



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUL 15 2011

Mr. Bob Martin  
Commissioner  
New Jersey Department of  
Environmental Protection  
PO Box 402 - Mailcode 401-07  
Trenton, NJ 08625-0402

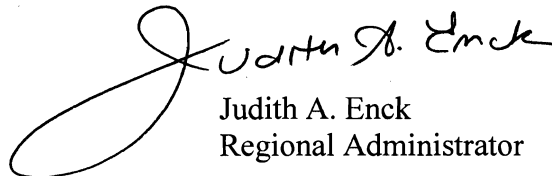
Re: Final Revisions to the Federal Prevention of Significant Deterioration  
of Air Quality (PSD) Permit Program Delegation to New Jersey

Dear Commissioner Martin:

Enclosed are the final revisions to the terms and conditions of the USEPA delegation to New Jersey for implementation of the federal Prevention of Significant Deterioration of Air Quality (PSD) permit program in New Jersey containing our signatures. This final document was the result of months of intense collaboration and consultation between our staffs. I want to thank you and your staff for your dedication and efforts in achieving these important revisions to this delegation agreement.

Please have your staff contact Mr. Steven C. Riva, Chief of the Permitting Section, Air Programs Branch at (212) 637-4074, if you have any additional questions.

Sincerely,

  
Judith A. Enck  
Regional Administrator

Enclosure

cc: William O' Sullivan, New Jersey Department of  
Environmental Protection (w/enclosure)

## TERMS & CONDITIONS OF DELEGATION

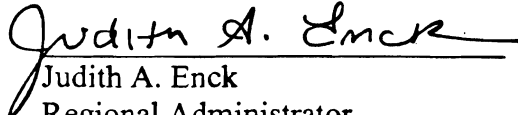
The following terms and conditions will govern this revised delegation by the U.S. Environmental Protection Agency's Region 2 Office (EPA) to the New Jersey Department of Environmental Protection (DEP) of Prevention of Significant Deterioration of Air Quality (PSD) review requirements as found in Sections 160 to 169 of the Clean Air Act and at 40 CFR § 52.21 (as codified by statute or published in the Federal Register on the date this agreement becomes final). Subsequent revisions of the Clean Air Act or 40 CFR § 52.21 are understood to be automatically incorporated upon New Jersey's written acceptance of such revisions. Thus, DEP will implement PSD in New Jersey in accordance with 40 CFR § 52.21(u) and the terms described below.

- a. Pursuant to its state authority, DEP will enforce all aspects of its state issued permits, including the terms and conditions in DEP-issued permits that are derived from the federal PSD requirements. EPA retains authority to directly enforce the federal PSD requirements codified at 40 CFR § 52.21.
- b. All analyses by DEP of air quality for establishing compliance with PSD increments and NAAQS must be conducted in accordance with EPA air quality regulations and guidelines including 40 CFR Part 51, Appendix W and 40 CFR § 52.21.
- c. The DEP will forward to EPA, at the onset of the public comment period, copies of all public notices and other documents required under 40 CFR § 52.21(q) and 40 CFR Part 124.
- d. Class I Area: The DEP will provide the Federal Land Manager and EPA with copies of all notices and other materials required pursuant to 40 CFR § 52.21(p) in the time frames required therein. The DEP will ensure that any demonstration from or recommended action by the Federal Land Manager is duly acted upon in an appropriate and prompt manner pursuant to 40 CFR § 52.21(p).
- e. DEP will ensure that permits issued under this delegation meet the requirements of 40 CFR § 52.21. Permits issued by the DEP under this delegation will contain language stating that the source or modification shall meet the requirements of 40 CFR §§ 52.21(j) through (r)(4), as applicable.
- f. The DEP will forward to EPA copies of the final actions on PSD permit applications.
- g. DEP will expeditiously submit Best Available Control Technology (BACT) determinations to EPA's RACT/BACT/LAER Clearinghouse (RBLCL).

- h.** The overall status of the PSD program, including incomplete PSD permit applications and otherwise pending PSD permit actions, will be reported to EPA upon request. In any event, the DEP will semi-annually report to EPA the status of PSD permit applications of subject sources within New Jersey.
- i.** There will be a routine audit schedule which will allow EPA to monitor DEP's administration of the PSD program.
- j.** Neither this delegation, nor any technical or administrative functions described herein, may be re-delegated to any entity outside of the DEP without the prior approval of the Regional Administrator.
- k.** If the Regional Administrator determines that the DEP is not implementing the PSD program in accordance with the terms and conditions of this delegation, the requirements of 40 CFR § 52.21 "or" the Clean Air Act, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in the Notice of Revocation to the DEP, but in no event shall it be effective sooner than 30 days after the date of publication of the Notice of Revocation in the Federal Register.
- l.** Pursuant to Executive Order 12898: Federal Actions to Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations, DEP will require all PSD permit applicants to provide information necessary to determine if the project is subject to any specific Federal executive order or State initiatives and policies regarding overburdened communities. DEP will address any EJ issues that may arise from that determination in accordance with the DEP EJ policy. DEP and EPA will coordinate with one another on any federal EJ requirements not covered by this agreement that are implicated by the issuance of a PSD permit.
- m.** Pursuant to Section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531 et seq, and 50 CFR Part 402, Subpart B ("Consultation Procedures"), DEP shall: (1) Ensure that the U.S. Fish and Wildlife Service (FWS), U.S. Marine Fisheries or other appropriate Federal Land Manager is notified of each PSD permit application and a copy of the application is provided if requested; (2) Notify applicants of the potential need for consultation between EPA and FWS/MF if the project may affect any endangered species; and (3) Refrain from issuing a final PSD permit until EPA has notified DEP that its obligations under the ESA, if any, have been met.
- n.** EPA will provide training, support, and guidance sufficient to properly implement the PSD program in New Jersey.


On behalf of the U.S. Environmental Protection Agency, I approve this revision of the delegation of the federal PSD program, 40 CFR § 52.21, to the New Jersey Department of Environmental Protection, pursuant to the terms and conditions of this delegation agreement and the requirements of the Clean Air Act.

Date 7/11/11

  
\_\_\_\_\_  
Judith A. Enck  
Regional Administrator  
Environmental Protection Agency

On behalf of the New Jersey Department of Environmental Protection, I accept this revision of the delegation of the federal PSD program, 40 CFR § 52.21, pursuant to the terms and conditions of this delegation agreement and the requirements of the Clean Air Act.

Date 6/28/2011

  
\_\_\_\_\_  
Bob Martin  
Commissioner  
New Jersey Department of  
Environmental Protection