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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63****[EPA-R06-OAR-2012-0765; FRL-9918-61-Region 6]****National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Arkansas****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule; delegation of authority.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, through a “direct final” procedure, the straight delegation of authority and approval of the mechanism used for the implementation and enforcement of certain unchanged Federal section 112 rules to the Arkansas Department of Environmental Quality (ADEQ), pursuant to section 112(l) of the Clean Air Act (Act or CAA). A more detailed description of the procedures used to implement the delegation is set forth in a memorandum of agreement (MOA) between ADEQ and EPA, dated September 17, 2014, a copy of which may be found in the docket for this rulemaking, as discussed below. The delegation only encompasses sources subject to one or more Federal section 112 standards (Part 63 standards specifically) which are also subject to the requirements of the Title V operating permits program. The delegation of authority under this action does not include authorities contained in CAA section 112(r).

**DATES:** The rule is effective on January 12, 2015 without further notice, unless EPA receives relevant adverse comment by December 12, 2014. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2012-0765, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
- Email: Mr. Rick Barrett at [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov). Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Mail or delivery: Mr. Rick Barrett, Air Permits Section (6PD-R), Environmental Protection Agency, 1445

Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

**Instructions:** Direct your comments to Docket No. EPA-R06-OAR-2012-0765. 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://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 through <http://www.regulations.gov> or email, if you believe that it is CBI or otherwise protected from disclosure. The <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 email comment directly to EPA without going through <http://www.regulations.gov>, your email 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 along with any disk or CD-ROM submitted. 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 and any form of encryption and be free of any defects or viruses. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**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 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. 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 at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Barrett (6PD-R), Air Permits Section, telephone (214) 665-7227; email: [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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**I. Why are we delegating this program to ADEQ?**

Section 112(l) of the CAA enables a State to develop and submit to EPA for approval a program for partial or complete delegation of EPA’s authorities for the implementation and enforcement of the requirements found in section 112 of the Act pertaining to the regulation of hazardous air pollutants (Federal section 112 rules). After notice and opportunity for public comment, the State program may be approved if EPA determines that: (1) the authorities contained in the program are adequate to assure compliance by all sources within the State with each applicable requirement, regulation, or requirement established by EPA under CAA section 112; (2) the State has adequate authority and resources to implement the program; (3) the schedule for implementing the program and assuring compliance by affected sources is sufficiently expeditious; and (4) the program is otherwise in compliance with guidance issued by EPA under CAA section 112(l)(2) and is likely to satisfy the objectives of the CAA. Once approved, the air toxics program may be implemented and enforced by the delegated State or local agency, as well as EPA. Implementation by local agencies is dependent upon appropriate sub-delegation.

**II. What is the history of this request for delegation?**

In a **Federal Register** notice dated September 8, 1995, EPA Region 6

promulgated final interim approval of the Arkansas Operating Permit Program. 60 FR 46771. As such, ADEQ met the up-front approval criteria for delegation of unchanged Part 63 standards, as set forth in 40 CFR 63.91(d). By letter dated June 7, 2010, ADEQ requested EPA's delegation of authority and approval of the mechanism it will use to implement and enforce the delegated Part 63 standards—that is, through its EPA-approved Title V Operating Permit Program (the effective date of the latest approved revision is November 8, 2004; 40 CFR Part 70, Appendix A). ADEQ's request does not seek delegation of the Part 63 standards applicable to area sources that do not federally require a Title V (Part 70) operating permit nor does ADEQ request delegation of the accidental release requirements of CAA section 112(r).

On August 3, 2010, EPA found the State's submittal complete. In this document EPA is taking final action to approve the mechanism for the implementation and enforcement of those Part 63 standards specifically identified in 40 CFR 63.99(a)(4), using the procedures set forth more specifically in the MOA between ADEQ and EPA.

