



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

OCT 8 1999

Mr. Mark Coleman, Executive Director
Oklahoma Department of
Environmental Quality
707 N. Robinson
Oklahoma City, OK 73101-1677

RE: Update to the Delegation of Authority of New Source Performance Standards (NSPS) for
the State of Oklahoma

Dear Mr. Coleman:

This is in response to a letter from Mr. Eddie Terrill, Director, Air Quality Division, dated November 18, 1998, requesting the Environmental Protection Agency (EPA) delegate additional authority to the State of Oklahoma for the NSPS program. This request is based upon the State of Oklahoma adopting both emergency and permanent rules that incorporate by reference EPA's NSPS requirements found in 40 CFR Part 60.

The original delegation of NSPS authority to the State of Oklahoma was granted by EPA on March 25, 1982. This delegation was granted based on the State incorporating the NSPS requirements into future permits; however, the delegation excluded the authority to enforce the standards against sources constructed or modified prior to the effective date of the delegation. This updated delegation is based upon the State's incorporation by reference of NSPS which will apply to sources regardless of date. Please find the revised delegation of authority for NSPS to the State of Oklahoma enclosed. Please note that this delegation does not effect the 1982 delegation agreement with ODEQ for NESHAPs. It is also important to note that EPA retains concurrent enforcement authority.

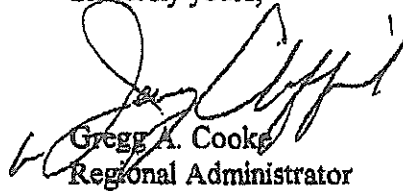
After a thorough review of the newly adopted rules along with other materials cited, we have determined that this action is appropriate for all source categories constructed or modified prior to the effective date of this delegation and that the Oklahoma Department of Environmental Quality (ODEQ) regulations and resources are adequate for the implementation and enforcement of the Federal standard. All sources subject to the requirements of 40 CFR Part 60 will now be under the jurisdiction of the State as appropriate.

Enclosed in an addendum are the terms and conditions of the delegation of authority for the NSPS responsibility to the State of Oklahoma. Since this delegation becomes effective on the date of this letter, there is no requirement that the ODEQ notify EPA of its acceptance. Unless EPA receives from the ODEQ written notice of objection within ten (10) days of the date of receipt of this letter, we will assume that the ODEQ has accepted all of the terms of the delegation.

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We appreciate the opportunity to review and comment on these regulations and will publish in the Federal Register a notice of this update for delegation of authority. If you have any questions regarding this action, please contact me or have your staff contact Ken Boyce of my staff at (214) 655-7259.

Sincerely yours,



Gregg A. Cooke
Regional Administrator

Enclosure

cc: Eddie Terrill, Director
Air Quality Division

PROVISIONS
OF
DELEGATION OF AUTHORITY
FOR
NEW SOURCE PERFORMANCE STANDARDS
IN THE
STATE OF OKLAHOMA
(40 CFR PART 60)
EFFECTIVE DATE:

Introduction

On March 25, 1982, the State of Oklahoma was delegated the authority for implementation and enforcement of New Source Performance Standards (NSPS) to the Oklahoma Department of Environmental Quality (ODEQ). Except as specifically limited, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Part 60 were delegated to the ODEQ. On November 2, 1998, the State of Oklahoma adopted an emergency rule that incorporates by reference EPA's New Source Performance Standards in 40 CFR Part 60. Both emergency and permanent rules incorporating by reference the NSPS were adopted by the Environmental Quality Board on September 15, 1998 and the permanent rules took effect June 1, 1999. This will give the State adequate authority to enforce the standards against sources constructed or modified prior to the effective date of the delegation, which was March 25, 1982.

Therefore, by virtue of authority granted by the Administrator, I hereby delegate authority to the ODEQ to implement and enforce the NSPS pursuant to Sections 110, 111(c) (1) and 301, of the Clean Air Act as amended November 15, 1990 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 are delegated to the ODEQ. Any of such

authority and responsibilities may be redelegated by the Department to its Director or staff.

Specific Provisions

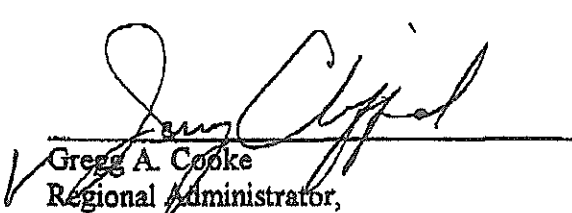
The specific provisions for the delegation of authority for implementation and enforcement of NSPS is based on the following provisions:

1. Future provisions of 40 CFR Part 60 shall be delegated to ODEQ pursuant to this agreement provided that (1) ODEQ requests delegation and provides copies of the proposed or adopted rules, (2) ODEQ adopts the federal standard without change (e.g. incorporation by reference) and (3) EPA does not object to the delegation within thirty (30) days of ODEQ's request. EPA will publish an informational notice of this delegation in the Federal Register. If the State of Oklahoma or the ODEQ determines that such implementation or enforcement is not possible or feasible, either with respect to an individual source, a class of sources, or generally, the ODEQ shall within thirty (30) days notify EPA, Region 6, of such impossibility or infeasibility so that EPA may timely exercise its concurrent authority with respect to sources within the State of Oklahoma.
2. Acceptance of this delegation constitutes agreement by the ODEQ to follow all interpretations, past and future, made by EPA of 40 CFR Part 60 including determinations of applicability.
3. 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.
4. If a claim of confidentiality or any other reason should ever legally prevent the State of Oklahoma and the ODEQ from providing to EPA any and all information required by or pertaining to the implementation or enforcement of NSPS, the ODEQ 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.
5. 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 ODEQ and at the discretion of EPA, Region 6, be transferred to the ODEQ 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. Effective immediately all reports

required pursuant to the Federal NSPS by sources located in the State of Oklahoma should be submitted to the ODEQ.

6. This delegation of authority is not applicable to the NSPS New Residential Wood Heaters under 40 CFR Part 60.

7. This delegation excludes the State's authority for sources located on Indian lands. In 1983, the President established a Federal Indian Policy which emphasized the principle of Indian "self-government," and direct dealing with Indian Nations on a "government-to-government" basis. We have adopted this policy for administration of the environmental programs on Indian lands.



Gregg A. Cooke
Regional Administrator,
Region 6

U.S. Environmental Protection Agency
Dallas, Texas

10/7/99
Date