UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

APR 2 0 1998

Mr. Dennis H. Treacy, Acting Director
Virginia Department of Environmental Quality
P.O. Box 10009
Richmond, Virginia 23240

Dear Mr. Treacy:

This is in response to your delegation request which was included in the initial letter, dated November 12, 1993, from the Virginia Department of Environmental Quality (VADEQ) Director seeking approval of its Title V program. The letter sets forth VADEQ's request for partial delegation of authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Source Categories, and associated infrastructure programs, pursuant to Section 112 of the Clean Air Act (CAA), as set forth in 40 Code of Federal Regulations (CFR) Part 63. This partial delegation of authority only pertains to affected sources of Hazardous Air Pollutants (HAPs), as defined in 40 CFR Part 63, for all source categories which are located at major sources, as defined in 40 CFR Part 70.

In addition, this letter addresses the request contained within your February 6, 1998 letter from the VADEQ Director of Technical Support that NESHAPs for Source Categories promulgated by EPA in the future be automatically delegated to the VADEQ.

EPA Region III has reviewed the pertinent laws of the Commonwealth of Virginia (Commonwealth) and the rules and regulations thereof, and has determined that they provide an adequate and effective procedure for implementation and enforcement of the NESHAPs and associated infrastructure programs, as set forth in 40 CFR Part 63. Therefore, pursuant to Section 112 of the CAA, as amended, and 40 CFR Section 63.91, we delegate our primary authority for implementation and enforcement of 40 CFR Part 63 for affected sources of hazardous air pollutants which are located at major sources (as defined in 40 CFR Part 70) to VADEQ as follows:

A. Responsibility for all affected sources located or to be located in Virginia at major sources (as defined in 40 CFR Part 70) subject to the following emission standards for HAPs as promulgated by VADEQ into 9 VAC 5-60-90 through 110:

   Subpart A - General Provisions (40 CFR 63.1 through 40 CFR 63.11, 63.14 through 63.15, dated July 1, 1997)

   Subpart F - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (40 CFR 63.100 through 40 CFR 63.106, dated July 1, 1997)

Subpart G- Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 CFR 63.110 through 40 CFR 63.152, dated July 1, 1997)

Subpart H - Organic Hazardous Air Pollutants for Equipment Leaks (40 CFR 60.160 through 40 CFR 60.182, dated July 1, 1997)

Subpart I - Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (40 CFR 63.190 through 40 CFR 63.192, dated July 1, 1997)

Subpart L - Coke Oven Batteries (40 CFR 63.300 through 40 CFR 63.313, dated July 1, 1997)

Subpart M - Perchlorethylene Dry Cleaning Facilities (40 CFR 63.320 through 40 CFR 63.325, dated July 1, 1997)

Subpart N - Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 CFR 63.340 through 40 CFR 63.347, dated July 1, 1997)

Subpart O - Ethylene Oxide Commercial Sterilization and Fumigation Operations (40 CFR 63.360 through 40 CFR 63.367, dated July 1, 1997)

Subpart Q - Industrial Process Cooling Towers (40 CFR 63.400 through 40 CFR 63.406, dated July 1, 1997)

Subpart R - Gasoline Distribution Facilities (40 CFR 63.420 through 40 CFR 63.429, dated July 1, 1997)

Subpart T - Halogenated Solvent Cleaning (40 CFR 63.460 through 40 CFR 63.469, dated July 1, 1997)

Subpart U - Group I Polymers and Resins (40 CFR 63.480 through 40 CFR 63.506 dated July 1, 1997)

Subpart W - Epoxy Resins Production and Non-Nylon Polyamides Production (40 CFR 63.520 through 40 CFR 63.527, dated July 1, 1997)

Subpart X - Secondary Lead Smeltering (40 CFR 63.541 through 40 CFR 63.550, dated July 1, 1997)

Subpart Y - Marine Tank Vessel Loading Operations (40 CFR 63.560 through 40 CFR 63.567, dated July 1, 1997)

Subpart CC - Petroleum Refineries (40 CFR 63.640 through 40 CFR 63.654, dated July 1, 1997)

