

US EPA ARCHIVE DOCUMENT

AGE DISTINCTIONS IN REGULATIONS GOVERNING FEDERAL FINANCIAL ASSISTANCE PROGRAMS OF THE VETERANS ADMINISTRATION—Continued

Program	Regulation	Section and Age Distinction	CFDA
Civilian Health and Medical Program of the Veterans Administration (CHAMPA).	Medical Care for Survivors and Dependents of Certain Veterans (38 CFR 17.54).	Section 17.54 states that medical care may be provided for: "(1) the spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and (2) the surviving spouse or child of a veteran who—(a) died as a result of a service-connected disability, or (b) at the time of death had a total disability, permanent in nature resulting from a service-connected disability and—(3) the surviving spouse or child of a person who died in the active military, naval or air service . . . Who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of chapter 55 of title 10, United States Code (CHAMPUS) . . . and (4) An eligible child who is pursuing a full-time course of instruction approved under 38 U.S.C. ch. 36, and who incurs a disabling illness or injury while pursuing such course; . . . shall remain eligible for medical care until: (a) the end of the 6-month period beginning on the date the disability is removed, or (b) the end of the 2-year period beginning on the date of the onset of the disability; or (c) the 23d birthday of the child, whichever occurs first. . . ."	64.009
Veterans' Educational Assistance.	Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36 (38 CFR Part 21, <u>Subpart C</u>).	Section 21.4135(d) sets forth the following dates for the discontinuance of the educational assistance allowance provided for a dependent child, under chapter 34 of title 38: " . . . (1) Last day of the in calendar year in which marriage occurred unless discontinuance is required at an earlier date under other provisions. (2) Age 18. Day preceding 18th birthday. (3) School attendance. Last day of month in which 23rd birthday, whichever is earlier. (4) Helplessness ceased. Last day of month school attendance ceased or day preceding following 60 days after notice to payee that helplessness has ceased." Section 21.4136 sets forth monthly rates for the payment of educational assistance allowance under 38 U.S.C. Chapter 34. Paragraph (f) defines the term "dependent" as a spouse, child or dependent parent who meets the definitions of relationship specified in 38 CFR §§ 3.50, 3.51, 3.57 and 3.59.	

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 60 and 61**[Docket Nos. AM702MD et al.;
A-3-FRL-2876-5]**New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to the State of Maryland, the Commonwealth of Pennsylvania and the City of Philadelphia****AGENCY:** Environmental Protection Agency.**ACTION:** Delegation of Authority.

SUMMARY: Sections 111(c) and 112(d) of the Clean Air Act permit EPA to delegate to the States authority to implement and enforce the standards set out in 40 CFR Part 60, New Source Performance Standards (NSPS) and 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP). The State of Maryland, the Commonwealth of Pennsylvania and the City of Philadelphia have been delegated this authority and have requested delegation of any future NSPS or NESHAP standards immediately upon promulgation in the Federal Register. The present delegations for these areas require that they request delegation each time a new standard is promulgated. Automatic delegation would remove this requirement.

EFFECTIVE DATES:

Maryland—May 10, 1985

Pennsylvania—May 7, 1985

Philadelphia—May 8, 1985

ADDRESSES: All material relevant to these delegations may be examined during normal business hours at the following locations:

All Delegations

U.S. Environmental Protection Agency,
Region III, 841 Chestnut Building,
Philadelphia, PA 19107, Attn: Patricia
Gaughan (3AM11)

Specific State and Local Delegations

Department of Public Health, Air
Management Services, 500 South
Broad Street, Philadelphia, PA 19146,
Attn: William Reilly

Bureau of Air Quality Control,
Pennsylvania Department of
Environmental Resources, P.O. Box
2063, Third and Locust Street,
Harrisburg, Pennsylvania 17120, Attn:
James K. Hambright

Air Management Administration,
Maryland State Department of Health
and Mental Hygiene, 201 West
Preston Street, Baltimore, MD 21201,
Attn: George P. Ferreri

FOR FURTHER INFORMATION CONTACT:
Michael C. Giuranna at the EPA, Region
III address above, telephone (215) 597-
9189.

