

[FRL 624-1]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to the State of Indiana

Pursuant to section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance on December 23, 1971 (36 FR 24876), and on March 8, 1974 (39 FR 9308), for five categories and seven categories of new stationary sources (NSPS), respectively. On April 6, 1973 (38 FR 8320), pursuant to section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On July 23, 1973, the Regional Administrator, Region V, EPA, forwarded to the State of Indiana information setting forth the requirements for an adequate procedure for implementing and enforcing the standards for NSPS and NESHAPS. On March 6, 1974, the Governor of Indiana submitted a request to the EPA, Region V office for delegation of authority to the Indiana Air Pollution Control Board (IAPCB). On December 3, 1974, and January 23, 1975, the IAPCB provided supplemental material; additionally on February 28, 1975, the IAPCB clarified the delegation request to include all twelve (12) categories of new sources in addition to the three hazardous emission standards. Included in the request was a description of the procedures to be utilized by the State in exercising the delegated authority. Also included were copies of the State law and regulations which provide the State with the requisite authority to implement and enforce the NSPS and NESHAPS. After a thorough review of the request, the Regional Administrator has determined that delegation is appropriate for the source categories set forth in paragraphs (A) and (B) of the following official letter to the Governor of Indiana, subject to the terms set forth in conditions 1 through 10 of that letter:

RECEIVED MAIL
RECEIPT REQUESTED

OFFICE OF OTIS R. BOWEN, M.D.,
Governor of Indiana,
Indianapolis, Indiana 46204.

DEAR GOVERNOR BOWEN: This office has received your March 6, 1974 submittal and the supplemental material provided by the Indiana Air Pollution Control Board on February 3, 1974; January 23, 1975; and February 28, 1975.

quest for delegation of authority to the State of Indiana for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

We have reviewed the submitted material, including pertinent laws and regulations of the State of Indiana, and have consulted with members of your Air Pollution Control Agency on May 30, 1974 and October 18, 1974. It has been determined that the State of Indiana has an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS. Therefore, subject to the specific conditions and exceptions set forth below, we hereby grant delegation of authority to implement and enforce the NSPS and NESHAPS to the State of Indiana as follows:

A. Authority for all sources located in the State of Indiana subject to the standards of performance for new stationary sources published in 40 CFR Part 60, Subparts D through O as amended by 40 FR 46250 October 6, 1975 and 40 FR 58418 December 18, 1975. The 12 categories of new sources covered by the delegation are fossil fuel-fired steam generator units greater than 250 million BTUs per hour, incinerator units greater than 50 tons per day, portland cement plants, nitric acid plants, sulfuric acid plants, asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary brass and bronze ingot production plants, iron and steel plants, secondary lead smelters and sewage treatment plants.

B. Authority for all sources located in the State of Indiana subject to the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61, Subparts B through E, as amended by 40 FR 48292, October 14, 1975. The three hazardous air pollutants covered by the delegation are asbestos, beryllium and mercury.

These delegations are based upon the following conditions:

1. Acceptance of this delegation of the presently promulgated NSPS and NESHAPS does not commit the State of Indiana to request or accept delegation of future standards and requirements for other source categories or pollutants. A new request for delegation will be required for such standards not included in the State's request of February 28, 1975.

2. Upon approval of the Regional Administrator of Region V, the Technical Secretary of the Indiana Air Pollution Control Board may subdelegate his authority to implement and enforce the 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.

3. Since the two year period in which USEPA may grant waivers from compliance with NESHAPS has expired, EPA, Region V can not delegate waiver granting authority. Therefore, the State of Indiana will at no time grant a waiver of compliance with NESHAPS.

4. This delegation to the State of Indiana does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal facility from meeting NSPS and NESHAPS.

5. Federal NSPS and NESHAPS (40 CFR Parts 60 and 61 as amended) do not have

All references to the CFR in this delegation are to the CFR as published in the Federal Register of July 1, 1971.

provisions for granting variances, hence the delegation does not convey authority to the State of Indiana to grant variances.

6. The Indiana Air Pollution Control Board and 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, and (c) the description of sources and source inventory data.

7. At no time shall the State of Indiana enforce a State regulation less stringent than the Federal requirements for NSPS and NESHAPS (40 CFR Parts 60 and 61 as amended).

8. Enforcement of the NSPS and NESHAPS in the State of Indiana will be the primary responsibility of the State of Indiana. If, after appropriate discussion with the Indiana Air Pollution Control Board, the Regional Administrator determines that a State procedure for implementing and enforcing 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 Governor of the State of Indiana.

9. If the State of Indiana determines that a violation of a delegated NSPS and NESHAPS exists, the Indiana Air Pollution Control Board shall immediately notify EPA, Region V, of the nature of the violation together with a brief description of State efforts or strategy to secure compliance. EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with regard to any violations of the NSPS and NESHAPS regulations.

10. The Indiana Air Pollution Control Board will utilize the methods specified in 40 CFR Parts 60 and 61 as amended by 40 FR 46250 October 6, 1975 and 40 FR 48292 October 14, 1975 in performing source test pursuant to the regulations.

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 from sources located in the State of Indiana shall be submitted to the Indiana Air Pollution Control Board, 1300 West Michigan Street, Indianapolis, Indiana 46206, as well as the EPA Region V Office. However, reports required pursuant to 40 CFR 60.7(c) (excess emissions and malfunctions) will be submitted to the State Agency only. Any such reports which have been or may be received by EPA, Region V, will be promptly transmitted to the Indiana Air Pollution Control Board.

Although this delegation is effective immediately, and although there is no requirement that the State notify EPA of acceptance, we would appreciate written notice of acceptance or objection to the above conditions within 15 days of the date of receipt of this letter. Should no notice be received, we will proceed with public notice of the delegation in the FEDERAL REGISTER.

Sincerely yours,

GEORGE R. ALEXANDER, JR.,
Regional Administrator

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Governor of Indiana on April 21, 1976, that authority to implement and enforce

the standards of performance for new stationary sources and the national emission standards for hazardous air pollutants was delegated to the State of Indiana.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region V Office, 230 South Dearborn Street, Chicago, Illinois 60604.

Effective immediately, all reports required pursuant to the standards of performance for new stationary sources and the national emission standards for hazardous air pollutants for sources and pollutants listed in the above letter should be submitted to the EPA Region V Office and should also be submitted to the State Agency at the following address: Indiana Air Pollution Control Board, 1330 West Michigan Street, Indianapolis, Indiana 46208. However, reports required pursuant to 40 CFR 60.7(c) (excess emissions and malfunctions) should be sent to the State Agency only.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator.

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This is of no immediate concern to the Hammond plant. Note that the rules give Indiana delegated authority from EPA. This means that Indiana probably has a good "air pollution control program"

Dr

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