

OCT 14 1983
CERTIFIED MAIL - RETURN RECEIPT REQUESTED P 333 729 004

Honorable David C. Treen
Governor of Louisiana
State Capitol
Baton Rouge, Louisiana 70804

Dear Governor Treen:

I am happy to announce that, by virtue of the authority granted by the Administrator and effective today, I am delegating to the State of Louisiana and the Louisiana Department of Natural Resources (LDNR) the full authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAP) program in the State of Louisiana. I would like to briefly recap the history leading to this delegation of additional authority.

On August 30, 1982, EPA Region 6 delegated to the State of Louisiana and the LDNR the authority to implement the administrative and technical responsibilities of the NESHAP program. Among other conditions of the partial delegation, EPA Region 6 retained enforcement authority over NESHAP sources in the State of Louisiana.

With the adoption of the Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP) regulations by the Louisiana Environmental Control Commission on May 26, 1983, and based on our review of these regulations, we have determined that the State's procedures and present resources are adequate for assuming full authority for the NESHAP program, including enforcement activities. Therefore, the August 30, 1982, partial delegation provisions are replaced by the enclosed full delegation provisions.

As with most provisions of the Clean Air Act, Congress intended that the NESHAP regulations be administered at the State and local levels of government. This action today represents the final step in achieving full delegation of the NESHAP program for the State of Louisiana.

Since this full 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 Louisiana written notice of objection within ten days of the date of receipt of this letter, we will assume that the State of Louisiana and the LDNR have accepted all the terms of the delegation.

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If you have any questions concerning the provisions of this full delegation of NESHAP authority, please feel free to contact me.

Sincerely yours,

/s/ Frances E. Phillips for

Dick Whittington, P. E.
Regional Administrator

Enclosure

cc: Mr. Frank P. Simoneaux
Secretary
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P. O. Box 44066
Baton Rouge, Louisiana 70804

Mr. B. Jim Porter
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PROVISIONS
for
FULL DELEGATION
for the
NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS (NESHAP) AUTHORITY
to the
STATE OF LOUISIANA
(40 CFR PART 61)
EFFECTIVE DATE: OCT 14 1983

Introduction

On August 30, 1982, EPA delegated to the State of Louisiana and the Louisiana Department of Natural Resources (LDNR) the authority to implement the administrative and technical responsibilities of the NESHAP program. On May 26, 1983, the Louisiana Environmental Control Commission (LECC) adopted the Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP). Subsequent review by EPA of the LESHAP rules demonstrates that the LDNR has the necessary measures for effective implementation and enforcement of the federal NESHAP program.

Therefore, by virtue of the authority granted by the Administrator, I hereby delegate authority to the State of Louisiana and the LDNR to implement and enforce the NESHAP program in the State of Louisiana, pursuant to Section 112(d) 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 61 as of the date of this agreement are delegated to the State of Louisiana and LDNR. Any or all portions of the delegated authority and responsibilities may be redelegated by the Secretary of the LDNR to its Assistant Secretary, Program Administrator, or staff. This amendment supersedes the August 30, 1982, delegation agreement.

Specific Provisions

The delegation of authority for implementation and enforcement of the NESHAP program is based on the following provisions:

1. Implementation and enforcement of the National Emission Standards for Hazardous Air Pollutants in the State of Louisiana will be the primary responsibility of the LDNR. If the State of Louisiana or the LDNR 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 LDNR shall within 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 Louisiana.
2. The LDNR is authorized to assume NESHAP 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. Partial delegation responsibilities include the technical and administrative review. Technical and administrative duties shall include, but not be limited to, determination of applicability, review and evaluation of NESHAP applications, review and evaluation of requests for waivers of compliance under 40 CFR 61.11 and/or waivers of emission tests under 40 CFR 61.13, performance and evaluation of inspections, and observance and evaluation of stack tests and continuous emission monitoring tests.
3. Acceptance of this delegation constitutes agreement by the LDNR to follow all interpretations, past and future, made by EPA of 40 CFR Part 61 including determinations of applicability. The LDNR agrees to consult with the EPA Region 6 on questions of interpretations of the NESHAP. A copy of each interpretation (including compliance determinations) made by the LDNR shall be sent to EPA Region 6.
4. The State of Louisiana and the LDNR are not authorized to grant any exemption, variance, or waiver from compliance with any provision of 40 CFR Part 61 except for the waiver of emission tests authorized in 40 CFR 61.13 and the waiver of compliance authorized in 40 CFR 61.11. A copy of any waiver of emission tests under 40 CFR 61.13, or of any waiver of compliance under 40 CFR 61.11 shall be sent to EPA Region 6. Should the State of Louisiana or the LDNR grant any other exemption, variance or waiver to any source or category of sources pursuant to any state law, regulations, or practice which is contrary to the provisions of 40 CFR 61, then LDNR shall immediately notify EPA Region 6, of the granting of such an exemption, variance or waiver from the compliance with Federal requirements. EPA may consider any source receiving such relief to be violating or threatening to violate the applicable federal regulation and may initiate enforcement action against

the source pursuant to Section 113 of the Clean Air Act. The granting of any exemption, variance, or waiver by the State of Louisiana or the LDNR shall also constitute grounds for revocation of delegation by EPA, in whole or in part, at the discretion of the Regional Administrator of EPA Region 6.

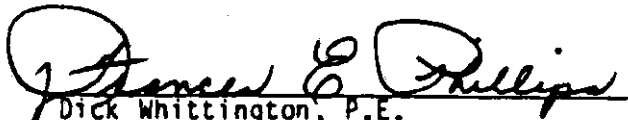
5. The LDNR shall utilize methods and means of determining compliance at least as stringent as those specified in 40 CFR Part 61. All performance tests are to be conducted at normal maximum production. All requests from sources for equivalent or alternate methods shall be forwarded to EPA Region 6, with or without a recommendation. 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.

6. If at any time there is a conflict between any State regulation and any provision of 40 CFR Part 61, the federal regulation must be applied to the extent that it is more stringent than that of the State. If the State of Louisiana or the LDNR does not have the authority to enforce the more stringent federal regulation, the LDNR shall immediately notify EPA, Region 6 pursuant to Provision 1 above. The delegation may be revoked by EPA, Region 6, in whole or in part, in the event any such conflict makes implementation or enforcement of the National Emission Standards for Hazardous Air Pollutants administratively impractical.

7. If a claim of confidentiality or any other reason should ever legally prevent the State of Louisiana and the LDNR from providing to EPA any and all information required by or pertaining to the implementation of NESHAP, the LDNR 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.

8. 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 LDNR and at the discretion of EPA Region 6, be transferred to the LDNR for completion. Appropriate reproduction of pertinent file material in the EPA Region 6 files in relation to source regulation under NESHAP shall be provided through mutual cooperation of the staffs of the respective offices.

A notice of this delegation of authority 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 NESHAP by sources located in the State of Louisiana should be submitted to the Louisiana Department of Natural Resources, Air Quality Division, P. O. Box 44066, Baton Rouge, Louisiana 70804. A copy of 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 LDNR.


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

October 14, 1983
Date