



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

REPLY TO ATTENTION OF:
5AMD

MAR 29 1984

CERTIFIED MAIL RETURN
RECEIPT REQUESTED

Sandra S. Gardebring
Executive Director
Minnesota Pollution Control Agency
1935 W. County Road B-2
Roseville, Minnesota 55113-2785

Dear Ms. Gardebring:

On February 21, 1984, you requested an expansion of the U.S. Environmental Protection Agency's (USEPA) delegation of authority to Minnesota to implement and enforce the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS). The request included all future promulgated NSPS and NESHAPS standards and all revisions and amendments to existing and future NSPS and NESHAPS.

We have reviewed the pertinent procedures and supporting regulations of the State of Minnesota and have determined that the State has an adequate program for the implementation and enforcement of the NSPS and NESHAPS. Therefore, in accordance with Clean Air Act Sections 111(c) and 112(d) and subject to the specific terms and conditions set forth below, the USEPA hereby delegates authority to the State of Minnesota to implement and enforce the NSPS and NESHAPS as follows:

- A. Authority for all sources located or to be located in the State of Minnesota 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 pursuant to State law.
- B. Authority for all sources located or to be located in the State of Minnesota 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. The delegation of authority to enforce future standards, revisions, and amendments will be effective as of the date that such standards become applicable pursuant to State law.
- C. This delegation of authority for NSPS and NESHAPS supersedes the previous statewide delegations of September 20, 1977; September 1, 1982; and June 17, 1983; and is subject to the following terms and conditions:

1. Upon approval of the Regional Administrator of Region V, the Executive Director of the Minnesota Pollution Control Agency (MPCA) may subdelegate this authority to implement and enforce the NSPS and NESHAPS to other air pollution authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.
2. This delegation does not include the Administrator's responsibility to establish opacity standards as set forth in 40 CFR 60.11(e)(4).
3. The State of Minnesota will at no time grant a waiver of compliance with NESHAPS. The State of Minnesota 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.
4. The Federal NSPS 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 Minnesota authority to grant waivers by class of testing requirements or variances from NSPS regulations. Minnesota 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.
5. The State of Minnesota will utilize the methods specified in appendices and Subparts of 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations. The Administrator retains the exclusive authority to approve (a) the use of equivalent and alternative test methods pursuant to 40 CFR 60.8(b)(2) and (3), and (b) approve the use of alternative testing times for primary aluminum reduction plants pursuant to 40 CFR 60.195(d).
6. Enforcement of NSPS and NESHAPS in the State of Minnesota will be the primary responsibility of the State of Minnesota. If, after appropriate discussion with the MPCA, the Regional Administrator determines that a State procedure for implementing and enforcing the NSPS or NESHAPS is not in compliance with Federal regulations (40 CFR Parts 60 and 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 Executive Director of the MPCA.
7. The Division of Air Quality 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 Minnesota; (b) the interpretation of applicable regulations; and (c) the description of sources and source inventory data. The reporting provisions in 40 CFR Section 60.4 and 61.04 requiring industry to make submissions to the USEPA are met by sending such submissions to the MPCA. The MPCA will make available this information to the USEPA on a case-by-case basis.

MPCA's annual report, submitted to USEPA pursuant to ~~40~~ 40 CFR Part 51, will include information relating to the status of sources subject to 40 CFR Parts 60 and 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.

8. Prior USEPA concurrence is to be obtained on any matter involving the interpretation of Sections 111 or 112 of the Clean Air Act or 40 CFR Parts 60 and 61 to the extent that implementation, administration, or enforcement of these sections have not been covered by determinations or guidance sent to the Division of Air Quality. All applicability determinations which have not been specifically treated in the Compendium of Applicability Determinations issued by USEPA annually are reserved for USEPA. Any applicability determination made by MPCA based on a prior USEPA determination must be submitted to USEPA.
9. If the State of Minnesota determines that a violation of a delegated NSPS or NESHAPS exists, the Division of Air Quality shall within 30-days notify USEPA, Region V, of the nature of the violation 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 or 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 Sections 111(c)(2) and 112(d)(2) of the Clean Air Act.
10. In addition to any future provision which may be cited in forthcoming NSPS or NESHAPS which cannot be delegated, the Administrator retains authority for approval of equivalency for design, equipment, or work practice or operational standard pursuant to Section 111(h) or Section 112(e) of the Clean Air Act and for the granting of an innovative technology waiver pursuant to Section 111(j) of the Clean Air Act.
11. If the State of Minnesota determines that for any reason, including budget reductions, it is unable to administer any new NSPS or NESHAPS, the Executive Director of the MPCA will notify the Regional Administrator. Upon such notification by the State, the primary enforcement responsibility for such new standards will return to the USEPA.

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 USEPA receives written notice from the MPCA of objections within 10 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 Minnesota.

Sincerely yours,

Alan Levin (Acting)
Valdas V. Adamkus
Regional Administrator