### III. How will ADEQ implement this delegation?

As stated in its letter, dated June 7, 2010, ADEQ intends to implement and enforce the delegated Part 63 standards through its EPA-approved Title V program. In order to ensure timely implementation and enforcement of these standards, ADEQ and EPA have executed an MOA, dated September 17, 2014, a copy of which has been placed in the docket associated with this rulemaking. As detailed more fully in the MOA, upon promulgation of a *new* or *revised* Part 63 standard that applies to Title V sources, ADEQ will issue or reopen the appropriate permit to include the new or revised Part 63 standard according to the permit issuance schedule set forth in the MOA. After the permit has been revised to include the new or revised Part 63 standard, ADEQ will be able to implement and enforce the terms of the permit containing the Part 63 standard requirements. Also, ADEQ must notify EPA within 45 days of the final promulgation of a new or revised Part 63 standard if ADEQ does not intend to implement or enforce the standard under this delegation. ADEQ asserts that existing Part 63 standards have already been incorporated into Title V permits for most Title V sources in Arkansas subject to existing Part 63 standards; however, should ADEQ identify a Title

V source where existing Part 63 standards have not been incorporated into such permit, it will re-open the source's Title V permit to incorporate those Part 63 standards. As such, EPA's delegation of implementation and enforcement of the Part 63 standards found in 40 CFR 63.99(a)(4), established in this rulemaking, will be effective only after incorporation of those standards into the source's Title V (Part 70) permit. Arkansas will assume responsibility for the timely implementation and enforcement required by each standard, as well as any further activities agreed to by ADEQ and EPA. Some activities necessary for effective implementation of the Part 63 standards include receipt of initial notifications, recordkeeping, reporting and generally assuring that sources subject to a standard are aware of its existence.

### IV. What requirements did ADEQ meet to receive today's approval?

As stated above, CAA section 112(l)(5) sets forth the requirements for EPA approval of a State's air toxics program. On November 26, 1993, EPA promulgated regulations to provide guidance relating to the approval of State programs under section 112(l) of the Act. 40 FR 62262. These rules were revised on September 14, 2000. 40 FR 55809. That rulemaking outlined the requirements of approval with respect to various delegation options. The requirements for approval pursuant to section 112(l)(5) of the Act, for a program to implement and enforce Part 63 standards as promulgated without changes (also known as "straight delegation") are found at 40 CFR 63.91. Any request for approval must meet all CAA section 112(l) approval criteria, as well as all approval criteria of 40 CFR 63.91.

With respect to the approval criteria for straight delegation, 40 CFR 63.91(a) provides that only the approval criteria of 40 CFR 63.91(d) be met. In turn, 40 CFR 63.91(d)(3) states that interim or final Title V program approval will satisfy the criteria set forth in 40 CFR 63.91(d), up-front approval criteria. The requirements for delegation approval specified in CAA section 112(l)(5)—that a State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule—are also requirements for an adequate operating permits program under 40 CFR Part 70 (40 CFR 70.4). Therefore, EPA's interim or final approval of a State's Title V operating permits program should also meet the CAA section 112(l) requirements for delegation of the Part

63 noted above as they apply to Title V (Part 70) sources.

### V. How did ADEQ meet the approval criteria?

EPA granted final interim approval for the Arkansas Operating Permit Program under Part 70 in a rulemaking published September 8, 1995. 60 FR 46771. In the **Federal Register** notice proposing interim approval of the Arkansas Operating Permit Program, EPA discussed the delegation of unchanged Part 63 standards as they apply to Part 70 sources and noted that Arkansas plans to use the mechanism of incorporation by reference to adopt unchanged Part 63 standards into its regulations. 59 FR 47828, 47830 (September 19, 1994). In an October 9, 2001 rulemaking, EPA took final action to fully approve the Arkansas Operating Permit Program. 66 FR 51312. In accordance with 40 CFR 63.91(d), the up-front approval criteria for delegation of unchanged Part 63 standards as requested by ADEQ have been met. However, EPA's October 9, 2001 **Federal Register** notice failed to discuss the *mechanism* associated with delegation of the Part 63 standards for sources subject to the Part 70 program. As discussed above, sources subject to the Part 70 program are those sources that are operating pursuant to a Part 70 permit issued by the State, local agency or EPA. Sources not subject to the Part 70 program are those sources that are not required to obtain a Part 70 permit from either the State, local agency or EPA (see 40 CFR 70.3); e.g., exempted area sources. As stated above, the CAA section 112(l) requirements for approval of the Arkansas' program for straight delegation were satisfied when EPA granted approval of the Arkansas Operating Permit Program. EPA's approval also met the up-front criteria set forth in 40 CFR 63.91(d).

