

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

PREVENTION OF SIGNIFICANT DETERIORATION

DELEGATION OF AUTHORITY

NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT, CALIFORNIA

AGENCY: Environmental Protection Agency (EPA)

ACTION: Delegation of Authority

SUMMARY: The Regional Administrator for EPA Region 9, San Francisco, has delegated to North Coast Unified Air Quality Management District, California, authority to implement the NO₂ increment program and implement the Federal Prevention of Significant Deterioration (PSD) Program for sources with stack heights greater than 65 meters.

DATE: The effective date of the initial delegation was August 30, 1985. The effective date of the revised delegation is January 8, 1993.

ADDRESS: North Coast Unified Air Quality Management District
2389 Myrtle Avenue
Eureka, CA 95501

FOR FURTHER INFORMATION CONTACT:

Matt Haber
New Source Section (A-5-1)
Stationary Source Branch
Air and Toxics Division
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, California 94105
Telephone: (415) 744-1254

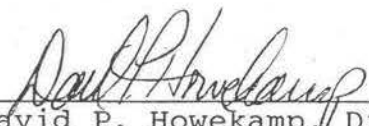
SUPPLEMENTARY INFORMATION:

The U.S. Environmental Protection Agency has delegated authority under the provision which are found in 40 CFR 52.21(u), to the North Coast Unified Air Quality Management District to: (A) implement the PSD provisions for major stationary sources or major modifications which would either have stacks taller than 65 meters or would use "dispersion techniques" which commence construction after the effective date of this delegation; and (B) implement the Nitrogen Oxides provisions of the PSD rule promulgated by EPA on October 17, 1988 at 53 Fed. Reg. 40656.

Information on this delegation together with a copy of the delegation is provided below:

North Coast Unified Air Quality Management District received authority for PSD on August 30, 1985. The amended delegation became effective on January 8, 1993. The following letter and attached agreement represent the terms and conditions of the amended delegation.

DATE: The PSD Delegation of Authority is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by [60 days after publication in the Federal Register].



David P. Howekamp, Director
Air and Toxics Division
Region 9

8/10/93

Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105

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January 11, 1993

OFFICE OF THE
REGIONAL ADMINISTRATOR

Wayne Morgan
Air Pollution Control Officer
North Coast Unified Air Quality
Management District
2389 Myrtle Avenue
Eureka, CA 95501

Dear Mr. Morgan:

I am pleased to transmit the EPA-NCUAQMD Prevention of Significant Deterioration (PSD) delegation agreement. The agreement extends the District's PSD authority to include sources with stack heights greater than 65 meters, and the federal NO₂ increment provisions.

EPA will continue to provide any guidance or technical assistance that may be needed in the District's implementation of this agreement. EPA is committed to including the District in decisions relating to determinations of compliance or noncompliance with permits issued under this agreement, intended PSD enforcement actions, and in any intended revocation proceedings related to this agreement. We are also committed to maintaining, as I know you are, unobstructed channels of communication between our agencies. We look forward to a continuing partnership in the permitting program.

Sincerely,

John Wise JOHN WISE

fw Daniel W. McGovern
Regional Administrator

Enclosures

cc: Ray Menebroker, ARB

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U.S. EPA-NORTH COAST UNIFIED AQMD AGREEMENT
FOR DELEGATION OF AUTHORITY FOR PREVENTION OF
SIGNIFICANT DETERIORATION OF AIR QUALITY (40 CFR §52.21)

The undersigned, on behalf of the North Coast Unified Air Quality Management District (NCUAQMD or the District) and the United States Environmental Protection Agency (U.S. EPA), hereby agree to the delegation of authority of the administrative and enforcement elements of the stationary source review and the Nitrogen Dioxide Increment provisions of 40 CFR §52.21, Prevention of Significant Deterioration (PSD), from the U.S. EPA to the NCUAQMD, subject to the terms and conditions below. In the July 31, 1985 Federal Register (50 FR 30943), EPA approved the North Coast Air Basin Air Pollution Control Regulations which were adopted by NCUAQMD on November 3, 1982 and amended subsequently. The PSD portion of Regulation 1 was determined to generally meet the requirements of 40 CFR §52.21. However, EPA retained the authority to apply 40 CFR §52.21 for projects which are major stationary sources or major modifications under 40 CFR §52.21 and which would either have stacks taller than 65 meters or would use "dispersion techniques" as defined in 40 CFR §51.1. This delegation agreement authorizes NCUAQMD to implement the PSD provisions for any such sources or modifications which commence construction after the effective date of this delegation. In addition, this delegation agreement authorizes NCUAQMD to implement the Nitrogen Oxides provisions of the PSD rule promulgated by EPA on October 17, 1988 at 53 ^{FR} Fed. Reg. 40656. District Authorities to Construct (permits) issued in accordance with the provisions of §52.21 will be deemed to

meet Federal PSD permit requirements pursuant to the provisions of this delegation agreement. This delegation is executed pursuant to 40 CFR §52.21(u), Delegation of Authority.

