

US EPA ARCHIVE DOCUMENT

p.m., March 29-31, 1978. The public is invited to attend.

Section 11 of the Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577) directs the responsible agency (formerly the Council on Environmental Quality, currently EPA) to carry out a continuing analysis of the Federal nonnuclear energy research and development program to evaluate the adequacy of attention to: (1) Energy conservation methods; and (2) Environmental protection from, and environmental consequences of the application of nonnuclear energy technologies.

Public views are an important component of this continuing analysis. Under direction of the Act, annual public hearings are held to provide the opportunity for interested individuals or groups to testify on environmental and conservation aspects of the research and development program. In particular, the 1978 hearing will focus on the Department of Energy's research programs directed at the following subjects:

- (a) Future energy patterns and coal use (March 29).
- (b) Energy conservation and solar energy development (March 30).
- (c) Oil shale and synthetic fuels from coal (March 31).

Transcripts of the hearings will be available to the public and will be transmitted to the President, the Congress, and the Secretary of the Department of Energy.

Additional information about this hearing may be obtained by phoning David Graham (202-755-0205) or Steven Plotkin (202-755-0645). Individuals or organizations wishing to testify should submit, on or before March 1, 1978, a brief summary of their intended testimony to:

Steven R. Reznek, Acting Deputy Assistant Administrator for Energy, Minerals, and Industry (Attention: Section 11 Hearing), RD-681, U.S. Environmental Protection Agency, Washington, D.C. 20460.

Witnesses may submit written testimony and/or deliver an oral statement of up to ten minutes in length. Additional time will be reserved for questions and comments from a panel of experts and written questions from the audience.

Dated: January 30, 1978.

STEPHEN J. GAGE,
Acting Assistant Administrator,
for Research and Development.

[FR Doc. 78-4177 Filed 2-14-78; 8:45 am]

[6560-01]

[FRL 856-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of Delaware

On December 23, 1971 (36 FR 24876) and on March 8, 1974 (39 FR 9308), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for certain categories of new stationary sources (NSPS). On April 6, 1973 (38 FR 8820), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for certain hazardous air pollutants (NESHAPS). Sections 113(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On September 7, 1977, the Honorable Pierre S. DuPont IV, Governor, State of Delaware, submitted to the EPA Regional Office a request for delegation of authority. Included in the request were copies of and references to pertinent Delaware statutes and regulations governing the control of air pollution, which provide the State with the requisite authority to enforce certain NSPS and NESHAPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories set forth in paragraphs A and B of the following official letter the Honorable Pierre S. DuPont IV, Governor of the State of Delaware, delegation is appropriate subject to the conditions set forth in paragraph 1 through 9 of that letter:

SEPTEMBER 30, 1977.

Certified Mail Return Receipt Requested

Re Delegation of authority of new source performance standards and national emissions standards for hazardous air pollutants pursuant to sections 111(c) and 112(d), Clean Air Act, as amended.

HON. PIERRE S. DUPONT IV,
Governor, State of Delaware,
Dover, Del. 19901

DEAR GOVERNOR DUPONT: This is in response to your letter of September 7, 1977, requesting delegation of authority for implementation and enforcement of certain Standards of Performance for New Stationary Sources (NSPS) and certain National Emissions Standards for Hazardous Air Pollutants (NESHAPS) to the State of Dela-

ware's Department of Natural Resources and Environmental Control (the Department).

We have reviewed the pertinent laws of the State of Delaware and its Regulations governing the control of air pollution, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS regulations by the Department. Therefore, we hereby delegate authority to the Department, as follows:

A. The Department is delegated and shall have authority for all sources located in the State of Delaware subject to the following Standards for Performance for New Stationary Sources promulgated in 40 CFR Part 60: Fossil fuel-fired steam generators; incinerators; nitric acid plants; asphalt concrete plants; storage vessels for petroleum liquids; and sewage treatment plants.

B. The Department is delegated and shall have authority for all sources located in the State of Delaware subject to the following National Emissions Standards for Hazardous Air Pollutants promulgated in 40 CFR Part 61: Asbestos; beryllium; and mercury.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Department, including:

(A) For New Source Performance Standards:

(1) Sources determined to be applicable during that quarter;

(2) Applicable sources which started operation during that quarter or which started operation prior to that quarter which have not been previously reported;

(3) The compliance status of the above, including the summary sheet from the compliance test(s); and

(4) Any legal actions which pertain to NSPS sources.

(B) For National Emission Standards for Hazardous Air Pollutants:

(1) NESHAPS sources granted a permit to construct;

(2) NESHAPS sources inspected during that quarter and their compliance status (except under § 61.22(d) and (e));

(3) The number of inspections under § 61.22(d) and (e); and

(4) The requirements of (A) above.

2. Enforcement of the NSPS and NESHAPS regulations in the State of Delaware will be the primary responsibility of the Department.

Where the Department determines that such enforcement is not feasible and so notified EPA, or where the Department acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources within the State of Delaware subject to NSPS and NESHAPS regulations.

3. Acceptance of this delegation of certain promulgated NSPS and NESHAPS does not commit the State of Delaware to request or accept delegation of other present or future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of September 7, 1977.

4. The Department will at no time grant a waiver of compliance under the NESHAPS regulations.

5. The Department will not grant a variance from compliance with the applicable NSPS or NESHAPS regulations if such variance delays compliance with the Federal

Standards (Parts 60 and 61). Should the Department grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulations and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the Department shall also constitute grounds for revocation of delegation by EPA.

