

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-R06-OAR-2021-0661; FRL-9262-02-R6]

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

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

**ACTION:** Final rule; delegation of authority.

**SUMMARY:** The Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has submitted updated regulations for receiving delegation and approval of its program for the implementation and enforcement of certain National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated under the Clean Air Act (CAA), as provided for under the delegation mechanism previously approved by the Environmental Protection Agency (EPA). The EPA is approving DEQ's requested update of its NESHAP delegation. The delegation will only encompass sources subject to one or more Federal section 112 standards which are also subject to the requirements of the Title V operating permits program. The updated State regulations regard certain NESHAP, as they existed through July 31, 2020. The EPA is providing notice that it is taking final action to approve the delegation of certain NESHAP to DEQ.

**DATES:** This rule is effective on September 28, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2021-0661. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Barrett EPA Region 6 Office, ARPE, (214) 665-7227; email: [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever

“we,” “us,” or “our” is used, we mean the EPA.

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### I. Background

The background for this action is discussed in detail in our November 11, 2021, proposal (86 FR 66990). In that document we proposed to approve a request from the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) to update its existing regulations for receiving delegation and approval of its program for the implementation and enforcement of certain National Emission Standards for Hazardous Air Pollutants (NESHAP) for part 70 sources, as provided for under previously approved delegation mechanisms. We received no public comments on the proposed rulemaking action, and the EPA will not be making any changes to our proposed rulemaking.

### II. What does this action do?

EPA is providing notice that it is taking final action to approve DEQ's request updating the delegation of certain NESHAP. With this delegation, DEQ has the primary responsibility to implement and enforce the delegated standards. *See* sections VII and VIII, below, for a discussion of which standards are being delegated and which are not being delegated.

### III. What is the authority for delegation?

Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorize the EPA to delegate authority for the implementation and enforcement of NESHAP to a state or local agency that satisfies the statutory and regulatory

requirements in subpart E. The NESHAP are codified at 40 CFR parts 61 and 63. This action regards the standards in 40 CFR part 63 only.

### IV. What criteria must Arkansas's program meet to be approved?

Section 112(l)(5) of the CAA requires the EPA to disapprove any program submitted by a state for the delegation of NESHAP standards if the EPA determines that:

(A) the authorities contained in the program are not adequate to assure compliance by the sources within the state with respect to each applicable standard, regulation, or requirement established under section 112;

(B) adequate authority does not exist, or adequate resources are not available, to implement the program;

(C) the schedule for implementing the program and assuring compliance by affected sources is not sufficiently expeditious; or

(D) the program is otherwise not in compliance with the guidance issued by the EPA under section 112(l)(2) or is not likely to satisfy, in whole or in part, the objectives of the CAA.

In carrying out its responsibilities under section 112(l), the EPA promulgated regulations at 40 CFR part 63, subpart E, setting forth criteria for the approval of submitted programs. For example, in order to obtain approval of a program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation), a state must demonstrate that it meets the criteria of 40 CFR 63.91(d). The regulations in 40 CFR 63.91(d)(3) provide that interim or final Title V program approval will satisfy the criteria of 40 CFR 63.91(d).<sup>1</sup>

The NESHAP delegation for Arkansas, as it applies to Title V sources, was most recently approved on November 12, 2014 (79 FR 6707).

### V. How did DEQ meet the NESHAP program approval criteria?

The 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** proposed interim approval of the Arkansas Operating Permit Program, the EPA discussed the delegation of unchanged part 63 standards as they

<sup>1</sup> Some NESHAP standards do not require a source to obtain a title V permit (*e.g.*, certain area sources that are exempt from the requirement to obtain a title V permit). For these non-title V sources, the EPA believes that the State must assure the EPA that it can implement and enforce the NESHAP for such sources. *See* 65 FR 55810, 55813 (Sept. 14, 2000).

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. See 59 FR 47828, 47830 (September 19, 1994). In an October 9, 2001, rulemaking, the 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 DEQ have been met.

However, the EPA's October 9, 2001, **Federal Register** final approval failed to discuss the *mechanism* associated with delegation of the part 63 standards for sources subject to the part 70 permitting 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 the 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 the 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 the EPA granted approval of the Arkansas Operating Permit Program. The EPA's approval also met the up-front criteria set forth in 40 CFR 63.91(d).

Since DEQ implements and enforces unchanged part 63 standards ("straight delegation") through its EPA-approved Title V Operating Permit Program, EPA addressed several issues to ensure the requirements for delegation under CAA section 112(l) and 40 CFR part 63, subpart E, were met. A Memorandum of Agreement (MOA), dated September 17, 2014, was executed by the State and the EPA, a copy of which has been included in the docket for this rulemaking. See also 65 FR 55813 (September 14, 2000) and 79 FR 67073 (November 12, 2014). DEQ implements and enforces 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 DEQ has notified the 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, DEQ 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.

