

AUG 18 1982

Mr. Russell R. Rhoades, Director
New Mexico Environmental Improvement
Division
Health and Environmental Department
P.O. Box 968 Crown Building
Santa Fe, New Mexico 87504-0968

Dear Mr. Rhoades:

It is my understanding that Bennett Stokes of my staff and Bruce Garber have resolved the only issue which prevented your Department from accepting partial delegation of authority for implementing the New Source Performance Standards (NSPS) program in the State of New Mexico.

As noted in my letter of June 1, 1982, the State's procedures and present resources are deemed adequate for assuming partial delegation of the NSPS program. This partial delegation provides to the State the authority to implement the administrative and technical responsibilities of the NSPS program. The terms and conditions of the delegation of authority for transferring the partial NSPS responsibility to the State of New Mexico are stated in the enclosed delegation provisions.

Since this delegation becomes effective on the date of this letter, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State of New Mexico written notice of objection within ten (10) days of the date of receipt of this letter, we will assume that the State of New Mexico has accepted all of the terms of the delegation.

If you have any questions concerning the provisions of the NSPS partial delegation of authority, please feel free to contact me.

Sincerely yours,

/s/ Frances E. Phillips for

Dick Whittington, P.E.
Regional Administrator

Enclosure

bcc: Sam Becker (6ES-SC)

Bob Clark (6AW-AE)

Dolly Johnson (6AW-SP)

Irma Rodriguez (6AW-AT)

6AW-AT:8 TAYLOR:cjd:X1694:8/9/82

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DIVITA DAVIS

cc: Honorable Bruce King
Governor of New Mexico
State Capitol
Santa Fe, New Mexico 87501

Mr. George S. Goldstein, Ph.D.
Secretary, Health and Environment
Department
P.O. Box 968, Crown Building
Santa Fe, New Mexico 87504-0968

Ms. Lee D. Lockie, Chief
Air Quality Bureau
Environmental Health Division
Health and Environment Department
P.O. Box 968, Crown Building
Santa Fe, New Mexico 87504-0968

PROVISIONS
for
PARTIAL DELEGATION
of the
NEW SOURCE PERFORMANCE STANDARDS (NSPS)
in the
STATE OF NEW MEXICO
(40 CFR PART 60)
EFFECTIVE DATE: August 17, 1982

Introduction

On December 20, 1980, the New Mexico Environmental Improvement Division (NMEID) requested the Environmental Protection Agency (EPA) to delegate the authority for implementation and enforcement of the NSPS and NESHAP, 40 CFR Part 60 and 40 CFR Part 61, respectively, in the State of New Mexico. Subsequently, the pertinent laws of the State of New Mexico and the rules, regulations, and resources of the NMEID were reviewed by EPA. The proposed procedures and State's resources have been found adequate and effective for implementing the administrative and technical portions of the NSPS program by the NMEID and the State of New Mexico.

Therefore, by virtue of authority granted by the Administrator, I hereby delegate authority to the NMEID to implement the NSPS program, pursuant to Sections 111(c) of the Clean Air Act and subject to the conditions and limitations stated in the provisions. Except as specifically limited and stated in the provisions, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Part 60 as of the date of this agreement and subsequent future standards and requirements are delegated to the NMEID. Any of such authority and responsibilities may be redelegated by the Division to its Director or staff.

Specific Provisions

The delegation of authority for implementation of the NSPS program is based on the following provisions.

1. The NMEID is authorized to assume NSPS partial delegation responsibility for future standards and requirements without making a written request to EPA, subject to the delegation conditions and terms as set forth in this agreement.

2. EPA, Region 6, retains enforcement authority over NSPS subject sources constructed or modified in the State of New Mexico. However, technical and administrative duties for such sources are delegated to the NMEID. Such duties shall include, but not be limited to, determination of applicability, performance of inspections, and observance and evaluation of stack tests and continuous emission monitor tests.

3. "The NMEID agrees to follow the interpretations which EPA makes of 40 CFR Part 60, including determinations of applicability, unless the NMEID believes that the interpretation is incorrect or that it does not conform to Federal or State law. In each instance that the NMEID declines to follow EPA's interpretation, NMEID will immediately notify EPA Region 6 of its decision, its rationale, and the name and location of the facility involved."

4. Authority is delegated to approve minor modifications to the reference test methods during either a pre-test meeting or the actual sampling period. These minor modifications would have to produce results essentially identical to the reference method results. Approval of these minor modifications should be based on sound engineering judgement. Under no circumstances are modifications to be used which might result in the non-uniform application of the standards.

5. If a claim of confidentiality or any other reason should ever legally prevent the State of New Mexico and the NMEID from providing to EPA any and all information required by or pertaining to the implementation of NSPS, the NMEID shall, upon request, assist EPA, Region 6, in obtaining that information directly from the source. As a minimum, such assistance shall consist of providing to EPA an identification of the nature of the information withheld, adequate to allow EPA to identify to the source the information which is to be sent directly to EPA, Region 6.

6. All matters in process at the time of delegation of authority may be processed through to completion by EPA, Region 6, or may, at the request of the NMEID and at the discretion of EPA, Region 6, be transferred to the NMEID for completion. Appropriate reproduction of pertinent file material in the EPA, Region 6, files in relation to source regulation under NSPS shall be provided through mutual cooperation of the staffs of the respective offices.

A notice of 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 by sources located in the State of New Mexico should be submitted to the New Mexico Health and Environment Department, Environmental Improvement Division, P. O. Box 968, Crown Building, Santa Fe, New Mexico 87504-0968. Any such reports which have been or may be received

by EPA, Region 6, after the effective date of this delegation, will be promptly transmitted to the SMEID.

Vs/ Frances E. Phillips for

AUG 17 1982

Dick Whittington, P.E.
Regional Administrator
Region 6
U.S. Environmental Protection Agency
Dallas, Texas

Date