



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

R.V.M.

1 JUN 1988

REPLY TO THE ATTENTION OF:

(5RA-14)

CERTIFIED MAIL RETURN
RECEIPT REQUESTED

Richard L. Shank, Ph.D
Director
Ohio Environmental Protection Agency
P. O. Box 1049, 1800 WaterMark Drive
Columbus, Ohio 43266-0149

Dear Dr. Shank:

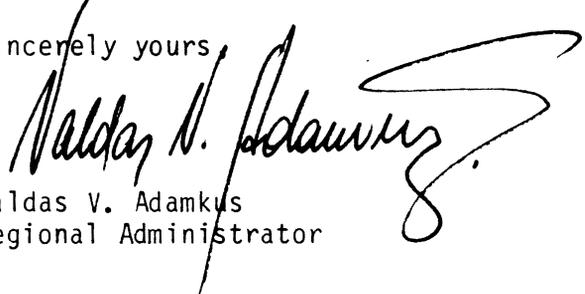
This letter transmits to you the revised Delegation of Authority which allows the State of Ohio to implement and enforce the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS). The revised delegation includes a list of NSPS and NESHAPS sections which cannot be delegated to the State because they involve regulation setting and amending actions that require notification in the Federal Register.

We have reviewed the pertinent procedures and supporting regulations of the State of Ohio, and have determined that the State has an adequate program for the implementation and enforcement of the NSPS and NESHAPS.

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 and, unless the United States Environmental Protection Agency receives written notice from the Ohio Environmental Protection Agency within ten days of the receipt of this letter, it will be deemed that the State has accepted all the terms and conditions of this delegation.

We trust that this amended delegation will provide for a more efficient NSPS and NESHAPS enforcement program in Ohio.

Sincerely yours,


Valdas V. Adamkus
Regional Administrator

DELEGATION OF AUTHORITY
NEW SOURCE PERFORMANCE STANDARDS

In accordance with Clean Air Act Section 111(c), and subject to the specific terms and conditions set forth below, the United States Environmental Protection Agency (USEPA) hereby delegates authority to the State of Ohio to implement and enforce the New Source Performance Standards (NSPS) as follows:

- A. Authority for all sources located or to be located in the State of Ohio subject to the NSPS promulgated in 40 CFR Part 60. This delegation includes all future standards promulgated for additional pollutants and source categories and all revisions and amendments to existing and future standards. The delegation of authority to enforce future standards, revisions, and amendments will be effective as of the date that such standards become applicable.
- B. This delegation of authority for NSPS supersedes the previous statewide delegations of August 4, 1976, November 5, 1979, August 27, 1980, August 9, 1982, and January 10, 1985, and is subject to the following terms and conditions:
 - 1. Upon approval of the Regional Administrator of Region V, the Director of the Ohio Environmental Protection Agency (OEPA) may subdelegate this authority to implement and enforce the NSPS to other air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.
 - 2. The State of Ohio will at no time grant a waiver of compliance with NSPS. The State of Ohio may grant variances from State standards which are more stringent than the NSPS, so long as the variances do not prevent compliance with the NSPS.
 - 3. The Federal regulations in 40 CFR Part 60, as amended, do not have provisions for granting waivers by class of testing requirements or variances, hence this delegation does not convey to the State of Ohio authority to grant waivers by class of testing requirements or variances from NSPS regulations. Ohio may waive a performance test or specify the use of a reference method with minor changes in methodology under 40 CFR 60.8(b) on a case-by-case basis, however, the State must inform USEPA of such actions within 30 days.
 - 4. The State of Ohio will utilize the methods specified in appendices and Subparts of 40 CFR Part 60 in performing source tests pursuant to the regulations.
 - 5. Enforcement of NSPS in the State of Ohio will be the primary responsibility of the State of Ohio. Enforcement shall be consistent with USEPA's "Timely and Appropriate" guidance. If, after appropriate discussion with the OEPA, the Regional Administrator determines that a

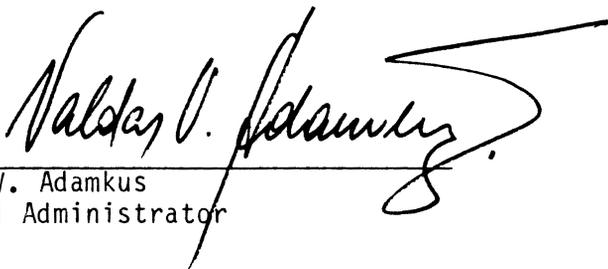
State procedure for implementing and enforcing the NSPS is not in compliance with Federal regulations (40 CFR Part 60), or is not being effectively carried out, this delegation will be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Director of the OEPA.