Under 40 CFR 63.91(d)(2), once a state has satisfied the up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals for delegation of the section 112 standards. As stated in its October 27, 2021, supplemental letter, DEQ has affirmed that it still meets the up-front approval criteria and referenced the previous demonstration.

#### **VI. How are sources subject to certain listed standards going to be handled since DEQ 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, Arkansas noted that it was not requesting delegation of part 63 standards for area sources not required to obtain a Title V (part 70) permit. Arkansas also noted that it was not requesting delegation of the accidental release requirements under CAA section 112(r). Since DEQ is not accepting delegation of these standards, the 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, DEQ must ensure that the applicable part 63 standards are 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 September 28, 2020, and supplemental letters dated June 29, 2021, and October 27, 2021, the EPA received requests from DEQ to update its existing NESHAP delegation. With certain exceptions noted in section VIII of this document, DEQ's request includes certain NESHAP promulgated by the EPA at 40 CFR part 63, as amended between September 17, 2014, and July 31, 2020. More specifically, DEQ is requesting to update its delegation and approval to implement

and enforce 40 CFR part 63 standards as they apply to part 70 major sources, and only to those area sources subject to the Title V (part 70) permitting requirements.

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

DEQ has not requested, nor is this rulemaking, delegating the enforcement and implementation of 40 CFR part 63 standards to DEQ that would apply to area sources which do not require a Title V (part 70) permit. In addition, the EPA regulations provide that we 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 part 63 standards have certain provisions that cannot be delegated to the States. Furthermore, no authorities are being 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, this action does not delegate any authority under section 112(r), the accidental release program.

All 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.

The EPA is making a determination that the NESHAP program submitted by Arkansas meets the applicable requirements of CAA section 112(l)(5) and 40 CFR part 63, subpart E.

#### **IX. How will statutory and regulatory interpretations be made?**

In approving the NESHAP delegation, DEQ will obtain concurrence from the EPA on any matter involving the interpretation of section 112 of the CAA or 40 CFR part 63 to the extent that implementation or enforcement of these provisions have not been covered by prior EPA determinations or guidance.

#### **X. What information must DEQ provide to the EPA?**

DEQ 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, DEQ must submit to EPA Region 6 on a semi-annual basis, copies of determinations issued under these authorities. *See* 40 CFR 63.91(g)(1)(ii). For part 63 standards, these determinations include: § 63.1, Applicability Determinations; § 63.6(e), Operation and Maintenance Requirements—Responsibility for Determining Compliance; § 63.6(f), Compliance with Non-Opacity Standards—Responsibility for Determining Compliance; § 63.6(h), Compliance with Opacity and Visible Emissions Standards—Responsibility for Determining Compliance; § 63.7(c)(2)(i) and (d), Approval of Site-Specific Test Plans; § 63.7(e)(2)(i), Approval of Minor Alternatives to Test Methods; § 63.7(e)(2)(ii) and (f), Approval of Intermediate Alternatives to Test Methods; § 63.7(e)(2)(iii), Approval of Shorter Sampling Times and Volumes When Necessitated by Process Variables or Other Factors; § 63.7(e)(2)(iv), (h)(2) and (3), Waiver of Performance Testing; § 63.8(c)(1) and (e)(1), Approval of Site-Specific Performance Evaluation (Monitoring) Test Plans; § 63.8(f), Approval of Minor Alternatives to Monitoring; § 63.8(f), Approval of Intermediate Alternatives to Monitoring; §§ 63.9 and 63.10, Approval of Adjustments to Time Periods for Submitting Reports; § 63.10(f), Approval of Minor Alternatives to Recordkeeping and Reporting; and § 63.7(a)(4), Extension of Performance Test Deadline.

#### **XI. What authority does the EPA have?**

We retain the right, as provided by CAA section 112(l)(7) and 40 CFR 63.90(d)(2), to enforce any applicable emission standard or requirement under section 112. In addition, the EPA may enforce any federally approved state rule, requirement, or program under 40 CFR 63.90(e) and 63.91(c)(1)(i). The EPA also has the authority to make certain decisions under the General Provisions (subpart A) of part 63. We are delegating to the DEQ some of these authorities, and retain others, as explained in sections VII and VIII above. In addition, the EPA may review and disapprove state determinations and subsequently require corrections. *See* 40 CFR 63.91(g)(1)(ii). EPA also has the authority to review DEQ's implementation and enforcement of approved rules or programs and to withdraw approval if we find

inadequate implementation or enforcement. *See* 40 CFR 63.96.

