

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

*Copies to
Mato, Ed, Jr.
Butch, Ann.
This back to
me.*

Thanks -

JUL 15 1993/20/93

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carol A. Amato, Commissioner
Virginia Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219

Dear Commissioner Amato:

On February 26, 1976, EPA Region III published a Federal Register notice of the delegation to the Commonwealth of Virginia of the authority for implementing and enforcing the National Emission Standards for Hazardous Air Pollutants (NESHAP) for three hazardous air pollutants, including asbestos. (41 FR 8416). The Asbestos NESHAP, 40 C.F.R. Part 61, Subpart M, was promulgated by EPA on April 6, 1973, and has subsequently been revised on several occasions. On August 27, 1981, EPA Region III published a Federal Register notice of the delegation to the Commonwealth of Virginia, State Air Pollution Control Board (SAPCB), of the authority for implementing and enforcing all the NESHAP standards promulgated as of June 16, 1981. This delegation provided that enforcement authority for all future NESHAP standards would be automatically delegated to the SAPCB, subject to certain conditions, including the requirement that each NESHAP standard be adopted into the SAPCB regulations by reference to the federal regulations (46 FR 43300). By letter dated October 28, 1992, EPA confirmed that the Virginia SAPCB had continuing authority to implement and enforce the Asbestos NESHAP, as amended by 55 FR 48406 (November 20, 1990).

By state legislation effective April 1, 1993, the Virginia Department of Air Pollution Control was abolished. This legislation does not affect the prior NESHAP delegation, however, as the SAPCB and its policies and regulations have been continued, and the enforcement functions of the Department of Air Pollution Control have been assumed by the newly created Department of Environmental Quality (DEQ). Thus, the SAPCB and the DEQ remain authorized to enforce NESHAP standards.

In your letter of September 1, 1992, you requested that EPA also delegate to the Virginia Department of Labor and Industry

(DLI) the authority for the implementation and enforcement of the following provisions of the Asbestos NESHAP regulations: §61.145 Standard for demolition and renovation, §61.146 Standard for spraying, §61.148 Standard for insulating materials, §61.150 Standard for waste disposal for demolition, renovation and spraying operations (with the exception of §61.150(a)(4)), §61.154 Standard for active waste disposal sites (with the exception of §61.154(d)), and §61.156 Cross-reference to other asbestos regulations.

We have reviewed the pertinent laws and regulations of the Commonwealth of Virginia and have determined that they provide an effective procedure for the implementing and enforcing the above provisions of the Asbestos NESHAP. Therefore, pursuant to your request, the Virginia Department of Labor and Industry is hereby delegated authority for the implementation and enforcement of the above specified provisions of the Asbestos NESHAP as follows: authority for all sources located or about to be located in the Commonwealth of Virginia subject to the National Emission Standard for Hazardous Air Pollutants for Asbestos, promulgated in 40 C.F.R. Part 61, as of the date of this letter. In addition, delegation of enforcement authority for future Asbestos NESHAP standards is hereby granted subject to the following conditions:

1. Each standard must be legally adopted by the DLI after public notice and opportunity for a public hearing.
2. Each standard must be adopted by reference to the federal regulations with only those wording changes necessary for state implementation.
3. The DLI must notify the Director, Air, Radiation & Toxics Division, that it has adopted additional standards and that it intends to enforce the standards in conformance with the terms of this delegation.

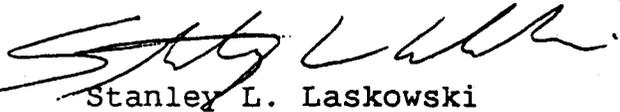
This delegation is subject to the same conditions that are applicable to the Virginia SAPCB and the Virginia DEQ, as stated in the Federal Register Notice of February 26, 1976 (41 FR 8416), and as modified by the Federal Register notice of August 27, 1981. (46 FR 43300).

Enforcement of the Asbestos NESHAP regulations in Virginia will be the primary responsibility of the SAPCB, DEQ and DLI. Pursuant to Section 112(1)(7), 42 U.S.C. §7412(1)(7), EPA retains authority to enforce any NESHAP standard whenever such enforcement is deemed by the EPA to be necessary to carry out the purposes of the Clean Air Act.

A public 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 notifications required under 40 C.F.R. Part 61.145 (b), for those asbestos demolition or renovation projects located in Virginia subject to the asbestos NESHAP regulations, shall be submitted only to the Virginia Department of Labor and Industry or the Virginia Department of Environmental Quality. Copies need not be submitted to the U.S. Environmental Protection Agency, Region III, as formerly required.

Since this delegation is effective immediately, there is no need for the Commonwealth to notify EPA of its acceptance. Unless we receive from you written objections within ten days of the date on which you receive this letter, the Commonwealth of Virginia will be deemed to have accepted all of the terms of the delegation.

Sincerely,



Stanley L. Laskowski
Acting Regional Administrator

cc: Virginia Department of Environmental Quality