

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft Staff Report

Proposed Amended Regulation IX - Standards of Performance for New Stationary Sources and Regulation X - National Emission Standards for Hazardous Air Pollutants

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II. EXECUTIVE SUMMARY

The U.S. Environmental Protection Agency (EPA) periodically promulgates new or amends existing New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) to control criteria and hazardous air pollutant (HAP) emissions from stationary sources. NSPS govern the operations of all new, modified, or reconstructed sources of air pollution identified in the Code of Federal Regulations (CFR), Title 40, Chapter I, Subchapter C, Part 60 (40 CFR Part 60). NESHAP govern the operations of new and existing sources identified in the CFR, Title 40, Chapter I, Subchapter C, Part 61 (40 CFR Part 61) that emit substances designated as hazardous air pollutants pursuant to §112 of the Clean Air Act (CAA) Amendments.

In order to~~To~~ directly implement NSPS and NESHAP requirements at the local level as authorized by U.S. EPA and pursuant to the Clean Air Act (CAA)~~pursuant to Section 301 and Sections 110, 111(e)(1), and 112(d)(1) of the Clean Air Act (CAA),~~ South Coast AQMD's Board initially adopted various NSPS by reference as Regulation IX and various NESHAP as Regulation X on December 3, 1976. The~~The~~ adopting for the~~of~~ NSPS and NESHAP standards by reference into Regulations IX and X, ~~respectively,~~ provides stationary sources with a single source of information for determining appropriate federal and local requirements for their specific operations. The NSPS and NESHAP standards are in effect and enforceable by South Coast AQMD regardless of whether South Coast AQMD incorporates them into Regulations IX and X. The Board has since periodically amended Regulations IX and X to incorporate new or amended standards as necessary. Regulation IX was last amended October 7, 2016 and Regulation X was last amended April 3, 2015. Since then, the U.S. EPA has adopted various NSPS standards and revised the requirements for NESHAP emission tests, and so staff proposes to amend Regulations IX and X ~~are proposed to be amended.~~

In 1997, U.S. EPA delegated and/or re-delegated its authority to South Coast AQMD for specific sections of 40 CFR Parts 60 and 61. South Coast AQMD has requested and received delegation and re-delegation of authority for specific sections of 40 CFR Part 60 and/or Part 61 following subsequent Regulation IX/X amendments. ~~In 2006, 2007, 2009, 2010, 2011, and 2012, South Coast AQMD requested and received U.S. EPA delegation and re-delegation of authority for specific sections of 40 CFR Part 60 and/or Part 61 following Regulation IX and/or X amendments.~~ South Coast AQMD will seek U.S. EPA delegation and re-delegation of such authority for specific sections of Part 60 and/or Part 61 if the Board adopts the Regulation IX/X proposed amendments~~that were not previously requested.~~

~~Pursuant to the 1990 Amendments to the federal CAA, U.S. EPA has established maximum achievable control technology (MACT) standards for new and existing major sources of hazardous air pollutants. The MACT standards are published in CFR, Title 40, Chapter I, Subchapter C, Part 63 (40 CFR Part 63). U.S. EPA delegated the authority for the implementation and enforcement of 40 CFR Part 63~~

~~to South Coast AQMD on February 27, 1997. However, South Coast AQMD has not established a separate regulation to incorporate the MACT standards by reference. Instead, the MACT standards are directly implemented through South Coast AQMD's Regulation XXX – Title V Permits, in accordance with U.S. EPA's federal Title V program requirements in CFR, Title 40, Chapter 1, Subchapter C, Part 70 – State Operating Permit Programs Categories (40 CFR Part 70).~~

III. BACKGROUND

On December 3, 1976, South Coast AQMD's Board initially adopted various NSPS by reference as Regulation IX and various NESHAP as Regulation X. The adoption of NSPS and NESHAP by reference into Regulations IX and X, respectively, provides stationary sources with a single source of information for determining appropriate federal and local requirements for their specific operations. Since sources of air pollution are required to comply with the most stringent federal, state, and local standards, criteria, and requirements set forth in Regulations IX and X and other applicable South Coast AQMD rules, the NSPS and NESHAP standards are in effect and enforceable by South Coast AQMD regardless of whether South Coast AQMD incorporates them into Regulations IX and X. The Governing Board has since periodically amended Regulations IX and X to incorporate new or amended standards as necessary. Regulation IX was last amended on October 7, 2016 and Regulation X was last amended on April 3, 2015.