Furthermore, we retain the authority in an individual emission standard that may not be delegated according to provisions of the standard. Finally, we retain the authorities stated in the October 9, 2001, rulemaking, where the EPA took final action to fully approve the Arkansas Operating Permit Program. *See* 66 FR 51312.

The updated 40 CFR part 63 standards being requested by DEQ are discussed in their request letter and supplemental letters to EPA, as noted in section VII above. A copy of each of these three letters is included in the docket for this action. A table of the updated NESHAP standards being requested may be found in the docket for this action. The table also shows the authorities that cannot be delegated to any state or local agency.

#### **XII. Should sources submit notices to the EPA or DEQ?**

For the delegated part 63 standards and authorities covered by this final action, sources will submit all of the information required pursuant to the general provisions and the relevant subpart(s) of the delegated NESHAP (40 CFR part 63) directly via electronic submittal to online EPA database portals that are specified in each rule, and also as paper submittals to the DEQ at the following address: The Arkansas Department of Energy and Environment, Division of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317. The DEQ is the primary point of contact with respect to the delegated NESHAP. The EPA Region 6 waives the requirement that courtesy notifications and reports for delegated standards be submitted to the EPA in addition to DEQ in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii).<sup>2</sup> For those standards and authorities not delegated as discussed above, sources must continue to submit all appropriate information to the EPA.

#### **XIII. How will unchanged authorities be delegated to DEQ in the future?**

Consistent with the EPA regulations and guidance,<sup>3</sup> DEQ will only need to periodically submit a written request to

<sup>2</sup> This waiver only extends to the submission of copies of notifications and reports; EPA does not waive the requirements in delegated standards that require notifications and reports be submitted to an electronic database (e.g., 40 CFR part 63, subpart HHHHHHH).

<sup>3</sup> *See* Hazardous Air Pollutants: Amendments to the Approval of State Programs and Delegation of Federal Authorities, Final Rule (65 FR 55810, September 14, 2000); and “Straight Delegation Issues Concerning Sections 111 and 112 Requirements and Title V,” by John S. Seitz, Director of Air Quality Planning and Standards, EPA, dated December 10, 1993.

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, DEQ will reference the previous up-front approval demonstration, reaffirm that it still meets the up-front approval criteria, and identify the new or revised part 63 standards that will be delegated upon incorporation into Title V permits.

The EPA will respond in writing to the request and take action in the **Federal Register** to inform the public and affected sources of the EPA's decision, indicate where source notifications and reports should be sent, and update 40 CFR 63.99(a)(4), amending the Arkansas table of delegated part 63 standards being implemented and enforced by DEQ.

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

In this action, because DEQ's request meets all requirements of CAA section 112(l) and 40 CFR 63.91, the EPA is approving their request for the updated delegation and the continued 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 they existed through July 31, 2020.

As for the part 63 standards which have not yet been incorporated into permits, DEQ's authority to implement and enforce new and revised part 63 standards under this delegation becomes effective when this action is finalized, and after the issuance of the appropriate federally enforceable permit containing those standards. DEQ's authority to implement and enforce new and revised part 63 standards under this delegation will become effective according to the procedures outlined in the MOA, a copy of which is included in the docket for this rulemaking.

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.

#### **XV. Environmental Justice Considerations**

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects”

of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”<sup>4</sup> EPA is providing additional analysis of environmental justice associated with this action. We are doing so for the purpose of providing information to the public, not as a basis of our final action.

EPA reviewed demographic data, which provides an assessment of individual demographic groups of the populations living within Arkansas.<sup>5</sup> The EPA then compared the data to the national average for each of the demographic groups.<sup>6</sup> The results of the demographic analysis indicate that, for populations within Arkansas, the percent people of color (persons who reported their race as a category other than White alone (not Hispanic or Latino)) is less than the national average (28.7 percent versus 40.7 percent). Within people of color, the percent of the population that is Black or African American alone is higher than the national average (15.7 percent versus 13.6 percent) and the percent of the population that is American Indian/Alaska Native is lower than the national average (1.0 percent versus 1.3 percent). The percent of the population that is two or more races is lower than the national averages (2.3 percent versus 2.9 percent). The percent of people living below the poverty level in Arkansas is higher than the national average (15.2 percent versus 11.4 percent). The percent of people over 25 with a high school diploma in Arkansas is similar to the national average (87.2 percent versus 88.5 percent), while the percent with a Bachelor’s degree or higher is below the national average (23.8 percent

versus 32.9 percent). These populations and others residing in Arkansas may be vulnerable and subject to disproportionate impacts within the meaning of the Executive order described above.

