



Pennsylvania Department of Environmental Protection

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December 10, 2009

Bureau of Air Quality

717-787-9702

Ms. Judith M. Katz
Director, Air Protection Division
U.S. Environmental Protection Agency, Region III
1650 Arch Street (Mail Code: 3AP00)
Philadelphia, PA 19103-2029

DEC - 9

Completed by: [unclear]

RE: Request for Delegation by Reference of federal Maximum Achievable Control
Technology Standards for Certain Area Source Categories

Dear Ms. Katz:

The Pennsylvania Department of Environmental Protection (Department or PADEP) has sufficient legal authority to implement and enforce the federal maximum achievable control technology (MACT) standards for area sources, which are incorporated by reference into the Department's plan approval and permitting programs. See 35 P.S. § 4006.6(a) and 25 Pa. Code §127.35. The U. S. Environmental Protection Agency's (EPA) rules in 40 CFR Part 63 (relating to national emission standards for hazardous air pollutants for source categories) are applicable, without revisions, to affected sources in Pennsylvania on the effective dates published in the *Federal Register*.

The Department is hereby requesting delegation of authority, by reference, to implement and enforce federal area source national emission standards for hazardous air pollutants (NESHAPS) codified in 40 CFR Part 63 for the following source categories: (1) Subpart AAAA (relating to municipal solid waste landfills); (2) Subpart BBBBBB (relating to gasoline distribution bulk terminals, bulk plants and pipeline facilities); (3) Subpart EEE (relating to hazardous waste combustion); (4) Subpart LLL (relating to Portland cement manufacturing industry); (5) Subpart NNNNNN (relating to chromium compounds); (6) Subpart OOOOOO (relating to flexible polyurethane foam fabrication and production area sources); (7) Subpart PPPPPP (relating to lead acid battery manufacturing area sources); (8) Subpart RRRRRR (relating to clay ceramics manufacturing area sources); (9) Subpart SSSSSS (relating to glass manufacturing area sources); (10) Subpart TTTTTT (relating to secondary nonferrous metals processing area sources); (11) Subpart YYYYYY (relating to electric arc furnace steelmaking facilities); and (12) Subpart ZZZZZZ (relating to iron and steel foundries area sources). The PADEP is also requesting "automatic delegation" of future amendments to the previously mentioned NESHAPS (See enclosed Table 1).

Judith M. Katz

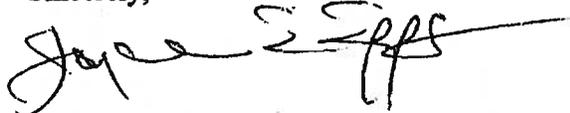
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The enclosed submittal includes the delegation request, proof of the Department's legal authority to implement and enforce the federal NESHAPS and copies of the Pennsylvania Air Pollution Control Act and applicable regulations.

If you have any questions or need additional information, please contact me or Ronald Davis, Chief of the Compliance and Enforcement Division, by e-mail at rondavis@state.pa.us or by telephone at 717-772-3369.

Sincerely,

A handwritten signature in black ink, appearing to read "Joyce E. Epps", with a long horizontal flourish extending to the right.

Joyce E. Epps
Director

Enclosures

Table 1
PA Department of Environmental Protection
Request for Delegation of Authority for Certain 40 CFR Part 63 Area Source
National Emission Standards for Hazardous Air Pollutants
December 8, 2009

Subpart AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
Subpart BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Bulk Terminals, Bulk Plants and Pipeline Facilities
Subpart EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustion
Subpart LLL	National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry
Subpart NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds
Subpart OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication and Production Area Sources
Subpart PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources
Subpart RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources
Subpart SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources
Subpart TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources
Subpart YYYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities
Subpart ZZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources

COMMONWEALTH OF PENNSYLVANIA

Department of Environmental Protection

**Delegation Request for Twelve Area Source Categories Subject to
Maximum Achievable Control Technology Standards
(Delegation by Reference)**

I. Introduction

In accordance with Title I, Section 112 of the Clean Air Act, as amended and 40 CFR Part 63, Subpart E, the Pennsylvania Department of Environment Protection (Department) hereby requests "delegation by reference" to implement and enforce maximum achievable control technology (MACT) requirements for certain area sources (as defined in 40 CFR §63.2). The Department is not seeking delegation of the Accidental Release Prevention program promulgated under Section 112(r) or the standards to control radionuclide emissions under 40 CFR §63.12(b)(1).