Since ADEQ intends to implement and enforce unchanged Part 63 standards ("straight delegation") through its EPA-approved Title V Operating Permit Program, there are several issues which need to be separately addressed and resolved in order to ensure the requirements for delegation under CAA section 112(l) and 40 CFR Part 63, Subpart E are met. *See also* 65 FR 55813 (September 14, 2000). EPA believes all such issues have been addressed in the MOA, dated September 17, 2014, executed by ADEQ and EPA, a copy of which has been included in the docket for this rulemaking. ADEQ will implement and enforce Part 63 standards applicable to Title V sources required to obtain a Part 70 permit by including the applicable

Part 63 standards in Title V operating permits, in accordance with the procedures set forth in the MOA. The permit must be effective prior to the first substantial compliance date for all future new and revised Part 63 standards, unless ADEQ has notified EPA in advance that it does not intend to accept delegation for implementation or enforcement, as discussed in the MOA referenced above. Adequate resources will be obtained through monies from the State's Title V program that can be used to fund acceptable Title V activities. Upon promulgation of a new or revised Part 63 standard, ADEQ will immediately begin activities necessary for timely implementation of the standard. These activities will involve identifying sources subject to the applicable requirements and notifying these sources of the applicable requirements. Nothing in the Arkansas program for straight delegation is contrary to Federal guidance.

#### **VI. How are sources subject to certain listed standards going to be handled since ADEQ did not accept delegation of these standards?**

In its June 7, 2010, request for delegation of authority and approval of the mechanism used to implement and enforce the delegated Part 63 standards, ADEQ noted that it was not requesting delegation of Part 63 standards for area sources not required to obtain a Title V (Part 70) permit. ADEQ also noted that it was not requesting delegation of the accidental release requirements under CAA section 112(r). Since ADEQ is not accepting delegation of these standards, EPA will be the primary enforcement authority for those standards. However, these undelegated Part 63 standards remain requirements of the sources subject to these standards; therefore, ADEQ must ensure that the Part 63 standard is included in the appropriate federally-enforceable permit for subject sources, and sources subject to these standards must continue to comply with their requirements.

#### **VII. What is being delegated?**

By letter dated July 7, 2010, ADEQ requested EPA delegate certain Part 63 standards. ADEQ is requesting delegation and approval to implement and enforce the existing Part 63 standards as they apply to Part 70 sources, including major and area sources subject to the Title V (Part 70) permitting requirements. More specifically, ADEQ's request included the Part 63 standards set forth in the MOA included in the docket for this rulemaking. See Docket No. EPA-R06-OAR-2012-0765.

#### **VIII. What is not being delegated?**

ADEQ has not requested, nor does this rulemaking approve, any delegation of those Part 63 standards that apply to area sources which do not require a Title V (Part 70) permit. In addition, EPA cannot delegate to a State any of the Category II authorities set forth in 40 CFR 63.91(g) (2). These include the following provisions: § 63.6(g), Approval of Alternative Non-Opacity Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; and § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. In addition, some Part 63 standards have certain provisions that cannot be delegated to the States. Therefore, any Part 63 standard that EPA is delegating to ADEQ 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, CAA 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 Arkansas should be directed to the EPA Region 6 Office.

#### **IX. How will applicability determinations under section 112 be made?**

In approving this delegation, the State will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the Clean Air Act or 40 CFR Part 63 to the extent that implementation, administration, or enforcement of those provisions are not covered by current EPA determinations or guidance.

