

chapter I, as a consequence of the changes made by section 1111 of the Homeland Security Act of 2002. With the exception of 27 CFR parts 28, 31, and 41, for which administrative changes were previously made, the final rule amended the remaining parts of 27 CFR chapter I that required nomenclature, organizational, and other administrative changes to conform them to the current name and organizational structure of TTB. For example, the final rule replaced references to ATF and its officers with appropriate TTB references. The final rule made no substantive change to the regulations in question.

After the publication of the final rule, two amendatory instructions were found to contain inadvertent errors. First, amendatory instruction 67a, regarding 27 CFR 19.11, referred to "Area Supervisor" and "Regional Director" when it should have referred to, respectively, "Area supervisor" and "Region director (compliance)." Second, amendatory instruction 131a, regarding section 40.11, referred to "Regions" and "Regional director" when it should have referred to "Region" and Regional Director (compliance)," respectively.

■ Therefore, in the **Federal Register** of April 4, 2006, the following corrections are made:

■ (1) On page 16928, in the second column, paragraph "a" of amendatory instruction 67 is corrected to read as follows:

■ a. Remove the definitions of "Area supervisor", "ATF bond", "ATF officer", "Director", "Region", and "Region director (compliance)".

■ (2) On page 16948, in the first column, paragraph "a" of amendatory instruction 131 is corrected to read as follows:

■ a. Remove the definitions of "Appropriate ATF officer", "Associate Director (Compliance Operations)", "ATF", "ATF officer", "Director", "Region", and "Regional Director (compliance)".

Dated: April 25, 2006.

Francis W. Foote,

Director, Regulations and Rulings Division.

[FR Doc. 06-4073 Filed 5-1-06; 8:45 am]

BILLING CODE 4810-31-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-R06-OAR-2005-TX-0034; FRL-8164-6]

### National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Texas

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

**ACTION:** Direct final rule; delegation of authority.

**SUMMARY:** The Texas Commission on Environmental Quality (TCEQ) has submitted updated regulations for receiving delegation of EPA authority for National Emission Standards for Hazardous Air Pollutants (NESHAPs) for certain sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAPs promulgated by EPA, as adopted by the TCEQ. The delegation of authority under this action does not apply to sources located in Indian Country. EPA is taking direct final action to approve the delegation of certain NESHAPs to TCEQ.

**DATES:** This rule is effective on July 3, 2006 without further notice, unless EPA receives relevant adverse comment by June 1, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2005-TX-0034, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Jeff Robinson at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov).

- Fax: Mr. Jeff Robinson, Air Permits Section (6PD-R), at fax number 214-665-7263.

- Mail: Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements

should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R06-OAR-2005-TX-0034. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through [www.regulations.gov](http://www.regulations.gov), or e-mail. The [www.regulations.gov](http://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](http://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](http://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 <http://www.regulations.gov> or in hard copy at the Air Permitting Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will

be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12100 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Robinson, U.S. EPA, Region 6, Multimedia Planning and Permitting Division (6PD), 1445 Ross Avenue, Dallas, TX 75202-2733, telephone (214) 665-6435; fax number 214-665-7263; or electronic mail at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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**I. General Information**

**A. Tips for Preparing Your Comments**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

**B. Submitting Confidential Business Information (CBI)**

Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

**II. What Does This Action Do?**

EPA is taking direct final action to approve the delegation of certain NESHAPs to TCEQ. With this delegation, TCEQ has the primary responsibility to implement and enforce the delegated standards. See sections VI and VII, below, for a complete discussion of which standards are being delegated and which are not being delegated.

**III. What Is the Authority for Delegation?**

Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorizes EPA to delegate authority to any state or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The hazardous air pollutant standards are codified at 40 CFR part 63.

**IV. What Criteria Must Texas' Program Meet To Be Approved?**

Section 112(l) of the CAA enables EPA to approve State air toxics programs or rules to operate in place of the Federal air toxics program or rules. 40 CFR part 63, subpart E (subpart E)

governs EPA's approval of State rules or programs under section 112(l).

EPA will approve an air toxics program if we find that:

(1) The State program is "no less stringent" than the corresponding Federal program or rule;

(2) The State has adequate authority and resources to implement the program;

(3) The schedule for implementation and compliance is sufficiently expeditious; and

(4) The program otherwise complies with Federal guidance.