Pennsylvania's program for area MACT sources will implement federal requirements without any changes. Section 6.6(a) of the Air Pollution Control Act (APCA) provides that "the regulations establishing performance or emission standards promulgated under Section 112 of the Clean Air Act are incorporated by reference into the department's permitting program." Subsection (a) also requires new, reconstructed, modified and existing sources to comply with the HAP requirements in accordance with the compliance schedule established under Section 112 of the Clean Air Act and regulations adopted thereunder. 35 P.S. §4006.6(a). Therefore, the MACT requirements promulgated under Section 112 of the Clean Air Act and implementing regulations in 40 CFR, Part 63 adopted are incorporated by reference by operation of law. The information provided herein should satisfy the delegation requirements of 40 CFR Part 63, Subpart E.

II. Finding by the State Attorney General

Pursuant to 40 CFR §63.91(b)(1), an application for Subpart E delegation must include a written finding by the State Attorney General that the state has the necessary legal authority to implement and enforce the state rule or program upon approval and to assure compliance by all sources with each applicable Section 112 rule, emission standard or requirement. A legal opinion that satisfies this criterion is attached hereto as Appendix A.

III. Copies of all State Statutes and Regulations

Section 63.91(b)(2) requires agencies seeking delegation to implement Section 112 standard or requirements to submit a copy of the state statutes, regulations and other requirements that contain the appropriate provisions granting authority to implement the

State program upon approval. 40 CFR §63.91(b)(2). A copy of the Air Pollution Control Act, 35 P.S. §§4001-4015 and regulations pertinent to the delegation request is attached hereto as Appendix B.

IV. Adequate Resources Demonstration

Scope Description

According to 40 CFR §63.91(3)(i), the demonstration of adequate resources must include a description, in narrative form of the scope, structure, coverage and processes of the State program. The Department will implement the federal MACT standards for area sources without substituting a state rule or generic State program for Section 112 emission standards. By operation of law, federal regulations establishing performance or emission standards promulgated under Section 112 of the Clean Air Act are incorporated by reference into the department's permitting program. 35 P.S. §4006.6(a) and 25 Pa. Code § 127.35. Therefore, the Department hereby requests "delegation by reference" under 40 CFR §63.91 to implement and enforce the following National Emission Standards for Hazardous Air Pollutants for area sources codified in 40 CFR Part 63:

1. Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
2. Subpart BBBB - National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Bulk Terminals, Bulk Plants and Pipeline Facilities
3. Subpart EEE - National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
4. Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
5. Subpart NNNNNN - National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds
6. Subpart OOOOOO - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication and Production Area Sources
7. Subpart PPPPPP - National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources
8. Subpart RRRRRR - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources

9. Subpart SSSSSS – National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources
10. Subpart TTTTTT - National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources
11. Subpart YYYYYY – National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities
12. Subpart ZZZZZ - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources

The Department is also requesting "automatic delegation" of future amendments that EPA promulgates for the previously listed Subparts (AAAA, BBBB, EEE, LLL, NNNNN, OOOOO, PPPPP, RRRRR, SSSSS, TTTTT, YYYYY and ZZZZ) because the amendments would be adopted "unchanged" and incorporated by reference in Section 6.6 of the Air Pollution Control Act, 35 P.S. §4006.6(a), and 25 Pa. Code §127.35.