#### **X. What information must ADEQ provide to EPA?**

ADEQ 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, ADEQ 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: Section 63.1, Applicability Determinations; Section 63.6(e), Operation and Maintenance Requirements—Responsibility for Determining Compliance; Section 63.6(f), Compliance with Non-Opacity Standards—Responsibility for Determining Compliance; Section 63.6(h), Compliance with Opacity and Visible Emissions Standards—Responsibility for Determining Compliance; Sections 63.7(c)(2)(i) and (d), Approval of Site-Specific Test Plans; Section 63.7(e)(2)(i), Approval of Minor Alternatives to Test Methods; Section 63.7(e)(2)(ii) and (f), Approval of Intermediate Alternatives to Test Methods; Section 63.7(e)(iii), Approval of Shorter Sampling Times and Volumes When Necessitated by Process Variables or Other Factors; Sections 63.7(e)(2)(iv), (h)(2), and (h)(3), Waiver of Performance Testing; Sections 63.8(c)(1) and (e)(1), Approval of Site-Specific Performance Evaluation (Monitoring) Test Plans; Section 63.8(f), Approval of Minor Alternatives to Monitoring; Section 63.8(f), Approval of Intermediate Alternatives to Monitoring; Section 63.9 and 63.10, Approval of Adjustments to Time Periods for Submitting Reports; Section 63.10(f), Approval of Minor Alternatives to Recordkeeping and Reporting; Section 63.7(a)(4), Extension of Performance Test Deadline.

#### **XI. Should sources submit notices to EPA or ADEQ?**

For the delegated Part 63 standards, 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 directly to the ADEQ at the following address: Air Division, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317. The ADEQ is the primary point of contact with respect to delegated Part 63 standards. 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 ADEQ 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.

#### **XII. How will unchanged authorities be delegated to ADEQ in the future?**

Following the effective date of this delegation, ADEQ will only need to periodically submit a written request to EPA, Region 6, to update its approval of the delegation of authority to implement and enforce new or revised Part 63

standards through its approved Title V permitting program. In such request, ADEQ will reference the previous up-front approval demonstration and reaffirm that it still meets the up-front approval criteria. EPA will respond in writing to the request and take action in the **Federal Register** to inform the public and affected sources of EPA's decision and to update 40 CFR 63.99(a)(4), amending the Arkansas table of delegated Part 63 standards being implemented and enforced by ADEQ.

### XIII. What is today's final action?

Because ADEQ's June 7, 2010, request and the associated MOA meet all requirements of CAA section 112(l) and 40 CFR 63.91, EPA is promulgating final approval of ADEQ's request for the delegation and approval of the mechanism used to implement and enforce certain Part 63 standards applicable to sources required to obtain a Title V (Part 70) permit, as more specifically set forth in the MOA, dated September 17, 2014. After the effective date of this document and the issuance of the appropriate permit, the implementation and enforcement of certain existing Part 63 standards (except for CAA section 112(r) requirements) which have been incorporated into the source's Title V permit may be carried out by ADEQ in accordance with this delegation and the MOA. As for the Part 63 standards which have not yet been incorporated into permits, ADEQ's authority to implement and enforce these standards becomes effective after the effective date of this action and the issuance of the appropriate federally-enforceable permit containing those standards. ADEQ's authority to implement and enforce new and revised Part 63 standards will become effective according to the procedures outlined in the MOA, a copy of which is included in the docket for this rulemaking.

Effective immediately, all notifications, reports and other correspondence required under the delegated Part 63 standards should be sent to the State of Arkansas after the permit incorporating those standards has been issued. Affected sources should send this information to: Arkansas Department of Environmental Quality, Air Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317

EPA is publishing this action without prior proposal because we view this as a non-controversial action and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is

proposing to approve the requested delegation should relevant adverse comments be received. This action will be effective without further notice unless EPA receives relevant adverse comment by December 12, 2014. Should EPA receive such adverse comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on January 12, 2015.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to the approved delegation. Each request for revision to the approved delegation shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

### XIV. Administrative Requirements

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 request to receive delegation of certain Federal standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing delegation submissions, EPA's role is to approve submissions provided that they meet the criteria of the Clean Air Act. 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 request for delegation of section 112 standards for failure to use VCS. It would thus be inconsistent with applicable law for EPA to use VCS in place of a delegation 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 January 12, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2)).

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

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

Dated: October 14, 2014.

**Ron Curry,**  
Regional Administrator, Region 6.

40 CFR part 63 is amended as follows:

**PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES**

■ 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 adding paragraph (a)(4) to read as follows:

**§ 63.99 Delegated Federal authorities.**

(a) \* \* \*

(4) *Arkansas.* (i) The following table lists the specific Part 63 standards that have been delegated unchanged to the Arkansas Department of Environmental Quality (hereinafter “ADEQ”) for all sources subject to the Part 70 program. 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, determinations, and the Memorandum of Agreement, dated

September 17, 2014, entered into between the ADEQ and the U.S. Environmental Protection Agency, Region 6 (hereinafter “EPA”) regarding section 112, Clean Air Act Implementation. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. ADEQ’s authority to implement and enforce a delegated Part 63 standard is effective when the standard is incorporated into the source’s Title V (Part 70) Operating Permit.

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

| Subpart | Source category   | ADEQ <sup>2</sup> |
|---------|---|-------------------|
| A       | General Provisions  | X                 |
| F       | Hazardous Organic NESHA (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> )  |
| K       | (Reserved)  |                   |
| L       | Coke Oven Batteries   | X                 |
| 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  | X                 |
| 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      | Ethylene Manufacturing Process Units Heat Exchange Systems and Waste Operations                       | X                 |

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

| Subpart | Source category   | ADEQ <sup>2</sup> |
|---------|---|-------------------|
| 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   | <sup>4</sup> X    |
| EEEE    | Organic Liquids Distribution  | X                 |
| FFFF    | Misc. Organic Chemical Production and Processes (MON)   | X                 |
| GGGG    | Solvent Extraction for Vegetable Oil Production   | X                 |
| HHHH    | Wet Formed Fiberglass Mat Production  | X                 |
| IIII    | Auto & Light Duty Truck (Surface Coating)   | X                 |
| JJJJ    | Paper and other Web (Surface Coating)   | X                 |
| KKKK    | Metal Can (Surface Coating)   | X                 |
| MMMM    | Misc. 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 of Metal Coil   | X                 |
| TTTT    | Leather Finishing Operations  | X                 |
| UUUU    | Cellulose Products Manufacturing  | X                 |
| VVVV    | Boat Manufacturing  | X                 |
| WWWW    | Reinforced Plastic Composites Production  | X                 |
| XXXX    | Rubber Tire Manufacturing   | X                 |
| YYYY    | Stationary Combustion Turbines  | X                 |
| ZZZZ    | Reciprocating Internal Combustion Engines (RICE)  | X                 |
| AAAAA   | Lime Manufacturing Plants   | X                 |
| BBBBB   | Semiconductor Manufacturing   | X                 |
| CCCCC   | Coke Ovens: Pushing, Quenching and Battery Stacks   | X                 |
| DDDDD   | Industrial/Commercial/Institutional Boilers and Process Heaters                                     | <sup>5</sup> X    |
| EEEEE   | Iron and Steel Foundries  | X                 |
| FFFFF   | Integrated Iron and Steel   | X                 |
| GGGGG   | Site Remediation  | X                 |
| HHHHH   | Miscellaneous Coating Manufacturing   | X                 |
| IIIII   | Mercury Cell Chlor-Alkali Plants  | X                 |
| JJJJJ   | Brick and Structural Clay Products Manufacturing  | ( <sup>6</sup> )  |
| KKKKK   | Clay Ceramics Manufacturing   | ( <sup>6</sup> )  |
| LLLLL   | Asphalt Roofing and Processing  | X                 |
| MMMMM   | Flexible Polyurethane Foam Fabrication Operation  | X                 |
| NNNNN   | Hydrochloric Acid Production, Fumed Silica Production   | X                 |
| OOOOO   | (Reserved)  |                   |
| PPPPP   | Engine Test Facilities  | X                 |
| QQQQQ   | Friction Products Manufacturing   | X                 |
| RRRRR   | Taconite Iron Ore Processing  | X                 |
| SSSSS   | Refractory Products Manufacture   | X                 |
| TTTTT   | Primary Magnesium Refining  | X                 |
| UUUUU   | Coal and Oil-Fired Electric Utility Steam Generating Units  | <sup>7</sup> X    |
| VVVVV   | (Reserved)  |                   |
| WWWWW   | Hospital Ethylene Oxide Sterilizers   |                   |
| XXXXX   | (Reserved)  |                   |

