

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

APR 25 1980

MEMORANDUM

SUBJECT: Applicability of PSD Under the Stay

FROM: Director
Division of Stationary Source Enforcement

TO: Sandra S. Gardebring, Director
Enforcement Division, Region 5

In response to your memo of April 11, 1980, I am confirming an opinion communicated to your staff by several members of my staff. The reconstruction of a coke battery at a steel mill, which results in no increase in the steel mill's potential to emit, does not require a PSD permit under 40 CFR 52.21. The reconstruction batter need not apply BACT.

On January 30, 1980, by administrative order, the Administrator stayed the June 19, 1978 PSD regulations as to source which would not be major sources or major modifications under the September 5, 1978 PSD proposal. Under the September 5 proposal, in accordance with the mandate in Alabama Power v. Costle, a major modification occurs only if there a net increase in emissions source-wide. Similarly, a reconstruction occurs only when the entire source is reconstructed. As defined in §52.21*b)(4) & (5) of the September 5 proposal, "source" means all emission units which are located on adjacent or contiguous properties and which are owned by the same person. In the case described in your memo, the "source" would be the steel mill rather than the coke battery. Please feel free to contact Rich Biondi of my staff if you would like to discuss this issue further.

Edward E. Reich

cc: Peter Wyckoff, OGC
Jim Weigold, OAQPS