In order to obtain approval of its program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation), only the criteria of 40 CFR 63.91(d) must be met. 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) for part 70 sources.

**V. How Did TCEQ Meet the Subpart E Approval Criteria?**

As part of its Title V submission, TCEQ stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 into its regulations. This applied to both existing and future standards as they applied to part 70 sources ((60 FR 30444 (June 7, 1995) and 61 FR 32699 (June 25, 1996)). On December 6, 2001, EPA promulgated final full approval of the State's operating permits program effective November 30, 2001 (66 FR 63318). The TCEQ was originally delegated the authority to implement certain NESHAPs effective May 17, 2005 (70 FR 13018). Under 40 CFR 63.91(d)(2), once a state has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals. TCEQ has affirmed that it still meets the up-front approval criteria.

**VI. What Is Being Delegated?**

EPA received a request from TCEQ to update its existing delegation of certain NESHAP subparts on July 26, 2005. The TCEQ requests delegation of certain NESHAP for all sources (both part 70 and non-part 70 sources). For the part 63 NESHAPs, Texas' request included the newly incorporated NESHAPs set forth in Table 1 below, and amendments to existing standards that are currently delegated.

TABLE 1.—40 CFR PART 63 NESHAP FOR SOURCE CATEGORIES

Subpart	Source category
EEEE	Organic Liquids Distribution (Non-Gasoline).
FFFF	Miscellaneous Organic Chemical Manufacturing (MON).
IIII	Surface Coating of Automobiles and Light-Duty Trucks.
KKKK	Surface Coating of Metal Cans.
MMMM	Surface Coating of Miscellaneous Metal Parts and Products.
OOOO	Printing, Coating, and Dyeing of Fabrics and Other Textiles.
PPPP	Surface Coating of Plastic Parts and Products.
QQQQ	Surface Coating of Wood Building Products.
RRRR	Surface Coating of Metal Furniture.
WWWW	Reinforced Plastic Composites Production.
YYYY	Stationary Combustion Turbines.
ZZZZ	Stationary Reciprocating Internal Combustion Engines (RICE).
AAAA	Lime Manufacturing Plants.
BBBB	Semiconductor Manufacturing.
CCCC	Coke Ovens: Pushing, Quenching, and Battery Stacks
EEEE	Iron and Steel Foundries.
FFFF	Integrated Iron and Steel Manufacturing Facilities.
GGGG	Site Remediation.
HHHH	Miscellaneous Coating Manufacturing.
IIII	Mercury Emissions from Mercury Cell Chlor-Alkali Plants.
JJJJ	Brick and Structural Clay Products Manufacturing.
KKKK	Clay Ceramics Manufacturing.
LLLL	Asphalt Processing and Asphalt Roofing Manufacturing.
MMMM	Flexible Polyurethane Foam Fabrication Operations.
NNNN	Hydrochloric Acid Production.
PPPP	Engine Test Cells/Stands.
RRRR	Taconite Iron Ore Processing.
SSSS	Refractory Products Manufacturing.
TTTT	Primary Magnesium Refining.

## VII. What Is Not Being Delegated?

EPA cannot delegate to a State any of the Category II Subpart A 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. In addition, some MACT standards have certain provisions that cannot be delegated to the States. Therefore, any MACT standard that EPA is delegating to TCEQ that provides that certain authorities cannot be delegated are retained by EPA and not delegated. 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, section 112(r), the accidental release program authority, is not being delegated by this approval.

All of the inquiries and requests concerning implementation and enforcement of the excluded standards in the State of Texas should be directed to the EPA Region 6 Office.

EPA must change the delegation status of part 63—Subpart J standards for Polyvinyl Chloride and Copolymers Production in this delegation action. This subpart was vacated by *Mossville Environmental Action Now v. EPA*, 370 F. 3d 1232 (D.C. Cir. 2004), and EPA's petition for rehearing was denied by the Court of Appeals for the D.C. Circuit on April 15, 2005. This subpart was previously delegated to TCEQ. In addition, this delegation to TCEQ to implement and enforce certain NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. Under this definition, EPA treats as reservations, trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Consistent with previous federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country because TCEQ has not submitted information to demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

## VIII. How Will Applicability Determinations Under Section 112 Be Made?

In approving this delegation, TCEQ will obtain concurrence from EPA on

any matter involving the interpretation of section 112 of the CAA or 40 CFR part 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

## IX. What Authority Does EPA Have?

We retain the right, as provided by CAA section 112(l)(7), to enforce any applicable emission standard or requirement under section 112. EPA also has the authority to make certain decisions under the General Provisions (subpart A) of part 63. We are granting TCEQ some of these authorities, and retaining others, as explained in sections VI and VII above. In addition, EPA may review and disapprove of State determinations and subsequently require corrections. (See 40 CFR 63.91(g) and 65 FR 55810, 55823, September 14, 2000.)