Agency Description and Organization

According to 40 CFR §63.91(3)(ii), any request for delegation must include a description of the organization having the responsibility for administering the program. Since 1972, Pennsylvania's air quality program has been implemented and enforced by the Department of Environmental Protection (previously named the Department of Environmental Resources). Section 4(1) of the Air Pollution Control Act explicitly states that the Department shall have the power and duty to implement the provisions of the Clean Air Act in the Commonwealth. 35 P.S. §4004(1). The Department's Bureau of Air Quality, which consists of the Director's Office, Office of the Assistant Director, Divisions of Air Resource Management, Air Quality Monitoring, Compliance and Enforcement, Permits and Source Testing and Monitoring, is responsible for implementing and enforcing the requirements of the Clean Air Act, Air Pollution Control Act and regulations adopted under the acts. (See Appendix C) A description of the organizational structure of the Bureau of Air Quality follows:

Director's Office

The Bureau Director organizes, directs, evaluates, coordinates and manages the statewide air pollution control program. The Director's responsibilities include policy analysis and development, program planning and evaluation, budgeting, program legislation and development of regulatory programs. Additional duties and responsibilities include developing, implementing, coordinating and evaluating air quality program goals, policies and procedures for the Commonwealth; representing the air quality program in air quality matters involving Federal officials, other

Commonwealth agencies, advisory committees, and national and regional organizations including the National Association of Clean Air Agencies, Ozone Transport Commission, Mid-Atlantic/Northeast Visibility Union, and the Mid-Atlantic Regional Air Management Association; managing the Bureau's resources to ensure that the Commonwealth's air quality program comports with the requirements of the Clean Air Act and the Air Pollution Control Act and regulations promulgated under the acts. Administrative functions include interviewing prospective employees and recommending selection of employees; initiating disciplinary action for minor misconduct and recommending major corrective disciplinary action or dismissal, as appropriate.

Office of the Assistant Director

The Assistant Director and his staff are responsible for coordination of all the air programs with the regional offices and management of the training, budget, grants, personnel needs, and other administrative functions. The Information Analysis and Report Section, which also reports to the Assistant Director, manages the Air Information Management System (AIMS), a database that currently includes all point source emission data and testing results. This section also utilizes the Pennsylvania's Environment Facility Application Compliance Tracking system (eFACTS) database which contains compliance information. The office is also responsible for preparing annual programs plans and negotiating conditions of the EPA Section 105 grant work plan. In addition, the Assistant Director monitors Clean Air Fund and federal grant expenditures; develops the Bureau's training plan and works with local air pollution control agencies to assure compliance with federal requirements.

Division of Air Resource Management

The primary responsibilities of the division involve short and long-term air quality planning for the Commonwealth through the development of the State Implementation Plan (SIP) required under Title I of the Clean Air Act. Updating, maintaining, and projecting the levels of emissions emitted by point, area, and mobile sources and developing new regulations and policies are the primary methods used for SIP planning purposes. The Air Resource Management (ARM) Division also conducts meteorological tracking and runs computer models to evaluate how pollutants emitted into the atmosphere react under a variety of weather conditions.

In addition, ARM staff participates in various interstate associations, commissions and committees including the Ozone Transport Commission to improve the understanding of the regional nature of air pollution and to develop more effective methods to achieve and maintain the National Ambient Air Quality Standards (NAAQS).

Division of Air Quality Monitoring

The Air Quality Monitoring (AQM) Division includes the Air Toxics Monitoring, Quality Assurance and Data Assessment and Field Operations and Maintenance Sections. This Division operates and maintains an ambient air network to assess air pollution levels statewide. The Department's air monitoring network currently consists of 52 continuous monitoring stations, an ambient toxics network consisting of 15 air toxic monitoring sites and the acid deposition monitoring network.