In 1997, U.S. EPA delegated and/or re-delegated its authority to South Coast AQMD for specific sections of 40 CFR Parts 60 and 61, as listed in the April 23, 1997 Federal Register, Volume 62, No. 78, 19679 – 19682. In 2006, 2007, 2009, 2010, 2011, and 2012, South Coast AQMD subsequently requested and received U.S. EPA delegation and/or re-delegation of authority for specific sections of 40 CFR Part 60 and/or Part 61 following Regulation IX and/or X amendments. South Coast AQMD will seek U.S. EPA delegation and re-delegation of such authority for specific sections of Part 60 and/or Part 61 if the Board adopts the proposed Regulation IX/X amendments that were not previously requested.

Since the U.S. EPA does not delegate emission guidelines to the South Coast AQMD, the subparts related to emission guidelines (standards that pertain to existing sources) are not listed for inclusion in the proposed amendments. For example, the new NSPS that staff are proposing to include – Municipal Solid Waste Landfills – is an action that contained an NSPS and an emission guideline. However, staff is proposing only to include the NSPS component of the action in this rule amendment consistent with our delegated authority.

Pursuant to the 1990 Amendments to the federal CAA, U.S. EPA has established maximum achievable control technology (MACT) standards for new and existing major sources of hazardous air pollutants. The MACT standards are published in CFR, Title 40, Chapter I, Subchapter C, Part 63 (40 CFR Part 63). U.S. EPA delegated the authority for the implementation and enforcement of 40 CFR Part 63 to South Coast AQMD on February 27, 1997. However, South Coast AQMD has not established a separate regulation to incorporate the MACT standards by

reference. Instead, the MACT standards are directly implemented through South Coast AQMD's Regulation XXX – Title V Permits, in accordance with U.S. EPA's federal Title V program requirements in CFR, Title 40, Chapter 1, Subchapter C, Part 70 – State Operating Permit Programs Categories (40 CFR Part 70).

H.IV. LEGAL AUTHORITY

Pursuant to Section 301 and Sections 110, 111(c)(1), and 112(d)(1) of the CAA, U.S. EPA is authorized to delegate authority to implement and enforce standards and related compliance periods for new, modified, or reconstructed sources of air pollution set forth in 40 CFR Part 60 and Part 61, to local air districts.

Adoption of new and amended NSPS and NESHAP into South Coast AQMD Regulations IX and X, respectively by reference, formally recognizes South Coast AQMD's authority to assist in the implementation and enforcement of these federal regulations at the local level.

The South Coast AQMD also has its authority to adopt, amend, or repeal rules and regulations for criteria pollutants from Health and Safety Code Sections 39002, 39650 at seq. 40000, 40001, 40440, 40441, 40702, and 40725 through 40728, and 41700.

V. PROPOSED AMENDMENTS

The updates included in this proposal reflect federal actions primarily between June 16, 2016 and February 16, 2019.

~~Since U.S. EPA does not delegate emission guidelines to the South Coast AQMD, the subparts related to emission guidelines are not listed for inclusion in the proposed amendments.~~

A. REGULATION IX PROPOSAL

Subpart A – General Standards

U.S. EPA amended Subpart A to require the reporting of specific emissions test data in test reports and added ASTM D6911-15 and ASTM D6216-12 to the list of incorporations by reference.

Subpart XXX – Municipal Solid Waste Landfills

In 2016, U.S. EPA established new Subpart XXX to update the NSPS for municipal solid waste landfills that commence construction, reconstruction, or modification after July 17, 2014. Specifically, Subpart XXX lowered the non-methane organic compounds (NMOC) emission threshold for control requirements, set criteria for no controls, finalized the alternative site-specific emission threshold determination methodology referred to as “Tier 4”, and revised the provisions of surface emissions monitoring, wellhead operational standards, landfill gas treatment, and startup, shutdown, and malfunction (SSM) events.