The authorities contained in the Arkansas air program to implement and enforce Federal section 112 rules as promulgated, without changes for both part 70 major sources and those area sources subject to Title V (part 70) permitting requirements, are adequate to assure compliance by sources within the State with respect to each applicable standard, regulation, or requirement established under section 112. This final action approves the requests from the State to update its NESHAP delegation under section 112 of the CAA. Final approval of the updated NESHAP delegation is necessary for the State of Arkansas to implement Federal requirements that ensure control strategies and permitting that will achieve emissions reductions and contribute to reduced environmental and health impacts on those residing, working, attending school, or otherwise present in vulnerable communities in Arkansas. This final rule is not anticipated to have disproportionately high or adverse human health or environmental effects on communities with environmental justice concerns because it should not result in or contribute to emissions increases in Arkansas.

#### **XVI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator has the authority to approve section 112(l) submissions that comply with the provisions of the Act and applicable Federal regulations. In reviewing section 112(l) submissions, the EPA’s role is to approve state choices, provided that they meet the criteria and objectives of the CAA and of the EPA’s implementing regulations. Accordingly, this final action merely approves the State’s request as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this final action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 October 28, 2022. 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 in 40 CFR Part 63**

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

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

<sup>4</sup> <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

<sup>5</sup> See the United States Census Bureau’s QuickFacts on Arkansas at <https://www.census.gov/quickfacts/fact/table/AR,US/PST045221>.

<sup>6</sup> See the United States Census Bureau’s QuickFacts on Arkansas at <https://www.census.gov/quickfacts/fact/table/AR,US/PST045221>.

Dated: August 18, 2022.

David Garcia,

Director, Air & Radiation Division, Region 6.

For the reasons stated in the preamble, 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 revising paragraph (a)(4) to read as follows:

**§ 63.99 Delegated Federal authorities.**

(a) \* \* \*

(4) *Arkansas.* The following table lists the specific standards under this part that have been delegated unchanged to the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) for all sources subject to the Arkansas Title V operating permit program approved by EPA under section 502 of the Clean Air Act. 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 DEQ 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 the EPA. These include certain General Provisions authorities and specific parts of some standards. DEQ’s authority to implement and enforce a delegated standard under this part is effective when the standard is incorporated into the source’s Title V Operating Permit. Any amendments made to these rules after July 21, 2020, are not delegated.

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

Subpart	Source category	DEQ <sup>2</sup>
A	General Provisions	X
F	Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI)	X
G	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater	X
H	HON—Equipment Leaks	X
I	HON—Certain Processes Negotiated Equipment Leak Regulation	X
J	Polyvinyl Chloride and Copolymers Production	( <sup>3</sup> )
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	Wool Fiberglass Manufacturing at Area Sources	
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
YY	Generic Maximum Achievable Control Technology Standards	X
ZZ—BBB	(Reserved)	

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

Subpart	Source category	DEQ <sup>2</sup>
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> X
KKKKK	Clay Ceramics Manufacturing	<sup>6</sup> X
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)	
YYYYY	Electric Arc Furnace Steelmaking Area Sources	X
ZZZZZ	Iron and Steel Foundries Area Sources	

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

Subpart	Source category	DEQ <sup>2</sup>
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	
CCCCCCC	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 Energy and Environment, Division of Environmental Quality (DEQ).

<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 DEQ 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 76 FR 15608 (March 21, 2011), as amended at 78 FR 7138 (January 31, 2013); 80 FR 72807 (November 20, 2015).

<sup>6</sup> Final promulgated rule adopted by the EPA. See 80 FR 65470 (October 26, 2015). Note that subpart KKKKK of this part was amended in response to a petition for reconsideration of the final rule. See 84 FR 58601 (November 1, 2019).

<sup>7</sup> Initial final rule. See 77 FR 9304 (February 16, 2012), as amended 81 FR 20172 (April 6, 2016). Final supplemental finding that it is appropriate and necessary to regulate hazardous air pollutant (HAP) emissions from coal- and oil-fired electric utility steam generating units (EUSGU). See 81 FR 24420 (April 25, 2016).

[FR Doc. 2022-18179 Filed 8-26-22; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Part 512**

[CMS-5527-F2]

RIN 0938-AT89

**Radiation Oncology (RO) Model**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** We are finalizing our proposal to delay the current start date of the RO Model to a date to be determined through future rulemaking, and to modify the definition of the model performance period to provide that the start and end dates of the model performance period for the RO Model will be established in future rulemaking.

**DATES:** These regulations are effective on October 28, 2022.

**FOR FURTHER INFORMATION CONTACT:** Genevieve Kehoe, *RadiationTherapy@cms.hhs.gov*, or 1-844-711-2664 Option 5, for questions related to the Radiation Oncology Model.

**SUPPLEMENTARY INFORMATION:**