Furthermore, we retain any authority in an individual emission standard that may not be delegated according to provisions of the standard. Also, listed in the footnotes 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.

#### **X. What Information Must TCEQ Provide to EPA?**

In delegating the authority to implement and enforce these rules and in granting a waiver of EPA notification requirements, we require TCEQ to input all source information into the Aerometric Information Retrieval System (AIRS) for both point and area sources. TCEQ must enter this information into the AIRS system and update the information by September 30 of every year. TCEQ must provide any additional compliance related information to 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, TCEQ must submit to EPA Region 6 on a semi-annual basis, copies of determinations issued under these authorities. For part 63 standards, these determinations include: Applicability determinations (§ 63.1); approval/disapprovals of construction and reconstruction (§ 63.5(e) and (f)); notifications regarding the use of a continuous opacity monitoring system (§ 63.6(h)(7)(ii)); finding of compliance (§ 63.6(h)(8)); approval/disapprovals of compliance extensions (§ 63.6(i)); approvals/disapprovals of minor (§ 63.7(e)(2)(i) or intermediate (§ 63.7(e)(2)(ii) and (f) alternative test methods; approval of shorter sampling times and volumes (§ 63.7(e)(2)(iii)); waiver of performance testing (§ 63.7(e)(2)(iv) and (h)(2), (3)); approvals/disapprovals of minor or intermediate alternative monitoring methods (§ 63.8(f)); approval of adjustments to time periods for submitting reports (§ 63.9 and 63.10); and approvals/disapprovals of minor alternatives to recordkeeping and reporting (§ 63.10(f)).

Additionally, EPA's Emissions, Monitoring, and Analysis Division must receive copies of any approved intermediate changes to test methods or monitoring. (Please note that intermediate changes to test methods must be demonstrated as equivalent through the procedures set out in EPA method 301.) This information on approved intermediate changes to test methods and monitoring will be used to compile a database of decisions that will be accessible to State and local agencies and EPA Regions for reference in making future decisions. (For definitions of major, intermediate and minor alternative test methods or monitoring methods, see 40 CFR 63.90). The TCEQ should forward these intermediate test methods or monitoring

changes via mail or facsimile to: Chief, Air Measurements and Quality Group, Emissions Monitoring and Analysis Division, Office of Air Quality Planning and Standards, Mailcode D205-02, Research Triangle Park, NC 27711, Facsimile telephone number: (919) 541-0516.

#### **XI. What Is EPA's Oversight of This Delegation to TCEQ?**

EPA must oversee TCEQ'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 TCEQ made decisions that decreased the stringency of the delegated standards, then TCEQ shall be required to take corrective actions and the source(s) affected by the decisions will be notified, as required by 40 CFR 63.91(g)(1)(ii). We will initiate withdrawal of the program or rule if the corrective actions taken are insufficient.

#### **XII. Should Sources Submit Notices to EPA or TCEQ?**

For the NESHAPS being delegated and included in the table above, all of the information required pursuant to the general provisions and the relevant subpart of the Federal NESHAP (40 CFR part 63) should be submitted by sources located outside of Indian country, directly to the TCEQ at the following address: Texas Commission on Environmental Quality, Office of Permitting, Remediation and Registration, Air Permits Division (MC 163), P.O. Box 13087, Austin, Texas 78711-3087. The TCEQ is the primary point of contact with respect to delegated NESHAPS. Sources do not need to send a copy to EPA. EPA Region 6 waives the requirement that notifications and reports for delegated standards be submitted to EPA in addition to TCEQ in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii). For those standards that are not delegated, sources must continue to submit all appropriate information to EPA.