For existing landfills with design capacity of 2.5 million Mg and higher, the NMOC threshold required for the installation of a gas collection and control system (GCCS) was lowered from 50 Mg/year (a megagram is equal to 2,205 pounds) to 34 Mg/year. However, the GCCS was not required for landfills with surface emissions below 500 ppm (parts per million) for four consecutive quarters, even if the 34 Mg/year threshold had been exceeded per Tier 1, 2, or 3 calculations. The GCCS could be capped or partially removed if: (1) the landfill is closed; (2) the GCCS has been operated for at least 15 years or the GCCS would not be operated for 15 years due to declining gas flows; and (3) the NMOC emission rate is less than 34 Mg/year for three successive tests. In addition, landfills with calculated NMOC emissions of 50 Mg/year or greater were not eligible for Tier 4 emission threshold determination. To qualify for Tier 4 testing, the GCCS must be operated for a minimum of 75% of the previous 12 months, and that the Tier 4 measurements could not be conducted if the average wind speed exceed 25 mph.

New Subpart XXX was effective on October 28, 2016 and would result in additional emissions reductions of 1,810 Mg/year in NMOC and 0.285 million Mg/year of methane.

Subpart CCCC – Commercial and Industrial Solid Waste Units (CISWI)

U.S. EPA amended the NSPS for existing commercial and industrial solid waste incineration units in response to stakeholder requests resulting from EPA's 2012 rule adoption. Subpart CCCC was amended to finalize the provisions of continuous emission monitoring system (CEMS) data during startup and shutdown periods, particulate matter (PM) limit for the waste-burning kiln subcategory, fuel variability factor (FVF) for coal-burning energy recovery units (ERUs), and the definition of kilns. Many of the changes were prompted by the overlap between the Boiler and Portland Cement NESHAP and the CISWI NSPS, especially as depending on their fuel, some Portland cement facilities can be classified as CISWI units.

Specifically, U.S. EPA revised the definition of “CEMS data during startup and shutdown periods” to be subcategory-specific which reflected provisions similar to those in the boilers and cement kilns NESHAP. As a result, ERUs and waste burning kilns must comply with provisions similar to those in the Boiler and Portland Cement NESHAP, respectively. U.S. EPA provided additional time for the performance evaluation tests (from 60 days to 180 days), as well as allowed the use of CEMS for initial compliance demonstration and compliance with the production-based emission limits in lieu of the concentration-based limits. For cement kilns, reporting mercury emissions on a mass-based production basis (lbs/million tons) was allowed in lieu of reporting on a concentration-based limit (mg/dry dscm). U.S. EPA finalized the PM emission limits for existing and new waste-burning kilns to 13.5 mg/dscm and 4.9 mg/dscm, respectively. U.S. EPA also incorporated FVF and adopted the final emission limits for coal-burning ERUs: 130 mg/dscm for PM, 460 ppmv for NO, and 850 ppmv for SO₂. In addition, U.S. EPA finalized a definition of

kilns to be consistent with that of the Portland Cement NESHAP, as well as the compliance demonstration and on-going monitoring method for waste-burning kilns that combine emission streams. However, unlike the Portland Cement NESHAP, the annual performance test for kilns must be conducted between 11 and 13 calendar months from the previous ones.

Subpart IIII – Stationary Compression Ignition Internal Combustion Engines

U.S. EPA amended Subpart IIII for Tier 4 stationary compression ignition (CI) internal combustion engines operated during emergency situations to protect human life. Effective September 6, 2016, Subpart IIII allowed dormant auxiliary emission control device (AECD) to be activated up to 120 hours per use during a qualified emergency so that the selective catalytic reduction (SSR) system would not interfere with engine operation. Subpart IIII also allowed a re-activation of the AECD for additional time in increments of 120 hours in case of prolonged emergency. However, such engines are still required to comply with Tier 1 emission standards.

Subpart JJJJ – Stationary Spark Ignition Internal Combustion Engines

U.S. EPA ~~also~~ amended Subpart JJJJ to require the reporting of specific QA/QC data when Method 320 and ASTM D6348-03 are used.

