



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

March 15, 1999

Prabhat Bhargava, Manager
Air Permits Section
Arizona Department of Environmental Quality
3033 North Central Avenue
Phoenix, AZ 85102

Dear Mr. Bhargava:

Enclosed is a signed copy of the delegation agreement between ADEQ and EPA which authorizes ADEQ to implement Prevention of Significant Deterioration (PSD) provisions of 40 CFR 52.21 for PM_{10} . We did not make any changes to the agreement we received for signature from Marcia Colquitt of your staff on February 17, 1999. We have retained a signed copy of this agreement for our files as well. The delegation is effective as of March 12, 1999, the date signatures from both parties were obtained. This delegation does not replace EPA's action on any ADEQ SIP submittal, but rather allows simpler PSD permitting until EPA takes action on the SIP submittals of permitting rules. Also, note this delegation does not affect the authority granted to ADEQ in the May 3, 1983 SIP approval for issuing PSD permits for other pollutants. If you have any questions, please contact me at (415) 755-1254.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Haber".

for Matt Haber
Chief, Permits Office
Air Division

Enclosure

AGREEMENT FOR DELEGATION OF AUTHORITY OF THE PM₁₀ REGULATIONS
FOR
PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY
(40 CFR 52.21) BETWEEN EPA AND ARIZONA DEQ

The undersigned, on behalf of the Arizona Department of Environmental Quality (ADEQ) and the United States Environmental Protection Agency (EPA), hereby agree to the delegation of authority for the administrative, technical and enforcement elements of the provisions of 40 CFR 52.21 regulating PM₁₀, Prevention of Significant Deterioration (PSD), as they may be amended and in accordance with the permit review requirements in 40 CFR 124, Subparts A and C, from EPA to ADEQ, subject to the terms and conditions below. This delegation is executed pursuant to 40 CFR 52.21 (u), Delegation of Authority.

I. General Delegation Conditions

1. Authority is delegated for all sources under the jurisdiction of ADEQ that are subject to PSD review for PM₁₀. This includes all source categories listed in 40 CFR 52.21 for each pollutant regulated by the Clean Air Act.
2. This delegation may be amended at any time by the formal written agreement of both ADEQ and EPA, including amendments to add, change, or remove conditions or terms of this Agreement.
3. If the Regional Administrator determines that ADEQ is not implementing or enforcing the PSD program in accordance with the terms and conditions of this delegation, the requirements of 40 CFR 52.21, 40 CFR 124, or the Clean Air Act, this delegation, after consultation with ADEQ, may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to ADEQ. Nothing in this paragraph shall preclude EPA from exercising its enforcement authority, as provided in paragraph V.2. below.
4. The permit appeal provisions of 40 CFR 124.19 shall apply to all appeals to the Administrator of permits issued by ADEQ under this delegation. For purposes of implementing the federal permit appeal provisions under this delegation, if there is a public comment requesting a change in a draft preliminary determination or draft permit conditions, the final permit issued by ADEQ shall contain a statement that for Federal PSD purposes and in accordance with 40 CFR 124.15 and 124.19, (1) the effective date of the permit is 30 days after the final decision to issue, modify, revoke or reissue the permit; and (2) if an appeal is made to the Administrator, the effective date of the permit is suspended until such time as the

appeal is resolved. ADEQ shall inform EPA (Region IX) in accordance with conditions of this delegation when there is public comment requesting a change in the preliminary determination or in draft permit conditions. Failure of ADEQ to comply with the terms of this paragraph shall render the subject permit invalid for Federal PSD for PM₁₀ purposes.

II. Communications Between EPA and ADEQ

ADEQ and EPA will use the following communication procedures:

1. ADEQ will report to EPA on a quarterly basis the compliance status of the sources that have received a PSD permit from either ADEQ or U.S. EPA. The Aerometric Information Retrieval System (AIRS) will be used for this purpose. Compliance determinations will be made with respect to the conditions established in the PSD permits for PM₁₀. Such compliance determinations by ADEQ shall be informational in nature and shall not preclude EPA from exercising its enforcement authority as provided in paragraph V. 2. below.
2. ADEQ will forward to EPA, at or prior to the beginning of the public comment period for each PSD preliminary determination for PM₁₀ under this delegation, a summary of (1) the findings related to the PSD application regarding PM₁₀, (2) the justification for ADEQ's preliminary determination, and (3) a copy of the draft permit. Should there be any comments or concerns about the pending PSD permit re: PM₁₀, EPA will communicate these comments and concerns to ADEQ as soon as possible prior to the close of the public comment period.
3. ADEQ will forward to EPA copies of the final action on the PSD permit applications for PM₁₀ under this delegation at the time of issuance, as well as copies of substantive public comments. ADEQ must address any public comments not incorporated into the permit, and shall provide a summary of the responses.
4. ADEQ will send EPA copies of preliminary determinations on PSD permit modifications and amendments under this delegation at or prior to the beginning of the public comment period. EPA will provide comments to ADEQ prior to the close of the public comment period.
5. ADEQ will send to EPA a copy of all applicability determinations which would result in PSD exemptions due to offsetting or netting (40 CFR 52.21(b)(3) and 52.21 (b)(21) for PM₁₀. All such determinations must be accompanied by a written justification.

6. EPA will provide to ADEQ copies of all requested PSD permits issued in the past by EPA.

III. Revisions To Title 40 CFR Section 52.21

1. This delegation extends to any revisions promulgated to 40 CFR 52.21 and 40 CFR 124 relating to regulation of PM₁₀. The terms "40 CFR 52.21" and "40 CFR 124", as used in the delegation request and throughout this Agreement, include such regulations as in effect on the date this Agreement is executed and any revisions that are promulgated after that date.
2. In addition, the following EPA policies apply to PSD review:
 - A. EPA is responsible for the issuance of PSD permits on Indian Lands, under Sections 110(c) and 301 of the Clean Air Act. States have no authority to establish air pollution control requirements on Indian Reservations.
 - B. According to EPA guidance issued on September 22, 1987, and supplemental guidance issued on July 28, 1988, all delegated agencies must now consider pollutants not subject to the Clean Air Act in their Best Available Control Technology (BACT) determinations. The BACT determinations should include a review of the toxic effects of unregulated pollutants and the impact of the proposed BACT on the emissions of these pollutants.
 - C. ADEQ must consult with the appropriate Federal, State and local land use agencies prior to issuance of preliminary determinations on PSD permits. In particular, EPA requires that ADEQ shall:
 - 1) Notify the Fish and Wildlife Service (FWS) and EPA when a PSD permit application has been received for PM₁₀, in order to assist EPA in carrying out its nondelegable responsibilities under Section 7 of the Endangered Species Act (PL 97-304).
 - 2) Notify applicants of the potential need for consultation between EPA and FWS if an endangered species may be affected by the project.
 - 3) Refrain from issuing a final PSD permit for PM₁₀ unless FWS has determined that the proposed project will not adversely affect any endangered species.

- D. According to EPA guidance issued on June 26, 1987, all delegated agencies are required to look at certain control options when making BACT determinations for municipal waste combustors. Specifically, these agencies should consider a dry scrubber for sulfur dioxide control, a baghouse or electrostatic precipitator for particulate control, and efficient combustion techniques for carbon monoxide control in their BACT determinations for this type of source.
- E. Additional BACT guidance issued on December 1, 1987, by EPA, states that the Regional Office is to encourage the application of "top-down" BACT determinations in the Region. This means that EPA will consider as deficient any BACT determinations that do not begin with the most stringent control options available for that source category.
- F. Upon notification from EPA, ADEQ will adopt new regulations or directives implementing any additional requirements promulgated by EPA.

IV. Permits

1. ADEQ will request EPA guidance on any matter involving the interpretation of Sections 160-169 of the Clean Air Act (the Act) or 40 CFR 52.21 to the extent that implementation, review, administration or enforcement of these provisions has not been covered by determinations or guidance sent to ADEQ.
2. ADEQ will at no time grant any waiver to the PSD permit requirements for PM₁₀.
3. Permits issued under this delegation shall contain language certifying that the Federal PSD requirements have been satisfied for PM₁₀.
4. Authorities to Construct must include appropriate provisions, as specified in Attachment A, to ensure permit enforceability. Permit conditions shall, at a minimum, contain reporting requirements on initiation of construction, start-up, source testing and continuous emissions monitoring systems (CEMS)(where applicable). In all cases where tests are required, the test methods shall be specified. All cases where CEMS are required, appropriate testing and reporting requirements shall be included. Upset/breakdown and malfunction conditions shall be included in all permits.
5. ADEQ shall conduct a review every five years, commencing 18 months after both parties have signed the agreement, of the PM₁₀ increment status for each area designated as attainment pursuant to Section 107 of the Act over which it has jurisdiction and shall prepare a summary report of that review. Such review

