Albuquerque-Bernalillo County should be directed to the EPA Region 6 Office.

In addition, this delegation to ABCAQCB to implement and enforce certain NSPS and NESHAP authorities does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151.

VII. How will statutory and regulatory interpretations be made?

In approving the NSPS delegation, ABCAQCB will obtain concurrence from the EPA on any matter involving the interpretation of section 111 of the CAA or 40 CFR part 60 to the extent that implementation or enforcement of these provisions have not been covered by prior EPA determinations or guidance. See FR 52031 (December 20, 1989).

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

VIII. What authority does the EPA have?

The EPA retains 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) and 40 CFR 63.90(d)(2), to enforce any applicable emission standard or requirement under section 112. In addition, the EPA may enforce any federally approved state rule, requirement, or program under 40 CFR 63.90(e) and 63.91(c)(1)(i). The EPA also has the authority to make certain decisions under the General Provisions (subpart A) of parts 61 and 63. We are delegating ABCAQCB some of these authorities, and retaining others, as explained in sections V and VI above. In addition, the EPA may review and disapprove determinations made by state and local authorities and subsequently require corrections. *See* 40 CFR 63.91(g)(1)(ii). EPA also has the authority to review ABCAQCB's implementation and enforcement of approved rules or programs and to withdraw approval if we find inadequate implementation or enforcement. *See* 40 CFR 63.96.

Furthermore, the EPA retains any authority in an individual emission standard that may not be delegated according to provisions of the standard. Also, listed in footnote 2 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, the EPA retains the authorities stated in the initial notice of delegation of authority. *See* 54 FR 52031 (December 20, 1989).

IX. What information must ABCAQCB provide to the EPA?

ABCAQCB must provide any additional compliance related information to the 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, ABCAQCB must submit to EPA Region 6, on a semi-annual basis, copies of determinations issued under these authorities. *See* 40 CFR 63.91(g)(1)(ii). For 40 CFR part 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; and Section 63.7(a)(4), Extension of Performance Test Deadline.

X. What is the EPA's oversight role?

The EPA oversees the ABCAQCB'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 the ABCAQCB made decisions that decreased the stringency of the delegated standards, then the ABCAQCB shall be required to take corrective actions and the source(s) affected by the decisions will be notified. *See* 40 CFR 63.91(g)(1)(ii) and 63.91(b). Our oversight authorities allow us to initiate withdrawal of the program delegation if the corrective actions taken are insufficient. *See* 51 FR 20648 (June 6, 1986).

XI. Should sources submit notices to the EPA or ABCAQCB? All the information required pursuant to the Federal NSPS and NESHAP (40 CFR parts 60, 61 and 63) should be submitted by sources located inside the boundaries of Bernalillo County and areas outside of Indian country directly to the ABCAQCB at the following address: City of Albuquerque, Albuquerque Environmental Health Department, PO Box 1293, Albuquerque, New Mexico 87103. The ABCAQCB is the primary point of contact with respect to delegated NSPS and NESHAP authorities. Sources do not need to send a copy to the EPA. The EPA Region 6 waives the requirement that copies of notifications and reports for delegated authorities be submitted to the EPA in addition to ABCAQCB in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii).² For those authorities not delegated, sources must continue to submit all appropriate information to the EPA.

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

In the future, ABCAQCB 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. The EPA will amend the relevant portions of the Code of Federal Regulations showing which NSPS standards have been delegated to ABCAQCB. Also, in the future, ABCAQCB will only need to send a letter of request for approval to EPA, Region 6, for those NESHAP regulations that ABCAQCB 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

² This waiver only extends to the submission of *copies* of notifications and reports; EPA does not waive the requirements in delegated standards that require notifications and reports be submitted to an electronic database (e.g., 40 CFR part 63, subpart HHHHHHHH).

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 ABCAQCB.

XIII. Final action

The public was provided the opportunity to comment on the proposed interim approval (60 FR 2570) and direct final interim approval (60 FR 2527) of ABCAQCB's Title V operating permit program, and mechanism for delegation of section 112 standards as they apply to part 70 sources, on January 10, 1995. On March 10, 1995, EPA published an informational notice in the **Federal Register** informing the public that the direct final interim approval would remain final. (60 FR 13046). In today's action, the public is given the opportunity to comment on the approval of ABCAQCB'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 ABCAQCB's 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 **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless the Agency receives relevant adverse comments by **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

If the 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 is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866. 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 (Public Law 104-4). The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in 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 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. This action is not subject to the 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. 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. section 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. section 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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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* CAA 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.

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

Dated: July 30, 2020.

David Garcia,

Director, Air & Radiation Division, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR parts 60, 61, and 63 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.*

Subpart A – General Provisions

2. Section 60.4 is amended by revising paragraph (e)(3) to read as follows:

§ 60.4 Address.

(e) ***

(3) *Albuquerque-Bernalillo County Air Quality Control Board*. The Albuquerque-Bernalillo County Air Quality Control Board has been delegated all part 60 standards promulgated by the EPA, except subpart AAA of this part and subpart QQQQ of this part as amended through January 23, 2017.

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 paragraph (c)(6)(vi) to read as follows:

Sec. 61.04 Address.

