

Environmental Protection Agency
 100 California Street
 San Francisco, California 94111

CERTIFIED MAIL 936882
 RETURN RECEIPT REQUESTED

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

In Reply E-3-1
 Refer to: ENF 3-5-3

JUL 2 1976

Dear Mr. Lewis:

This is in response to your letter of June 2, 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 California on behalf of the Stanislaus County Air Pollution Control District.

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

- A. Authority for twelve categories of new sources located in the Stanislaus County Air Pollution Control District 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.

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B. Authority for all sources located in the Stanislaus County Air Pollution Control District 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.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Stanislaus County Air Pollution Control District through the State of California Air Resources Board. 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 w/monitoring requirements, failure to comply w/performance test requirements, failure to comply w/notification requirements).
3. Number of operating sources of unknown compliance status.
4. Number sources inspected to determine compliance w/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 sources subject to NESHAPS.
2. Number sources subject to NESHAPS determined in compliance with Standards or in compliance with ~~NSPS~~ Standards of Compliance. Compliance determinations shall be verified annually by methods acceptable to EPA.

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3. Number NESHAPS Sources inspected.
4. Number of enforcement actions taken against NESHAPS sources.
2. Enforcement of the NSPS and NESHAPS in the Stanislaus County Air Pollution Control District will be the primary responsibility of the District and the State of California Air Resources Board. If the District and the State determine that such enforcement is not feasible and so notify EPA, or where the District 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 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 Stanislaus County Air Pollution Control District 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 State of California and the Stanislaus County Air Pollution Control District are 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 State laws and Stanislaus County District regulations.
5. The Stanislaus County Air Pollution Control District will at no time grant a variance from compliance with Stanislaus County District Rule 422 and 423 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

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grounds for revocation of delegation by EPA. However, if the Stanislaus County District in the future amends Rule 422 and 423 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 Stanislaus County Air Pollution Control District 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 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. 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 Stanislaus County Air Pollution Control District and regarding interpretation of applicable regulations.

8. If at any time there is a conflict between a State or Stanislaus 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 the District determine 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.

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- 9. If the Regional Administrator determines that a State or Stanislaus 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 Stanislaus County Air Pollution Control District are required to submit all reports pursuant to the NSPS and NESHAPS to the Stanislaus Air Pollution Control District and to EPA, Region IX.
- 11. The State of California and the Stanislaus County Air Pollution Control District 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 Stanislaus County Air Pollution Control District shall be submitted to the Air Pollution Control District at 820 Scenic Drive, Modesto, California 95350, 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 District will be deemed to have accepted all of the terms of the delegation.

Reading file
GKatz/jyc 6/30/76
Stored 25, 27, 29, 30, 31

Sincerely,

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

cc: Stanislaus County Air Pollution
Control District

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