SUPPLEMENTARY INFORMATION: On April 9, 1985, the Director of the Maryland Air Management Administration submitted a letter to EPA, Region III, requesting automatic delegation of NSPS and NESHAP. Maryland was delegated authority for NSPS on September 15, 1978 (44 FR 69362) and for NESHAP on October 9, 1978 (45 FR 13193). These original delegations require that Maryland make separate requests in writing in order to implement and enforce any NSPS and NESHAP source

categories not covered in their original delegation. Maryland will now receive delegation of future NSPS and NESHAP source categories upon EPA promulgation and State adoption. The following letter was sent to Maryland on May 10, 1985, giving them automatic delegation. Notices of earlier delegations and amendments were published on December 3, 1979 (44 FR 69362), February 28, 1980 (45 FR 13193), December 29, 1983 (48 FR 57275) and March 1, 1985 (50 FR 8324).

Mr. George P. Ferreri,
Director, Air Management Administration,
Maryland State Department of Health
and Mental Hygiene, 201 West Preston
Street, Baltimore, MD 21201

Dear Mr. Ferreri: In response to your April 9, 1985 letter, we are amending the delegation of authority agreement for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) under Sections 111 and 112 of the Clean Air Act, 42 U.S.C. 7411, 7412. Since the original delegations on December 3, 1979, and February 28, 1981, a number of additional NSPS and NESHAP categories have been promulgated and changes in delegation policy have been made. Therefore, this letter replaces the original delegation.

We have reviewed the pertinent laws and regulations of the State of Maryland and the Maryland Air Management Administration's (AMA) history of implementing the programs and have determined that the AMA has the resources to implement and enforce the NSPS and NESHAP programs in the manner which was requested in your April 9, 1985 letter. Therefore, subject to the specific conditions and exceptions set forth below, the U.S. Environmental Protection Agency (U.S. EPA) hereby grants delegation of authority to the AMA to implement and enforce the NSPS and NESHAP as follows:

Authority for all sources located or to be located in the State of Maryland subject to

the NSPS promulgated in 40 CFR Part 60 and NESHAP promulgated in 40 CFR Part 61. This delegated authority includes all future standards promulgated for additional pollutants and source categories and all revisions and amendments to existing and future standards.

This delegation is based upon the following conditions and exceptions.

1. This delegation replaces the previous NSPS and NESHAP delegations.

2. Certain provisions of the NSPS and NESHAP regulations allow only the Administrator to take further standard setting actions. Such provisions cannot be delegated and are as follows:

For NSPS:

a. Alternative means of emission limitations in the Clean Air Act Section 111(h)(3) which is codified in 40 CFR 60.11a and 60.484.

b. Innovative technology waivers in the Clean Air Act Section 111(j).

c. Alternative testing times for Primary Aluminum Reduction Plants in 40 CFR 60.195(b).

d. Approval of equivalent and alternate test methods in 40 CFR 60.8(b) (2) and (3).

e. Establishment of alternate opacity standards in 40 CFR 60.11(e).

f. Issuance of commercial demonstration permits under 40 CFR 60.45a.

g. The portions of the Stationary Gas Turbine Standards dealing with nitrogen fuel allowance in 40 CFR 60.332(a)(3) and the ambient condition correction factors in 40 CFR 60.335(a)(ii).

h. The authority to make applicability determinations pertaining to sources subject to the NSPS and NESHAP. The AMA may refer to the Compendium of Applicability determinations issued by U.S. EPA annually, and updated quarterly. Any applicability determinations not explicitly treated in the U.S. EPA Compendium must be referred to EPA for determination. Also, any correspondence from the AMA based on the Compendium must be sent to U.S. EPA to maintain National consistency.

