UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Mr. William R. Meyer
Executive Director
Virginia State Air Pollution Control Board
Ninth Street Office Building, Room 801
Richmond, VA 23219

JUL 02 1985

Dear ~~Mr. Meyer:~~ Bill

Certain provisions of the NSPS and NESHAP regulations allow only the Administrator to take further standard setting actions. Such provisions cannot be delegated and are as follows:

For NSPS:

a. Alternative means of emission limitations in the Clean Air Act section 111(h)(3) which is codified in 40 CFR §§ 60.11a and 60.484.

b. Innovative technology waivers in the Clean Air Act section 111(j).

c. Alternative testing times for Primary Aluminum Reduction Plants in 40 CFR § 60.195(b).

d. Approval of equivalent and alternate test methods in 40 CFR §§ 60.8(b)(2) and (3).

e. Establishment of alternate opacity standards in 40 CFR § 60.11(e).

f. Issuance of commercial demonstration permits under 40 CFR § 60.45a.

g. The portions of the Stationary Gas Turbine Standards dealing with nitrogen fuel allowance in 40 CFR § 60.332 (a)(3) and the ambient condition correction factors in 40 CFR § 60.335(a)(ii).

h. The authority to make applicability determinations pertaining to sources subject to the NSPS and NESHAP. Virginia may refer to the Compendium of Applicability determinations issued by U.S. EPA annually, and updated quarterly. Any applicability determinations

not explicitly treated in the U.S. EPA Compendium must be referred to EPA for determination. Also, any correspondence from Virginia based on the Compendium must be sent to U.S. EPA to maintain National consistency.

For NESHAP:

a. Determinations of whether actions taken or intended to be taken constitute construction or modification or the commencement thereof under 40 CFR § 61.06, unless previously addressed in the NESHAP applicability compendium.

b. Determinations of public availability of information provided to or otherwise obtained by U.S. EPA under 40 CFR § 61.15 unless you have legal authority similar to section 114 of the Clean Air Act.

c. Authority to approve alternate and equivalent test and analytical methods per 40 CFR § 61.14.

d. The list of approved design, maintenance, and housekeeping practices under 40 CFR § 61.53(c)(4) is only available from the Administrator of U.S. EPA.

e. Approval of alternative means of emission limitation to any design, equipment, work practice, or operational standard under section 112(e)(3) of the Clean Air Act.

The following provisions are included in your delegation and can only be exercised on a case-by-case basis. When any of these authorities are exercised, Virginia must notify U.S. EPA, Region III in accordance with the reporting procedures referred to in your original delegation letter:

a. Waiver of a performance test in accordance with 40 CFR § 60.8(b)(4) or make minor modifications in accordance with 40 CFR § 60.8(b)(1).

b. Determination of representative conditions for the purpose of conducting a performance test as allowed by 40 CFR § 60.8(c).

c. Approval of shorter sampling times or smaller sampling volumes under 40 CFR § 60.46(b) or (d).

d. Authorization of both the use of wet collectors in accordance with 40 CFR § 61.154(b)(1) and also the use of filtering equipment as explained in 40 CFR § 61.154(b)(2).

e. Approval of sampling techniques as specified in 40 CFR § 61.43(a).

Additionally, 40 CFR 60.4 requires that all requests, reports, and other communications to the Administrator pursuant to NSPS, including excess emission reports, be submitted to EPA, Region III in addition to any State or local agencies which have been delegated authority. 40 CFR 61.04 contains the same requirement for NESHAP. Please make certain that all NSPS and NESHAP sources in Virginia are aware of this. Please let me know if you have any questions on the above.

Sincerely,

J E Sydnor

for W. Ray Cunningham, Director
Air Management Division