

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

6TH AND WALNUT STREETS  
PHILADELPHIA, PENNSYLVANIA 19106

DEC 30 1975

Reply To:  
3EN30



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Earl J. Shiflet  
Secretary of Commerce and Resources  
Commonwealth of Virginia  
Richmond, Virginia 23219

Re: Delegation of Authority of New Source Performance Standards  
and National Emission Standards for Hazardous Air Pollutants

Dear Mr. Shiflet:

This is in response to your letter of August 26, 1975, requesting delegation of authority for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Commonwealth of Virginia.

We have reviewed the pertinent laws of the Commonwealth of Virginia and the rules and regulations of the Virginia State Air Pollution Control Board, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS regulations by the Virginia State Air Pollution Control Board and the Commonwealth of Virginia. Therefore, we hereby delegate authority to administer and enforce the NSPS and NESHAPS regulations to the Commonwealth of Virginia as follows:

A. The Commonwealth shall have authority for all sources located in the Commonwealth of Virginia subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as of the date of the request for delegation. The 12 categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; and sewage treatment plants. However, the definition of portland cement plants in the State regulation does not include clinker storage or finished product storage facilities, and thus this delegation does not include such facilities.

B. The Commonwealth shall have authority for all sources located in the Commonwealth of Virginia subject to the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of the date of the request for delegation. The three hazardous air pollutants covered by the delegation are asbestos, beryllium and mercury.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Virginia State Air Pollution Control Board, 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 the start of operations 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).
- 4) Any legal actions, as defined in J. Rasnic's letter of December 18, 1974, to Mr. Meyer, 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).
- 4) The requirements of (A) above.

2. Enforcement of the NSPS and NESHAPS regulations in the Commonwealth of Virginia will be the primary responsibility of the Virginia State Air Pollution Control Board. Where the Virginia State Air Pollution Control Board determines that such enforcement is not feasible and so notifies EPA, or where the Virginia State Air Pollution Control Board 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 Commonwealth of Virginia subject to NSPS and NESHAPS.

3. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the Commonwealth of Virginia to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's Request of August 26, 1975.

4. Upon approval of the Regional Administrator of Region III, the Virginia State Air Pollution Control Board may subdelegate its authority to implement and enforce the NSPS and NESHAPS to air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

5. The Virginia State Air Pollution Control Board will at no time grant a waiver of compliance under the NESHAPS regulations.

6. This delegation to the Commonwealth of Virginia does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 60 and 61.

7. The Commonwealth of Virginia 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 Virginia State Air Pollution Control Board grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the Virginia State Air Pollution Control Board shall also constitute grounds for revocation of delegation by EPA.

8. The Virginia State Air Pollution Control Board 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 State interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the State.

9. If at any time there is a conflict between a State 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 State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

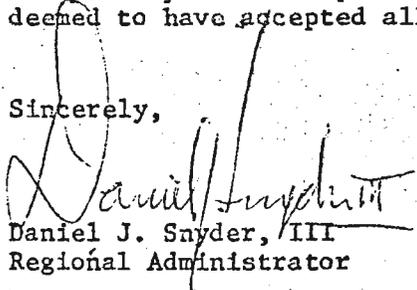
10. The Virginia State Air Pollution Control Board will utilize the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations.

11. If the Regional Administrator determines that a State program for enforcing or implementing the NSPS or NESHAPS 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 Virginia State Air Pollution Control Board.

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 Federal NSPS and NESHAPS by sources located in the Commonwealth of Virginia should be submitted to the Virginia State Air Pollution Control Board at Room 1106, Ninth Street Office Building, Richmond, Virginia 23219, 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 Virginia State Air Pollution Control Board.

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

Sincerely,



Daniel J. Snyder, III  
Regional Administrator