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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION V
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

REPLY TO ATTENTION OF:

JUN 08 1983

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Harry D. Williams, Technical Secretary
Indiana Air Pollution Control Board
1330 West Michigan Street
Indianapolis, Indiana 46206

Dear Mr. Williams:

In response to your February 10, 1983, letter, we are amending the delegation of authority agreement for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Pollutants (NESHAPS). Since the original delegation on April 21, 1976, a number of amendments have been made, and it is the purpose of this letter to replace the original and the amendments.

We have reviewed the pertinent laws and regulations of the State of Indiana and the State's 7-year history of implementing the programs, and we have determined that the State of Indiana has the resources and the ability to implement and enforce the NSPS and NESHAPS Programs for the regulations appropriately promulgated by the State, and to implement the additional responsibilities requested in the February 10, 1983, letter. Therefore, subject to the specific conditions and exceptions set forth below, the U.S. Environmental Protection Agency (U.S. EPA) hereby grants delegation of authority to the State of Indiana to implement and enforce the NSPS and NESHAPS as follows:

- A. Authority for all sources located or to be located in the State of Indiana subject to the NSPS promulgated in 40 CFR Part 60. This delegated authority includes all future standards promulgated for additional pollutants and source categories and all revisions and amendments to existing and future standards.
- B. Authority for all sources located or to be located in the State of Indiana subject to the NESHAPS promulgated in 40 CFR Part 61. This delegation includes all future standards promulgated for additional pollutants and source categories and all revisions and amendments to existing and future standards.

This delegation is based upon the following conditions and exceptions:

1. This delegation letter replaces the previous delegation letter of April 21, 1976, and the amendments dated June 6, 1977, February 6, 1981, and March 18, 1982.

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2. For new NSPS and NESHAPS pollutants and source categories and for amendments to existing NSPS and NESHAPS which the State of Indiana has not promulgated regulations or amendments, the State will perform the administrative and engineering responsibilities with respect to plan review, applicability determinations, notifications and record keeping, and performance testing in accordance with items 5, 9 and 13 of the conditions and exceptions. The administrative and engineering responsibilities shall continue until such time as the State promulgates appropriate regulations or amendments at which time the State is given full implementation and enforcement responsibility as is cited in item 3 of the conditions and exceptions.
3. Implementation and enforcement of the NSPS and NESHAPS in the State of Indiana will be the primary responsibility of the State of Indiana for those standards for which the State has promulgated appropriate regulations and subsequently notified the Regional Administrator.
4. If, after appropriate discussions with the Indiana Air Pollution Control Board (IAPCB), the Regional Administrator determines that a State procedure is inadequate for implementing or enforcing any NSPS or NESHAPS in accordance with item 2 or 3 of the conditions and exceptions, 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 dates specified in a Notice of Revocation to the Governor of the State of Indiana or his designee for NSPS and NESHAPS matters.
5. If the State of Indiana determines that a violation of a NSPS or NESHAPS exists, the IAPCB shall immediately notify U.S. EPA, Region V, of the nature of the violation together with a brief description of State's efforts or strategy to secure compliance. With respect to those NSPS and NESHAPS for which the State has only administrative and engineering responsibilities and during the time which the State has only administrative and engineering responsibility, any violations will be immediately referred to U.S. EPA, Region V. The U.S. EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with regard to any violations of an NSPS or NESHAPS regulation.
6. The Federal NSPS regulations in 40 CFR Part 60, as amended, do not have provisions for granting variances. Hence, this delegation does not convey to the State of Indiana authority to grant variances from NSPS regulations.
7. This delegation includes the authority on a case-by-case basis to waive a NSPS performance test in accordance to 40 CFR 60.8(b)(4), approve use of reference methods with minor modifications as specified in 40 CFR 60.8(b)(1), and waive NESHAPS emission tests in accordance with 40 CFR 61.13. The IAPCB must report any of these actions to the Regional Administrator in accordance to the reporting procedures set forth in condition 10.

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8. This delegation does not include the Administrator's authority to waive certain existing requirements or establish alternative requirements under Sections 111 or 112 of the Act, or any regulations promulgated thereunder. This would include the following: alternative design, equipment, work practice or operational standards under Section 111(h)(3); innovative technology waivers under Section 111(j); alternative opacity standards under 40 CFR 60.11(e); approval of equivalent and alternate test methods under 40 CFR 60.8(b)(2) and (3), authority to issue commercial demonstration permits under 40 CFR 60.45a (subpart Da); approval of alternative testing times for primary reduction plants under 40 CFR 60.195(d); and certain portions of the Stationary Gas Turbine Standards dealing with nitrogen fuel allowance in 40 CFR 60.332(a) and ambient condition correction factors in 40 CFR 60.335(a)(ii).
9. Prior U.S. EPA concurrence is to be obtained on any matter involving the interpretation of Sections 111 or 112 of the Clean Air Act and of 40 CFR Parts 60 and 61 to the extent that application, implementation, administration, or enforcement of these sections have not been covered by determinations or guidance sent to the IAPCB.
10. The IAPCB and the U.S. EPA Region V will develop a system of communication for the purpose of insuring that each office is informed on (a) the current compliance status of subject sources in the State of Indiana; (b) the interpretation of applicable regulations; (c) the description of sources and source inventory data; and (d) compliance test waivers and other approvals under condition 7. The reporting provisions in 40 CFR Sections 60.4 and 61.04 requiring sources to make submissions to the U.S. EPA are met by sending such submissions to the IAPCB. The State will make available this information to the U.S. EPA on a case-by-case basis.
11. At no time shall the State of Indiana enforce a State regulation less stringent than the Federal requirements for NSPS or NESHAPS (40 CFR Parts 60 or 61 as amended).
12. Upon approval of the Regional Administrator of Region V, the Technical Secretary of the IAPCB may subdelegate his authority to implement and enforce these NSPS and NESHAPS to other air pollution control agencies in the State when the agencies have demonstrated that they have equivalent or more stringent programs in force.
13. The Indiana Air Pollution Control Board will utilize the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations.

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14. At least once a year and more frequently when appropriate, the State will amend its NSPS and NESHAPS to correspond with Federal amendments and newly promulgated regulations for NSPS and NESHAPS pollutant and source categories.

A notice announcing this delegation will be published in the Federal Register in the near future. This delegation becomes effective as of the date of this letter. Unless the U.S. EPA receives written notice from the IAPCB of objections within 10 days of receipt of this letter, it will be deemed that the State has accepted all the conditions and exceptions of this delegation.

Sincerely yours,

Original Signed by
Valdas V. Adamkus

Valdas V. Adamkus
Regional Administrator

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