For NESHAP:

a. Determinations of whether actions taken or intended to be taken constitute construction or modification or the commencement thereof under 40 CFR 61.06, unless previously addressed in the NESHAP applicability compendium.

b. Determinations of public availability of information provided to or otherwise obtained by U.S. EPA under 40 CFR 61.15 unless you have legal authority similar to section 114 of the Clean Air Act.

c. Authority to approve alternate and equivalent test and analytical methods per 40 CFR 61.14.

d. The list of approved design, maintenance, and housekeeping practices under 40 CFR 61.53(c) (4) is only available from the Administrator of U.S. EPA.

e. Approval of alternative means of emission limitation to any design, equipment, work practice, or operational standard under section 112(e) (3) of the Clean Air Act.

3. The following provisions are included in this delegation and can only be exercised on a case-by-case basis. When any of these

authorities are exercised, the AMA must notify U.S. EPA, Region III in accordance with the reporting procedures referred to in item 7 of the conditions and exceptions:

a. Waiver of a performance test in accordance with 40 CFR 60.8(b)(4) or make minor modifications in accordance with 40 CFR 60.8(b)(1).

b. Determination of representative conditions for the purpose of conducting a performance test as allowed by 40 CFR 60.8(c).

c. Approval of shorter sampling times or smaller sampling volumes under 40 CFR 60.46 (b) or (d).

d. Authorization of both the use of wet collectors in accordance with 40 CFR 61.154(b)(1) and also the use of filtering equipment as explained in 40 CFR 61.154(b)(2).

e. Approval of sampling techniques as specified in 40 CFR 61.43(a).

4. Enforcement of the NSPS and NESHAP regulations in the State of Maryland will be the primary responsibility of the AMA. Pursuant to sections 111(c)(2) and 112(d)(2) of the Clean Air Act, 42 U.S.C. 7411(c)(2) and 7412(d)(2), U.S. EPA retains authority to enforce any NSPS or NESHAP standard whenever such enforcement is deemed by the U.S. EPA to be necessary to carry out the purposes of the Clean Air Act. Where the Department determines that such enforcement is not feasible and so notifies EPA, or where the AMA acts in a manner inconsistent with the term of this delegation, U.S. 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 Maryland subject to NSPS and NESHAP regulations.

5. The AMA may only grant waivers of compliance within 90 days of promulgation of a NESHAP regulation.

6. The AMA will not grant a variance for compliance with the applicable NSPS regulations if such variance delays compliance with the Federal Standards (40 CFR Part 60). Should the AMA 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 AMA shall also constitute grounds for revocation of delegation by U.S. EPA.

7. The AMA and U.S. EPA, Region III 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 an AMA interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the AMA. This system of communication will insure that both agencies are informed on (a) the current compliance status of subject sources in State of Maryland; (b) the interpretation of applicable regulations; (c) the description of sources and source inventory data; and, (d) compliance test waivers and approvals listed in item 3 of the conditions and exceptions.

The reporting provisions in 40 CFR §§ 60.4 and 61.04 requiring sources to make submissions to the U.S. EPA are met by sending such submission to the AMA, in addition to U.S. EPA, Region III.

8. If at any time there is a conflict between an AMA regulation and a Federal regulation, 40 CFR Part 60 or 61, the Federal regulation must be applied if it is more stringent than that of the AMA. If the AMA does not have the authority to enforce the more stringent Federal regulation they shall notify U.S. EPA in writing as soon as possible, so that this portion of the delegation may be revoked.

9. The AMA will utilize the methods in 40 CFR Parts 60 and 61 in performing source tests pursuant to these regulations.

10. From time to time when appropriate, the AMA will revise its NSPS and NESHAP regulations to include the provisions of Federal amendments and newly promulgated regulations for NSPS and NESHAP pollutant source categories.

11. If the Director of the Air Management Division, or equivalent, determines that an AMA program of enforcing or implementing the NSPS or NESHAP regulations 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 AMA.