6. The OEPA and the USEPA 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 Ohio; (b) the interpretation of application regulations; (c) the description of sources and source inventory data; and (d) the decisions the State makes where the State is delegated certain discretionary authority in the following sections: 40 CFR 60.8(b)(4), 40 CFR 60.8(c), 40 CFR 60.46(b), and 40 CFR 60.46(d). The reporting and notification provisions in 40 CFR Part 60, requiring industry to make submissions to the USEPA, are met by sending such submissions to the OEPA. The OEPA will make available this information to the USEPA on a case-by-case basis.

OEPA's annual report, submitted to USEPA pursuant to 40 CFR Part 51, will include information relating to the status of sources subject to 40 CFR Part 60. Such information will include the name, address, type and size of each facility, date facility commenced operation, date of most recent stack test, compliance status of facility, enforcement actions initiated, surveillance action undertaken for each facility, and results of reports relating to emissions data.

7. Prior USEPA concurrence is to be obtained on any matter involving the interpretation of Section 111 of the Clean Air Act or 40 CFR Part 60 to the extent that implementation, administration, or enforcement of these sections have not been covered by determinations or guidance sent to the OEPA. All applicability determinations, including those submitted under 40 CFR 60.5, which have not been specifically treated in the Compendium of Applicability Determinations issued by USEPA are reserved for USEPA.
8. If the State of Ohio determines that a violation of a delegated NSPS exists, the OEPA shall, within 30-days of detection of the violation, notify USEPA, Region V of the nature of the violations together with a brief description of the State's efforts or strategy to secure compliance. Furthermore, if the State determines that it is unable to enforce a NSPS standard, the State shall immediately notify USEPA, Region V. This delegation in no way limits the Administrator's concurrent enforcement authority as provided in Section 111(c)(2) of the Clean Air Act.
9. In addition to any future provision which may be cited in forthcoming NSPS which cannot be delegated, the Administrator retains authority for the regulation setting and amending aspects of (1) those sections of the NSPS listed in the Appendix to this delegation of authority for NSPS, which is hereby incorporated as part of this delegation; (2) approval of equivalency for design, equipment, work practice, operational standard or combinations thereof pursuant to Section 111(h) of the Clean Air Act; and (3) for the granting of an innovative technology waiver pursuant to Section 111(j) of the Clean Air Act. The State is delegated authority for implementing such decisions made by the Administrator.

10. If the State of Ohio determines that for any reason, it is unable to administer the program with respect to any new or existing NSPS, the Director of the OEPA will notify the Regional Administrator. Upon such notification by the State, the primary enforcement responsibility for such standards will return to the USEPA.



Valdas V. Adamkus
Regional Administrator

June 1, 1988

Date

Appendix NSPS

The following sections of the NSPS are not delegated by the USEPA to the State for implementation and enforcement. These sections either require rulemaking in the Federal Register or require Federal overview in order to ensure national consistency.

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| 1. Subpart A
60.8(b)(2)
60.8(b)(3)
60.11(e) | 5. Subpart DD
60.302(d)(3) | 9. Subpart GGG
60.592(c) |
| 2. Subpart Da
60.45a | 6. Subpart GG
60.332(a)(3)
60.335(a)(1)(ii) | 10. Subpart JJJ
60.623 |
| 3. Subpart Ka
60.114a | 7. Subpart VV
60.482-1(c)(2)
60.484 | |
| 4. Subpart S
60.195(b) | 8. Subpart WW
60.493(b)(2)(i)(A)*
60.496(a)(1) | |

* For last sentence only concerning values of Se and Sh

DELEGATION OF AUTHORITY

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

In accordance with Clean Air Act Section 112(d), and subject to the specific terms and conditions set forth below, the United States Environmental Protection Agency (USEPA) hereby delegates authority to the State of Ohio to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPS) as follows:

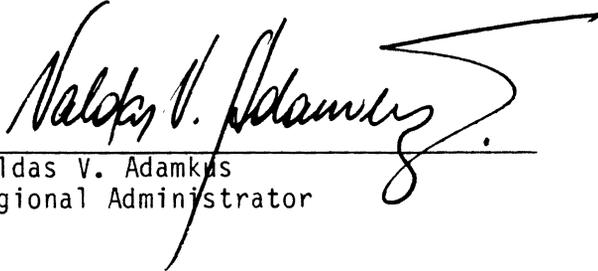
- A. Authority for all sources located or to be located in the State of Ohio subject to the NESHAPS promulgated in 40 CFR Part 61 except Subparts B, H, I and K related to radionuclides. This delegation includes all future standards promulgated for additional pollutants and source categories and all revisions and amendments to existing and future standards. The delegation of authority to enforce future standards, revisions, and amendments will be effective as of the date that such standards become applicable.
- B. This delegation of authority for NESHAPS supersedes the previous statewide delegations of August 9, 1982, and January 10, 1985, and is subject to the following terms and conditions:
 1. Upon approval of the Regional Administrator of Region V, the Director of the Ohio Environmental Protection Agency (OEPA) may subdelegate this authority to implement and enforce the NESHAPS to other air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.
 2. The State of Ohio will at no time grant a waiver of compliance with NESHAPS except as provided in 40 CFR 61.11. The State of Ohio may grant variances from State standards which are more stringent than the NESHAPS, so long as the variances do not prevent compliance with the NESHAPS.
 3. The Federal regulations in 40 CFR Part 61, as amended, do not have provisions for granting waivers by class of testing requirements or variances, hence this delegation does not convey to the State of Ohio authority to grant waivers by class of testing requirements or variances from NESHAPS regulations. Ohio may on a case-by-case basis approve minor modifications to sampling procedures or equipment that affect single sources under 40 CFR 61.14, however the State must inform USEPA of such actions within 30 days.
 4. The State of Ohio will utilize the methods specified in appendices and Subparts of 40 CFR Part 61 in performing source tests pursuant to the regulations.
 5. Enforcement of NESHAPS in the State of Ohio will be the primary responsibility of the State of Ohio. Enforcement shall be consistent with USEPA's "Timely and Appropriate" guidance. If, after appropriate discussion with the OEPA, the Regional Administrator determines that a State procedure for implementing and enforcing the NESHAPS is not in compliance with Federal regulations (40 CFR Part 61), or is not being effectively carried out, this delegation will 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 Director of the OEPA.

6. The OEPA and the USEPA 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 Ohio; (b) the interpretation of application regulations; (c) the description of sources and source inventory data; and (d) the decisions the State makes where the State is delegated certain discretionary authority in 40 CFR 61.154(b). Except for the provisions of 40 CFR 61.146 concerning asbestos demolition and renovation, the reporting and notification provisions in 40 CFR Part 61, requiring industry to make submissions to the USEPA, are met by sending such submissions to the OEPA. The OEPA will make available this information to the USEPA on a case-by-case basis. Information required by 40 CFR 61.146 must be submitted to both USEPA and OEPA.

OEPA's annual report, submitted to USEPA pursuant to 40 CFR Part 51, will include information relating to the status of sources subject to 40 CFR Part 61. Such information, will include the name, address, type and size of each facility, date facility commenced operation, date of most recent stack test, compliance status of facility, enforcement actions initiated, surveillance action undertaken for each facility, and results of reports relating to emissions data.

7. Prior USEPA concurrence is to be obtained on any matter involving the interpretation of Section 112 of the Clean Air Act or 40 CFR Part 61 to the extent that implementation, administration, or enforcement of these sections have not been covered by determinations or guidance sent to the OEPA. All applicability determinations, including those submitted under 40 CFR 61.06, which have not been specifically treated in the Compendium of Applicability Determinations issued by USEPA are reserved for USEPA.
8. If the State of Ohio determines that a violation of a delegated NESHAPS exists, the OEPA shall, within 30-days of detection of the violation, notify USEPA, Region V of the nature of the violations together with a brief description of the State's efforts or strategy to secure compliance. Furthermore, if the State determines that it is unable to enforce a NESHAPS standard, the State shall immediately notify USEPA, Region V. This delegation in no way limits the Administrator's concurrent enforcement authority as provided in Section 112(d)(2) of the Clean Air Act.
9. In addition to any future provision which may be cited in forthcoming NESHAPS which cannot be delegated, the Administrator retains authority for the regulation setting and amending aspects of (1) those sections of the NESHAPS listed in the Appendix to this delegation of authority for NESHAPS, which is hereby incorporated as part of this delegation; and (2) approval of equivalency for design, equipment, work practice, operational standard or combinations thereof pursuant to Section 112(e) of the Clean Air Act. The State is delegated authority for implementing such decisions made by the Administrator.

10. If the State of Ohio determines that for any reason, including budget reductions, it is unable to administer the program with respect to any new existing NESHAPS, the Director of the OEPA will notify the Regional Administrator. Upon such notification by the State, the primary enforcement responsibility for such standards will return to the USEPA.



Valdas V. Adamkus
Regional Administrator

June 1, 1988

Date

Appendix NESHAPS

The following sections of the NESHAPS are not delegated by the USEPA to the State for implementation and enforcement. These sections either require rulemaking in the Federal Register or require Federal overview in order to ensure national consistency.

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| 1. Subpart A | 3. Subpart N | 5. Subpart V |
| 61.04(b) | 61.164(a)(2) | 61.242-1(c)(2) |
| 61.12(d)(1) | 61.164(a)(3) | 61.244 |
| 61.13(h)(1)(ii) | | |
| 61.16 | 4. Subpart O | |
| | 61.172(b)(2)(ii)(B) | |
| 2. Subpart E | 61.172(b)(2)(ii)(C) | |
| 61.53(c)(4)* | 61.174(a)(2) | |
| | 61.174(a)(3) | |
| 3. Subpart J | | |
| 61.112(c) | | |

* Restricted delegation applies only to development of list.