

**List of Subjects****40 CFR Part 60**

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Fossil-fuel steam generators, Glass and glass products, Grain, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper industry, Petroleum phosphate, Fertilizer, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, and Zinc.

**40 CFR Part 61**

Air pollution control, Asbestos, Benzene, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: September 21, 1995.

**Russell Rhoades,**

*Acting Regional Administrator.*

[FR Doc. 95-24877 Filed 10-5-95; 8:45 am]

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**40 CFR Parts 60 and 61**

[FRL-5310-8]

**Approval of Delegation of Authority to the State of New Mexico for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP)**

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

**ACTION:** Delegation of authority

**SUMMARY:** The EPA announces the delegation of authority to the State of New Mexico to implement and enforce the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). The provisions of full authority apply to all of the NSPS and NESHAP promulgated by the EPA from November 15, 1992, through February 1, 1995. Partial authority covers all new and amended standards promulgated after these dates, except as follows. The delegation of authority, under this notice, does not apply to: (1) The sources located in Bernalillo County, New Mexico; (2) the sources located on Indian lands as specified in the delegation agreement and in this notice; (3) the standards of performance for new residential wood heaters (subpart AAA) under 40 CFR part 60; and (4) the NESHAP radionuclide standards specified under 40 CFR part 61.

**EFFECTIVE DATE:** October 6, 1995.

**ADDRESSES:** The New Mexico Environment Department's request and delegation agreement may be obtained by writing to one of the following addresses:

Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), U.S. Environmental Protection Agency, 1445 Ross Avenue, suite 1200, Dallas, TX 75202, telephone: (214) 665-7214.  
Ms. Cecilia Williams, Chief, Air Quality Bureau, New Mexico Environment Department (NMED), Harold Runnels Building, room So. 2100, 1190 St. Francis Drive, Santa Fe, NM 87502, telephone: (505) 827-0042.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ken Boyce, Air Planning Section (6PD-L), U.S. Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202, telephone: (214) 665-7259.

**SUPPLEMENTARY INFORMATION:** The Clean Air Act Amendments (CAAA) of 1990 required the U. S. Environmental Protection Agency (EPA) to make significant changes to its approach to delegation of section 112 requirements. Prior to the 1990 Amendments to the CAA, delegation of section 112 requirements could occur without the need for a rulemaking by the EPA. However, new section 112(l) of the Act requires the EPA to approve, through rulemaking, a program for delegation which includes delegation of Federal requirements incorporated by reference. In an April 4, 1994, letter from Mr. Stan Meiburg, Director, Air, Pesticides & Toxics Division to Ms. Judith Espinosa, Secretary, New Mexico Environment Department, the EPA explained this procedural mechanism for delegation of section 112 requirements, and NMED's response, dated April 28, 1994, satisfactorily explained the State's course of action. Based on this correspondence, the Title V Federal Register notice (see 59 FR 59656-59660, November 18, 1994) outlined the State's plans to continue to incorporate by reference the Federal section 112 requirements regarding hazardous air pollutants into the New Mexico Air Quality Control Regulations, and stated that the NMED's request for approval of the part 70 program is also a request for approval of a program for delegation of unchanged section 112 standards. Based on approval of NMED's procedural mechanism for adopting Federal section 112 standards through incorporation by reference into the State's Part 70 Operating Permit Program, the EPA can continue to update the State's delegation of section 112 standards along with the update of section 111 NSPS. In the future, the effective date of the delegation for unchanged Federal standards under section 112 will be the effective date of the State's rule after its adoption. The effective date of the Federal delegation for NSPS under

section 111 will continue to be, as has been the case in the past, the EPA's letter of approval of the State's request for the NSPS delegation update.

Sections 111(c) and 112(l)(1) of the Clean Air Act allow the Administrator of the EPA to delegate the EPA's authority to any State or local agency which can submit adequate regulatory procedures for implementation and enforcement of the NSPS and NESHAP programs. Authority for the NSPS and NESHAP programs were delegated to the State of New Mexico (except for sources located in Bernalillo County and on Indian lands) on March 15, 1985.

The State requested the EPA to update the delegation of authority to the State for the NSPS and the NESHAP programs from November 15, 1992, through February 1, 1995. The State's request includes a revision of Air Quality Control Regulations (AQCR) 20 NMAC 2.77 (NSPS) and 2.78 (NESHAP) as adopted by the New Mexico Environmental Improvement Board. AQCR's 20 NMAC 2.77 and 2.78 incorporate the Federal NSPS and NESHAP by reference through February 1, 1995.