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-referenced NSPS or NESHAP regulations by sources located in Maryland should be submitted to the AMA in addition to U.S. EPA, Region III. Any original reports which have been or may be received by EPA, Region III will be promptly transmitted to the AMA.

Since this delegation is effective immediately, there is no requirement that the AMA notify U.S. EPA of its acceptance. Unless U.S. EPA receives from the AMA written notice of objections within ten (10) days of receipt of this letter, the AMA will be deemed to have accepted all of the terms of the delegation.

Sincerely,

W. Ray Cunningham,

Director, Air Management Division.

On December 11, 1984, the Secretary of the Pennsylvania Department of Environmental Resources (DER) submitted a letter to EPA, Region III, requesting delegation of authority for two categories of NESHAP and two categories of NSPS. These categories were delegated to Pennsylvania on January 7, 1985. This letter also requested that EPA give Pennsylvania automatic delegation for all future NSPS and NESHAP standards. Pennsylvania received delegation of authority for NSPS on December 7, 1979 (45 FR 3109) and for NESHAP on September 30, 1976 (42 FR 6887). These delegations required that Pennsylvania submit to EPA, separate requests to receive authority

for any standards not included in their original delegation. Automatic delegation removes this requirement. Pennsylvania can now implement and enforce all future NSPS and NESHAP source categories upon EPA promulgation.

The following letter was sent to Pennsylvania on May 7, 1985, giving them automatic delegation. It should be noted that NSPS and NESHAP sources in Philadelphia and Allegheny County, Pennsylvania are not covered under this delegation. Additionally, on May 31, 1985, EPA received a letter from the DER which stated that Condition 10 of the May 7, 1985 letter did not apply in Pennsylvania. This Condition requires the DER to revise their regulations from time to time to incorporate any amendments or newly promulgated regulations into the State NSPS or NESHAP regulations. Pennsylvania's regulations allow them to do this automatically. Thus, EPA agrees that Condition 10 of the following letter is not applicable in Pennsylvania.

Notices of earlier delegations were published on February 4, 1977 (42 FR 6887), January 16, 1980 (45 FR 3109), July 13, 1984 (49 FR 28555), February 28, 1985 (50 FR 8111).

Mr. Nicholas DeBenedictis,
Secretary, Pennsylvania Department of
Environmental Resources, P.O. Box 2063,
Harrisburg, PA 17120

Dear Mr. DeBenedictis: In response to your December 11, 1984 letter, we are amending the delegation of authority agreement for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) under sections 111 and 112 of the Clean Air Act, 42 U.S.C. 7411, 7412. Since the original delegations on January 18, 1980 and February 4, 1977, a number of additional NSPS and NESHAP categories have been promulgated and changes in delegation policy have been made. Therefore, this letter replaces the original delegation.

We have reviewed the pertinent laws and regulations of the Commonwealth of Pennsylvania and the Pennsylvania Department of Environmental Resources' (DER) history of implementing the programs and we have determined that the DER has the resources to implement and enforce the NSPS and NESHAP programs in the manner which was requested in your December 11, 1984 letter. Therefore, subject to the specific conditions and exceptions set forth below, the U.S. Environmental Protection Agency (U.S. EPA) hereby grants delegation of authority to the DER to implement and enforce the NSPS and NESHAP as follows:

Authority for all sources located or to be located in Pennsylvania subject to the NSPS promulgated in 40 CFR Part 60 and the NESHAP promulgated in 40 CFR Part 61. This delegated authority includes all future standards promulgated for additional pollutants and source categories and all

revisions and amendments to existing and future standards.

