

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

### ADDRESSES.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–296 to read as follows:

#### § 165.T11–296 Safety zone; BWRC Spring Classic, Parker, AZ

(a) *Location.* The limits of this temporary safety zone include all areas of the Colorado River from Headgate Dam to 0.5 miles north of the Bluewater Marine in Parker, Arizona.

(b) *Enforcement period.* This section will be enforced from 6 a.m. on April 16, 2010 to 6 p.m. on April 18, 2010. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *Designated representative*, means any

commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, State, and Federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander. The Patrol Commander may be contacted on VHF–FM Channel 83.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other Federal, State, or local agencies.

Dated: March 27, 2010.

**T.H. Farris,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. 2010–8479 Filed 4–13–10; 8:45 am]

**BILLING CODE 9110–04–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 60, 61, and 63

[EPA–R06–OAR–2006–0851; FRL–9137–2]

#### Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the State of Louisiana

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

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

**SUMMARY:** The Louisiana Department of Environmental Quality (LDEQ) has submitted updated regulations for receiving delegation of EPA authority for implementation and enforcement of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources. These regulations apply to certain NSPS promulgated by EPA, as amended through July 1, 2008; and certain NESHAPs promulgated by EPA, as amended through July 1, 2008. The

delegation of authority under this action does not apply to sources located in Indian Country. EPA is providing notice that it has approved delegation of certain NSPS to LDEQ, and taking direct final action to approve the delegation of certain NESHAPs to LDEQ.

**DATES:** This rule is effective on June 14, 2010 without further notice, unless EPA receives relevant adverse comment by May 14, 2010.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2006-0851, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

- *E-mail*: Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax*: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail*: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand Delivery*: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R06-OAR-2006-0851. 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 that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. 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 e-mail comment directly to EPA without going through <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 docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), 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 or Mr. Bill Deese at 214-665-7253 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:

Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70802.

**FOR FURTHER INFORMATION CONTACT:**

Kenneth W. Boyce, Air Planning Section, (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7259; fax number 214-665-7263; e-mail address [boyce.kenneth@epa.gov](mailto:boyce.kenneth@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we" "us" and "our" is used refer to EPA.

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

EPA is providing notice that it is delegating authority for implementation and enforcement of certain NSPS to LDEQ. EPA is also taking direct final action to approve the delegation of certain NESHAPs to LDEQ. With these delegations, LDEQ will have the primary responsibility to implement and enforce the delegated standards under NSPS and NESHAPs.

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

Section 111(c)(1) of the Clean Air Act (CAA) authorizes EPA to delegate authority to any State agency which submits adequate regulatory procedures for implementation and enforcement of the NSPS program. The NSPS standards are codified at 40 CFR part 60.

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 parts 61 and 63.

**III. What Criteria Must Louisiana's Program Meet To Be Approved?**

EPA previously approved LDEQ's program for the delegation of NSPS February 22, 1982 (47 FR 07665). The delegation was most recently updated on March 26, 2004 (59 FR 15687). This action notifies the public that EPA is updating LDEQ's delegation to implement and enforce certain additional NSPS. The CAA, as amended, requires under section 111 that performance standards be set for source categories which in the judgment of the Administrator cause or contribute significantly to air pollution. The CAA precisely states that the States should have primary authority for implementing the NSPS program.

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. Louisiana received its Title V approval on September 12, 1995 (60 FR 47296), effective October 12, 1995.

