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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR, NOISE AND RADIATION

MAY 31 1983

Mr. John M. Daniel, Jr. P.E.
Assistant Executive Director
State Air Pollution Control Board
Room 801, Ninth Street Office Building
Richmond, Va. 23219

Dear John:

In your letter of April 4, 1983 you sought clarification of an EPA conditional determination made on June 9, 1980. That determination dealt with the impact of fugitive dust on the PSD applicability decision for a source consisting of a surface coal mine and a coal preparation facility (including a thermal dryer). You now request that a final determination be made on this issue and that we review whether the facts in your case should in anyway alter that decision.

EPA's June 9, 1980 decision involved the application of the PSD rules to a surface coal mine and coal preparation plant located at a common site. The conclusion of that determination for PSD purposes, was that the coal mine and coal preparation plant comprised one single source and that the main activity of the source was the mining of coal. Thus applicability in that case was based on a threshold of 250 tons per year of any pollutant.[SEE FOOTNOTE 1]

After carefully reviewing that decision and the facts in the case cited in your letter, we reach the same conclusion. The main activity of the source involved in your case is the mining of coal and although the major point of emissions in this case is the preparation of that mined coal, the 250 tons per year threshold is again appropriate for determining PSD applicability.

[FOOTNOTE 1] 40 CFR 52.21 (b)(1) defines 'major stationary source' to include sources which emit 250 tons per year of any pollutant, or 100 tons if the source is specifically identified. Coal mines are not identified although coal preparation plants are.

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The PSD regulations at 40 CFR 52.21 (b) (5) and (6) define stationary source and building, structure, facility or installation as follows:

" 'Stationary source' means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act."

" 'Building, structure, facility, or installation' means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if

they belong to the same `Major Group' (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement...."

The deep mine and the coal preparation plant in your case are located at one site, are under the control of the same person and a review of the SIC Manual reveals that they fall under the same Major Group. Therefore, the coal mine and coal preparation plant constitute one source for the purposes of PSD applicability.

When interpreting what the overall source should be described as and thus what threshold should be used for applicability, the Agency has consistently determined that the key to this issue should turn on the primary activity of this source. This decision is reached independently of the fact that a coal preparation plant (including a thermal dryer) is an identified source category and a coal mine is not. In this case, as in earlier decisions, the primary activity of this source is the mining of coal. The coal mine provides the raw material for the coal preparation plant and as such best describes the source's primary purpose. The SIC Manual itself lists coal preparation as a subcategory of coal mining.

It should be pointed out, however, that this decision involves the interpretation of EPA's own rules and that it provides the Agency's minimum requirements for PSD applicability. The State, in interpreting their rules, should feel free to adopt a more stringent approach and conclude that the threshold in this case be 100 tons per year.

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This decision has been reached with the concurrence of our Office of General Counsel. Should you have any questions concerning this response, please contact Rich Biondi at 382-2831.

Sincerely yours,

Edward E. Reich, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

cc: Peter Wyckoff
Mike Trutna
David Rochlin
Jim Sydnor
Daniel E. Rogers - Consolidation Coal Co.