

July 16, 1998

Paul Dubenetzky, Branch Chief
Office of Air Management
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

Dear Mr. Dubenetzky:

It has come to our attention that there may be some confusion on the issue of when to include fugitive emissions in major source applicability determinations. This letter is to clarify the interpretation of New Source Review (NSR) and Prevention of Significant Deterioration (PSD) rules regarding fugitive emissions applicable to major sources.

Fugitive emissions, to the extent they are quantifiable, are included in the potential to emit of certain stationary sources. These sources include any belonging to one of the 27 named PSD source categories explicitly listed in section 169 of the Clean Air Act as being subject to a 100 tpy emissions threshold for classification of major sources and, according to 40 CFR 52.21(b)(1)(iii)(aa) "any other source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act."

The definitions of major source under the NSR/PSD rules and the Part 70 rules define major source differently with respect to stationary source categories regulated under sections 111 or 112. The March 8, 1994, United States Environmental Protection Agency (USEPA) guidance memorandum from Deputy Director, Lydia Wegman, details this difference. According to this memorandum, the Part 70 definition of the applicability narrows the inclusion of fugitive emissions for which a source has an applicable section 111 or 112 standard to only those criteria pollutants covered by that category:

"All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category." (40 CFR 70.2)

The memo continues, stating that this can be contrasted with the NSR/PSD regulations with reference to:

"Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act" (40 CFR 52.21)

This NSR/PSD definition cannot be interpreted to limit a source's fugitive emissions to only those air pollutants that have been regulated for the section 111 or 112 source category. If a source is subject to a section 111 or 112 standard, they should include fugitive emissions for all criteria pollutants.

This is an important issue to the USEPA because fugitive emissions can determine whether a source is a major source for purposes of NSR and PSD. Therefore, these guidelines must be carefully adhered to. We suggest that the state of Indiana review all permits with these guidelines in mind.

If you have any questions or wish to discuss these issues further, please call Pallavi Reddy, of my staff, at (312) 886-6204.

Sincerely yours,

/s/

Cheryl L. Newton, Chief
Permits and Grants Section (IL/IN/OH)