6. The Department and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between a Department interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the Department.

7. If at any time there is a conflict between a department regulation and a Federal regulation (40 CFR Parts 60 and 61), the Federal regulation must be applied if it is more stringent than that of the Department. If the Department does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

8. The Department will utilize the methods specified in 40 CFR Parts 60 and 61, in performing source tests pursuant to the regulations.

9. If the Regional Administrator determines that a Department program for enforcing or implementing a NSPS or NESHAPS regulation is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Department.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the above-enumerated Federal NSPS and NESHAPS regulations by sources located in the State of Delaware should be submitted to the State of Delaware, Department of Natural Resources and Environmental Control, Edward Tatnall Building, Dover, Del. 19901, in addition to EPA, Region III. Any such reports which have been or may be received by EPA, Region III, will be promptly transmitted to the Department.

Since this delegation is effective immediately, there is no requirements [sic] that the Department notify EPA of its acceptance. Unless EPA receives from the Department written notice of objections within ten (10) days of receipt of this letter, the State of Delaware's Department of Natural Resources and Environmental Control will be deemed to have accepted all of the terms of the delegation.

Sincerely,

JACK J. SCHRAMM,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Honorable Pierre S. DuPont IV, Governor, State of Delaware, on September 30, 1977, that authority to implement and enforce certain standards of performance for new stationary sources and national emission standards for hazardous air pollutants was delegated to the State of Delaware.

Copies of that request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region III Office, 6th and Walnut Streets, Philadelphia, Pa. 19106.

Effective immediately, all reports required pursuant to the standards of performance for new stationary sources and the national emission standards for hazardous air pollutants listed in the above letter should be submitted to the Delaware Department of Natural Resources and Environmental Control, Edward Tatnall Building, Dover, Del. 19901, with copies to EPA, Region III. However, reports required pursuant to 40 CFR 60.7(c) (excess emissions and malfunctions) should be sent to the Delaware Department of Natural Resources and Environmental Control, only.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-6 and 7.

Dated: January 31, 1978.

JACK J. SCHRAMM,
Regional Administrator.

[FR Doc. 78-4079 Filed 2-14-78; 8:45 am]

[6560-01]

[FRL 855-8; OPP-42037C]

STATE OF COLORADO

Intent To Implement a Federal Plan for Certification of Pesticide Applicators

INTRODUCTION

Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, 7 U.S.C. 136 et seq., the Administrator of the U.S. Environmental Protection Agency (EPA) has the authority to classify all registered pesticide uses as either "restricted use" or "general use". Use of a restricted use pesticide by, or retail sale of a restricted use pesticide to, an individual who is not certified or acting under the direct supervision of a certified applicator, is a violation of the amended FIFRA.

It was the intent of Congress that persons desiring to use restricted use pesticides should be able to obtain certification under state programs approved by EPA. The criteria for such approval are published at 40 CFR Part 171. Each state, however, must accept or decline to accept responsibility for developing and administering an approvable state program. While it is EPA's position that state programs are best suited to the needs of the state and its citizens, EPA has no authority to require states to develop their own programs.

Between April and November 1976, the Colorado Department of Agriculture, in coordination with the EPA, Region VIII, Pesticides Branch and

Regional Counsel, developed an applicator certification plan and drafted proposed pesticide legislation necessary to provide legal authority for the administration of a state plan. On November 17, 1976, Colorado Governor Richard Lamm submitted the State's Plan for the Certification of Pesticide Applicators to EPA. Approval was requested contingent on passage of the proposed pesticide legislation and promulgation of implementing regulations.

On January 4, 1977, EPA, Region VIII, Denver, Colorado, published a notice in the FEDERAL REGISTER (42 FR 839) announcing the Agency's intent to approve on a contingency basis Colorado's State Plan. Following a 30-day comment period, during which no comments were received, a notice was published in the FEDERAL REGISTER on March 14, 1977 (42 FR 13861) announcing the Agency's contingent approval of the Colorado State Plan. Contingent approval for the Colorado State Plan was granted until May 1, 1977.

On April 28, 1977, the Regional Administrator, EPA, Region VIII, signed a FEDERAL REGISTER notice announcing an extension of the contingent approval for Colorado's State Plan until June 18, 1977. This extension was granted to allow additional time for the Colorado State Legislature to consider the pending pesticide applicator certification legislation. This notice was published in the FEDERAL REGISTER on May 20, 1977 (42 FR 25912). On June 22, 1977, the Colorado State Legislature officially adjourned without formal consideration of the proposed legislation.

Any state agency desiring to certify pesticide applicators under the amended FIFRA must have the required legal authority to develop and administer the program, as required by section 4 of the amended FIFRA and 40 CFR Part 171. The failure of the Colorado State Legislature to enact pesticide applicator certification legislation denied the State's Department of Agriculture the legal authority to administer an approvable pesticide applicator certification program. Consequently, the terms of EPA's contingent approval of Colorado's Plan have not been met and EPA must assume responsibility to provide a certification program for the citizens of the State of Colorado.

In accordance with the provisions of Section 4(a)(1) of the FIFRA, as amended, the 40 CFR Part 171, notice is hereby given that the EPA, Region VIII, will conduct a program within the State of Colorado to certify applicators of restricted use pesticides.

The entire EPA Plan, together with all attached appendices, may be examined during normal business hours at the following locations: