

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 NMED has not adequately demonstrated its authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

Also, this delegation does not extend to sources or activities located in Bernalillo County because the Albuquerque/Bernalillo County Air Quality Control Board and the Albuquerque Environmental Health Department have jurisdiction to administer and enforce provisions of the New Mexico Air Quality Control Act in Bernalillo County (excluding Indian country). The Albuquerque/Bernalillo County Air Quality Control Board and the Albuquerque Environmental Health Department have been delegated the authority to implement and enforce certain NSPS and NESHAPs by EPA. See 60 FR 52329 (October 6, 1995).

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

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

IX. What Authority Does EPA Have?

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

Furthermore, we retain any authority in an individual emission standard that may not be delegated according to provisions of the standard. Also, listed in the footnotes of the part 63 delegation

table at the end of this rule are the authorities that cannot be delegated to any State or local agency which we therefore retain.

X. What Information Must NMED Provide to EPA?

In delegating the authority to implement and enforce these rules and in granting a waiver of EPA notification requirements, we require NMED to input all source information into the Aerometric Information Retrieval System (AIRS) for both point and area sources. NMED must enter this information into the AIRS system and update the information by September 30 of every year. NMED 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, NMED 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); approvals/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)); approvals/disapprovals of compliance extensions (§ 63.6(i)); approvals/disapprovals of minor (§ 63.7(e)(2)(i)) or intermediate (§ 63.7(e)(2)(ii) and (f)) alternative test methods; approval of shorter sampling times and volumes (§ 63.7(e)(2)(iii)); waiver of performance testing (§ 63.7(e)(2)(iv) and (h)(2), (3)); approvals/disapprovals of minor or intermediate alternative monitoring methods (§ 63.8(f)); approval of adjustments to time periods for submitting reports (§§ 63.9 and 63.10); and approvals/disapprovals of minor alternatives to recordkeeping and reporting (§ 63.10(f)).

Additionally, EPA's Emission Measurement Center of the 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 NMED should forward these intermediate test methods or monitoring changes via mail or facsimile to: Chief, Source Categorization Group A, EPA (MD-19), Research Triangle Park, NC 27711, Facsimile telephone number: (919) 541-1039.

XI. What Is EPA's Oversight of This Delegation to NMED?

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

XII. Should Sources Submit Notices to EPA or NMED?

All of the information required pursuant to the Federal NSPS and NESHAP (40 CFR parts 60, 61, and 63) should be submitted by sources located outside the boundaries of Bernalillo County and areas outside of Indian country, directly to the NMED at the following address: Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, New Mexico 87502. The NMED is the primary point of contact with respect to delegated NSPS and 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 NMED in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii).

XIII. How Will Unchanged Authorities Be Delegated to NMED in the Future?

In the future, NMED will only need to send a letter of request to EPA, Region 6, for those NSPS and NESHAP regulations that NMED 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. If a request is approved, the effective date of the delegation will be the date of our response letter. A **Federal Register**