shall be made in accordance with current U.S. EPA guidance as provided to ADEQ and in accordance with 40 CFR 52.21. For areas under ADEQ's jurisdiction designated nonattainment for TSP, the requirement for tracking PM₁₀ increment consumption becomes effective on the date of receipt of the first major source application deemed complete after June 3, 1994, implementation date for PM₁₀ increments. For all other areas within ADEQ's jurisdiction, the minor source baseline date established for TSP remains in effect, but PM₁₀ increments replace TSP increments as the particulate matter indicator.

V. Permit Enforcement

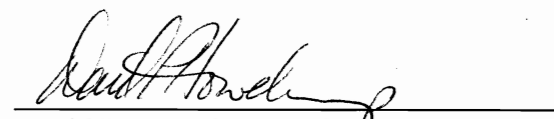
1. The primary responsibility for enforcement of the PSD regulations for PM₁₀ rests with ADEQ. ADEQ will enforce the provisions that pertain to the PSD program for PM₁₀ except in those cases where the rules or policy of ADEQ are more stringent. In that case, ADEQ may elect to implement the more stringent requirements.
2. Nothing in this delegation agreement shall prohibit EPA from enforcing the PSD provisions of the Clean Air Act, the PSD regulations or the conditions of any PSD permit issued by ADEQ pursuant to this agreement for PM₁₀.
3. In the event that ADEQ is unwilling or unable to enforce a provision of this delegation with respect to a source subject to the PSD regulations for PM₁₀, ADEQ will immediately notify the Regional Administrator. Failure to notify the Regional Administrator does not preclude EPA from exercising its enforcement authority.
4. This delegation of authority becomes effective upon the date that both parties have signed this Agreement.

Date: 2/11/99



Nancy C. Wrona, Director
Air Quality Division
Arizona Dept. of Environmental Quality

Date: 3/12/99



David P. Howekamp, Director
Air Division
U.S. EPA Region 9

ATTACHMENT A

All Authorities to Construct, where applicable, shall contain:

1. Identification of all points of emission, both stack and fugitive.
2. Specification of a numerical emission limitation for each point of emission in terms of mass rate and/of concentration limitations. If emission testing based on a numerical emission limitation is infeasible, the permit may instead prescribe a design, operational, or equipment standard. Any permits issued without numerical emission limitations must contain conditions which assure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed so as to continuously achieve the assumed degree of control.
3. Limitations or factors which were the basis for the air quality impact analysis must be specified (e.g. hours of operation, stack height, materials processed which affect emissions).
4. Methods and frequency of determining continued compliance for each point of emission such as from the SIP or if the source is subject to New Source Performance Standards [NSPS] or National Emission Standards for Hazardous Air Pollutants [NESHAP] or explicitly identified if a reference method is not used.
5. Recordkeeping requirements which enable the agency to ascertain continued compliance, especially where factors such as hours of operation, throughput of materials, sulfur content of fuels, fuel usage, and type or quantity of materials processed are conditions of the permit.
6. A condition that the permit will expire if construction is not commenced within eighteen (18) months or a shorter period.
7. A condition that the source is responsible for providing sampling and testing facilities at its own expense.
8. A condition that continuous emission monitoring systems (CEMS) will be used for enforcement purposes.
9. Reporting requirements which enable the agency to monitor the following:

- (a) Progress of source construction including the date by which construction is completed; and
 - (b) Compliance with (1) emission limitations, (2) operational limitations, (3) and work practice standards; the reporting requirements should include excess emissions reports and source test results.
10. Permits issued under this delegation should contain language certifying that the federal PSD requirements have been satisfied.
11. As a courtesy to sources exempted from PSD review due to federally enforceable operational or process restrictions, or the use of controls more stringent than required by applicable SIP limits, the source shall be advised that any relaxation of those limits may subject the entire source to full PSD review as if construction had not yet begun. Suggested language is as follows:

This source is exempt from PSD review because of... (state reason, for example, “the requirement that limits operation to eight hours per day”). Any relaxation in this limit which increases your potential to emit above the applicable PSD threshold will require a full PSD review of the affected source as if construction had not yet commenced.