

section 112(l) of the CAA enables EPA to approve State air toxics programs or rules to operate in place of the Federal air toxics program or rules. 40 CFR part 63, subpart E (Subpart E) governs EPA's approval of State rules or programs under section 112(l).

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

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

(2) The State has adequate authority and resources to implement and enforce 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. Section 63.91(d)(3) provides that interim or final Title V program approval will satisfy the criteria of § 63.91(d) for part 70 sources.

#### V. How Did NMED Meet the Subpart E Approval Criteria?

As part of its Title V submission, NMED stated that it intended to use the

mechanism of incorporation by reference to adopt unchanged Federal section 112 into its regulations. This applied to both existing and future standards as they applied to part 70 sources. 59 FR 26158, 26160–26161 (May 19, 1994). EPA approved NMED's program for receiving delegation of existing and future standards when it granted final interim approval to NMED's Title V program. 59 FR 59656, 59658 & 59660. In addition, on November 26, 1996, EPA promulgated full approval of the State's operating permits program as administered by NMED. 61 FR 60032. Under 40 CFR 63.91(d)(2), once a state has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals. NMED has affirmed that it still meets the up-front approval criteria.

#### VI. What Is Being Delegated?

EPA received requests to update the NSPS and NESHAP delegations on November 13, 1998, August 16, 1999, April 25, 2002, and May 23, 2003. NMED requested the EPA to update the delegation of authority for the following:

A. NSPS (40 CFR part 60 standards) from July 2, 1997, through September 1, 2002;

B. NESHAPs (40 CFR part 61 standards) from July 2, 1997 through September 1, 2001; and

C. NESHAPs (40 CFR part 63 standards) from December 19, 1994 (effective date of final interim approval of NMED's Title V program).

NMED's request was for delegation of certain NSPS and NESHAP for all sources (both part 70 and non-part 70 sources). The request includes revisions of 20 NMAC 2.77, 20 NMAC 2.78, and 20 NMAC 2.82 as adopted by the New Mexico Environmental Improvement Board. 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 September 1, 2002. The effective date of the Federal delegation for NSPS under section 111 is the date that this **Federal Register** is published. For the part 61 NESHAPs, this revision included all NESHAPs promulgated by EPA as amended in the **Federal Register** through September 1, 2001, excluding Subparts B, H, I, K, Q, R, T, and W. For the part 63 NESHAPs, this includes the NESHAPs set forth in Table 1 below. The effective date of the Federal delegation for parts 61 and 63 standards is the effective date of this rule.

TABLE 1.—40 CFR PART 63 NESHAPs FOR SOURCE CATEGORIES DELEGATED TO NMED

Subpart	Source category
A .....	General Provisions.
D .....	Early Reductions.
F .....	Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI).
G .....	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater.
H .....	HON—Equipment Leaks.
I .....	HON—Certain Processes Negotiated Equipment Leak Regulation.
J .....	Polyvinyl Chloride and Copolymers Production.
L .....	Coke Oven Batteries.
M .....	Perchloroethylene Dry Cleaning.
N .....	Chromium Electroplating and Chromium Anodizing Tanks.
O .....	Ethylene Oxide Sterilizers.
Q .....	Industrial Process Cooling Towers.
R .....	Gasoline Distribution.
S .....	Pulp and Paper Industry.
T .....	Halogenated Solvent Cleaning.
U .....	Group I Polymers and Resins.
W .....	Epoxy Resins Production and Non-Nylon Polyamides Production.
X .....	Secondary Lead Smelting.
Y .....	Marine Tank Vessel Loading.
AA .....	Phosphoric Acid Manufacturing Plants.
BB .....	Phosphate Fertilizers Production Plants.
CC .....	Petroleum Refineries.
DD .....	Off-Site Waste and Recovery Operations.
EE .....	Magnetic Tape Manufacturing.
GG .....	Aerospace Manufacturing and Rework Facilities.
HH .....	Oil and Natural Gas Production Facilities.
II .....	Shipbuilding and Ship Repair Facilities.
JJ .....	Wood Furniture Manufacturing Operations.
KK .....	Printing and Publishing Industry.
LL .....	Primary Aluminum Reduction Plants.
MM .....	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semichemical Pulp Mills.
OO .....	Tanks—Level 1.
PP .....	Containers.