

Environmental Protection Agency  
 Region IX  
 100 California Street  
 San Francisco, California 94111

OCT 7 1976

CERTIFIED MAIL NO. 936721  
 RETURN RECEIPT REQUESTED

Walter C. Rogers, M.D.  
 Director  
 Pima County Health Department  
 151 West Congress Street  
 Tucson AZ 85701

In Reply E-4-3  
 Refer to: ENF 3-5-3

Dear Dr. Rogers:

This is in response to your letter of June 30, 1976 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 Pima County Health Department on behalf of the Pima County Air Pollution Control District (PCAPCD).

We have reviewed the pertinent laws of the State of Arizona and the rules and regulations of the PCAPCD, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the Air Pollution Control District. Therefore, we hereby grant delegation of the NSPS and NESHAPS to the PCAPCD as of the date of this letter as follows:

- A. Authority for 24 categories of new sources located in the PCAPCD subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as in effect May 20, 1976. The categories of new sources covered by the delgation 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; sewage treatment plants; primary copper smelters; primary zinc smelters; primary lead smelters; primary aluminum reduction plants; phosphate fertilizer industry: wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, granular triple superphosphate storage facilities; coal preparation plants; ferroalloy production facilities; and steel plants: electric arc furnaces

CONCURRENCES

MEMO	GC	PAE	CK h.C.E.	TW	HR	Q	PAE	CE
NAME	KATZ	COOK	LITMAN	Stump	10/5/76	10/5/76	10/6/76	10/7/76
DATE	9/28/76	9/28	9-28-76	9/28/76				

- B. Authority for all sources located in the PCAPCD subject to the national emission standards for three hazardous air pollutants promulgated in 40 CFR Part 61 as in effect October 14, 1975. The hazardous air pollutants covered by the delegation are asbestos, beryllium, and mercury.
- C. Jurisdictional authority of PCAPCD regarding types, classes, and sizes of emission sources shall be limited to:
- a. The authority contained in Chapter 6, Article 8 (Title 36-770 et seq. as applicable to county statutory authority) of the Arizona Revised Statutes (ARS) as amended in 1971, plus any succeeding amendments or additions to these Statutes.
  - b. All types and classes of emission sources for which the Arizona Department of Health Services, Environmental Health Division, State Bureau of Air Quality Control (SBAQC) has delegated to PCAPCD in the past, or will delegate to PCAPCD in the future, authority pursuant to ARS 36-1705 and 36-1706 to regulate and control specific types, classes, or named air pollution emission sources.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the PCAPCD. Such reports shall include, as a minimum, the following information:
  - a) NSPS
    - 1) Number of operating sources determined to be in compliance. Compliance determinations shall be verified annually by methods acceptable to EPA.
    - 2) Number of operating sources determined to be in violation (failure to meet emission regulations, failure to comply with monitoring requirements, failure to comply with performance test requirements, failure to comply with notification requirements).

- 3) Number of operating sources of unknown compliance status.
- 4) Number of sources inspected to determine compliance with NSPS regulations.
- 5) Number of enforcement actions taken for violation of NSPS regulations.
- 6) Number of sources subject to NSPS which have commenced construction.

b) NESHAPS

- 1) Number of sources subject to NESHAPS.
  - 2) Number sources subject to NESHAPS determined in compliance with Standards or in compliance with Waiver of Compliance. Compliance determinations shall be verified annually by methods acceptable to EPA.
  - 3) Number of NESHAPS sources inspected.
  - 4) Number of enforcement actions taken against NESHAPS sources.
2. Enforcement of the NSPS and NESHAPS in the PCAPCD will be the primary responsibility of the District. If the District determines that such enforcement is not feasible and so notifies EPA, or where the District 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 District subject to the NSPS and NESHAPS.
  3. Acceptance of this delegation of NSPS and NESHAPS does not commit the PCAPCD to request or accept delegation of future standards and requirements. However, delegation of additional NSPS or NESHAPS standards or requirements, not hereby delegated, would require a new request for delegation.
  4. The PCAPCD is not requesting delegation of authority over Federal facilities within the District which are subject to the NSPS and

NESHAPS. However, this does not relieve Federal facilities of the responsibility of complying with all applicable Arizona State laws and District regulations.

5. The PCAPCD will at no time grant a variance from compliance with PCAPCD Regulation VII and VIII except as provided in this paragraph. Should the District 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 District shall also constitute grounds for revocation of delegation by EPA. However, if the District in the future amends Regulations VII and VIII so as to make the District regulation more stringent than the applicable Federal regulation, the District may grant variances from the more stringent District regulation if such variances do not relieve subject sources of the responsibility of complying with standards equally as stringent as those contained in the applicable Federal regulations. The Administrator retains authority for the issuance of waivers of compliances pursuant to 40 CFR 61.11.
  
6. The PCAPCD will utilize only the test methods specified in 40 CFR 60 and 61, current to the date of the test, in performing source tests pursuant to their NSPS and NESHAPS regulations. Unless approved by EPA as acceptable for use as "alternative" test methods within the meaning of the federal NSPS and NESHAPS regulations, any use by the District of test methods to determine compliance with NSPS or NESHAPS not in accordance with the terms and conditions of this delegation shall constitute grounds for revocation of delegation by EPA. Any questions regarding current source test methods and "alternative" test methods shall be forwarded to EPA, Region IX.

7. PCAPCD and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the current compliance status of subject sources in the District and regarding interpretation of applicable regulations.
8. If at any time there is a conflict between a PCAPCD 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 District. In the event of such a conflict, if the District determines that it is unwilling or unable to apply the more stringent Federal regulation, it will so notify EPA. EPA, in consultation with the District, will then modify or revoke the terms of this delegation to the extent it determines to be appropriate.
9. If the Regional Administrator determines that a PCAPCD procedure for enforcing or implementing the NSPS or NESHAPS 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 District.
10. As of the date of this delegation, sources subject to the NSPS or NESHAPS located within the PCAPCD are required to submit all reports pursuant to the NSPS and NESHAPS to the PCAPCD and to EPA, Region IX.

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 Pima County Air Pollution Control District shall be submitted to the Air Pollution Control District at 151 West Congress Street, Tucson, Arizona 85701, as well as to EPA, Region IX.

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

Sincerely,

Original signed by:  
Paul De Falco, Jr.  
Paul De Falco, Jr.  
Regional Administrator

cc: Arizona State Department of Health Services

bc: S-1  
A-1  
DSSE

Reading File  
CKatz/DJohnson  
32092 et al  
8/3/76  
REV 8/8/76  
" 8/9/76