



CITY OF PHILADELPHIA

DEPARTMENT OF PUBLIC HEALTH
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August 5, 2011

Ms. Diana Esher
Director
Air Protection Division
Region 3 Environmental Protection Agency
1650 Arch Street, (3AP00)
Philadelphia, PA 19103

Re: Request for Delegation by Reference the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Certain Area Sources.

Dear Ms. Esher:

The City of Philadelphia (City), Department of Public Health, Air Management Services (AMS) hereby requests "delegation by reference" to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPs) promulgated under the Clean Air Act (CAA) § 112 and codified in 40 C.F.R. Part 63 for the following area sources:

1. Subpart BBBB - Gasoline Distribution Bulk Terminal, Bulk Plant and Pipeline Facilities
2. Subpart CCCCC - Gasoline Distribution, Gasoline Dispensing Facilities
3. Subpart EEE - Hazardous Waste Combustors
4. Subpart HHHHHH - Paint Stripping and Miscellaneous Surface Coating
5. Subpart OOOOOO - Flexible Polyurethane Foam Fabrication and Production
6. Subpart VVV - Publicly Owned Treatment Works (POTW)
7. Subpart WWWWW - Hospital Ethylene Oxide Sterilizers
8. Subpart ZZZZZ - Iron and Steel Foundries

The U.S. Environmental Protection Agency (EPA) previously delegated the authority to implement and enforce certain NESHAPs to AMS. See 67 Fed. Reg. 4181-4185 (Jan. 29, 2002). EPA also approved a separate mechanism by which AMS could receive delegation of such future NESHAPs that are adopted unchanged from Federal requirements. Id. This mechanism requires AMS to submit a "delegation request letter to EPA." Id. at 4183. A legal opinion from the City Solicitor discussing AMS's authority for such delegation, copies of such authority, and a demonstration of adequate resources are also attached and discussed below.

Pursuant to 40 C.F.R. § 63.91(d)(3)(i)(A)-(D), an application for NESHAPs delegation must include a written finding, authored by the City Solicitor, that indicates that AMS has the necessary legal authority to implement and enforce the city rule or program upon approval and assure compliance by all sources with each applicable CAA § 112 rule, emission standard or requirement. The written finding that satisfies this criteria is attached hereto as **Appendix A**.

Pursuant to 40 C.F.R. § 63.91(d)(3)(ii), agencies seeking delegation to implement CAA § 112 standards or requirements must submit a copy of the statutes, regulations and other requirements that contain the appropriate provisions granting authority to implement the city program upon approval. A copy of the Title 3 of the Philadelphia Code, known as the Philadelphia Air Management Code, the relevant Air Management Regulations (AMRs) promulgated thereunder, and State authorities pertinent to the delegation request are attached hereto as Appendix B.

Finally, 40 C.F.R. § 63.91(d)(3)(iii) requires that a request for NESHAPs delegation include a demonstration that the AMS has adequate resources to implement and enforce all aspects of the rule, program, or requirement upon approval. This demonstration includes a description, in narrative form of the scope, structure, coverage and processes of the AMS program, as well as an organizational chart, attached hereto as Appendix C and D.

By operation of law, the NESHAPs promulgated under CAA § 112 and codified in 40 C.F.R. Part 63 are incorporated by reference into the AMS's permitting program. See AMR I § XI.B; 5 P.S. § 4006.6(a); 25 Pa. Code § 127.35. AMS will implement the federal NESHAPs for the above listed area sources without substituting a local rule or generic city program. See Id. Accordingly, AMS hereby requests "delegation by reference" to implement and enforce the above listed NESHAPs. AMS also requests "automatic delegation" of future amendments that EPA promulgates for these NESHAPs (e.g. Subparts BBBB, CCCCC, EEE, HHHHH, OOOOO, VVV, WWWW, and ZZZZ). Such future amendments would be adopted "unchanged" and incorporated by reference. See e.g. AMR I § XI.B.; 25 Pa. Code § 127.35.

If you have any questions regarding this delegation request, or require any additional information, please contact Mr. Edward Braun, AMS Regulatory Services Program Manager, by email at Edward.Braun@phila.gov or by telephone at (215)-685-9476.

Sincerely,



Thomas Huynh
Director
Air Management Services

Enclosures