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TRANSMITTAL NOTICE: 2-88

September 8, 1988

MEMORANDUM

SUBJECT: EPA Region IX Policy on PSD Permit Extensions

FROM: Wayne Blackard, Chief
New Source Section

TO: Region IX States and Districts
NSR/PSD Permitting Contacts

Attached for your information is a copy of a guidance document prepared by my staff addressing EPA Region IX's policy on PSD permit extensions. The purpose of this document is to clarify the criteria EPA examines prior to extending the 18-month commencement of construction deadline found in 40 CFR 52.21 (r)(2). At the heart of these requirements are assurances of current BACT determinations and continued public participation when permits are extended. Our hope is that this policy will enhance agreement among permitting agencies in implementing PSD regulations.

We hope you will find this document helpful. If you have any questions, please contact me at (415) 974-8249.

EPA Region IX
New Source Section
Guidance Document: 1-88
Date: 3/23/88 (PMF)
Revised: 7/6/88

EPA REGION IX POLICY

ON

PSD PERMIT EXTENSIONS

The following is EPA Region IX's policy regarding Prevention of Significant Deterioration (PSD) permit extensions. This policy clarifies the subject of extensions of the 18-month commencement of construction deadline found in 40 CFR 52.21 (r) (2).

The intent of this policy is to grant a permit extension of the 18-month deadline to any good faith application, provided the following requirements are met. If these requirements are not met or if the extension request is denied, the permit will become invalid after its expiration date. The applicant, however, may choose to file a project application for consideration as a new permit. In general, the import of this policy is to ensure that the proposed permit meets the current EPA requirements, and that the public is kept apprised of the proposed action (i.e. through the 30-day public comment period).

I. ADMINISTRATIVE REQUIREMENTS

(1) Submittal

An extension request must be submitted and received by EPA-Region IX prior to the expiration date of the permit.

- (2) Justification
The extension request must include an acceptable justification why the commencement of construction did not commence as scheduled. The request must also include a revised construction schedule which assures that construction will be initiated during the extension period and that construction will be continuous.
- (3) Certification
The extension request must be signed by a responsible representative of the company proposing the project.

II. TECHNICAL REQUIREMENTS

- (1) BACT Analysis
A BACT reanalysis is required in all permit extension requests, as in an application for a new PSD permit. It should also be noted that, according to a recent EPA policy, any new BACT determination being prescribed for any regulated pollutant must also consider the impact of the proposed BACT on the emissions of unregulated or toxic pollutants.
- (2) Additional PSD Review Requirement
A reanalysis of the PSD increment consumption and air quality impacts is required. Interim source growth in the area may have occurred and caused significant degradation of air quality. Therefore, the review agency is responsible for ensuring that the source requesting an extension would not cause or contribute to a PSD increment or NAAQS exceedances.
- (3) New PSD Regulations or Requirements
It is not the intent of this policy to exempt projects from meeting new requirements. Therefore, all new or interim PSD requirements will be applied as in an application for a new PSD permit

III. PROCEDURAL ISSUES

- (1) Duration of Extensions
Due to concerns of growth rights and public participation, EPA may limit an extension to 12 months, or less, from the initial date the permit was to expire. This allows for an extension, if necessary, while ensuring that impacted States, Districts and the public have control of their own air resources and growth rights and that state-of-the-art BACT will be employed.
- (2) Public Comment
EPA will require the same public comment procedure for extension requests as for permit modifications including a 30-day public comment period. Requests for public hearings and petitions for permit appeals shall follow the applicable procedures of 40 CFR Part 124.
- (3) Extensions of Later Units of Phased Multi-Unit Projects
Determinations for phased multi-unit projects are very complex involving the independence or dependence of a project and often different construction dates. Therefore, please consult with EPA regarding any questions addressing phased construction projects.

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