The AQM division also conducts investigative sampling, and special studies (i.e., hydrogen sulfide sampling), when necessary, to determine the nature and extent of pollutants emitted from specific air contamination sources; initiates the Bureau's Air Quality Index (AQI) and air pollution emergency control programs; develops new sampling/analysis techniques; conducts audits and other quality assurance procedures on ambient air instrumentation. In addition, a central data collection computer system is operated and maintained, providing the necessary hardware to retrieve data (via telemetry) and subsequently store and access a multiyear, real-time database. The system also supports users on a personal computer network.

Division of Compliance & Enforcement

The Compliance and Enforcement Division includes the Compliance Assistance Monitoring Section and the Continuous Compliance Section. This Division develops policy and guidance to ensure compliance and enforcement of the Clean Air Act, Air Pollution Control Act, regulations adopted under the acts, plan approvals and operating permits and orders of the Department; develops and implements the Small Business Assistance Program; tracks enforcement actions initiated by regional staff and submits the information to the U.S. Environmental Protection Agency (EPA); develops and coordinates the Bureau's Compliance Assistance and Pollution Prevention Program and works to foster the adoption of those principles in all areas of the Department's air quality program.

The Division of Compliance and Enforcement also develops guidelines and procedures to implement the Continuous Source Monitoring System compliance assurance program. In an effort to foster consistency across the state, the division compiles databases to track and evaluate the inspection and enforcement activities of all six regions.

Division of Permits

The Permits Division is comprised of the New Source Review, Technical Support and Air Toxics sections. This Division is responsible for implementing permitting regulations and developing policies to ensure that plan approvals and operating permits including Title V permits issued by regional staff are in conformance with state and federal requirements such new source review, prevention of significant deterioration,

new source performance standards, and maximum achievable control technology.

The Permits Division also develops "state" best available technology criteria for new station stationary sources. Permitting activities include staff review of applications; development and issuance of general permits and technical guidance documents in consultation with regional staff; coordination of permit reviews conducted by EPA; technology assessments and risk assessments. In addition, the division coordinates and tracks the issuance of all air quality plan approvals and permits by regional staff.

Division of Source Testing & Monitoring

The Source Testing and Monitoring Division is comprised of the Continuous Emission Monitoring Section and the Source Testing Section. The Division conducts emissions testing at facilities and reviews source testing results from industry and or consultants to verify emissions from a wide variety of sources. This division also uses continuous monitoring and source testing results to monitor and verify levels of pollutants emitted to the air from industrial facilities to provide source compliance information on a continuous, long-term basis for a limited set of pollutants. The continuous emission monitoring program provides source compliance information on a continuous/long-term basis geared toward the six criteria pollutants, while the source testing program is geared toward short-term compliance measurements and a wider variety of pollutants. The division also administers approval and auditing programs for industry and/or consultant-performed monitoring and testing.

A copy of the organizational structure for the Department's Bureau of Air Quality is attached hereto as Appendix C.

Regional Offices

Pursuant to 25 Pa. Code § 121.4, the following regional offices are established for purposes of air pollution control and include the indicated counties:

1. Southeast Region: Bucks, Chester, Delaware, Montgomery and Philadelphia Counties. [Regional Contact: Francine Carlini, Regional Air Quality Manager, (484) 250-5920].
2. Northeast Region: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties. [Regional Contact: Mark Wejkszner, Regional Air Quality Manager, (570) 826-2528].
3. Southcentral Region: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York Counties. [Contact Person: William Weaver, Regional Air Quality Manager, (717) 705-4868].

4. Northcentral Region: Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union Counties. [Contact Person: David Aldenderfer, Regional Air Quality Manager, (570) 327-3648].
5. Southwest Region: Allegheny, Armstrong, Beaver, Cambria Fayette, Greene, Indiana, Somerset, Washington and Westmoreland Counties. [Contact Person: Mark Wayner, Regional Air Quality Manager, (412) 442-4161].
6. Northwest Region: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren Counties. [Contact Person: John Guth, Regional Air Quality Manager, (814) 332-6940].