(c) ***

(6) ***

(vi) *Albuquerque-Bernalillo County, New Mexico*. The Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) has been delegated the following part 61 standards promulgated by EPA, as amended through January 23, 2017. 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 Albuquerque-Bernalillo County Air Quality Control Board

(Excluding Indian Country)¹

SUBPART	SOURCE CATEGORY	ABCAQCB
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A	General Provisions	X
B	Radon Emissions From Underground Uranium Mines
C	Beryllium	X
D	Beryllium Rocket Motor Firing	X
E	Mercury	X
F	Vinyl Chloride	X
G	(Reserved)	.....
H	Emissions of Radionuclides Other Than Radon From Department of Energy Facilities	.....
I	Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H	.....
J	Equipment Leaks (Fugitive Emission Sources) of Benzene	X
K	Radionuclide Emissions From Elemental Phosphorus Plants	.....
L	Benzene Emissions From Coke By-Product Recovery Plants	X
M	Asbestos	X
N	Inorganic Arsenic Emissions From Glass Manufacturing Plants	X
O	Inorganic Arsenic Emissions From Primary Copper Smelters	X

P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities	X
Q	Radon Emissions From Department of Energy Facilities	.....
R	Radon Emissions From Phosphogypsum Stacks	.....
S	(Reserved)	.....
T	Radon Emissions From the Disposal of Uranium Mill Tailings	.....
U	(Reserved)	.....
V	Equipment Leaks (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 Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB).

**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 State and local air pollution agencies in New Mexico. 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 and regulations. Some authorities cannot be delegated and are retained by the EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after January 23, 2017 are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS -

[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 NESHAP (HON) – Synthetic Organic Chemical Manufacturing Industry (SOCMI)	X	X
G	HON - SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater	X	X
H	HON - Equipment Leaks	X	X
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	Wool Fiberglass Manufacturing Area Sources	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 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	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
CCCC	Nutritional Yeast Manufacturing	X	X
DDDD	Plywood and Composite Wood Products	X ⁵	X ⁵
EEEE	Organic Liquids Distribution	X	X
FFFF	Misc. Organic Chemical Production and Processes (MON)	X	X
GGGG	Solvent Extraction for Vegetable Oil Production	X	X
HHHH	Wet Formed Fiberglass Mat Production	X	X
IIII	Auto and Light Duty Truck (Surface Coating)	X	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	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
<i>ZZZZ</i>	Reciprocating Internal Combustion Engines (RICE)	X	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	X ⁶	X ⁶
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	X ⁷	X ⁷
KKKKK	Clay Ceramics Manufacturing	X ⁷	X ⁷
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	X ⁸	X ⁸
VVVVV	(Reserved)	.....	.....

WWWWW	Hospital Ethylene Oxide Sterilizers	X	X
XXXXX	(Reserved)	.....	.....
YYYYY	Electric Arc Furnace Steelmaking Area Sources	X	X
ZZZZZ	Iron and Steel Foundries Area Sources	X	X
AAAAA	(Reserved)	.....	.....
BBBBB	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities	X	X
CCCCC	Gasoline Dispensing Facilities	X	X
DDDDD	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
GGGGG	Primary Nonferrous Metals Area Source: Zinc, Cadmium, and Beryllium	X	X
HHHHH	Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	X	X
IIIII	(Reserved)	.....	.....
JJJJJ	Industrial, Commercial, and Institutional Boilers Area Sources	X	X
KKKKK	(Reserved)	.....	.....
LLLLL	Acrylic and Modacrylic Fibers Production Area Sources	X	X
MMMMM	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
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
UUUUUU	(Reserved)	.....	.....
VVVVVV	Chemical Manufacturing Area Sources	X	X
WWWWWW	Plating and Polishing Operations Area Sources	X	X
XXXXXX	Metal Fabrication and Finishing Area Sources	X	X
YYYYYY	Ferrous Alloys Production Facilities Area Sources	X	X
ZZZZZZ	Aluminum, Copper, and Other Nonferrous Foundries Area Sources	X	X
AAAAAA	Asphalt Processing and Asphalt Roofing Manufacturing Area Sources	X	X
BBBBBB	Chemical Preparation Industry Area Sources	X	X
CCCCCC	Paints and Allied Products Manufacturing Area Sources	X	X
DDDDDD	Prepared Feeds Areas Sources	X	X

EEEEEEE	Gold Mine Ore Processing and Production Area Sources	X	X
FFFFFFF – GGGGGGG	(Reserved)	.....	.....
HHHHHHH	Polyvinyl Chloride and Copolymers Production Major Sources	X	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 the EPA, as amended in the **Federal Register** through January 15, 2017.

³ Program delegated to Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) for standards promulgated by the EPA, as amended in the **Federal Register** through January 23, 2017.

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 the EPA by the United States Court of Appeals for the District of Columbia Circuit. See *Mossville Environmental Action Network v. EPA*, 370 F. 3d 1232 (D.C. Cir. 2004). Because of the D.C. Court’s holding this subpart is not delegated to NMED or ABCAQCB at this time.

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

⁶ Final Rule. *See* 76 FR (March 21, 2011), as amended at 78 FR 7138 (January 31, 2013); 80 FR 72807 (November 20, 2015).

⁷ Final promulgated rule adopted by the EPA. *See* 80 FR 65470 (October 26, 2015). Note that Part 63 Subpart KKKKK was amended to correct minor typographical errors. *See* 80 FR 75817 (December 4, 2015).

⁸ Final Rule. *See* 77 FR 9304 (February 16, 2012), as amended 81 FR 20172 (April 6, 2016). Final Supplemental Finding that it is appropriate and necessary to regulate HAP emissions from Coal-and Oil-fired EUSGU Units. *See* 81 FR 24420 (April 25, 2016).

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