#### IV. What Is Being Delegated?

On August 14, 2009, EPA received a delegation request update for NSPS and NESHAP rules added to the CFR as of July 1, 2008, and certain rules issued after July 2008. The most recent update to NESHAP Delegation to be approved was approved and covered NESHAP regulations issued through July 1, 2004. The last update to the NSPS delegation to be approved was approved on March 26, 2004 and covered NSPS regulations that had been issued through July 1, 2002. With the exceptions noted below, the LDEQ’s rules incorporate by reference (IBR) the corresponding Federal regulations in 40 CFR parts 60, 61 and 63, into the Air Quality regulations, which are applicable in Louisiana that have been adopted through July 1, 2008. The Louisiana rules also incorporate by reference certain amendments to NSPS rules that were adopted after July 1, 2008. These are 40 CFR part 60, Stay of effective date of subpart Ja (73 FR 43626), amendments to subpart JJJJ (73 FR 59175), and amendments to subparts D, Da, Db, and Dc (74 FR 5072). The Louisiana rules also IBR certain amendments to part 63 that were promulgated after July 1, 2008. These are 40 CFR part 63 withdrawal of and revision to subpart M (73 FR 39871), partial withdrawal of direct final rule and amendments to subpart EEEE (73 FR 40977), amendments to subpart BBBB (73 FR 42529), subpart XXXXXX (73 FR 43000), and subpart YYYYYY (73 FR 78637).

40 CFR part 61 delegations remain unchanged from the previous delegation update which was effective May 25, 2004. LDEQ’s request for delegation of certain NSPS and NESHAP is for all

sources (both part 70 and non-part 70 sources). The request includes revisions of the NESHAP standards adopted unchanged into Louisiana Administrative Code (LAC) Title 33:III, Chapter 30, Subchapter A, Section 3003—Incorporation by Reference 40 CFR part 60; Chapter 51, Subchapter B, Section 5116—Incorporation by Reference of 40 CFR part 61; Chapter 51, Subchapter C, Section 5122—Incorporation by Reference of 40 CFR part 63 as it Applies to Major Sources, except for the compliance date established in Subpart S—Pulp and Paper Industry at 40 CFR 63.440(d)(1); and Chapter 53, Subchapter B, Section 5311—Incorporation by Reference of 40 CFR part 63 as it Applies to Area Sources. For NSPS, this revision incorporated all NSPS promulgated by EPA (except Subpart AAA—Standards of Performance for New Residential Wood Heaters) as amended in the **Federal Register** through July 1, 2002. For the part 61 NESHAPs, this revision included all NESHAPs promulgated by EPA as amended in the **Federal Register** through July 1, 2002, excluding subparts B, H, I, K, Q, R, T, and W. For the part 63 NESHAPs, this includes the NESHAPs set forth in the table at end of this **Federal Register** action titled “CAA Program Delegation Status for Louisiana.” The effective date of the Federal delegation for parts 61 and 63 standards is the effective date of this rule.

Also the delegation of, subpart EEEE, Standards of Performance for Other Solid Waste Incineration Units (OSWI) that Commenced Construction on or before December 9, 2004, promulgated on December 16, 2005 (70 FR 74870), remains unchanged as does the LDEQ’s plan for emission guidelines and compliance times for OSWI units that commenced construction on or before December 9, 2004, subpart FFFF, 40 CFR 60.2980–60.3078 and tables 1–5, 70 FR 74870 (December 16, 2005). Until the LDEQ has a mechanism to approve training programs in compliance with 40 CFR 60.3014, the LDEQ shall except accreditation approved by other States complying with 40 CFR 60.3014. The IBR emission guidelines of 40 CFR part 60, and amendments to 40 CFR part 60, are applied to applicable units in the State.

#### V. What Is Not Being Delegated?

The following part 60, 61 and 63 authorities listed below are not delegated. All of the inquiries and requests concerning implementation and enforcement of the excluded standards in the State of Louisiana

should be directed to the EPA Region 6 Office.

- 40 CFR part 60, subpart AAA (Standards of Performance for New Residential Wood Heaters);
- 40 CFR part 60, subpart B, Adoption and Submittal of State Plans for Designated Facilities and 40 CFR part 60, subpart C, Emission Guidelines and Compliance Times, are not included;
- 40 CFR part 61, subpart B (National Emission Standards for Radon Emissions from Underground Uranium Mines);
- 40 CFR part 61, subpart H (National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities);
- 40 CFR part 61, subpart I (National Emission Standards for Radionuclide Emissions from Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H);
- 40 CFR part 61, subpart K (National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants);
- 40 CFR part 61, subpart Q (National Emission Standards for Radon Emissions from Department of Energy facilities);
- 40 CFR part 61, subpart R (National Emission Standards for Radon Emissions from Phosphogypsum Stacks);
- 40 CFR part 61, subpart T (National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings); and
- 40 CFR part 61, subpart W (National Emission Standards for Radon Emissions from Operating Mill Tailings).

