



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

October 28, 1997

Ellen Garvey
Air Pollution Control Officer
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

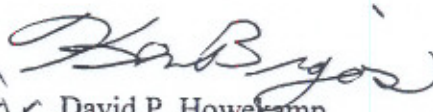
Dear Ms. Garvey:

In response to your January 30, 1997 request, I have enclosed a revised EPA-BAAQMD Prevention of Significant Deterioration (PSD) delegation agreement for your signature. As you requested, condition number 12 has been added to the existing agreement in order to delegate the following EPA-administered PSD permits to BAAQMD for your administration:

<u>Facility</u>	<u>EPA File Number</u>
Calpine Gilroy Cogen	SFB 84-04
IBM Corporation	SFB 82-01
Cardinal Cogen	SFB 82-04
Tosco Corporation	SFB 78-07
Martinez Cogen Limited Partnership [formerly Foster Wheeler (Tosco)]	SFB 83-01
Tosco SF Area Refinery at Rodeo [formerly Unocal Corporation - San Francisco Refinery]	SFB 85-03

Additionally, as you requested in a June 24, 1997 letter, Kaiser Cement Corporation, (SFB 78-03) has been deleted from the list of sources specified for delegation in your January 30 letter. If the enclosed agreement is acceptable to you, please sign and return both copies. We will then return a signed original for your records. If you have any questions, please contact Matt Haber at (415) 744-1254.

Sincerely,

for 
David P. Howekamp
Director, Air Division

enclosure

U.S. EPA-BAY AREA AQMD AGREEMENT
FOR DELEGATION OF AUTHORITY FOR PREVENTION OF
SIGNIFICANT DETERIORATION OF AIR QUALITY PROGRAM (40 CFR 52.21)

The undersigned, on behalf of the Bay Area Air Quality Management District (BAAQMD) 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 provisions of 40 CFR 52.21, Prevention of Significant Deterioration (PSD), from the U.S. EPA to the BAAQMD, subject to the terms and conditions below. EPA has determined that the PSD portion of District Rule 2 of Regulation 2 (adopted March 7, 1984, with minor revisions adopted subsequently, as amended on November 1, 1989) generally meets the requirements of 52.21; therefore, District Authorities to Construct (ATCs or permits) issued in accordance with the provisions of Rule 2 of BAAQMD Regulation 2 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, and supersedes the agreement dated January 4, 1991.

Permits

1. District permits issued pursuant to this agreement must meet the requirements of District Rule 2 Regulation 2. District ATCs must be issued prior to the beginning of actual construction, as that term is defined at 40 CFR 52.21(b)(11), as required by 40 CFR 52.21(i)(1).

2. EPA reserves permitting authority for PSD sources with stack heights greater than 65 meters or sources which use a dispersion technique as defined by EPA, unless the District permits would comply with EPA's final stack height regulation (50 FR 27892, July 8, 1985).
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 would comply with EPA's final regulations regarding visibility review (50 FR 28544, July 12, 1985).
4. It is the understanding of the parties that, consistent with the provisions of 40 CFR 52.21, the provisions of Rule 2 of Regulation 2, and pursuant to Section 41700 of the California Health and Safety Code, actual emission decreases are creditable only to the extent that the reductions have approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
5. The District 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.
6. 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 PSD permitting under Rule 2 Regulation 2 is consistent with the

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

7. 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.
8. 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.
9. 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 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 between February 8, 1988, and the effective date of this Agreement.
10. 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 compliance or

noncompliance with 40 CFR 52.21 shall be made by EPA. The District shall issue a permit to applicants using District Rule 2, Regulation 2.

11. 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. 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. 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.
12. The primary responsibility for administration and enforcement of the following EPA-issued permits is delegated to BAAQMD:

<u>Facility</u>	<u>EPA File Number</u>	<u>Permit Issuance Date</u>
Calpine Gilroy Cogen	SFB 84-04	August 1, 1985
Cardinal Cogen	SFB 82-04	June 27, 1983
IBM Corporation	SFB 82-01	June 9, 1982
Martinez Cogen Limited Partnership	SFB 83-01	December 13, 1983
Tosco Corporation	SFB 78-07	December 18, 1978
Tosco SF Area Refinery at Rodeo	SFB 85-03	March 3, 1986

District-issued modifications to these permits which meet the requirements of 40 CFR 52.21 will be considered valid by EPA. The District shall issue any permit modifications

to the above listed sources pursuant to this agreement and using District Rule 2 Regulation 2, which incorporates the requirements of 40 CFR 52.21.

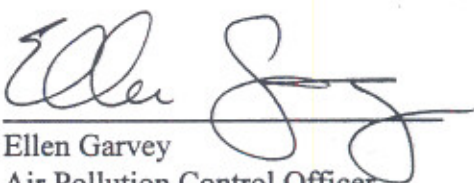
General Conditions

1. This delegation may be amended at any time by the formal written agreement of both the BAAQMD 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 District Regulation 2, Rule 2, 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 District Regulation 2, Rule 2 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 BAAQMD 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 consultation with the BAAQMD, 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 BAAQMD.
4. The permit appeal provisions of 40 CFR 124 shall apply to all appeals to the Administrator on permits issued by the BAAQMD 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

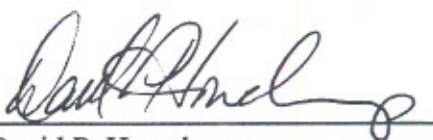
final permit issued by the BAAQMD shall contain a statement that for Federal PSD purposes and in accordance with 40 CFR 124.15 and 124.19, (1) the effective date of the permit is 30 days after the date of the final decision to issue, modify, or revoke and reissue the permit; and (2) if an appeal is made to the Administrator, the effective date of the permit is suspended until such time as the appeal is resolved. The BAAQMD 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 BAAQMD to comply with the terms of this paragraph shall render the subject permit invalid for Federal PSD purposes.

- 5. This delegation of authority shall terminate upon the date EPA promulgates final disapproval of District Rule 2 Regulation 2 as it applies to PSD implementation in a Notice of Revocation.
- 6. This delegation of authority becomes effective upon the date of the signatures of both parties to this Agreement.

10/30/97
Date


Ellen Garvey
Air Pollution Control Officer
BAAQMD

11/10/97
Date


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