



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
100 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111

CERTIFIED MAIL NO. 936730
RETURN RECEIPT REQUESTED

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

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

MAY 27 1977

Dear Mr. Lewis:

This is in response to your letter of April 20, 1977 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 South Coast Air Quality Management District (SCAQMD).

We have reviewed the pertinent laws of the State of California and the regulations of the SCAQMD and have determined that they provide an adequate and effective procedure for implementation and enforcement of NSPS and NESHAPS by the State and the SCAQMD. Therefore, we hereby grant delegation of NSPS and NESHAPS to the State of California on behalf of the SCAQMD as of the date of this letter as follows:

- A. Authority for 18 categories of sources located in SCAQMD which are subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as in effect December 16, 1975. The categories of 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; sewage treatment plants; phosphate fertilizer industry; wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, granular triple superphosphate storage facilities; and steel plants; electric arc furnaces.

B. Authority for all sources located in SCAQMD which are 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.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the SCAQMD 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 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 sources subject to NESHAPS.

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 SCAQMD 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 either the District or the State 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 NSPS and NESHAPS sources within SCAQMD.
 3. Acceptance of this delegation of NSPS and NESHAPS does not commit the District and the State 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 District and the State are not requesting delegation of authority over Federal facilities within the SCAQMD 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 SCAQMD regulations.
 5. The SCAQMD will at no time grant a variance from compliance with SCAQMD Regulations IX and X except as provided in this paragraph. Should the SCAQMD 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 SCAQMD shall also constitute grounds for revocation of delegation by EPA. If a source is found to be in violation of NESHAPS emission limitations, the SCAQMD 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 SCAQMD in the future amend Regulations IX and X so as to make the regulations more stringent than the applicable Federal regulations, the SCAQMD may grant variances from the more stringent SCAQMD 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 SCAQMD will utilize 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 or the SCAQMD "alternative test methods" approved by EPA on September 3, 1976. These "alternative test methods" are for particulate matter, sulfur oxides, nitrogen oxides, carbon monoxide and hydrogen sulfide measurements. Each performance test shall consist of three separate runs. Any use by the SCAQMD 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 California 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 within the SCAQMD and regarding interpretation of applicable regulations.

8. If at any time there is a conflict between a SCAQMD or 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 District or State. In the event of such a conflict, if either the District or the State 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 and the State, 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 SCAQMD or State 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 Air Resources Board.
10. As of the date of this delegation, sources subject to the Federal NSPS and NESHAPS located within SCAQMD are required to submit all reports pursuant to NSPS and NESHAPS to the SCAQMD 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 SCAQMD shall be submitted to the SCAQMD office at 9420 Telstar Avenue, El Monte, California 91731, 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 objec-

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tions within ten days of the date of receipt of this letter, the State and the SCAQMD 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: South Coast Air Quality Management District

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