In addition, 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 (e.g. 40 CFR 63.106(b)). Therefore, any MACT standard that EPA is delegating to LDEQ, 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.

40 CFR 63, subpart D, Compliance Extensions for Early Reductions of Hazardous Air Pollutants (HAPs), Subpart E, Approval of State Programs and Delegation of Federal Authorities and Subpart J, National Emission Standards for HAPs for Polyvinyl Chloride and Copolymers Production, are not included.

In addition, this delegation to LDEQ to implement and enforce certain NSPS and 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 NSPS and NESHAPs in Indian country because LDEQ has not adequately demonstrated its authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

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

In approving this delegation, LDEQ 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.

#### **VII. 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 LDEQ some of these authorities, and retaining others, as explained in sections IV and V above. In addition, EPA may review and disapprove of State determinations and subsequently require revisions. (See 40 CFR 63.91 and 65 FR 55837, September 14, 2000, as amended at 70 FR 59887, October 13, 2005; 72 FR 27443, May 16, 2007.)

Furthermore, we retain any authority in an individual emission standard that

may not be delegated according to provisions of the standard.

#### **VIII. What Information Must LDEQ Provide to EPA?**

Under 40 CFR 60.4(b), all notifications under NSPS must be sent to both EPA and to LDEQ. Please send notifications and reports to Chief, Air Enforcement Surveillance Branch at the EPA Region 6 office.

In delegating the authority to implement and enforce these rules and in granting a waiver of EPA notification requirements, we require LDEQ to input all source information into the Aerometric Information Retrieval System (AIRS) for both point and area sources. LDEQ must enter this information into the AIRS system and update the information by September 30 of every year. LDEQ must provide any additional compliance related information to the 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, LDEQ 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)) alternative (§ 63.7(f)) 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 LDEQ 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, Mail Code D205-02, Research Triangle Park, NC 27711, Facsimile telephone number: (919) 541-0516.

#### **IX. What Is EPA's Oversight of This Delegation to LDEQ?**

EPA must oversee LDEQ'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 LDEQ made decisions that decreased the stringency of the delegated standards, then LDEQ 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.

#### **X. Should Sources Submit Notices to EPA or LDEQ?**

For the NESHAPS being delegated, 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 LDEQ at the following address: Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70802. The LDEQ 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 LDEQ 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.

#### **XI. How Will Unchanged Authorities Be Delegated to LDEQ in the Future?**

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

## XII. 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, August 24, 1994, for the proposed interim approval of LDEQ's Title V operating permits program; and on April 7, 1995, for the proposed final approval of LDEQ's Title V operating permits program. In EPA's final full approval of Louisiana's Operating Permits Program (60 FR 47296), 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 LDEQ'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 Louisiana's 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 *June 14, 2010* without further notice unless the Agency receives relevant adverse comments by *May 14, 2010*.

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.

## XIII. 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 (59 FR 22951, 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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 delegation submission 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 *June 14, 2010*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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

### 40 CFR Part 60

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

## 40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Benzene, Beryllium, Hazardous substances, Mercury, Radon, Reporting and recordkeeping requirements, Uranium, Vinyl chloride.

## 40 CFR Part 63

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

Dated: February 8, 2010.

Al Armendariz,

Regional Administrator, Region 6.