Subpart OOOOa – Crude Oil and Natural Gas Facilities

In 2018, U.S. EPA amended the 2016 rule version that established NSPS for VOC and greenhouse gases from crude oil and natural gas industries (~~Subpart OOOOa~~). The 2016 rule required that fugitive emission leaks be repaired at the time of an unscheduled or emergency vent blowdown. delayed repair or replacement of fugitive emissions components occurs during an unscheduled or emergency vent blowdown be completed at the time. The 2018 amendment removed such requirements due to supply disruption, safety, and increased emissions concerns. Owners and operators ~~are~~ were still required to complete delayed repair or replacement during the next compressor station shutdown, well shutdown, well shut-in, after a planned vent blowdown or within 2 years, whichever is earlier. The 2018 Subpart OOOOa amendment was effective on March 12, 2018 and potentially affected crude petroleum and natural gas extraction, natural gas liquid extraction, natural gas distribution, pipeline distribution of crude oil, and pipeline transportation of natural gas industries.

Subpart QQQQ – Residential Hydronic Heaters and Forced-Air Furnaces; Appendices A1-A8, ~~and~~ Appendix B, and Appendix F

~~In addition,~~ U.S. EPA ~~also~~ amended existing testing regulations and methods to reflect corrections, updates, and addition reporting requirements. ~~Specifically, Subpart QQQQ and the following appendices of 40 CFR Part 60 were amended: Appendices A-1 to A-8, B, and F [SR3].~~

Table 1 lists the NSPS currently proposed for incorporation by reference into South Coast AQMD Regulation IX.

Table 1. NSPS Proposed for Incorporation into Regulation IX

CFR Part 60	Title	U.S. EPA Action (date)	Reference	New Promulgation, Amendment, and Affected Provision
Subpart A	General Provisions	Final Rule, Amendment (August 30, 2016) Final Rule, Amendment (November 14, 2018)	81 FR 59809, Vol. 81, No. 168 83 FR 56713, Vol. 83, No. 220	Required the reporting of specific emissions test data in test reports and added ASTM D6911-15 to the list of incorporations by reference. Added ASTM D6216-12 to the list of incorporations by reference.
Subpart XXX	NSPS for Municipal Solid Waste Landfills	Final Rule, (August 29, 2016)	81 FR 59368, Vol. 81, No. 167	New Subpart XXX: (1) lowered the non-methane organic compounds (NMOC) emission threshold for control requirements from 50 Mg/year to 34 Mg/year; (2) set the criteria for no controls; (3) finalized the alternative site-specific emission threshold determination methodology referred to as “Tier 4”; and (4) revised the provisions of surface emissions monitoring, wellhead operational standards, landfill gas treatment, and startup, shutdown, and malfunction (SSM) events.

Table 1. NSPS Proposed for Incorporation into Regulation IX (cont.)

40 CFR Part 60	Title	U.S. EPA Action (date)	Reference	New Promulgation, Amendment, and Affected Provision
Subpart CCCC	NSPS for Commercial and Industrial Solid Waste Incineration Units	Final Rule, Amendment (June 23, 2016)	81 FR 40970, Vol. 81, No. 121	<p>Amended the provisions of continuous emission monitoring system (CEMS) data during startup and shutdown periods, particulate matter (PM) limit for the waste-burning kiln subcategory, fuel variability factor (FVF) for coal-burning energy recovery units (ERUs), and the definition of kilns.</p> <p>Provided additional time for the performance evaluation tests (from 60 days to 180 days) and allowed the use of CEMS for initial compliance demonstration.</p> <p>Allowed compliance with production-based emission limits in lieu of concentration-based limits.</p> <p>Finalized PM emission limits for existing and new waste-burning kilns (13.5 mg/dscm and 4.9 mg/dscm, respectively).</p> <p>Required that annual performance test for kilns be conducted between 11 and 13 calendar months from the previous ones.</p> <p>Incorporated FVF and adopted the final emission limits for coal-burning ERUs: 130</p>

40 CFR Part 60	Title	U.S. EPA Action (date)	Reference	New Promulgation, Amendment, and Affected Provision
				mg/dscm for PM, 460 ppmv for NO, and 850 ppmv for SO ₂ .
Subpart JJJJ	NSPS for Stationary Spark Ignition Internal Combustion Engines	Final Rule, Amendment (August 30, 2016)	81 FR 59809, Vol. 81, No. 168	Required the reporting of specific QA/QC data when Method 320 and ASTM D6348-03 are used.