Subpart DD - Off-Site Waste and Recovery Operations (40 CFR 63.680 through 40 CFR 63.697, dated July 1, 1997)

Subpart EE - Magnetic Tape Manufacturing Operations (40 CFR 63.701 through 40 CFR 63.708, dated July 1, 1997)

Subpart GG - Aerospace Manufacturing and Rework Facilities (40 CFR 63.740 through 40 CFR 63.752, dated July 1, 1997)

Subpart II - Shipbuilding and Ship Repair (Surface Coating) (40 CFR 63.780 through 40 CFR 63.788, dated July 1, 1997)

Subpart JJ - Wood Furniture Manufacturing Operations (40 CFR 63.800 through 40 CFR 63.819, dated July 1, 1997)

Subpart KK- Printing and Publishing Industry (40 CFR 63.820 through 40 CFR 63.831, dated July 1, 1997)

Subpart OO - Tanks - Level 1 (40 CFR 63.900 through 40 CFR 63.907, dated July 1, 1997)

Subpart PP - Containers (40 CFR 63.920 through 40 CFR 63.928, dated July 1, 1997)

Subpart QQ - Surface Impoundments (40 CFR 63.940 through 40 CFR 63.948, dated July 1, 1997)

Subpart RR - Individual Drain Systems (40 CFR 63.960 through 40 CFR 63.966, dated July 1, 1997)

Subpart VV - Oil-Water Separators and Organic-Water Separators (40 CFR 63.1040 through 40 CFR 63.1049, dated July 1, 1997)

Subpart JJJ - Group IV Polymers and Resins (40 CFR 1310 through 40 CFR 1335, dated July 1, 1997)

Test Methods (40 CFR Appendix A, dated July 1, 1997)

Method 301 - Field validation of pollutant measurement methods from various waste media.

Method 303 - Determination of visible emissions from by-product coke oven batteries.

Method 303A - Determination of visible emissions from nonrecovery coke oven batteries.

Method 304A - Determination of biodegradation rates of organic compounds (vent option).

Method 304B - Determination of biodegradation rates of organic compounds (scrubber option).

Method 305 - Measurement of emission potential of individual volatile organic compounds in waste.

Method 306 - Determination of chromium emissions from decorative and hard chromium electroplating and anodizing operations.

Method 306A - Determination of chromium emissions from decorative and hard chromium electroplating and anodizing operations.

Method 306B - Surface tension measurement and recordkeeping for chromium plating tanks used at electroplating and anodizing facilities.

Method 307 - Determination of emissions from halogenated solvent vapor cleaning machines using a liquid level procedure.

Method 311 - Analysis of hazardous air pollutant compounds in paints and coatings by direct injection into a gas chromatograph.

Appendix B - Sources Defined for Early Reduction Provisions.

Appendix C - Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit.

Appendix D - Alternative Validation Procedure for EPA Waste and Wastewater Methods.

B. All future 40 CFR Part 63 standards are automatically delegated, subject to the following conditions:

1. Each standard must be legally adopted by the VADEQ.

2. Each standard must be adopted by reference to the Federal regulations with only those wording changes provided by the present state regulations.

3. The VADEQ must notify the Director, Air Protection Division, EPA Region III, that it has adopted additional standards and that it intends to enforce the standards in conformance with the terms of this delegation.

C. This partial delegation does not include the following:

1. Implementation and enforcement of standards that control radionuclides (40 CFR Part 63.12(b)(1)).

2. Implementation and enforcement of standards that apply to any area source, as defined in 40 CFR Section 63.2, which is not located at a major source, as defined in 40 CFR Part 70.

3. Implementation and enforcement of an accidental release prevention program as described in Section 112(r) of the CAA and 40 CFR Part 68. EPA will continue to be the implementing Agency for these requirements.

D. This partial delegation is based upon the following conditions:

1. Enforcement of emission standards in Virginia will be the primary responsibility of the VADEQ. Pursuant to Section 112(l)(7) of the CAA, EPA retains the authority to enforce any NESHAP standard whenever such enforcement is deemed by EPA to be necessary to carry out the purposes of the CAA.