■ 40 CFR parts 60, 61, and 63 are amended as follows:

**PART 60—[AMENDED]**

■ 1. The authority citation for part 60 continues to read as follows:

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

**Subpart A—General Provisions**

■ 2. Section 60.4 is amended by revising paragraphs (b)(T) and (e)(2) to read as follows:

**§ 60.4 Address.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(T) State Louisiana: Louisiana Department of Environmental Quality, P.O. Box 4301, Baton Rouge, Louisiana 70821-4301. For a list of delegated

standards for Louisiana (excluding Indian country), see paragraph (e)(2) of this section.

\* \* \* \* \*

(e) \* \* \*

\* \* \* \* \*

(2) Louisiana. The Louisiana Department of Environmental Quality has been delegated all part 60 standards promulgated by EPA, except subpart AAA—Standards for Performance for New Residential Wood Heaters, as amended in the **Federal Register** through July 1, 2008.

**DELEGATION STATUS FOR PART 60 STANDARDS—STATE OF LOUISIANA**

Subpart	Source category	LDEQ <sup>1</sup>
A .....	General Provisions .....	Yes.
D .....	Fossil Fueled Steam Generators (>250 MM BTU/hr). Including amendments issued January 28, 2009. (74 FR 5072).	Yes.
Da .....	Electric Utility Steam Generating Units (>250 MM BTU/hr). Including amendments issued January 28, 2009. (74 FR 5072).	Yes.
Db .....	Industrial-Commercial-Institutional Steam Generating Units (100 to 250 MM BTU/hr). Including amendments issued January 28, 2009. (74 FR 5072).	Yes.
Dc .....	Industrial-Commercial-Institutional Small Steam Generating Units (10 to 100 MM BTU/hr). Including amendments issued January 28, 2009. (74 FR 5072).	Yes.
E .....	Incinerators (>50 tons per day). Including amendments issued January 28, 2009. (74 FR 5072) .....	Yes.
Ea .....	Municipal Waste Combustors .....	Yes.
Eb .....	Large Municipal Waste Combustors .....	Yes.
Ec .....	Hospital/Medical/Infectious Waste Incinerators .....	Yes.
F .....	Portland Cement Plants .....	Yes.
G .....	Nitric Acid Plants .....	Yes.
H .....	Sulfuric Acid Plants .....	Yes.
I .....	Hot Mix Asphalt Facilities .....	Yes.
J .....	Petroleum Refineries .....	Yes.
Ja .....	Petroleum Refineries (After May 14, 2007). Including amendments issued July 28, 2008. (73 FR 43626) .....	Yes.
K .....	Storage Vessels for Petroleum Liquids (After 6/11/73 & Before 5/19/78) .....	Yes.
Ka .....	Storage Vessels for Petroleum Liquids (After 6/11/73 & Before 5/19/78) .....	Yes.
Kb .....	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Stg/Vessels) After 7/23/84 .....	Yes.
L .....	Secondary Lead Smelters .....	Yes.
M .....	Secondary Brass and Bronze Production Plants .....	Yes.
N .....	Primary Emissions from Basic Oxygen Process Furnaces (Construction Commenced After June 11, 1973) .....	Yes.
Na .....	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities Construction is Commenced After January 20, 1983.	Yes.
O .....	Sewage Treatment Plants .....	Yes.
P .....	Primary Copper Smelters .....	Yes.
Q .....	Primary Zinc Smelters .....	Yes.
R .....	Primary Lead Smelters .....	Yes.
S .....	Primary Aluminum Reduction Plants .....	Yes.
T .....	Phosphate Fertilizer Industry: Wet Process Phosphoric Plants .....	Yes.
U .....	Phosphate Fertilizer Industry: Superphosphoric Acid Plants .....	Yes.
V .....	Phosphate Fertilizer Industry: Diammonium Phosphate Plants .....	Yes.
W .....	Phosphate Fertilizer Industry: Triple Superphosphate Plants .....	Yes.
X .....	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities .....	Yes.
Y .....	Coal Preparation Plants .....	Yes.
Z .....	Ferroalloy Production Facilities .....	Yes.
AA .....	Steel Plants: Electric Arc Furnaces After 10/21/74 & On or Before 8/17/83 .....	Yes.
AAa .....	Steel Plants: Electric Arc Furnaces & Argon-Oxygen Decarburization Vessels After 8/07/83 .....	Yes.
BB .....	Kraft Pulp Mills .....	Yes.
CC .....	Glass Manufacturing Plants .....	Yes.
DD .....	Grain Elevators .....	Yes.
EE .....	Surface Coating of Metal Furniture .....	Yes.
GG .....	Stationary Gas Turbines .....	Yes.
HH .....	Lime Manufacturing Plants .....	Yes.
KK .....	Lead-Acid Battery Manufacturing Plants .....	Yes.
LL .....	Metallic Mineral Processing Plants .....	Yes.

