



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**75 Hawthorne Street**

**San Francisco, CA 94105-3901**

**MAR 26 2007**

Michael H. Scheible  
Deputy Executive Officer  
California Air Resources Board  
1001 I Street  
P.O. Box 2815  
Sacramento, CA 95812

Dear Mr. Scheible:

In response to your request, dated January 11, 2007, the U.S. Environmental Protection Agency, Region 9 (EPA) is delegating to Kern County Air Pollution Control District (KCAPCD) the authority to implement and enforce certain categories of the National Emission Standards for Hazardous Air Pollutants (NESHAPs). We have reviewed your request for delegation on behalf of KCAPCD and have found their programs and procedures to be acceptable. We are delegating all the Part 61 NESHAPs that are listed in Kern's Rule 423 that was amended on September 14, 2006, except those subparts noted below.

Regarding any other 40 CFR Part 61 NESHAPs previously delegated to Kern County, this letter is also delegating any amendments made to those NESHAPs as of December 28, 2005.

As discussed further, EPA is not delegating:

- 40 CFR Part 61, Subpart B -- National Emission Standards for Radon Emissions From Underground
- 40 CFR Part 61, Subpart H -- National Emission Standards for Radionuclides Other Than Radon From Department of Energy Facilities
- 40 CFR Part 61, Subpart I -- National Emission Standards for Radionuclides Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H
- 40 CFR Part 61, Subpart K -- National Emission Standards for Radionuclides Emissions From Elemental Phosphorus Plants
- 40 CFR Part 61, Subpart Q -- National Emission Standards for Radon Emissions From Department of Energy Facilities
- 40 CFR Part 61, Subpart R -- National Emission Standards for Radon Emissions From Phosphogypsum Stacks

- 40 CFR Part 61, Subpart T -- National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings
- 40 CFR Part 61, Subpart W -- National Emission Standards for Radon Emissions From Operating Mill Tailings

This delegation does not include NESHAPs Subparts B, H, I, K, Q, R, T, and W which address Emissions of Radionuclides and Radon. EPA is not delegating Radionuclides and Radon under the Clean Air Act to California until delegation procedures and requirements are developed.

In addition, the following provisions are not delegated under 40 CFR Part 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 provision includes 40 CFR 61.04(b).

(2) Provisions that require federal oversight to ensure national consistency and EPA's ability to enforce the standards are not being delegated. These provisions include 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. These provisions include 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 provision includes 40 CFR 61.12 (d).

(5) Provisions that address EPA's obligation to make certain information available to the public does not apply to states under federal law and is not appropriate for delegation. This provision includes 40 CFR 61.16.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 61, including use of EPA's test methods and procedures. As of the effective date of this delegation, KCAPCD 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 KCAPCD and our office. These delegations are effective upon the date of this letter unless the U.S. EPA receives written notice from you or the District of any objections within 10 days of receipt of this letter.

EPA will publish a future Federal Register notice to codify these delegations 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.

Sincerely,



Deborah Jordan  
Director, Air Division

cc: David L. Jones, APCO  
Kern County APCD

Jorge L. Fernandez, Chief  
Program Evaluation Branch