#### **XIII. How Will Unchanged Authorities Be Delegated to TCEQ in the Future?**

In the future, TCEQ will only need to send a letter of request to EPA, Region 6, for NESHAP regulations that TCEQ 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 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 TCEQ.

#### **XIV. Final Action**

The public was provided the opportunity to comment on the proposed approval of the program and mechanism for delegation of section 112 standards, as they apply to part 70 sources, on June 7, 1995, for the proposed interim approval of TCEQ's Title V operating permits program; and on October 11, 2001, for the proposed final approval of TCEQ's Title V operating permits program. In EPA's final full approval of Texas' Operating Permits Program on December 6, 2001, (66 FR 63318), the EPA discussed the public comments on the proposed final delegation of the Title V operating permits program. In today's action, the public is given the opportunity to comment on the approval of TCEQ'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 Texas' state 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 delegation of authority described in this action if adverse comments are received. This action will be effective July 3, 2006 without further notice unless the Agency receives relevant adverse comments by June 1, 2006.

If EPA receives relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public the rule will not take effect. 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.

**XVI. 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 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 (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 approves a state rule implementing a Federal standard, 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 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. 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 July 3, 2006. 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, 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: April 24, 2006.

**Richard E. Greene,**  
Regional Administrator, Region 6.

■ 40 CFR part 63 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)(43)(i) to read as follows:

**§ 63.99 Delegated Federal authorities.**

(a) \* \* \*

(43) \* \* \*

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Texas Commission on Environmental Quality for all sources. 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, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after the effective date are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS.—STATE OF TEXAS<sup>1</sup>

Subpart	Source category	TCEQ <sup>2</sup>
F .....	Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI) .....	X
G .....	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater .....	X
H .....	HON—Equipment Leaks .....	X
I .....	HON—Certain Processes Negotiated Equipment Leak Regulation .....	X
J .....	Polyvinyl Chloride and Copolymers Production .....	<sup>3</sup> X
K .....	(Reserved) .....	
L .....	Coke Oven Batteries .....	X

DELEGATION STATUS FOR PART 63 STANDARDS.—STATE OF TEXAS<sup>1</sup>—Continued

Subpart	Source category	TCEQ <sup>2</sup>
M	Perchloroethylene Dry Cleaning	X
N	Chromium Electroplating and Chromium Anodizing Tanks	X
O	Ethylene Oxide Sterilizers	X
P	(Reserved)	
Q	Industrial Process Cooling Towers	X
R	Gasoline Distribution	X
S	Pulp and Paper Industry	X
T	Halogenated Solvent Cleaning	X
U	Group I Polymers and Resins	X
V	(Reserved)	
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X
X	Secondary Lead Smelting	X
Y	Marine Tank Vessel Loading	X
Z	(Reserved)	
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	X
FF	(Reserved)	
GG	Aerospace Manufacturing and Rework Facilities	X
HH	Oil and Natural Gas Production Facilities	X
II	Shipbuilding and Ship Repair Facilities	X
JJ	Wood Furniture Manufacturing Operations	X
KK	Printing and Publishing Industry	X
LL	Primary Aluminum Reduction Plants	X
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semichemical Pulp Mills	X
NN	(Reserved)	
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	
TT	Equipment Leaks—Control Level 1	X
UU	Equipment Leaks—Control Level 2 Standards	X
VV	Oil-Water Separators and Organic-Water Separators	X
WW	Storage Vessels (Tanks)—Control Level 2	X
XX	(Reserved)	
YY	Generic Maximum Achievable Control Technology Standards	X
ZZ-BBB	(Reserved)	
CCC	Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration	X
DDD	Mineral Wool Production	X
EEE	Hazardous Waste Combustors	X
FFF	(Reserved)	
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
KKK	(Reserved)	
LLL	Portland Cement Manufacturing	X
MMM	Pesticide Active Ingredient Production	X
NNN	Wool Fiberglass Manufacturing	X
OOO	Amino/Phenolic Resins	X
PPP	Polyether Polyols Production	X
QQQ	Primary Copper Smelting	X
RRR	Secondary Aluminum Production	X
SSS	(Reserved)	
TTT	Primary Lead Smelting	X
UUU	Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants	X
VVV	Publicly Owned Treatment Works (POTW)	X
WWW	(Reserved)	
XXX	Ferroalloys Production: Ferromanganese and Silicomanganese	X
AAAA	Municipal Solid Waste Landfills	X
CCCC	Nutritional Yeast Manufacturing	X
DDDD	Plywood and Composite Wood Products	
EEEE	Organic Liquids Distribution	X
FFFF	Miscellaneous Organic Chemical Manufacturing (MON)	X
GGGG	Solvent Extraction for Vegetable Oil Production	X
HHHH	Wet Formed Fiberglass Mat Production	X
IIII	Auto & Light Duty Truck	X
JJJJ	Paper and other Web (Surface Coating)	X
KKKK	Surface Coating of Metal Cans	X

