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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[EPA-R09-OAR-2008-0229; FRL-8550-9]

**Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada, Nevada Division of Environmental Protection****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is amending certain regulations to reflect the current delegation status of national emission standards for hazardous air pollutants (NESHAP) in Nevada. Several NESHAP were delegated to the Nevada Division of Environmental Protection on December 4, 2007. The purpose of this action is to update the listing in the Code of Federal Regulations.

**DATES:** This rule is effective on June 2, 2008 without further notice, unless EPA receives adverse comments by May 5, 2008. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2008-0229, 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 delivery:* Andrew Steckel (AIR-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <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 <http://www.regulations.gov> or e-mail. <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 <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:** Mae Wang, EPA Region IX, (415) 947-4124, [wang.mae@epa.gov](mailto:wang.mae@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, “we,” “us” and “our” refer to EPA.

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**I. Background***A. Delegation of NESHAP*

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

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and Subpart E. To streamline the approval process for future applications, a state or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the state or local agency

would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

*B. NDEP Delegations*

On May 27, 1998, EPA published a direct final action delegating to the Nevada Division of Environmental Protection (NDEP) several NESHAP and approving NDEP’s delegation mechanism for future standards (see 63 FR 28906). That action explained the procedure for EPA to grant delegations to NDEP by letter, with periodic **Federal Register** listings of standards that have been delegated. On November 1, 2007, NDEP requested delegation of the following NESHAP contained in 40 CFR part 63:

- Subpart III—NESHAP: Surface Coating of Automobiles and Light-Duty Trucks
- Subpart PPPP—NESHAP for Surface Coating of Plastic Parts and Products
- Subpart GGGGG—NESHAP: Site Remediation
- Subpart HHHHH—NESHAP: Miscellaneous Coating Manufacturing
- Subpart DDDDDD—NESHAP for Polyvinyl Chloride and Copolymers Production Area Sources
- Subpart EEEEE—NESHAP for Primary Copper Smelting Area Sources
- Subpart FFFFFFF—NESHAP for Secondary Copper Smelting Area Sources
- Subpart GGGGG—NESHAP for Primary Nonferrous Metals Area Sources—Zinc, Cadmium, and Beryllium

On December 4, 2007, EPA granted delegation to NDEP for these NESHAP, along with any amendments to previously-delegated NESHAP, as of July 1, 2007. Today’s action is serving to notify the public of the December 4, 2007, delegations and to codify these delegations into the Code of Federal Regulations.

**II. EPA Action**

Today’s document serves to notify the public of the delegation of NESHAP to NDEP on December 4, 2007. Today’s action will codify these delegations into the Code of Federal Regulations.

**III. 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 updates the list of approved delegations in the Code of Federal Regulations and imposes no additional requirements. 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 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 (65 FR 67249, November 9, 2000). 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 updates the list of already-approved delegations, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 approves a state rule implementing a federal standard.

In reviewing state delegation submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. 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 state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. 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 June 2, 2008. 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 section 307(b)(2)).

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

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

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

Dated: March 19, 2008.

**Andrew Steckel,**

*Acting Director, Air Division, Region IX.*

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

**PART 63—[AMENDED]**

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

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

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

■ 2. Section 63.99 is amended by revising paragraph (a)(28)(i) to read as follows:

**§ 63.99 Delegated Federal authorities.**

- (a) \* \* \*
- (28) \* \* \*

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the air pollution control agencies in the State of Nevada. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—NEVADA

Subpart	Description	NDEP <sup>1</sup>	WCAQMD <sup>2</sup>	CCDAQM <sup>3</sup>
A .....	General Provisions .....	X	X	.....
F .....	Synthetic Organic Chemical Manufacturing Industry .....	X	.....	.....
G .....	Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	X	.....	.....
H .....	Organic Hazardous Air Pollutants: Equipment Leaks .....	X	.....	.....
I .....	Organic Hazardous Air Pollutants: Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	X	.....	.....
J .....	Polyvinyl Chloride and Copolymers Production .....	X	.....	.....
L .....	Coke Oven Batteries .....	X	.....	.....
M .....	Perchloroethylene Dry Cleaning .....	X	X	.....
N .....	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	X	X	.....
O .....	Ethylene Oxide Sterilization Facilities .....	X	X	.....
Q .....	Industrial Process Cooling Towers .....	X	.....	.....