This delegation is based upon the following conditions and exceptions:

1. This delegation replaces the previous NSPS and NESHAP delegations.
2. Certain provisions of the NSPS and NESHAP regulations allow only the Administrator to take further standard setting actions. Such provisions cannot be delegated and are as follows:

For NSPS:

- a. Alternative means of emission limitations in the Clean Air Act section 111(h)(3) which is codified in 40 CFR 60.11a and 60.484.
- b. Innovative technology waivers in the Clean Air Act section 111(j).
- c. Alternative testing times for Primary Aluminum Reduction Plants in 40 CFR 60.195(b).
- d. Approval of equivalent and alternate test methods in 40 CFR 60.8(b)(2) and (3).
- e. Establishment of alternate opacity standards in 40 CFR 60.11(e).
- f. Issuance of commercial demonstration permits under 40 CFR 60.45a.
- g. The portions of the Stationary Gas Turbine Standards dealing with nitrogen fuel allowance in 40 CFR 60.332(a)(3) and the ambient condition correction factors in 40 CFR 60.335(a)(ii).
- h. The authority to make applicability determinations pertaining to sources subject to the NSPS and NESHAP. The DER may refer to the Compendium of Applicability determinations issued by U.S. EPA annually, and updated quarterly. Any applicability determinations not explicitly treated in the U.S. EPA Compendium must be referred to EPA for determination. Also, any correspondence from the DER based on the Compendium must be sent to U.S. EPA to maintain National consistency.

For NESHAP:

- a. Determinations of whether actions taken or intended to be taken constitute construction or modification or the commencement thereof under 40 CFR 61.06, unless previously addressed in the NESHAP applicability compendium.
- b. Determinations of public availability of information provided to or otherwise obtained by U.S. EPA under 40 CFR 61.15 unless you have legal authority similar to section 114 of the Clean Air Act.
- c. Authority to approve alternate and equivalent test and analytical methods per 40 CFR 61.14.
- d. The list of approved design, maintenance, and housekeeping practices under 40 CFR 61.53(c)(4) is only available from the Administrator of U.S. EPA.
- e. Approval of alternative means of emission limitation to any design, equipment, work practice, or operational standard under section 112(e)(3) of the Clean Air Act.
3. The following provisions are included in this delegation and can only be exercised on a case-by-case basis. When any of these authorities are exercised, the DER must notify U.S. EPA, Region III in accordance with the reporting procedures referred to in item 7 of the conditions and exceptions:
 - a. Waiver of a performance test in accordance with 40 CFR 60.8(b)(4) or make

minor modifications in accordance with 40 CFR 60.8(b)(1).

b. Determination of representative conditions for the purpose of conducting a performance test as allowed by 40 CFR 60.8(c).

c. Approval of shorter sampling times or smaller sampling volumes under 40 CFR 60.46 (b) or (d).

d. Authorization of both the use of wet collectors in accordance with 40 CFR 61.154(b)(1) and also the use of filtering equipment as explained in 40 CFR 61.154(b)(2).

e. Approval of sampling techniques as specified in 40 CFR 61.43(a).

4. Enforcement of the NSPS and NESHAP regulations in the Commonwealth of Pennsylvania will be the primary responsibility of the DER. Pursuant to Sections 111(c)(2) and 112(d)(2) of the Clean Air Act, 42 U.S.C. 7411(c)(2) and 7412(d)(2), U.S. EPA retains authority to enforce any NSPS or NESHAP standard whenever such enforcement is deemed by the U.S. EPA to be necessary to carry out the purposes of the Clean Air Act.

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

5. The DER may only grant waivers of compliance within 90 days of promulgation of a NESHAP regulation.

6. The DER will not grant a variance for compliance with the applicable NSPS regulations if such variance delays compliance with the Federal Standards (40 CFR Part 60). Should the DER 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 DER shall also constitute grounds for revocation of delegation by U.S. EPA.

