UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
AIR AND RADIATION DIVISION
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:
(AR-18J)

September 29, 1992

Felicia Robinson George
Acting Assistant Commissioner
Office of Air Management
Indiana Department of Environmental Management
105 South Meridian Street
Indianapolis, Indiana 46206

Dear Ms. George:

This letter is in regard to the issues discussed in the September 22, 1992, conference call between Ron Van Mersbergen and Sam Portanova of my staff and Terry Hoya of your staff. The conversation concerned the applicability of the Prevention of Significant Deterioration (PSD) regulations to certain modifications made by Cooper Tire and Rubber Company (Cooper) of Auburn, Indiana.

It appears that in 1986, Indiana issued a construction permit to Cooper to install chain-on-edge (COE) machine #3 which was limited to 32 tons per year (tpy) of volatile organic compounds (VOC). On May 11, 1987, the State issued another construction permit to Cooper for the installation of ID/OD #1 adhesive applicator and COE #4 with a limitation of 39.7 tpy of VOC. Again in 1988, the State issued a construction permit to Cooper for COE #5 with an annual VOC limitation of 24 tpy. In each of these permits, the limits on VOC emissions kept the source below the applicability level for major modification which is 40 tpy for a major VOC source.

Subsequent to these permits, Cooper claims a VOC emission reduction of 200.8 tpy for the removal of vapor degreasers, which occurred after these permits were issued. Cooper is now proposing that this reduction could be used to net the earlier modification out of PSD review for a proposed permitting action which, in addition to other actions, relaxed the emission limitations in the earlier permits. On August 22, 1991, the emission limit for COE #3 was increased by 13 tpy and the emission limit for COE #5 was increased by 20.9 tpy. Cooper is currently proposing to increase the emission limit of ID/OD #1 by 9.2 tpy. The relaxations allowed each of the earlier modifications to be major modifications.

On June 8, 1992, Sam Portanova advised Jeff Teague, of your staff, that according to 40 CFR 52.21 (r)(4), the proposed increase in the emission limit of ID/OD #1 by 9.2 tpy and the August 22, 1991, increase in the emission limit of COE #4 by 20.1 tpy should be added to the original 39.7 tpy limit for the PSD applicability determination. Therefore, ID/OD #1 and COE #4 would be subject to a PSD review because the earlier permit limits were relaxed.

40 CFR 52.21 (r)(4) states the following:

> "At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or paragraphs (j) through (s) of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification."

Paragraphs (j) through (s) are the basic requirements of the PSD regulations.

During the September 22, 1992, conversation, your staff advised my staff that the Indiana Department of Environmental Management (IDEM) accepted Cooper's arguments against PSD applicability for the 1991 changes and the proposed change. These arguments were presented in an August 13, 1992, letter from Cooper to the State. Your staff further said that IDEM planned on issuing the permit without a PSD review unless Region 5 could provide a written basis for requiring a PSD review.

Cooper argued that the emission decreases occurring after the 1988 permit are sufficient to reduce the proposed modification to a minor modification level and thus the PSD regulations do not apply. Cooper attempted to further support their position by citing as an example in the August 7, 1980, preamble to the PSD regulations. In the example, a source with a PSD permit, which has a limit on its emissions to protect air quality, later nets out of review for a modification that involves a relaxation of those limits.

The provisions in 40 CFR 52.21 (r)(4) state that when a "particular modification" (in this case, each of the three permits represent a modification) becomes a major modification <u>solely</u> by virtue of a relaxation in any enforceable limitation, PSD applies to the modification as though construction had not commenced (emphasis added). The phrase "solely by virtue of a relaxation" does not allow the consideration of other activities in determining whether or not a modification would be major. Therefore, consideration of other reductions in netting is not permitted in the applicability determination. It is incorrect to use the 200.8 tpy VOC reduction to net any of the three modifications out of PSD review and, therefore, these modifications stand in need of a PSD permit. Based on the considerations outlined above, it is the position of the United States Environmental Protection Agency that the August 22, 1991, and the currently proposed permits do not meet the requirements of the Clean Air Act.

It should be further noted that the example cited in the Federal Register preamble is for a source that has undergone a PSD review and is subjected to Best Available Control Technology (BACT) and has been subject to the required air quality impact analysis. There would be no need or environmental benefit to resubject such a source to review. However, in the Cooper case, the 40 CFR 52.21 (r)(4) provisions are appropriate because the modifications have not been subject to PSD review.

If you have any questions, please contact Sam Portanova, of my staff, at (312) 886-3189 or Ron Van Mersbergen, of my staff, at (312) 886-6056.

Sincerely yours,

/s/

Stephen Rothblatt, Chief
Regulation Development Branch

cc: Terry Hoya, Chief
Engineering Section
Indiana Department of Environmental Management