Table 1. NSPS Proposed for Incorporation into Regulation IX (cont.)

CFR Part 60	Title	U.S. EPA Action (date)	Reference	New Promulgation, Amendment, and Affected Provision
Subpart IIII	NSPS for Stationary Compression Ignition Internal Combustion Engines	Final Rule, Amendment (June 23, 2016)	81 FR 44212, Vol. 81, No. 130	Allowed dormant auxiliary emission control device (AECD) to be activated up to 120 hours per use during a qualified emergency and re-activation of the AECD for additional time in increments of 120 hours in case of prolonged emergency.
Subpart OOOOa	NSPS for Oil and Natural Gas Sector	Final Rule, Amendment (March 12, 2018)	83 FR 10628, Vol. 83, No. 48	Removed the requirements that delayed repair or replacement of fugitive emissions components occurs during an unscheduled or emergency vent blowdown be completed at the time. Delayed repair or replacement must be completed during the next compressor station shutdown, well shutdown, well shut-in, after a planned vent blowdown or within 2 years, whichever is earlier.
Subpart QQQQ	NSPS for New Residential Hydronic Heaters and Forced-Air Furnaces	Final Rule, Amendment (November 14, 2018)	83 FR 56713, Vol. 83, No. 220	Corrected equation 8 of Method 28 WHH.
Appendices A1-A8 and B	Test Methods and Performance Specifications	Final Rule, Amendment (November 14, 2018)	83 FR 56713, Vol. 83, No. 220	Amended existing testing regulations and methods to reflect corrections, updates, and addition reporting requirements.

Table 1. NSPS Proposed for Incorporation into Regulation IX (cont.)

Appendix F	Quality Assurance Procedures	Final Rule, Amendment (November 14, 2018)	83 FR 56713, Vol. 83, No. 220	Amended existing testing regulations and methods to reflect corrections, updates, and addition reporting requirements.
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Due to the bulk of these materials, The Federal Register documents can also be accessed via the following links:

<https://www.govinfo.gov/content/pkg/FR-2016-08-30/pdf/2016-19642.pdf#page=10>

<https://www.federalregister.gov/documents/2018/11/14/2018-24747/testing-regulations-for-air-emission-sources>

<https://www.govinfo.gov/content/pkg/FR-2016-08-29/pdf/2016-17687.pdf#page=38>

<https://www.govinfo.gov/content/pkg/FR-2016-06-23/pdf/2016-13687.pdf#page=15>

<https://www.govinfo.gov/content/pkg/FR-2016-07-07/pdf/2016-16045.pdf>

<https://www.govinfo.gov/content/pkg/FR-2018-03-12/pdf/2018-04431.pdf>

<https://www.govinfo.gov/content/pkg/FR-2019-04-16/pdf/2019-05529.pdf>

B. REGULATION X PROPOSAL

From June 16, 2016 to February 16, 2019, two delegable NESHAP actions were amended by U.S. EPA. These actions include a minor revision for Test Method 107 of Appendix B and an amendment to the General Provisions (Subpart A) adding two test methods 30A and 30B that were not required the use of audit samples.

Table 2 lists the NESHAP currently proposed for incorporation by reference into South Coast AQMD Regulation X:

Table 2. NESHAP Proposed for Incorporation into Regulation X

40 CFR Part 61	Title	U.S. EPA Action (date)	Reference	New Promulgation, Amendment, and Affected Provision
Subpart A	General Provisions	Final Rule, Amendment (August 30, 2016)	81 FR 59809, Vol. 81, No. 168	Added Methods 30A and 30B to the list of methods not requiring the use of audit samples.
Appendix B	Test Methods	Final Rule, Amendment (August 30, 2016)	81 FR 59809, Vol. 81, No. 168	Revised heading for Method 107.