The EPA reviewed the NMED requests, AQCR's and all other information submitted by the NMED, to support the delegation of these programs. The EPA has determined that the State has adequate authority and effective procedures for implementing and enforcing the NSPS and NESHAP programs. Therefore, the EPA is delegating full authority to the State from November 15, 1992, through February 1, 1995, for NSPS and for NESHAP and authority for the technical and administrative review of new or amended NSPS and NESHAP promulgated by the EPA, subject to conditions and limitations of the original delegation agreement dated March 15, 1985. It is important to note that no delegation authority is granted to the NMED for Bernalillo County and Indian lands. Also, no authority is delegated to the State for 40 CFR part 60, subpart AAA, Standards of Performance for New Residential Wood Heaters, and for 40 CFR part 61 for the radionuclide NESHAP's. Specifically, the subparts for which delegation is excluded are subpart B (National Emission Standards for Radon-222 Emissions from Underground Uranium Mines), subpart H (National Emission Standards for Radionuclide Emissions from Department of Energy Facilities), subpart I (National Emission Standards for Radionuclide Emissions from Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not covered by subpart H),

subpart K (National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants), subpart Q (National Emission Standards for Radon Emissions from Department of Energy facilities), subpart R (National Emission Standards for Radon Emissions from Phosphogypsum Stacks), subpart T (National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings), and subpart W (National Emission Standards for Radon-222 Emissions from Licensed Uranium Mill Tailings).

Today's notice informs the public that the EPA is updating the delegation of full authority for the State to implement and enforce the NSPS and NESHAP promulgated by the EPA from November 15, 1992, through February 1, 1995. Authority for technical and administrative review is delegated for the new and amended standards after November 15, 1993. All of the information required pursuant to the Federal NSPS and NESHAP (40 CFR part 60 and 40 CFR part 61) should be submitted by sources located outside the boundaries of Bernalillo County and in areas outside of Indian lands, directly to the NMED, Harold Runnels Building, Room So. 2100, St. Francis Drive, Santa Fe, New Mexico 87502. Albuquerque/Bernalillo County is excluded from this action because this area is granted delegation authority under AQCR's 30 NSPS and 31 NESHAP to the City of Albuquerque's Environmental Health Department. Sources located on Indian lands in the State of New Mexico should submit required information to the EPA Region 6 office at the address given in this notice. All of the inquiries and requests concerning implementation and enforcement of the excluded standards under 40 CFR part 60, subpart AAA and 40 CFR part 61, subparts B, H, I, R, T, and W in the State of New Mexico should be directed to the EPA Region 6 Office.

The Office of Management and Budget has exempted this information notice from requirements of section 6 of Executive Order 12866.

This delegation is issued under the authority of sections 111(c) and 112(l)(1) of the Clean Air Act, as amended (42 U.S.C. 7411(C) and 7412(D)).

#### List of Subjects

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Petroleum phosphate, Fertilizer, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal of zinc.

##### 40 CFR Part 61

Air pollution control, Asbestos, Benzene, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: September 21, 1995.

Russell Rhoades,

Acting Regional Administrator.

[FR Doc. 95-24876 Filed 10-5-95; 8:45 am]

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##### 40 CFR Part 70

[AD-FRL-5307-9]

#### Clean Air Act Final Interim Approval of Operating Permits Program; Monterey Bay Unified Air Pollution Control District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

**SUMMARY:** The EPA is promulgating interim approval of the Operating Permits Program submitted by the Monterey Bay Unified Air Pollution Control District (Monterey or District) for the purpose of complying with federal requirements for an approvable state program to issue operating permits to all major stationary sources, and to certain other sources.

**EFFECTIVE DATE:** November 6, 1995.

**ADDRESSES:** Copies of Monterey's submittal and other supporting information used in developing the final interim approval are available for inspection (docket number CA-MN-95-1-OPS) during normal business hours at the following location: U.S. Environmental Protection Agency Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

**FOR FURTHER INFORMATION CONTACT:** Regina Spindler (telephone 415-744-1251), Mail Code A-5-2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to

approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program.

On May 16, 1995, EPA proposed interim approval of the operating permits program for the Monterey Bay Unified Air Pollution Control District. See 60 FR 26013. The EPA received public comment on the proposal and is responding to those comments in this document and in a separate "Response to Comments" document contained in the docket at the Regional Office. As a result of public comment, EPA has modified one of the interim approval issues set forth in the May 16, 1995 proposal. The EPA's proposed action on the operating permits program is therefore being revised to reflect the modification of the interim approval issue. This change is discussed below in II.B. along with the other issues raised during the public comment period. The May 16, 1995 Federal Register notice also proposed approval of Monterey's interim mechanism for implementing section 112(g) and proposed approval under section 112(l) of the District's program for accepting delegation of section 112 standards as promulgated. The EPA did not receive any public comment on these proposed actions. With the exception of the modification to the interim approval issue discussed above, the proposed actions discussed above have not been altered as a result of public comment. In this notice EPA is taking final action to promulgate interim approval of the operating permits program and approving the section 112(g) mechanism and section 112(l) program for delegation noted above for Monterey.

##### II. Final Action and Implications

###### A. Analysis of District Submission

Monterey's original title V program was submitted by the California Air Resources Board (CARB) on December 6, 1993. Additional material was submitted on February 2, 1994 and April 7, 1994. The submittal was found to be complete on February 4, 1994. The EPA determined in its evaluation of Monterey's program that Rule 218, the