## DELEGATION STATUS FOR PART 63 STANDARDS—NEVADA—Continued

Subpart	Description	NDEP <sup>1</sup>	WCAQMD <sup>2</sup>	CCDAQM <sup>3</sup>
R	Gasoline Distribution Facilities	X	X	
S	Pulp and Paper	X		
T	Halogenated Solvent Cleaning	X	X	
U	Group I Polymers and Resins	X		
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X		
X	Secondary Lead Smelting	X		
Y	Marine Tank Vessel Loading Operations	X		
AA	Phosphoric Acid Manufacturing Plants	X		
BB	Phosphate Fertilizers Production Plants	X		
CC	Petroleum Refineries	X		
DD	Off-Site Waste and Recovery Operations	X		
EE	Magnetic Tape Manufacturing Operations	X		
GG	Aerospace Manufacturing and Rework Facilities	X		
HH	Oil and Natural Gas Production Facilities	X		
II	Shipbuilding and Ship Repair (Surface Coating)	X		
JJ	Wood Furniture Manufacturing Operations	X		
KK	Printing and Publishing Industry	X	X	
LL	Primary Aluminum Reduction Plants	X		
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.	X		
OO	Tanks—Level 1	X		
PP	Containers	X		
QQ	Surface Impoundments	X		
RR	Individual Drain Systems	X		
SS	Closed Vent Systems, Control Devices, Recovery Devices and 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	Oil-Water Separators and Organic-Water Separators	X		
WW	Storage Vessels (Tanks)—Control Level 2	X		
XX	Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.	X		
YY	Generic MACT Standards	X		
CCC	Steel Pickling	X		
DDD	Mineral Wool Production	X		
EEE	Hazardous Waste Combustors	X		
GGG	Pharmaceuticals Production	X		
HHH	Natural Gas Transmission and Storage Facilities	X		
III	Flexible Polyurethane Foam Production	X		
JJJ	Group IV Polymers and Resins	X		
LLL	Portland Cement Manufacturing Industry	X		
MMM	Pesticide Active Ingredient Production	X		
NNN	Wool Fiberglass Manufacturing	X		
OOO	Manufacture of Amino/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, Catalytic Reforming, and Sulfur Recovery Units.	X		
VVV	Publicly Owned Treatment Works	X		
XXX	Ferroalloys Production	X		
AAAA	Municipal Solid Waste Landfills	X		
CCCC	Manufacturing of Nutritional Yeast	X		
DDDD	Plywood and Composite Wood Products	X		
EEEE	Organic Liquids Distribution (non-gasoline)	X		
FFFF	Miscellaneous Organic Chemical Manufacturing	X		
GGGG	Solvent Extraction for Vegetable Oil Production	X		
HHHH	Wet-Formed Fiberglass Mat Production	X		
IIII	Surface Coating of Automobiles and Light-Duty Trucks	X		
JJJJ	Paper and Other Web Coating	X		
KKKK	Surface Coating of Metal Cans	X		
MMMM	Miscellaneous Metal Parts and Products	X		
NNNN	Large Appliances	X		
OOOO	Printing, Coating, and Dyeing of Fabrics and Other Textiles	X		
PPPP	Surface Coating of Plastic Parts and Products	X		
QQQQ	Wood Building Products	X		
IRRRR	Surface Coating of Metal Furniture	X		
SSSS	Surface Coating of Metal Coil	X		
TTTT	Leather Finishing Operations	X		
UUUU	Cellulose Products Manufacturing	X		
VVVV	Boat Manufacturing	X		

DELEGATION STATUS FOR PART 63 STANDARDS—NEVADA—Continued

Subpart	Description	NDEP <sup>1</sup>	WCAQMD <sup>2</sup>	CCDAQM <sup>3</sup>
WWWW	Reinforced Plastics Composites Production	X		
XXXX	Tire Manufacturing	X		
YYYY	Stationary Combustion Turbines	X		
ZZZZ	Stationary Reciprocating Internal Combustion Engines	X		
AAAA	Lime Manufacturing Plants	X		
BBBB	Semiconductor Manufacturing	X		
CCCC	Coke Oven: Pushing, Quenching and Battery Stacks	X		
DDDD	Industrial, Commercial, and Institutional Boiler and Process Heaters	X		
EEEE	Iron and Steel Foundries	X		
FFFF	Integrated Iron and Steel	X		
GGGG	Site Remediation	X		
HHHH	Miscellaneous Coating Manufacturing	X		
JJJJ	Brick and Structural Clay Products Manufacturing	X		
KKKK	Clay Ceramics Manufacturing	X		
LLLL	Asphalt Roofing and Processing	X		
MMMM	Flexible Polyurethane Foam Fabrication Operation	X		
NNNN	Hydrochloric Acid Production	X		
PPPP	Engine Test Cells/Stands	X		
QQQQ	Friction Products Manufacturing	X		
SSSS	Refractory Products Manufacturing	X		
DDDDDD	Polyvinyl Chloride and Copolymers Production Area Sources	X		
EEEEEE	Primary Copper Smelting Area Sources	X		
FFFFFF	Secondary Copper Smelting Area Sources	X		
GGGGGG	Primary Nonferrous Metals Area Sources—Zinc, Cadmium, and Beryllium	X		

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

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

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

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[FR Doc. E8-6919 Filed 4-2-08; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[EPA-R03-RCRA-2008-0256; FRL-8548-9]

**Virginia: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Immediate final rule.

**SUMMARY:** Virginia has applied to EPA for Final authorization of the revisions of its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's revisions through this immediate final action. EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments that oppose this authorization during the comment period, the decision to authorize Virginia's changes to its hazardous

waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This Final authorization will become effective on June 2, 2008, unless EPA receives adverse written comment by May 5, 2008. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Submit your comments by one of the following methods:  
 1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. E-mail: Thomas UyBarreta, [uybarreta.thomas@epa.gov](mailto:uybarreta.thomas@epa.gov).

3. First Class or Overnight Mail: Thomas UyBarreta, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

4. Hand Delivery or Courier. Deliver your comments to Thomas UyBarreta, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

**Instructions:** We must receive your comments by May 5, 2008. Please refer to Docket Number EPA-R03-RCRA-

2008-0256. Do not submit information that you consider to be Confidential Business Information (CBI) or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. Such comments should be sent via First Class or overnight mail. The [Federal regulations.gov](http://Federal.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 [regulations.gov](http://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, even if you sent an e-mail comment directly to EPA, 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.

You can view and copy Virginia's application and associated publicly available materials from 8:15 a.m. to 4:30 p.m., Monday through Friday at the following locations: Virginia Department of Environmental Quality,