



DEPARTMENT OF ENVIRONMENTAL QUALITY

150 West Congress Street
Tucson, Arizona 85701-1317

DAVID M. ESPOSITO
Director

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April 6, 1994

Mr. David Howekamp
Director, Air and Toxics Division
U.S. EPA, Region IX
75 Hawthorne Street, A-1
San Francisco, CA 94105

Dear Mr. ^{Dave}Howekamp:

Enclosed are the three originals of the intergovernmental agreement between U.S. EPA and PDEQ. The purpose of this agreement is to delegate authority for the regulations for prevention of significant deterioration of air quality in conjunction with 40 Code of Federal Regulations (CFR) 52.21.

After the document has been signed by the U.S. EPA Regional Administrator, I would appreciate receiving one fully executed original agreement for our records.

Your cooperation in this matter will be appreciated.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dave", is written over the words "Very truly yours,".

David M. Esposito
Director

DME/vb

cc: Ken Bigos, Branch Chief, U.S. EPA, Mail Code A-3



permit issued by the District is required to contain statements which indicate 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 and 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. The District shall inform U.S. EPA (Region IX) in accordance with conditions of this delegation when there is public comment requesting a change in the preliminary determination or in a draft permit condition. Failure by the District to comply with the terms of this paragraph shall render the subject permit invalid for Federal PSD purposes.

- E. By this agreement, the District assumes authority for enforcement and permit modification/amendment for EPA issued NSR/PSD permits.
- F. This delegation of authority becomes effective upon the date that both parties have signed the Agreement.

II. Communications Between U.S. EPA and Pima County AQCD

Pima County AQCD and U.S. EPA will use the following communication procedures:

- A. The District shall report to U.S. EPA on a quarterly basis the compliance status of the sources that have received a PSD permit from either the District 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.
- B. The District shall forward to U.S. EPA, at the beginning of the public comment period for each PSD permit, a summary of (1) the findings related to each PSD application, (2) the justification for the District's preliminary determination, and (3) a copy of the draft permit. Should there be any comments or concerns about the pending PSD permit, U.S. EPA shall communicate these comments and concerns to the District as soon as possible prior to the close of the public comment period.
- C. The District shall forward to EPA Region IX (attn: A-5-1) copies of the final action on the PSD permit applications at the time of issuance, as well as copies of substantive public comments. The District must

address any public comments not incorporated into the permit, and shall provide a summary of the responses.

- D. The District shall send U.S. EPA copies of preliminary determinations on PSD permit modifications and amendments at or prior to the beginning of the public comment period. U.S. EPA will provide comments to the District prior to the close of the public comment period.
- E. The District shall send to EPA a copy of all applicability determinations and justifications made that would involve PSD exemptions due to offsetting or netting (40 CFR 52.21(b) (3) and 52.21 (b) (21)).

III. Revisions to Title 40 CFR Section 52.21

- A. This delegation covers any revisions that are promulgated for 40 CFR 52.21 and 40 CFR 124. The terms "40 CFR 52.21" and "40 CFR 124" as used in the delegation request and throughout this Agreement, include such regulations as are in effect on the date this Agreement is executed and any revisions that are promulgated after that date.
- B. In addition, the following U.S. EPA policies shall apply to PSD review:
 - 1. U.S. EPA is responsible for the issuance of PSD permits on Indian Lands, under Sections 110(c) and 301 of the Clean Air Act. States (or their delegates) have no authority to establish air pollution control requirements on Indian Reservations, unless requested to by the Tribal Governing Body.
 - 2. According to U.S. EPA guidance published on September 22, 1987 and supplemental guidance published 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 must include a review of the toxic effects of unregulated pollutants and the impact of the proposed BACT on the emissions of these pollutants.
 - 3. The District shall consult with the appropriate Federal, State, and local land use agencies prior to issuance of preliminary determinations on PSD

permits. In particular, U.S. EPA requires that the District shall:

- a) Notify the Fish and Wildlife Service (FWS) and U.S. EPA when a PSD permit application has been received, in order to assist U.S. EPA in carrying out its non-delegable responsibilities under Section 7 of the Endangered Species Act (PL 97-304).
 - b) Notify potential applicants of the potential need for consultation between U.S. EPA and the FWS if an endangered species may be affected by the project. U.S. EPA's data sheet may be used for this process (copy enclosed).
 - c) Refrain from issuing a final PSD permit unless the FWS has determined that the proposed project will not adversely affect any endangered species.
4. The District shall 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 municipal waste combustors pursuant to U.S. EPA guidance published on June 26, 1987.
 5. The District shall begin any BACT determination with the most stringent control options available for that category, pursuant to additional BACT guidance issued on December 1, 1987. U.S. EPA will consider as deficient any BACT determination not complying with this "top-down" requirement.
 6. Upon notification from EPA, the District shall implement such new regulations or directives pending revision of this Agreement.

IV. Permits

- A. In any matter involving interpretation of Sections 160-169 of the Clean Air Act, or 40 CFR 52.21, and of 40 CFR 124 where guidance on the implementation, review, administration, or enforcement of these Sections has not been sent to the District, U.S. EPA will be contacted and requested to provide the appropriate guidance.