7. The DER and U.S. EPA, Region III 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 DER interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the DER. This system of communication will insure that both agencies are informed on (a) the current compliance status of subject sources in Pennsylvania; (b) the interpretation of applicable regulations; (c) the description of sources and source inventory data; and, (d) compliance test waivers and approvals listed in item 3 of the conditions and exceptions. The reporting provisions in 40 CFR 60.4 and 61.04 requiring sources to make submissions to the U.S. EPA are met by sending such submission to the DER, in addition to U.S. EPA, Region III.

8. If at any time there is a conflict between a DER regulation and a Federal regulation, 40 CFR Part 60 or 61, the Federal regulation must be applied if it is more stringent than that of the DER. If the DER does not have the authority to enforce the more stringent Federal regulation they shall notify U.S. EPA in writing as soon as possible, so that this portion of the delegation may be revoked.

9. The DER will utilize the methods in 40 CFR Parts 60 and 61 in performing source tests pursuant to these regulations.

10. From time to time when appropriate, the DER will revise its NSPS and NESHAP regulations to include the provisions of Federal amendments and newly promulgated regulations for NSPS and NESHAP pollutant source categories.

11. If the Director of the Air Management Division, or equivalent, determines that a DER program for enforcing or implementing the NSPS or NESHAP regulations 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 DER.

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-referenced NSPS or NESHAP regulations by sources located in Pennsylvania should be submitted to the DER in addition to U.S. EPA, Region III. Any original reports which have been or may be received by U.S. EPA, Region III will be promptly transmitted to the DER.

Since this delegation is effective immediately, there is no requirement that the DER notify EPA of its acceptance. Unless EPA receives from the DER written notice of objections within ten (10) days of receipt of this letter, the DER will be deemed to have accepted all of the terms of the delegation.

Sincerely,

W. Ray Cunningham,

Director, Air Management Division.

On February 11, 1985, the Commissioner of the Philadelphia Department of Public Health submitted a letter to EPA, Region III requesting automatic delegation of all future NSPS and NESHAP source categories. Philadelphia had originally received delegation of authority for NSPS and NESHAP on September 30, 1976 (42 FR 6886). This delegation required Philadelphia to submit separate requests to EPA to receive authority for any standards not included in their original delegation. Automatic delegation removes this requirement. Philadelphia can now implement and enforce all future NSPS and NESHAP standards upon EPA promulgation. The following letter was sent to Philadelphia on May 8, 1985 giving them automatic delegation. Notices of earlier delegations were published on February 4, 1977 (42 FR 6886), July 13, 1984 (49 FR 28556), and February 28, 1985 (50 FR 8620).

Dr. Stuart H. Shapiro,

*Commissioner, City of Philadelphia,
Department of Public Health, Municipal
Services Building, Room 540,
Philadelphia, PA 19107*

Dear Dr. Shapiro: In response to your February 11, 1985 letter, we are amending the delegation of authority agreement for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) under sections 111 and 112 of the Clean Air Act, 42 U.S.C. 7411, 7412. Since the original delegation on September 30, 1976, a number of additional NSPS and NESHAP categories have been promulgated and changes in delegation policy have been made. Therefore, this letter replaces the original delegation.

We have reviewed the pertinent laws and regulations of the City of Philadelphia and the Philadelphia Department of Public Health's (Department) history of implementing the programs and we have determined that the Department has the resources to implement and enforce the NSPS and NESHAP programs in the manner which was requested in your February 11, 1985 letter. Therefore, subject to the specific conditions and exceptions set forth below, the U.S. Environmental Protection Agency (U.S. EPA) hereby grants delegation of authority to the Department to implement and enforce the NSPS and NESHAP as follows:

Authority for all sources located or to be located in Philadelphia subject to the NSPS promulgated in 40 CFR Part 60 and the NESHAP promulgated in 40 CFR Part 61. This delegated authority includes all future standards promulgated for additional pollutants and source categories and all revisions and amendments to existing and future standards.