## DELEGATION STATUS FOR PART 60 STANDARDS—STATE OF LOUISIANA—Continued

Subpart	Source category	LDEQ <sup>1</sup>
MM .....	Automobile & Light Duty Truck Surface Coating Operations .....	Yes.
NN .....	Phosphate Manufacturing Plants .....	Yes.
PP .....	Ammonium Sulfate Manufacture .....	Yes.
QQ .....	Graphic Arts Industry: Publication Rotogravure Printing .....	Yes.
RR .....	Pressure Sensitive Tape and Label Surface Coating Operations .....	Yes.
SS .....	Industrial Surface Coating: Large Appliances .....	Yes.
TT .....	Metal Coil Surface Coating .....	Yes.
UU .....	Asphalt Processing and Asphalt Roofing Manufacture .....	Yes.
VV .....	VOC Equipment Leaks in the SOCMi Industry .....	Yes.
VVa .....	VOC Equipment Leaks in the SOCMi Industry (After November 7, 2006) .....	Yes.
XX .....	Bulk Gasoline Terminals .....	Yes.
AAA .....	New Residential Wood Heaters .....	No
BBB .....	Rubber Tire Manufacturing Industry .....	Yes.
DDD .....	Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry .....	Yes.
FFF .....	Flexible Vinyl and Urethane Coating and Printing .....	Yes.
GGG .....	VOC Equipment Leaks in Petroleum Refineries .....	Yes.
HHH .....	Synthetic Fiber Production .....	Yes.
III .....	VOC Emissions from the SOCMi Air Oxidation Unit Processes .....	Yes.
JJJ .....	Petroleum Dry Cleaners .....	Yes.
KKK .....	VOC Equipment Leaks From Onshore Natural Gas Processing Plants .....	Yes.
LLL .....	Onshore Natural Gas Processing: SO <sub>2</sub> Emissions .....	Yes.
NNN .....	VOC Emissions from SOCMi Distillation Operations .....	Yes.
OOO .....	Nonmetallic Mineral Processing Plants .....	Yes.
PPP .....	Wool Fiberglass Insulation Manufacturing Plants .....	Yes.
QQQ .....	VOC Emissions From Petroleum Refinery Wastewater Systems .....	Yes.
RRR .....	VOC Emissions from SOCMi Reactor Processes .....	Yes.
SSS .....	Magnetic Tape Coating Operations .....	Yes.
TTT .....	Industrial Surface Coating: Plastic Parts for Business Machines .....	Yes.
UUU .....	Calciners and Dryers in Mineral Industries .....	Yes.
VVV .....	Polymeric Coating of Supporting Substrates Facilities .....	Yes.
WWW .....	Municipal Solid Waste Landfills .....	Yes.
AAAA .....	Small Municipal Waste Combustion Units (Construction is Commenced After 8/30/99 or Modification/Reconstruction is Commenced After 6/06/2001).	Yes.
CCCC .....	Commercial & Industrial Solid Waste Incineration Units (Construction is Commenced After 11/30/1999 or Modification/Reconstruction is Commenced on or After 6/01/2001).	Yes.
EEEE .....	Other Solid Waste Incineration Units (Constructed after 12/09/2004 or Modification/Reconstruction is commenced on or after 06/16/2004).	Yes.
IIII .....	Stationary Compression Ignition Internal Combustion Engines .....	Yes.
JJJJ .....	Stationary Spark Ignition Internal Combustion Engines. Including amendments issued October 8, 2008. (73 FR 59175).	Yes.
KKKK .....	Stationary Combustion Turbines (Construction Commenced After 02/18/2005) .....	Yes