- B. The District shall at no time grant any waiver to the PSD permit requirements.
- C. Permits issued under this delegation shall contain language certifying that the Federal PSD requirements have been satisfied.
- D. 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, startup, and where applicable, source testing and continuous emissions monitoring systems (CEMS). In all cases where tests are required, the tests 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.
- E. U.S. EPA will assist the District in the BACT determination for all PSD permit applications filed with the District, such that U.S. EPA and the District jointly concur on each BACT determination. The signatures of U.S. EPA and the District on the final permit shall constitute concurrence on the BACT determinations
- F. All modeling analyses for determination of increment consumption and compliance with the NAAQS will require the joint concurrence of U.S. EPA and the District. The signatures of U.S. EPA and the District on the final permit shall constitute concurrence on the modeling analyses.
- G. Separate from conditions E and F and for a given time as specified in this subpart, U.S. EPA and the District shall jointly concur on the entire analysis and permit conditions for each PSD permit issued. This requirement for dual concurrence shall be waived beginning with the first application submitted and deemed complete two (2) years after the date of this agreement, or after U.S. EPA concurs with the District on ten (10) final permits issued pursuant to this delegation agreement, whichever occurs later. In any event, U.S. EPA shall provide written notice to the District when the requirement for dual concurrence no longer applies.
- H. The District shall conduct an annual review of the NO₂ increment status for each Section 107 area designated as attainment over which it has jurisdiction and shall

prepare a summary report of the review. Such review shall be made in accordance with current U.S. EPA guidance as provided to the District. Emissions from the following sources consume NO₂ increment: (1) any new major stationary source or modification of a major stationary source on which construction begins after February 8, 1988; and (2) minor, area, and mobile sources, after the minor source baseline date, as it is defined by 40 CFR 52.21. The initial review of the NO₂ increment status shall address the consumption of NO₂ increment between February 8, 1988, and the effective date of this agreement.

- I. The District shall conduct an annual review, similar to the one in preceding subpart H, on the status of the PM₁₀ increment. For that part of Pima County 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 the June 3, 1994, implementation date for PM₁₀ increments. For all other areas within Pima County, 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

- A. The primary responsibility for enforcement of the PSD regulations as found in 40 CFR Part 52 in Pima County will rest with the District, except where responsibility is vested in the State of Arizona. Pursuant to A.R.S. 49-402, the State of Arizona has original jurisdiction over the following sources in Pima County:
 1. Smelting of metal ore.
 2. Petroleum refineries.
 3. Coal fired electrical generating stations.
 4. Portland cement plants.
 5. Air pollution generated by portable sources unless delegated to Pima County AQCD.
 6. Air pollution by mobile sources for the purpose of regulating those sources as prescribed by A.R.S. Title 49, Chapter 3, Articles 4 & 5.

The District will enforce the provisions that pertain to the PSD program, except in those cases where the rules or policy of the District are more stringent. In such cases, the District may elect to implement the more stringent requirements.

- B. Nothing in this delegation agreement shall prohibit EPA from enforcing the PSD provisions of the Clean Air Act, the PSD regulations or any PSD permit issued by the District pursuant to this Agreement.
- C. In the event that the District is unwilling or unable to enforce a provision of this delegation with respect to a source subject to the PSD regulations, the District will immediately notify the Regional Administrator. Failure to notify the Regional Administrator does not preclude U.S. EPA from exercising its enforcement authority.

Date: April 5, 1994

Paul G. Marsh
APR - 5 1994
Mike Boyd, Chair
Pima County Board of Supervisors

Date: 4.14.94

John Wise
Felicia Marcus *for*
Regional Administrator, U.S. EPA
Region IX

ATTEST:

Jane S. Williams
Clerk of the Board

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/or 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 each 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.

LETTER OF DETERMINATION

INTERGOVERNMENTAL AGREEMENT

The Office of the County Attorney has determined that the Intergovernmental Agreement for delegation of authority of the regulations for prevention of significant deterioration of air quality (40 CFR 52.21) made between the:

ENVIRONMENTAL PROTECTION AGENCY

AND THE

PIMA COUNTY AIR QUALITY CONTROL DISTRICT

is in proper form and is within the powers and authority granted under the laws of Arizona to the County Board of Supervisors (ref. A.R.S. § 11-952).

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

BY


Richard McKee, Deputy County Attorney

2/7/94
Date

RESOLUTION NO. 1994- 38

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY RELATED TO DELEGATING AUTHORITY FOR THE REGULATIONS FOR PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY IN CONJUNCTION WITH 40 CODE OF FEDERAL REGULATIONS (CFR) 52.21.

WHEREAS, the U.S. EPA agrees to delegate authority for the administrative, technical and enforcement elements of the source review provisions of 40 Code of Federal Regulations (CFR) 52.21, Prevention of Significant Deterioration (PSD); and

WHEREAS, Pima County agrees to perform services in accordance with the attached intergovernmental agreement; and

NOW, THEREFORE, be it resolved by the Board of Supervisors of Pima County, Arizona;

That the Chairman of the Board of Supervisors approves and directs the Chairman to sign the attached intergovernmental agreement with the U.S. E.P.A.

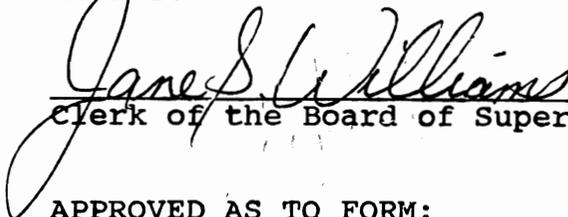
Passed and adopted this 5th day of April, 1994.

PIMA COUNTY BOARD OF SUPERVISORS



Mike Boyd, Chairman APR - 5 1994

ATTEST:



Clerk of the Board of Supervisors

APPROVED AS TO FORM:



Deputy County Attorney