

ENVIRONMENTAL PROTECTION AGENCY

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

Mr. William H. Lewis, Jr.
 Executive Officer
 California Air Resources Board
 1709 - 11th Street
 Sacramento CA 95814

CERTIFIED MAIL 936720
 Return Receipt Requested
 In Reply E-3-1
 Refer to : ENP-1106,120

MAR 29 1976

Dear Mr. Lewis:

This is in response to your letter of December 11, 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 State of California on behalf of the Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts.

We have reviewed the pertinent laws of the State of California and the rules and regulations of the Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts, 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 Districts and the State of California. Therefore, we hereby grant delegation of the NSPS and NESHAPS to the State of California on behalf of the Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts as of the date of this letter as follows:

- A. Authority for twelve categories of new sources located in the Fresno, Mendocino, and San Joaquin County Air Pollution Control Districts subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as in effect November 12, 1974. The 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.
- B. Authority for three categories of new sources located in the Sacramento County Air Pollution Control District subject to the standards of performance for new stationary sources promulgated

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categories of new sources covered by the delegation are asphalt concrete plants, storage vessels for petroleum liquids and sewage treatment plants.

- C. Authority for all sources located in the Fresno, Mendocino and San Joaquin County Air Pollution Control Districts subject to the national emission standards for three hazardous air pollutants promulgated in 40 CFR Part 61 as in effect November 12, 1974. The hazardous air pollutants covered by the delegation are asbestos, beryllium, and mercury.
- D. Authority for all sources located in the Sacramento County Air Pollution Control District subject to the national emission standards for the hazardous air pollutant asbestos promulgated in 40 CFR Part 61 as in effect November 12, 1974.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts through the State of California Air Resources Board.
2. Enforcement of the NSPS and NESHAPS in the Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts will be the primary responsibility of the Districts and the State of California Air Resources Board. If any of the Districts and the State determine that such enforcement is not feasible and so notify EPA, or where any of the Districts or the State act 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 appropriate District subject to the NSPS and NESHAPS.
3. Acceptance of this delegation of NSPS and NESHAPS does not commit the State of California and the Fresno, Mendocino, San Joaquin, and Sacramento County Air Pollution Control Districts 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.

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4. The State of California and the Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts are not requesting delegation of authority over Federal facilities within the Districts which are subject to the NSPS and NESHAPS. However, this does not relieve Federal facilities of the responsibility of complying with all applicable State laws and Fresno, Mendocino, San Joaquin or Sacramento County District regulations.
5. The Fresno, Mendocino, San Joaquin, and Sacramento County Air Pollution Control Districts will at no time grant a variance from compliance with:
 - a. Fresno County District Rule 115, 422, and 423;
 - b. Mendocino County District Article 16 and 17;
 - c. San Joaquin County District Rule 422 and 423;
 - d. Sacramento County District Rule 112, 113, Appendix A, or Appendix B

except as provided in this paragraph. Should any of these Districts 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 a District shall also constitute grounds for revocation of delegation by EPA. However, if the Fresno, Mendocino, San Joaquin or Sacramento County District in the future amends Rules 115, 422, or 423, or Articles 16 or 17, or Rules 422 or 423, or Rules 112 or 113, respectively, 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.

6. The Fresno, Mendocino, San Joaquin, and Sacramento County Air Pollution Control Districts will utilize only the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to their NSPS and NESHAPS regulations. Any use by

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a 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.

7. The Air Resources Board 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 Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts and regarding interpretation of applicable regulations.

8. If at any time there is a conflict between a State or Fresno County or Mendocino County or San Joaquin County or Sacramento County Air Pollution Control District 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 or District. In the event of such a conflict, if either the Air Resources Board or a 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 Air Resources Board and 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 State or Fresno County or Mendocino County or San Joaquin County or Sacramento County Air Pollution Control District 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 Air Resources Board.

10. As of the date of this delegation, sources subject to the NSPS or NESHAPS located within the Fresno, Mendocino, San Joaquin or Sacramento County Air Pollution Control District are required to submit all reports pursuant to the

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NSPS and NESHAPS to the appropriate Air Pollution Control District and to EPA, Region IX.

- 11. The State of California and the Fresno, Mendocino, San Joaquin and Sacramento County Air Pollution Control Districts will notify all sources in the categories delegated herein and subject to continuous monitoring requirements contained in 40 CFR Part 60 of such requirements even if such requirements are not covered by the terms of this delegation.**

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 Fresno County Air Pollution Control District shall be submitted to the Air Pollution Control District Office at 1246 "L" Street, Fresno, CA 93721, that all such reports by sources located in the Mendocino County Air Pollution Control District shall be submitted to the Air Pollution Control District Office at Courthouse, Ukiah, CA 95482, that all such reports by sources located in the San Joaquin County Air Pollution Control District shall be submitted to the Air Pollution Control Office at 1601 E. Hazelton Street, P. O. Box 2009, Stockton, CA 95201, and that all such reports by sources located in the Sacramento County Air Pollution Control District shall be submitted to the Air Pollution Control District Office at 3701 Branch Center Road, Sacramento, CA 95827, as well as to EPA, Region IX.

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 the date of receipt of this letter, the State and Districts will be deemed to have accepted all of the terms of the delegation.

Sincerely,

Original signed by
Russell Freeman Deputy
Acting **Paul De Falco, Jr.**
Regional Administrator

cc: Fresno County APCD
Mendocino County APCD
San Joaquin County APCD
Sacramento County APCD

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