<sup>1</sup> The Louisiana Department of Environmental Quality (LDEQ) has been delegated all Part 60 standards promulgated by EPA, except subpart AAA—Standards of Performance for New Residential Wood Heaters—as amended in the **Federal Register** through July 1, 2008.

**PART 61—[AMENDED]**

■ 3. The authority citation for part 61 continues to read as follows:

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

**Subpart A—General Provisions**

■ 4. Section 61.04 is amended by revising paragraph (b)(T) and by revising the text before the table in paragraph (c)(6)(ii) to read as follows:

**§ 61.04 Address.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(T) State of Louisiana: Louisiana Department of Environmental Quality, P.O. Box 4301, Baton Rouge, Louisiana 70821-4301.

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(6) \* \* \*  
\* \* \* \* \*

(ii) Louisiana. The Louisiana Department of Environmental Quality (LDEQ) has been delegated the following part 61 standards promulgated by EPA, as amended in the **Federal Register** through July 1, 2008. The (X) symbol is used to indicate each subpart that has been delegated.

\* \* \* \* \*

**PART 63—[AMENDED]**

■ 5. 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**

■ 6. Section 63.99 is amended by revising paragraph (a)(18)(i) to read as follows:

**§ 63.99 Delegated Federal authorities.**

(a) \* \* \*

\* \* \* \* \*

(18) \* \* \*

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Louisiana Department of 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 made to these rules after the date of  
Provisions authorities and specific parts adoption are not delegated.  
of some standards. Any amendments

## DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF LOUISIANA

Subpart	Source category	LDEQ <sup>1</sup>
A .....	General Provisions .....	X
D .....	Early Reductions .....	NO
F,G,H & I .....	SOCMI HON .....	X
J .....	Polyvinyl Chloride & Copolymers Production .....	NO <sup>2</sup>
L .....	Coke Oven Batteries .....	X
M .....	Perchloroethylene—Dry Cleaners .....	X
N .....	Chromium .....	X
O .....	Ethylene Oxide Sterilization .....	X
Q .....	Industrial Process Cooling Towers .....	X
R .....	Gasoline Distribution .....	X
S .....	Pulp & Paper MACT I .....	X
T .....	Halogenated Solvent .....	X
U .....	Polymers & Resins/Group I .....	X
W .....	Epoxy Resins and Non-Nylon Polyamides .....	X
X .....	Secondary Lead Smelting .....	X
Y .....	Marine Vessel Loading .....	X
AA/BB .....	Phosphoric Acid/Phosphate Fertilizers .....	X
CC .....	Petroleum Refineries (MACT I) .....	X
DD .....	Offsite Waste & Recovery .....	X
EE .....	Magnetic Tape Mfg .....	X
GG .....	Aerospace Mfg and Rework .....	X
HH .....	Oil & Natural Gas Production .....	X
II .....	Shipbuilding & Ship Repair .....	X
JJ .....	Wood Furniture Manufacturing .....	X
KK .....	Printing & Publishing .....	X
LL .....	Primary Aluminum Reduction Plants .....	X
MM .....	Combustion Sources at Kraft, Soda, and Sulfite Pulp & Paper Mills .....	X
OO .....	Storage Vessels (Tanks)—Control Level 1 .....	X
PP .....	Standards for Containers .....	X
QQ .....	Standards for Surface Impoundments .....	X
RR .....	Standards for Individual Drain Systems .....	X
SS .....	Closed Vent Systems, Control Devices, Recovery Devices & Routing to a Fuel Gas System or a Process .....	X
TT .....	Equipment Leaks—Control Level 1 .....	X
UU .....	Equipment Leaks—Control Level 2 .....	X
VV .....	Standards for Oil-Water Separators & Organic-Water Separators .....	X
WW .....	Storage Vessels (Tanks)—Control Level 2 .....	X
XX .....	Ethylene Manufacturing Process Units: Heat Exchange Systems & Waste Operations .....	X
YY .....	Acetal Resins .....	X
YY .....	Acrylic/Modacrylic Fibers .....	X
YY .....	Carbon Black Production .....	X
YY .....	Cyanide Chemicals Mfg .....	X
YY .....	Ethylene Production .....	X
YY .....	Hydrogen Fluoride .....	X
YY .....	Polycarbonates Production .....	X
YY .....	Spandex Production .....	X
CCC .....	Steel Pickling—HCL Process Facilities and Hydrochloric Acid Regeneration Plants .....	X
DDD .....	Standards for Mineral-Wool Production .....	X
EEE .....	Standards for Hazardous Waste Combustors .....	X
GGG .....	Standards for Pharmaceuticals Production .....	X
HHH .....	Standards for Natural Gas Transmission & Storage .....	X
III .....	Flexible Polyurethane Foam Production .....	X
JJJ .....	Polymers & Resins/Group IV .....	X
LLL .....	Portland Cement Manufacturing .....	X
MMM .....	Pesticide Active Ingredient Production .....	X
NNN .....	Wool Fiberglass .....	X
OOO .....	Polymers & Resins III Amino Resins, Phenolic Resins .....	X
PPP .....	Polyether Polyols Production .....	X
QQQ .....	Primary Copper Smelting .....	X
RRR .....	Secondary Aluminum Production .....	X
TTT .....	Primary Lead Smelting .....	X
UUU .....	Petroleum Refineries (Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants) .....	X
VVV .....	Publicly Owned Treatment Works (POTW) .....	X
XXX .....	Ferroalloys Production .....	X
ZZZ .....	Plywood/Particle Board Manufacturing .....	NO
AAAA .....	Municipal Solid Waste Landfills .....	X
CCCC .....	Nutritional Yeast Manufacturing .....	X
DDDD .....	Plywood & Composite Wood Products .....	NO
EEEE .....	Organic Liquids Distribution (Non-Gasoline) .....	X



## DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF LOUISIANA—Continued

Subpart	Source category	LDEQ <sup>1</sup>
FFFF	Miscellaneous Organic	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 & Other Webs (Surface Coating)	X
KKKK	Metal Can (Surface Coating)	X
MMMM	Misc. Metal Parts (Surface Coating)	X
NNNN	Large Appliances (Surface Coating)	X
OOOO	Fabric Printing, Coating & Dyeing (Surface Coating)	X
PPPP	Plastic Parts & Products (Surface Coating)	X
QQQQ	Wood Building Products (formerly Flat Wood Paneling) (Surface Coating)	X
RRRR	Metal Furniture (Surface Coating)	X
SSSS	Metal Coil (Surface Coating)	X
TTTT	Leather-Finishing Operations	X
UUUU	Cellulose Products	X
VVVV	Boat Manufacturing	X
WWWW	Reinforced Plastics Composites Production	X
XXXX	Rubber Tire Manufacturing	X
YYYY	Combustion Turbines	X
ZZZZ	Reciprocating Internal Combustion Engines (RICE)	X
AAAAA	Lime Manufacturing Plants	X
BBBBB	Semiconductor Manufacturing	X
CCCCC	Coke Oven; Pushing, Quenching, & Battery Stacks	X
DDDDD	Industrial, Commercial & Institutional Boilers & Process Heaters	NO <sup>2</sup>
EEEE	Iron & Steel Foundries	X
FFFFF	Integrated Iron & Steel Manufacturing Facilities	X
GGGGG	Site Remediation	X
HHHHH	Miscellaneous Coating Manufacturing	X
IIIII	Mercury Cell Chlor-Alkali Plants	NO <sup>2</sup>
JJJJJ	Brick & Structural Clay Products Manufacturing	NO <sup>2</sup>
KKKKK	Clay Ceramics Manufacturing	NO <sup>2</sup>
LLLLL	Asphalt Roofing and Processing	X
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X
NNNNN	Hydrochloric Acid Production	X
PPPPP	Engine Test Cells/Standards (Combined w/Rocket Testing Facilities)	X
QQQQQ	Friction Products Manufacturing	X
RRRRR	Taconite Ore Processing	X
SSSSS	Refractory Products Manufacturing	X
TTTTT	Primary Magnesium Refining	X
YYYYY	Electric Arc Furnace Steelmaking Facilities	X
BBBBBB	Gasoline Distribution Terminals	X
CCCCC	Gasoline Dispensing Facilities	X
DDDDD	Polyvinyl Chloride and Copolymers Production	X
EEEEEE	Primary Copper Smelting	X
FFFFFF	Secondary Copper Smelting	X
GGGGGG	Primary Nonferrous Metals Zinc, Cadmium, and Beryllium	X
HHHHH	Paint Stripping and Miscellaneous Surface Coating	X
LLLLL	Acrylic/Modacrylic Fiber	X
MMMMM	Carbon Black Production	X
NNNNN	Chromium Compounds	X
PPPPP	Lead Acid Battery Mfg.	X
QQQQQ	Wood Preserving	X
RRRRR	Clay Ceramics Mfg.	X
SSSSS	Glass Manufacturing	X
TTTTT	Secondary Nonferrous Metals Processing (Brass, Bronze, Magnesium, & Zinc)	X
UUUUU—	(Reserved).	
VVVVV.		
WWWWW	Plating and Polishing Operations	X
XXXXX	Metal Fabrication & Finishing Source Nine Categories	X
YYYYY	Ferroalloys Production Facilities	X
ZZZZZ	(Reserved).	

<sup>1</sup> Federal Rules Adopted by Louisiana Department of Environmental Quality (LDEQ), unchanged as of June 16, 2006.<sup>2</sup> Although previously delegated to some States, this standard has been vacated and remanded to EPA by the U.S. Court of Appeals for District of Columbia Circuit. Therefore, this standard is not delegated at this time to any States in Region 6.

[FR Doc. 2010-8526 Filed 4-13-10; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2009-0479; FRL-8816-5]

#### Alkyl (C12-C16) Dimethyl Ammonio Acetate; Exemption From the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of Alkyl (C<sub>12</sub>-C<sub>16</sub>) dimethyl ammonio acetate, herein referred to in this document as ADAA, when used as an inert ingredient (surfactant) in pesticide formulations for pre-harvest uses under 40 CFR 180.920 or applied to animals under 40 CFR 180.930 at a maximum concentration of 20% in pesticide product formulations. Technology Sciences Group, Inc., on behalf of Rhodia, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of ADAA.

**DATES:** This regulation is effective April 14, 2010. Objections and requests for hearings must be received on or before June 14, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2009-0479. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The

Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

#### FOR FURTHER INFORMATION CONTACT:

Elizabeth Fertich, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8560; e-mail address: [fertich.elizabeth@epa.gov](mailto:fertich.elizabeth@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does This Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR cite at <http://www.gpoaccess.gov/ecfr>. To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/oppts> and select "Test Methods and Guidelines."

###### C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests

for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2009-0479 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 14, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2009-0479, by one of the following methods:

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

- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

##### II. Background and Statutory Findings

In the **Federal Register** of August 19, 2009 (74 FR 41895) (FRL-8429-9), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 9E7557) by Rhodia, Inc., 5171 Glenwood Avenue, Suite 402, Raleigh, NC 27612. The petition requested that 40 CFR 180.920 and 40 CFR 180.930 be amended by establishing an exemption from the requirement of a tolerance for residues of Alkyl (C<sub>12</sub>-C<sub>16</sub>) dimethyl ammonio acetate, herein referred to in this document as ADAA. That notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.