This delegation is based upon the following conditions and exceptions:

1. This delegation replaces the previous NSPS and NESHAP delegations.
2. Certain provisions of the NSPS and NESHAP regulations allow only the Administrator to take further standard setting actions. Such provisions cannot be delegated and are as follows:

For NSPS:

- a. Alternative means of emission limitations in the Clean Air Act section 111(h)(3) which is codified in 40 CFR 60.11a and 60.484.
- b. Innovative technology waivers in the Clean Air Act section 111(j).
- c. Alternative testing times for Primary Aluminum Reduction Plants in 40 CFR 60.195(b).
- d. Approval of equivalent and alternate test methods in 40 CFR 60.8(b)(2) and (3).
- e. Establishment of alternate opacity standards in 40 CFR 60.11(e).
- f. Issuance of commercial demonstration permits under 40 CFR 60.45a.
- g. The portions of the Stationary Gas Turbine Standards dealing with nitrogen fuel allowance in 40 CFR 60.332(a)(3) and the ambient condition correction factors in 40 CFR 60.335(a)(ii).

h. The authority to make applicability determinations pertaining to sources subject to the NSPS and NESHAP. The Department may refer to the Compendium of Applicability determinations issued by U.S.

EPA annually, and updated quarterly. Any applicability determinations not explicitly treated in the U.S. EPA Compendium must be referred to EPA for determination. Also, any correspondence from the Department based on the Compendium must be sent to U.S. EPA to maintain National consistency.

For NESHAP:

a. Determinations of whether actions taken or intended to be taken constitute construction or modification or the commencement thereof under 40 CFR 61.06, unless previously addressed in the NESHAP applicability compendium.

b. Determinations of Public availability of information provided to or otherwise obtained by U.S. EPA, under 40 CFR 61.15 unless you have legal authority similar to section 114 of the Clean Air Act.

c. Authority to approve alternate and equivalent test and analytical methods per 40 CFR 61.14.

d. The list of approved design, maintenance, and housekeeping practices under 40 CFR 61.53(c)(4) is only available from the Administrator of U.S. EPA.

e. Approval of alternative means of emission limitation to any design, equipment, work practice, or operational standard under section 112(e)(3) of the Clean Air Act.

3. The following provisions are included in this delegation and can only be exercised on a case-by-case basis. When any of these authorities are exercised, the Department must notify U.S. EPA, Region III in accordance with the reporting procedures referred to in item 7 of the conditions and exceptions:

a. Waiver of a performance test in accordance with 40 CFR 60.8(b)(4) or make minor modifications in accordance with 40 CFR 60.8(b)(1).

b. Determination of representative conditions for the purpose of conducting a performance test as allowed by 40 CFR 60.8(c).

c. Approval of shorter sampling times or smaller sampling volumes under 40 CFR 60.46 (b) or (d).

d. Authorization of both the use of wet collectors in accordance with 40 CFR 61.154(b)(1) and also the use of filtering equipment as explained in 40 CFR 61.154(b)(2).

e. Approval of sampling techniques as specified in 40 CFR 61.43(a).

4. Enforcement of the NSPS and NESHAP regulations in Philadelphia will be the primary responsibility of the Department. Pursuant to Sections 111(c)(2) and 112(d)(2) of the Clean Air Act 42 U.S.C. 7411(c)(2) and 7412(d)(2), U.S. EPA retains authority to enforce any NSPS or NESHAP standard whenever such enforcement is deemed by the U.S. EPA to be necessary to carry out the purposes of the Clean Air Act.

Where the Department determines that such enforcement is not feasible and so notifies 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 Philadelphia subject to NSPS and NESHAP regulations.

5. The Department may only grant waivers of compliance within 90 days of promulgation of a NESHAP regulation.

6. The Department will not grant a variance for compliance with the applicable NSPS regulations if such variance delays compliance with the Federal Standards (40 CFR Part 60). 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 U.S. EPA.

