

ENVIRONMENTAL PROTECTION AGENCY

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

CERTIFIED MAIL NO. 936724  
 RETURN RECEIPT REQUESTED

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

APR 11 1977

Mr. Roger S. Frouday, Director  
 Nevada Department of Human Resources  
 Capitol Complex  
 Room 600, Kin Kead Building  
 505 S. King Street  
 Carson City NV 89710

Dear Mr. Frouday:

This is in response to your letter of December 15, 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 State of Nevada Department of Human Resources (NDHR) on behalf of the Washoe County District Health Department (WCDHD).

We have reviewed the pertinent laws of the State of Nevada and the regulations of the Washoe County District Board of Health (WCDHB), and have determined that they provide an adequate and effective procedure for implementation and enforcement of NSPS and NESHAPS by the NDHR and the WCDHD. Therefore, we hereby grant delegation of NSPS and NESHAPS to the NDHR on behalf of the WCDHD as of the date of this letter as follows:

- A. Authority for six categories of sources, located in Washoe County and under WCDHD jurisdictional authority which are subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as in effect August 17, 1976. The categories of sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; asphalt concrete plants; storage vessels for petroleum liquids and sewage treatment plants.

E-4-3

CONCURRENCES

SYMBOL	FWC	Ch	E-4-3		E-3-1	A-4	SIP	
SURNAME	Chow	WTFZ	King Jones	W	Am	Ray	SD	O
DATE	3/31/77	3/31/77	4/6/77	4/6/77	4/7/77	4/7/77	4/7/77	4/7/77
EPA FORM 1520-1								

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- B. Authority for all sources located in Washoe County and under WCDHD jurisdictional authority which are subject to the national emission standards for three hazardous air pollutants promulgated in 40 CFR Part 61 as in effect August 17, 1976. The 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 WCDHD through the NDNR. 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) WESHAPS

1. Number sources subject to WESHAPS.

2. Number of sources subject to NESHAPS determined to be in compliance with Standards or in compliance with Waiver of Compliance. Compliance determinations shall be verified annually by methods acceptable to EPA.
  3. Number NESHAPS Sources inspected.
  4. Number of enforcement actions taken against NESHAPS sources.
2. Enforcement of NSPS and NESHAPS in Washoe County will be the primary responsibility of the WCDHD and the NDHR. If the WCDHD and the NDHR determine that such enforcement is not feasible and so notify EPA, or where either the WCDHD or the NDHR acts in a manner inconsistent with the terms of this delegation, EPA with exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to NSPS and NESHAPS sources within Washoe County and under WCDHD jurisdictional authority.
  3. Acceptance of this delegation of NSPS and NESHAPS does not commit the NDHR and the WCDHD to request or accept delegation of future standards and requirements. However, delegation of additional NSPS and NESHAPS standards or requirements, not hereby delegated, would require a new request for delegation.
  4. The NDHR and the WCDHD are not requesting delegation of authority over Federal facilities within the WCDHD jurisdiction which are subject to NSPS or NESHAPS. However, this does not relieve Federal facilities of the responsibility of complying with all applicable State laws and WCDHD regulations.
  5. The WCDHD will at no time grant a variance from compliance with WCDHD Regulations 030.040 and 030.045 except as provided in this paragraph. Should the WCDHD 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 WCDHD shall also constitute grounds for revocation of delegation by EPA. If a source is found to be in violation of NESHAPS emission limitations, the WCDHD or State should seek immediate correction of the violation by issuance of an abatement order, suit for injunction, or other equivalent action. The hazardous nature of the substances regulated by NESHAPS dictates the need to seek immediate compliance rather than granting a variance. However, should the WCDHD in the future amend Regulations 030.040 and 030.045 so as to make the regulations more stringent than the applicable Federal regulations, the WCDHD may grant variances from the more stringent WCDHD requirements 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 WCDHD 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 WCDHD 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. The NDHR 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 within the WCDHD jurisdiction as well as regarding interpretation of applicable regulations.

8. If at any time there is a conflict between a State or a WCDBH 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 WCDBH. In the event of such a conflict, if either the NDHR or the WCDHD determines that it is unwilling or unable to apply the more stringent Federal regulation, it will so notify EPA. EPA, in consultation with the NDHR and the WCDHD, 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 NDHR or WCDHD procedure for enforcing or implementing 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 the date specified in a Notice of Revocation to the NDHR.
10. As of the date of this delegation, sources subject to the Federal NSPS and NESHAPS located within Washoe County and under WCDHD jurisdictional authority are required to submit all reports pursuant to NSPS and NESHAPS to the WCDHD 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 within Washoe County and under WCDHD jurisdictional authority shall be submitted to the WCDHD office at 10 Kirman Avenue, Post Office Box 11130, Reno, Nevada 89510, as well as to EPA, Region IX.

Since this delegation is effective immediately, there is no requirement that the NDHR notify EPA of its acceptance. Unless EPA receives from the NDHR written notice of objec-

tions within ten days of the date of receipt of this letter, the NDHR and the WCDHD 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: Nevada Department of Human Resources, Environmental  
Protection Services  
Washoe County District Health Department

bc: S-1  
A-1  
DSSE (EN-341)  
E-3-1

Reading File

Chow: Epps

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Rev. 3/30/77/Epps

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