Pursuant to Section 12 of the Air Pollution Control Act, Allegheny and Philadelphia Counties administer and enforce approved local air pollution control programs. See 35 P.S. §4012 and 25 Pa. Code §127.706. Absent approval by EPA of local area source MACT programs in Allegheny and Philadelphia counties, this request for statewide delegation will also apply in Allegheny and Philadelphia counties.

Agency Staff Description

As required under 40 CFR §63.91(b)(3)(iii), the Department has adequate resources to implement and enforce all aspects of the area source MACT program requested in this delegation application. The responsibility for implementing MACT area source requirements will be shared by the Bureau of Air Quality's Division of Compliance and Enforcement, Division of Permits and the Department's six regional offices. The Department's regional staff responsible for the implementation and enforcement of the MACT standards for area sources will include Air Quality Operation Chiefs, Air Quality District Supervisors, Environmental Protection Compliance Specialists, and Air Quality Specialists. A brief description of the general duties of the employees responsible for implementing and enforcing the area source MACT program in Pennsylvania is set forth below:

Air Quality Operations Chief - Ensures that air quality rules and regulations and program requirements are implemented consistently; develops and implements regional inspection strategy and procedures; coordinates regional training and public outreach programs; participates in the planning and negotiation of enforcement efforts; conducts employee performance reviews, interviews and recommends candidates for vacancies, trains new employees, and schedules staff meetings.

Air Quality District Supervisor - Assigns staff responsibilities and establishes deadlines for work completion; reviews reports prepared by staff for technical accuracy, effective communication, quality, quantity, and policy conformance; monitors completion of assigned work and appropriate follow-up action; provides guidance to staff concerning technical and procedural matters; participates in the planning and negotiation of enforcement efforts and conducts

employee performance reviews, interviews and recommends candidates for vacancies, trains new employees, and schedules staff training.

Environmental Protection Compliance Specialist - Reviews potential enforcement cases brought to them by the field staff. Discusses with the field staff and the Operations Chief potential enforcement actions including Administrative Orders, Consent Assessments, Consent Order and Agreements and Summary Actions; calculates potential civil penalties in accordance with applicable penalty policies; plans, schedules and chairs enforcement meetings and drafts enforcement documents and tracks enforcement cases.

Air Quality Specialist - Conducts compliance monitoring, permit, and complaint inspections; participates in the planning and negotiation of enforcement efforts including consent assessments, consent order and agreements, and administrative orders; prepares evidence and testifies at summary hearings and maintains a computerized air pollution inventory system.

An estimate of the job classification and number of regional employees responsible for the Commonwealth's area source MACT program follows:

<u>Job Classification</u>	<u>Number</u>
Air Quality Operation Chiefs	6
Air Quality District Supervisors	13
Environmental Protection Compliance Specialists	7
Air Quality Specialists	56
Total	82

Implementation

Regional staff will determine overall compliance with each area source MACT by conducting permit inspections. Air Quality Specialists will conduct follow-up inspections of facilities in violation of the MACT standards for area sources. When necessary, the Department will initiate appropriate enforcement action that is consistent with the Strategy and consistent with the Regional Civil Assessment Policy.

Central Office staff in the Compliance & Enforcement and Permit Divisions will conduct educational training of regional personnel for the area source MACT requirements on an as needed basis. Personnel in the Department's regional office are currently being trained to implement and enforce the area source MACT requirements delegated to the Department. The Department will provide compliance assistance through seminars and informational meetings for affected sources subject to an area source MACT requirement on an as needed basis.

Implementation Schedule

Pursuant to 40 CFR §63.91(b)(4), any request for Subpart E approval, must include a schedule demonstrating expeditious State implementation of the rule or program upon approval. The schedule will be as negotiated in the "Implementation Agreement between the United States Environmental Protection Agency Region 3 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, pertains to Area Source National Emission Standards for Hazardous Air Pollutants" and will include, at a minimum, compliance determinations at the permitted facilities once during the term of the operating permit.