7. The Department and U.S. EPA, Region III 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. This system of communication will insure that both agencies are informed on (a) the current compliance status of subject sources in Philadelphia (b) the interpretation of applicable regulations; (c) the description of sources and source inventory data; and, (d) compliance test waivers and approvals listed in item 3 of the conditions and exceptions. The reporting provisions in 40 CFR 60.4 and 61.04 requiring sources to make submissions to the U.S. EPA are met by sending such submissions to the Department, in addition to U.S. EPA, Region III.

8. If at any time there is a conflict between a Department regulation and a Federal regulation, 40 CFR Part 60 or 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 they shall notify U.S. EPA in writing as soon as possible, so that this portion of the delegation may be revoked.

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

10. From time to time when appropriate, the Department will revise its NSPS and NESHAP regulations to include the provisions of Federal amendments and newly promulgated regulations for NSPS and NESHAP pollutant source categories.

11. If the Director of the Air Management Division, or equivalent, determines that a Department program for enforcing or implementing the NSPS or NESHAP regulations 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-referenced NSPS or NESHAP regulations by sources located in Philadelphia should be submitted to the Department in addition to U.S. EPA,

Region III. Any original reports which have been or may be received by U.S. EPA, Region III will be promptly transmitted to the Department.

Since this delegation is effective immediately, there is no requirement 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 Department will be deemed to have accepted all of the terms of the delegation.

Sincerely,

W. Ray Cunningham,

Director, Air Management Division.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Authority: (Sec. 111(c), and 112(d) Clean Air Act (42 U.S.C. 7411(c) and 7412(d)).

Dated: August 16, 1985.

James M. Seif,

Regional Administrator.

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BILLING CODE 6550-50-W

40 CFR Part 61

[AD-FRL-2885-1]

National Emission Standards for Hazardous Air Pollutants; Benzene Emissions From Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, and Benzene Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition for reconsideration.

SUMMARY: The Natural Resources Defense Council (NRDC) has petitioned EPA to reconsider final decisions published June 6, 1984, to withdraw proposed benzene standards for maleic anhydride process vents, ethylbenzene/styrene (EB/S) process vents, and benzene storage vessels (49 FR 23558), and to reconsider promulgated standards for benzene equipment leaks (49 FR 23498). The petitioner contended that EPA's June benzene decisions were not based on analysis of the most current scientific evidence of the health effects associated with benzene exposure. The petitioner concluded that if all relevant benzene health data were considered, EPA would reverse its decision not to regulate the three source categories and would set more stringent standards for benzene equipment leaks. The petitioner also raised several technical issues specific to EB/S flares and the benzene equipment leaks standards.

The Administrator finds that the objections raised do not provide substantial support for revising these decisions. Also, many of the objections could have been raised during the original rulemakings.

The petition for reconsideration is therefore denied.

DATES: The denial of the petition to reconsider is a final action under sections 307(d)(7)(B) and 307(b)(1) of the Clean Air Act. Review of the denial is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication, as provided in section 307(b)(1).

ADDRESSES: The dockets, No. OAQPS 79-3 (Part I and II), A-79-49, A-80-14, and A-79-27, containing supporting information are available for public inspection and copying between 8 a.m. and 4:30 p.m., Monday through Friday, at Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information on the benzene unit risk factor, contact Mr. Robert Kellam, Pollutant Assessment Branch, Strategies and Air Standard Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5645. For further information on the regulatory aspects addressed in this notice, contact Mr. Gilbert Wood, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1984 the NRDC petitioned the Administrator of the EPA, pursuant to section 307(d)(7)(B) of the Clean Air Act, to reconsider four final decisions regarding emissions of the hazardous air pollutant benzene as published in a Federal Register notice June 6, 1984 (49 FR 23478, 23498, and 23558). Section 307(d)(7)(B) provides that EPA shall convene a proceeding to reconsider the rule in question if a person raising an objection can demonstrate that: (1) It was impracticable to raise such objection during the comment period or that the grounds for such objection arose after the comment period but within the time specified for judicial review under section 307(b)(1); and (2) such objection