



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

November 04, 2010

William D. Wiley, P.E., Director
Maricopa County Air Quality Department
1001 North Central Avenue, Suite 900
Phoenix, Arizona 85004

Dear Mr. Wiley:

We received your October 7, 2010, request for delegation of Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) pursuant to the Code of Federal Regulations, Title 40 (40 CFR), Parts 60, 61, and 63. In this letter, we are responding only to your requests for delegation of amendments to 40 CFR Part 60 NSPS and Part 61 NESHAP. You will receive a separate letter addressing delegation of 40 CFR Part 63 NESHAP.

We have reviewed your request for delegation and have found your programs and procedures to be acceptable. Regarding any 40 CFR Parts 60 and 61 previously delegated to Maricopa, this letter is delegating any amendments made to those NSPS and NESHAP as they existed on July 1, 2009.

However, as discussed in 67 FR 1676, the following provisions are not delegated under 40 CFR Part 60, 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); 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 60.11(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 use of EPA's test methods and procedures. As of the effective date of this delegation, Maricopa County 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 our office. These delegation amendments are 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. EPA will publish a future Federal Register notice to codify these delegation amendments into the Code of Federal Regulations.

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. Additional information on EPA's delegation to Maricopa County can be found at <http://yosemite.epa.gov/r9/r9nsps.nsf>.

Sincerely,



Deborah Jordan
Director, Air Division

cc: Eric Massey, ADEQ
Jo Crumbaker, MCAQD