



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

AUG 13 2012

Rob Bamford, Chief
Bureau of Air Quality Planning
Nevada Division of Environmental Protection
901 S. Stewart Street, Suite 4001
Carson City, NV 89701

Dear Mr. Bamford:

In response to your request of July 20, 2012, the U.S. Environmental Protection Agency, Region 9 (EPA) is delegating to the Nevada Division of Environmental Protection (NDEP) the authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS) as specified below. We have reviewed your request for delegation and have found NDEP's programs and procedures to be acceptable. Your July 20th letter also requested delegation of certain Part 63 standards, which we are addressing separately.

NSPS

EPA is delegating:

- 40 CFR Part 60, Subpart A - NSPS for General Provisions as published in the January 18, 2011 Federal Register;
- 40 CFR Part 60, Subpart CCCC – NSPS for Commercial and Industrial Solid Waste Incineration Units for Which Construction is Commenced After November 30, 1999 or for Which Modification or Reconstruction is Commenced on or After June 1, 2001 as published in the March 21, 2011 Federal Register;
- 40 CFR Part 60, Subpart IIII – NSPS for Stationary Compression Ignition Internal Combustion Engines as published in the June 28, 2011 Federal Register; and
- 40 CFR Part 60, Subpart JJJJ – NSPS for Stationary Spark Ignition Internal Combustion Engines as published in the June 28, 2011 Federal Register.

Regarding any other 40 CFR Part 60 NSPS previously delegated to NDEP, this letter is also delegating any amendments made to those NSPS as they existed on July 1, 2011 except for Subpart HHHH, which remains as it existed on June 9, 2006.

Regarding any other 40 CFR Part 61 NESHAPS previously delegated to NDEP, this letter is also delegating any amendments made to those NESHAPS as they existed on July 1, 2010.

However, as discussed in 67 FR 1676, the following provisions are not delegated under 40 CFR Parts 60 and 61, Subpart A.

- (1) Provisions that address EPA's authority to delegate to states are not being delegated because it is inappropriate to imply that states have authority to delegate to themselves. This includes 40 CFR 60.4(b), 61.04(b), and 61.04(c); part 60, subpart B; and part 60, subpart C.

- (2) Provisions that require federal oversight to ensure national consistency and EPA's ability to enforce the standards are not being delegated. This includes 40 CFR 61.05(c) and 61.11.
- (3) Provisions that grant EPA discretion to approve modifications to test methods or protocols are not being delegated in order to ensure uniformity and technical quality in enforcement of national standards. This includes 40 CFR 60.8(b); 60.11(b); 60.13(a),(d)(2), and (g); and 60.13(i); 61.13(h)(1)(ii); and 61.14(d) and (g)(1)(ii).
- (4) Provisions that require rulemaking cannot be delegated because states cannot perform federal rulemaking. This includes 40 CFR 60.1 l(e) and 61.12(d).
- (5) Provisions that address EPA's obligation to make certain information available to the public do not apply to states under federal law and are not appropriate for delegation. This includes 40 CFR 60.9 and 61.16.
- (6) Appendices to 40 CFR parts 60 and 61 are not performance standards and are not delegable under Clean Air Act Section 111(c)(1) or 112(l)(1). However, all applicable test methods and other requirements in the Appendices must be followed for the delegated subparts.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including but not limited to use of EPA's test methods and continuous emission monitoring procedures. As of the effective date of this delegation, NDEP will have primary authority to enforce the above standards. EPA will retain independent enforcement authority, and will exercise such authority in a manner consistent with EPA's "Timely and Appropriate Enforcement Response to Significant Air Pollution Violators" Guidance, and any revisions thereto, and our enforcement agreement. All notifications and reports required of sources by the above standards should be sent to you, with a copy to our office. The delegation is effective upon the date of this letter unless the U.S. EPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the future.

We appreciate NDEP's efforts to implement the federal NSPS and NESHAP programs, and hope to continue working with you to reduce emissions of air pollutants in Nevada. If you have any questions about this delegation, please call me at (415) 947-8715 or have your staff contact Cynthia Allen at (415) 947-4120.

Sincerely,



Deborah Jordan
Director, Air Division

cc: Colleen Cripps, NDEP
Adele Malone, NDEP
Larry Kennedy, NDEP