Permits

1. For those major stationary sources, or major modifications, with stack heights greater than 65 meters: in determining the degree of air pollutant emission limitation required under the applicable State Implementation Plan or this delegation agreement, no credit shall be given for: (1) that portion of any stack height which exceeds good engineering practice (GEP) or for (2) any other dispersion technique. (Refer to the enclosed June 1985 EPA Guideline for Determination of GEP Stack Height.)
2. District permits issued pursuant to this agreement must meet the requirements of 40 CFR §52.21. District Authorities to Construct must be issued prior to the beginning of actual construction, as that term is defined in 40 CFR §52.21(b)(11), as required by 40 CFR §52.21(i)(1).
3. EPA reserves authority for performing the review of the visibility impacts of new or modified major stationary sources that may adversely impact visibility in mandatory Class I areas, unless the District permits comply with EPA's final regulations regarding visibility review (50 Fed Reg. ^{FR} 28544, July 12, 1985).
4. The North Coast AQMD shall forward to EPA, at or prior to the

beginning of the public comment period, a summary of (1) ^{VR} the findings related to each PSD application for new sources, major modifications and permit amendments (2) the justification for the District's preliminary determination, and (3) a copy of the draft PSD permit. Should there be any comments or concerns about the pending PSD permit, EPA will communicate them to the District as soon as possible prior to the close of the public comment period.

5. The North Coast AQMD shall forward to EPA copies of the proposed final action on PSD permit applications prior to issuance, as well as copies of substantive public comments. Any substantive public comments not incorporated will be addressed, and a summary of the responses will be provided.
6. The North Coast AQMD will send to EPA a copy of all applicability determinations and justifications made that would involve PSD exemptions for new or modified major sources.
7. The North Coast AQMD will request EPA guidance on any matter involving the interpretation of Sections 160-169 of the Clean Air Act or 40 CFR §52.21 to the extent that implementation, review, administration or enforcement of these sections has not been covered by determinations or guidance sent to the District.
8. Pursuant to its authority under the Clean Air Act and upon reasonable notice, EPA may review the permits issued by the District under this agreement to ensure that the District's implementation of §52.21 is consistent with the contemporaneous

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time frame and actual emissions baseline requirements of federal regulations (40 CFR §52.21(b)(3)).

9. Pursuant to provisions of Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)), EPA may not delegate and hereby retains its responsibilities to ensure that PSD permitting actions by the District are not likely to jeopardize the continued existence of endangered or threatened species, or adversely modify their critical habitats.
10. Pursuant to the provisions of 40 CFR §52.21(u)(2), the District shall consult with the appropriate State or local agency primarily responsible for managing land use prior to making any determinations under this Agreement. VR
11. The District shall conduct a periodic 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 that 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 defined by 40 CFR §52.21. The initial review of the NO₂ increment status shall address the consumption of NO₂ increment, if any, between February 8, 1988, and the effective date of this Agreement. If NO₂ increment consumption has not

begun, the summary report shall so state.

12. Pursuant to its authority under the Act and upon reasonable notice, EPA may review NO₂ increment consumption analyses performed by NCUAQMD under this agreement to ensure that the District's implementation of Regulation 1 is consistent with the requirements of the federal regulations (40 CFR §52.21).
13. District permits issued pursuant to this agreement which meet the requirements of 40 CFR §52.21 will be considered valid by EPA. The determination of whether District permits are in compliance or noncompliance with 40 CFR §52.21 shall be made by EPA. VR
14. The primary responsibility for enforcement of the PSD regulations in the District will rest with the District. The District will enforce the provisions that pertain to the PSD program, except in those cases where the rules and policy of the District are more stringent. In that case, the District may elect to implement the more stringent requirements. 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 EPA from exercising its enforcement authority. Nothing in this 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.

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General Conditions

1. This delegation may be amended at any time by the formal written agreement of both the NCUAQMD and the U.S. EPA, including amendment to add, change, or remove conditions or terms of this agreement.
2. If the District adopts revisions to Regulation 1 that EPA deems to be less stringent than 40 CFR §52.21 provisions or conditions of this agreement, EPA may take steps to revoke the delegation in whole or in part pursuant to condition 3 below or the parties may amend the agreement pursuant to condition 1 above. Any substantive amendments to Regulation 1 that are adopted by the District shall not be applied under this agreement until the agreement is amended so to provide.
3. If the U.S. EPA determines that the NCUAQMD is not implementing 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 having provided written notification to the District of the deficiencies and allowed a reasonable time to respond, 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 the NCUAQMD.
4. The permit appeal provisions of 40 CFR §124 shall apply to all appeals to the Administrator on permits issued by the NCUAQMD under this delegation (address enclosed). 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 the NCUAQMD shall contain a statement that for Federal PSD purposes and in accordance with 40 CFR ^e §124.15 and ^p §124.19¹, (1) ^{4/} the effective date of the permit is 30 days after the date of the final decision to issue, modify, or 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 NCUAQMD 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 a draft permit condition. Failure by the NCUAQMD to comply with the terms of this paragraph shall render the subject permit invalid for Federal PSD purposes.

VR

6. This delegation of authority becomes effective upon the date of the signatures of both parties to this Agreement.

VR

Date: 12/22/92

Wayne Morgan
North Coast Unified Air Quality Management District
Wayne Morgan

Date: 1.8.93

John Wise
U.S. Environmental Protection Agency
John Wise

NEEDED TO BE TRUE COPY OF ORIGINAL

Ashie Reed 7-6-93