DELEGATION STATUS FOR PART 63 STANDARDS.—STATE OF TEXAS<sup>1</sup>—Continued

Subpart	Source category	TCEQ <sup>2</sup>
MMMM	Miscellaneous Metal Parts and Products Surface Coating	X
NNNN	Surface Coating of Large Appliances	X
OOOO	Fabric Printing Coating and Dyeing	X
PPPP	Surface Coating of Plastic Parts and Products	X
QQQQ	Surface Coating of Wood Building Products	X
RRRR	Surface Coating of Metal Furniture	X
SSSS	Surface Coating for Metal Coil	X
TTTT	Leather Finishing Operations	X
UUUU	Cellulose Production Manufacture	X
VVVV	Boat Manufacturing	X
WWWW	Reinforced Plastic Composites Production	X
XXXX	Tire Manufacturing	X
YYYY	Stationary Combustion Turbines	X
ZZZZ	Reciprocating Internal Combustion Engines	X
AAAA	Lime Manufacturing	X
BBBB	Semiconductor Manufacturing	X
CCCC	Coke Ovens: Pushing, Quenching and Battery Stacks	X
DDDD	Industrial, Commercial, and Institutional Boilers 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
IIII	Mercury Cell Chlor-Alkali Plants	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, Fumed Silica Production	X
PPPP	Engine Test Facilities	X
QQQQ	Friction Materials Manufacturing	X
RRRR	Taconite Iron Ore Processing	X
SSSS	Refractory Products Manufacture	X
TTTT	Primary Magnesium Refining	X

<sup>1</sup> Program delegated to Texas Commission on Environmental Quality (TCEQ).

<sup>2</sup> 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.

<sup>3</sup> The TCEQ was previously delegated this subpart on May 17, 2005 (70 FR 13018). The subpart was vacated and remanded to 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 TCEQ at this time.

\* \* \* \* \*  
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**DEPARTMENT OF HOMELAND SECURITY**

**48 CFR Chapter 30**

RIN 1601-AA16

**Revision of Department of Homeland Security Acquisition Regulation**

**AGENCY:** Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts, with specified changes, the interim rule establishing the Department of Homeland Security Acquisition Regulation (HSAR). This regulation supplements the Federal Acquisition Regulation (FAR) and provides a uniform department-wide acquisition

regulation for the Department of Homeland Security (DHS). The HSAR provides specificity about the Department's organization, policies, procedures, and delegations of authority. The FAR and HSAR apply to all DHS entities, except the Transportation Security Administration (TSA).

**DATES:** This rule is effective on June 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Kathy Strouss, Office of the Chief Procurement Officer, Department of Homeland Security: (202) 205-0141.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Discussion of Public Comments
- III. Additional Technical Changes
- IV. Regulatory Requirements
  - A. Executive Order 12866 Assessment
  - B. Regulatory Flexibility Act
  - C. Paperwork Reduction Act
  - D. Executive Order 13132 Federalism

**I. Background**

On December 4, 2003, the HSAR was published in the *Federal Register* (68 FR 67867) as an interim rule and request for comment. Simultaneously, DHS promulgated the Homeland Security Acquisition Manual (HSAM), which provides procedural guidance on internal acquisition matters that need not be set out in a regulation.

The numbering scheme of the HSAR and HSAM parallels that of the FAR. The purpose of the HSAR is not to duplicate the FAR text. Instead, the HSAR supplements the FAR by providing specificity regarding DHS's organization, policies, procedures, and delegations, and by implementing unique authorities provided by the Homeland Security Act, Public Law 107-296, as amended. These authorities include: (1) Increased use of FAR part 12, simplified acquisition, and micro-purchase procedures where the Department's mission would be