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

| Subpart | Source category  | ADEQ <sup>2</sup> |
|---------|--|-------------------|
| YYYYY   | Electric Arc Furnace Steelmaking Area Sources                                | X                 |
| ZZZZZ   | Iron and Steel Foundries Area Sources  |                   |
| AAAAAA  | (Reserved)   |                   |
| BBBBBB  | Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities   |                   |
| CCCCCC  | Gasoline Dispensing Facilities   |                   |
| DDDDDD  | Polyvinyl Chloride and Copolymers Production Area Sources                    |                   |
| 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                 |
| HHHHHH  | Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources |                   |
| IIIIII  | (Reserved)   |                   |
| JJJJJJ  | Industrial, Commercial, and Institutional Boilers: Area Sources              |                   |
| KKKKKK  | (Reserved)   |                   |
| LLLLLL  | Acrylic and Modacrylic Fibers Production Area Sources                        |                   |
| MMMMMM  | Carbon Black Production Area Sources   | X                 |
| NNNNNN  | Chemical Manufacturing Area Sources: Chromium Compounds                      | X                 |
| OOOOOO  | Flexible Polyurethane Foam Production and Fabrication Area Sources           |                   |
| PPPPPP  | Lead Acid Battery Manufacturing Area Sources                                 |                   |
| QQQQQQ  | Wood Preserving Area Sources   |                   |
| RRRRRR  | Clay Ceramics Manufacturing Area Sources                                     |                   |
| SSSSSS  | Glass Manufacturing Area Sources   | X                 |
| TTTTTT  | Secondary Nonferrous Metals Processing Area Sources                          |                   |
| UUUUUU  | (Reserved)   |                   |
| VVVVVV  | Chemical Manufacturing Area Sources  | X                 |
| WWWWWW  | Plating and Polishing Operations Area Sources                                |                   |
| XXXXXX  | Nine Metal Fabrication and Finishing Categories Area Sources                 |                   |
| YYYYYY  | Ferroalloys Production Facilities Area Sources                               |                   |
| ZZZZZZ  | Aluminum, Copper, and Other Nonferrous Foundries Area Sources                |                   |
| AAAAAAA | Asphalt Processing and Asphalt Roofing Manufacturing Area Sources            |                   |
| BBBBBBB | Chemical Preparations Industry Area Sources                                  |                   |
| CCCCCC  | Paints and Allied Products Manufacturing Area Sources                        |                   |
| DDDDDDD | Prepared Feeds Manufacturing Area Sources                                    |                   |
| EEEEEEE | Gold Mine Ore Processing and Production Area Sources                         |                   |
| FFFFFFF | Reserved   |                   |
| GGGGGGG | Reserved   |                   |
| HHHHHHH | Polyvinyl Chloride and Copolymers Production                                 | X                 |

<sup>1</sup> Program delegated to Arkansas Department of Environmental Quality (ADEQ).

<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> This 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 DC Court's holding, this subpart is not delegated to ADEQ at this time.

<sup>4</sup> This subpart was issued a partial vacatur on October 29, 2007 (72 FR 61060) by the United States Court of Appeals for the District of Columbia Circuit.

<sup>5</sup> Final rule. See 78 FR 7138 (January 31, 2013).

<sup>6</sup> This subpart was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit. See, *Sierra Club v. EPA*, 479 F. 3d 875 (D.C. Cir. 2007). Because of the DC Court's holding, this subpart is not delegated to ADEQ at this time.

<sup>7</sup> Initial Final Rule. See 77 FR 9304 (February 16, 2012). Final on reconsideration of certain new source issues. See 78 FR 24073 (April 24, 2013). Portions of this subpart are in proposed reconsideration pending final action. See 78 FR 38001 (June 25, 2013).

(ii) [Reserved]

\* \* \* \* \*

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**NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES**

**National Endowment for the Arts**

**45 CFR Part 1149**

**RIN 3135-AA28**

**Implementing the Program Fraud Civil Remedies Act**

**AGENCY:** National Endowment for the Arts.

**ACTION:** Final rule.

**SUMMARY:** The National Endowment for the Arts (NEA) implements the Program Fraud Civil Remedies Act of 1986

(PFCRA). Any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the agency causing such fraudulent actions to occur is subject to civil penalties and assessments. The regulations authorizes the NEA to impose civil penalties and assessments through administrative adjudication. The regulations also establish the procedures the NEA will follow in implementing the provisions of the PFCRA and specifies the hearing and appeal rights of persons subject to penalties and assessments under the PFCRA.

**DATES:** Effective December 12, 2014.