

or preparatory to a proceeding, such testimony, and relevant unclassified material, documents, or information secured by any attorney, or investigator of the Department of Justice, or task force official, as such attorney shall deem necessary or desirable to the discharge of the attorney's official duties, *provided*:

(1) Such an attorney shall consider, with respect to any disclosure, the factors set forth in paragraph 16.26(a) of this part; and

(2) An attorney shall not reveal or furnish any material, documents, testimony or information when, in the attorney's judgment, any of the factors specified in paragraph 16.26(b) exists, without the express prior approval by the Assistant Attorney General in charge of the division responsible for the case or proceeding, the Director of the Executive Office for United States Trustees ("EOUST"), or such persons' designees.

\* \* \* \* \*

5. Revise paragraphs (a), (b) introductory text, and (c) of § 16.24 to read as follows:

**§ 16.24 Procedure in the event of a demand where disclosure is not otherwise authorized.**

(a) Whenever a matter is referred under § 16.22 of this part to a U.S. Attorney or, under § 16.23 of this part, to an Assistant Attorney General, the Director of the EOUST, or their designees (collectively, "responsible official"), the responsible official shall immediately advise the official, or the official's designee, in charge of the bureau, division, office, or agency of the Department:

(1) That was responsible for the collection, assembly, or other preparation of the material demanded; or

(2) That, at the time the person whose testimony was demanded acquired the information in question:

(i) Employed such person; or

(ii) Designated such person as a task force official; (collectively, "originating component").

In any instance in which the responsible official is also the official in charge of the originating component, the responsible official may perform all functions and make all determinations that this regulation vests in the originating component.

(b) The responsible official, subject to the terms of paragraph (c) of this section, may authorize the appearance and testimony of a present or former Department employee or a present or former task force official, or the

production of material from Department files if:

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(c) It is Department policy that the responsible official shall, following any necessary consultation with the originating component, authorize testimony by a present or former employee or a present or former task force official of the Department or the production of material from Department files without further authorization from Department officials whenever possible: provided, that, when information is collected, assembled, or prepared in connection with litigation or an investigation supervised by a division of the Department or by the EOUST, the Assistant Attorney General in charge of such a division or the Director of the EOUST may require that the originating component obtain the division's or the EOUST's approval before authorizing a responsible official to disclose such information. Prior to authorizing such testimony or production, however, the responsible official shall, through negotiation and, if necessary, appropriate motions, seek to limit the demand to information, the disclosure of which would not be inconsistent with the considerations specified in § 16.26 of this part.

\* \* \* \* \*

Dated: June 15, 2007.

**Alberto R. Gonzales,**

*Attorney General.*

[FR Doc. E7-12038 Filed 6-20-07; 8:45 am]

**BILLING CODE 4410-09-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2007-0450; FRL-8329-6]**

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Open Burning**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision pertains to the amendments of Delaware's open burning regulation. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before July 23, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-

R03-OAR-2007-0450 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail*:

*cripps.christopher@epa.gov*.

C. *Mail*: EPA-R03-OAR-2007-0450, Christopher Cripps, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions*: Direct your comments to Docket ID No. EPA-R03-OAR-2007-0450. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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*: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy

form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On May 2, 2007, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP for Regulation No. 1113—Open Burning. The SIP revision includes (1) Expanding the open burning ban from New Castle and Kent Counties to statewide; (2) expanding the open burning ban from June 1 through August 31 in the current regulation to May 1 through September 30; and (3) to clarify the prohibitions in the existing regulation and their interaction with other applicable laws and regulations.

**II. Summary of SIP Revision**

Delaware's Open Burning Regulation, Regulation No. 1113, applies to all open burning activities in the State of Delaware which includes the counties of New Castle, Kent and Sussex. The following are the prohibitions and provisions of open burning activities in the State of Delaware during May 1 through September 30:

(1) The regulation prohibits leaf and refuse burning statewide.

(2) The regulation allows the following without permission from DNREC: domestic burning of branches and limbs from trees and shrubs statewide; and agricultural burning statewide to cultivate and/or prepare soil for the production of crops or the support of livestock.

(3) The regulation requires permission from DNREC for the following types of open burning: prescribed burning for conservation practices, wildlife habitat management, or plant, pest or disease control; and burning of wooden buildings for fire fighting instruction conducted by authorized fire companies.

(4) Commercial operations are not permitted to burn for disposal, e.g. burning of tree limbs, stumps as a result of land clearing, and construction debris.