Due to the bulk of these materials, The Federal Register documents can also be accessed via the following link:

<https://www.govinfo.gov/content/pkg/FR-2016-08-30/pdf/2016-19642.pdf#page=10>

III.VI. SOCIOECONOMIC ASSESSMENT

The proposed amendments Regulation IX- Standards of Performance for New Stationary Sources (NSPS) and the proposed amendments to Regulation X- National Emission Standards for Hazardous Air Pollutants (NESHAP) incorporate NSPS and NESHAP requirements by reference into Regulation IX and X. These proposed amendments do not impose new requirements beyond existing and enforceable federal regulations, and thus, do not significantly affect air quality or emissions limitations beyond U.S. EPA's analysis. As such, there will be no socioeconomic impacts beyond what was identified for the federal NSPS standards and NESHAP requirements.

IV.VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The South Coast AQMD staff has reviewed the proposed project, pursuant to the California Environmental Quality Act (CEQA): 1) CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA, and 2) CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA. Because it can be seen with certainty that there is no possibility that the proposed project may have any significant effects on the environment, the South Coast AQMD staff has determined that the proposed amendments to Regulations IX and X are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. The proposed amendments to Regulations IX and X are also categorically exempt because they are considered actions to protect or enhance the environment pursuant to CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment. Further, South Coast AQMD staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemptions apply to the proposed project pursuant to CEQA Guidelines Section 15300.2 – Exceptions. A Notice of Exemption will be prepared pursuant to CEQA Guidelines Section 15062 – Notice of Exemption, and if the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

V.VIII. FINDINGS UNDER THE HEALTH AND SAFETY CODE

Health and Safety Code Section 40727 requires the South Coast AQMD to adopt written findings of necessity, authority, clarity, consistency, non-duplication and reference.

Necessity

The South Coast AQMD Governing Board has determined that a need exists to amend Regulations IX and X to provide a mechanism for local enforcement^[SR4] and provide information to affected facilities of these federal standards.

Authority

The South Coast AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Sections 39002, 39650 et seq. 40000, 40001, 40440, 40441, 40702, and 40725 through 40728, and 41700 of the Health and Safety Code.

Clarity

The South Coast AQMD Governing Board has determined that the proposed amendments to Regulations IX and X are written or displayed so that their meanings can be easily understood by the persons directly affected by them.

Consistency

The South Coast AQMD Governing Board has determined that the proposed amendments to Regulations IX and X are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

Non-Duplication

The South Coast AQMD finds that the proposed amendments to Regulations IX and X represent an adoption by reference of federal NSPS and NESHAP requirements, respectively, and thus are necessary and proper to execute the duties imposed on the South Coast AQMD by allowing local enforcement of these federal requirements, and that the proposed amendments to Regulations IX and X fall within the criteria and requirements in Health and Safety Code Section 40727.2(g), such that a comparative analysis is not required.

Reference

The South Coast AQMD Governing Board, in adopting amendments to Regulations IX and X, references the following statutes which the South Coast AQMD hereby implements, interprets, or makes specific: Title 42 U.S.C. Section 7411 (performance standards for new stationary sources), Health and Safety Code Sections 40001(a) (air quality standards), 40001 (b) (air pollution episodes), 40440 (a) (rules to carry out plan), 40702 (adopt regulations to execute duties), and 42301 (permit system), and 41700 (nuisance).

As the proposed amendments reference existing 40 CFR Part 60 and Part 61 standards, an analysis of alternatives, comparative analysis or incremental cost analysis is not necessary.

VI.IX. CONCLUSION AND RECOMMENDATION

Proposed amendments to Regulations IX and X adopt by reference existing 40 CFR Part 60 and Part 61 standards. Such actions in the past have provided stationary facilities with a single source of information for determining which federal, as well as local, requirements apply to their specific operations. The proposed amendments will continue this practice. The proposed amendments will not be submitted into the SIP; rather staff will request delegation for the new and re-delegation for the amended federal standards, if necessary.