2. If the VADEQ determines that enforcement is not feasible and so notifies the EPA, or where the VADEQ acts in a manner inconsistent with the terms of this granted authority, the EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the CAA, as amended.

3. The reporting provisions in 40 CFR Part 63 requiring the owners or operators of affected sources to make submissions to the U.S. EPA Administrator shall be met by sending such submissions to the VADEQ and U.S. EPA Region III.

4. If at any time there is a conflict between a VADEQ regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of the VADEQ. EPA Region III is responsible for determining stringency between conflicting regulations. If the VADEQ does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

5. If the Administrator determines that the Commonwealth's procedure for enforcing or implementing the 40 CFR Part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR Part 63.96(b).

6. Certain provisions of 40 CFR Part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(c) and the "Delegation of Authorities" section for specific standards, EPA Region III is retaining the following authorities in this delegation letter:

   a. Approval of alternative means of emission limitations and alternative control technologies (e.g., 40 CFR 63.6(g), 63.6(h)(9) and applicable sections of relevant standards);

   b. Approval of alternative test methods (e.g., 40 CFR 63.7(e)(2)(ii) and 63.7(f) and applicable sections of relevant standards);

   c. Approval of alternative monitoring methods (e.g., 40 CFR 63.8(b)(ii) and (f) and applicable sections of relevant standards); and,

   d. The authority to make applicability determinations as sought by an owner/operator of a major source (as defined in 40 CFR Part 70) through a formal, written request.

   e. In determining applicability of 40 CFR Part 63 NESHAPs for sources during the Title V permitting process, the VADEQ may refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance. Any correspondence from the VADEQ based on the Compendium must be sent to EPA Region III to maintain national consistency.

7. The following provisions are included in this delegation and can only be exercised on a case-by-case basis. When any of these authorities are exercised, VADEQ must notify U.S. EPA, Region III in writing:

a. Compliance extensions (e.g., 40 CFR 63.6(i) and applicable sections of relevant standards);

b. Approval of site-specific test and performance evaluation plans (e.g., 40 CFR 63.7(c), 63.8(e)(3) and applicable sections of relevant standards). VADEQ will notify EPA of these approvals on a quarterly basis by submitting a copy of the test or performance evaluation plan approval letter. Any plans which propose alternative test or monitoring methods shall be referred to EPA for approval (see Section D.6 of this letter);

c. Approval of minor alternatives to test methods and monitoring (e.g., 40 CFR 63.7(e)(2)(i), 63.8(b)(i) and applicable sections of relevant standards);

d. Approval of shorter sampling times/ volumes (e.g., 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards);

e. Waiver of performance testing (e.g., 40 CFR 63.7(h)(2), (3) and (e)(2)(iv) and applicable sections of relevant standards); and,

f. Waiver of record keeping (e.g., 40 CFR 63.10(f) and applicable sections of relevant standards)).

8. As required, the VADEQ and U.S. EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR Part 63. In instances where there is a conflict between a Commonwealth interpretation and a Federal interpretation of applicable regulations in 40 CFR Part 63, the Federal interpretation must be applied if it is more stringent that of the VADEQ. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Virginia.

9. Quarterly reports will be submitted to EPA by the VADEQ to identify sources determined to be applicable during that quarter.

Since this action is effective immediately, there is no requirement that the VADEQ notify the EPA of its acceptance. Unless the EPA receives from VADEQ written notice of objections within ten (10) days of the date of receipt of this letter, the VADEQ will be deemed to have accepted all of the terms as stated herein.

An informational notice announcing this delegation will be published in the Federal Register in the near future. Any original reports which have been received by EPA will be promptly transferred to the VADEQ.

If you have any questions regarding this matter, please contact me or have your staff contact Marilyn Powers at 215-566-2308.

Sincerely,

W. Michael McCabe
Regional Administrator

cc: John M. Daniel Jr., VADEQ
Robert Mann, VADEQ