(5) All allowable types of burning can be conducted between the hours of 8 a.m. to 4 p.m. Approval can be obtained from DNREC to burn outside of those hours for reasons of safety, smoke reduction or a more efficient or complete burn.

(6) The following types of burning are exempt from the regulation, and can be conducted at any time: cooking fires; recreational fires; ceremonial fires; emergency signaling flares; backburning to suppress wildfires; and fire fighting instruction conducted by the Delaware State Fire School.

**III. Proposed Action**

EPA is proposing to approve the Delaware SIP revision for Regulation No. 1113—Open Burning submitted on May 2, 2007. This regulation will result in the control of volatile organic compound (VOC) and nitrogen oxides (NO<sub>x</sub>) emissions by establishing rules for open burning activities in the State of Delaware during the ozone season. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

**IV. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule also does 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 (65 FR 67249, November 9, 2000), nor will it 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), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This proposed rule pertaining to Delaware's Open Burning Regulation, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

**Dated:** June 12, 2007.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. E7-12051 Filed 6-20-07; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 60 and 61**

[AZ and NV-EPA-R09-OAR-2006-1014; FRL-8329-9]

**Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona and Nevada**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to update the Code of Federal Regulations (CFR) tables for delegations to state and local agencies in Region IX of certain New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs). This document addresses general authorities mentioned in the regulations for NSPS and NESHAPs, proposes to update the delegations tables for Arizona and Nevada, and clarifies those authorities that are retained by EPA. We are taking comments on this proposal and intend to follow with a final action.

**DATES:** Any comments must arrive by July 23, 2007.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2006-1014, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* 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 <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.

*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:** Cynthia G. Allen, EPA Region IX, (415) 947-4120, [allen.cynthia@epa.gov](mailto:allen.cynthia@epa.gov).

**SUPPLEMENTARY INFORMATION:** The supplementary information is organized in the following order:

What is the purpose of this document? Who is authorized to delegate these authorities?

What does delegation accomplish? What authorities are not delegated by EPA? Does EPA keep some authority? Administrative Requirements

**What is the purpose of this document?**

Through this document, EPA is proposing to accomplish the following objectives:

(1) Update the delegations tables in the Code of Federal Regulations, Title 40 (40 CFR), Parts 60 and 61 to provide an accurate listing of the delegated standards for Arizona and Nevada; and

(2) Clarify those authorities that are retained by EPA and not granted to state or local agencies as part of delegation.

These actions are described below.

Today's action proposes to update the delegation tables in 40 CFR Parts 60 and 61, to allow easier access by the public to the status of delegations in Arizona and Nevada jurisdictions. The updated delegation tables would include the delegations approved in response to recent requests, as well as those previously granted. The proposed tables are shown at the end of this document.

Recent requests for delegation that will be incorporated into the updated CFR tables are identified below. Each individual submittal identifies the specific NSPS and NESHAPs for which delegation was requested. All of these requests have already been approved by letter and simply need to be included in the CFR tables.

| Agency   | Date of request   | Date of EPA approval by letter                          |
|--|---|---|
| Nevada Division of Environmental Protection .... | December 27, 2004; June 22, 2005; August 17, 2005; April 4, 2006; and October 26, 2006. | September 21, 2005; May 12, 2006; and January 12, 2007. |
| Maricopa County Air Quality Department .....     | April 21, 2006 .....  | May 18, 2006, and June 14, 2006.                        |

**Who is authorized to delegate these authorities?**

Sections 111(c)(1) and 112(l) of the Clean Air Act, as amended in 1990, authorize the Administrator to delegate his or her authority for implementing and enforcing standards in 40 CFR Parts 60 and 61.

**What does delegation accomplish?**

Delegation grants a State or local agency the primary authority to

implement and enforce Federal standards. All required notifications and reports should be sent to the delegated State or local agency, as appropriate, with a copy to EPA Region IX. Acceptance of delegation constitutes agreement by the State or local agency to follow 40 CFR Parts 60 and 61, and EPA's test methods and continuous monitoring procedures.

**What authorities are not delegated by EPA?**

In general, EPA does not delegate to State or local agencies the authority to make decisions that are likely to be nationally significant, or alter the stringency of the underlying standards. For a more detailed description of the authorities in 40 CFR Parts 60 and 61 that are retained by EPA, please see the proposed rule published on January 14, 2002 (67 FR 1676).