

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

July 5, 2005

4APT-APB

Ms. Heather Abrams
Air Protection Branch
Georgia Environmental Protection Division
4244 International Parkway, Suite 120
Atlanta, Georgia 30354

Dear Ms. Abrams:

Thank you for your letter dated April 19, 2005, concerning the Southwire Company (Southwire) manufacturing complex in Carrollton, Georgia. You asked for the opinion of the U.S. Environmental Protection Agency (EPA) on two applicability questions, one concerning the applicability of prevention of significant deterioration (PSD) requirements and the other on the applicability of section 112(g) case-by-case maximum achievable control technology requirements. This letter provides an opinion on PSD applicability. We will send a separate letter on section 112(g) applicability.

Southwire operates different production areas at the Carrollton complex, three of which are the Building Wire Plant, the Utility Products Plant, and the Southwire Machine Services facility. We understand that Southwire submitted permit applications for changes at these three production areas over a relatively short period of time. We further understand that Southwire accepted the conclusion of the Georgia Environmental Protection Division (GEPD) that the total emissions increases from the changes in aggregate should be used for PSD applicability purposes.

To avoid PSD review, Southwire agreed to enforceable restrictions on emissions. Now that the changes have been implemented, Southwire requested reconsideration of the previous permitting action to allow splitting of the changes into separate projects. If viewed as separate projects, the previously accepted emissions restrictions would not be needed for PSD avoidance purposes. We understand that one result of allowing separation of the projects could be the removal of an air pollution control device installed by Southwire to help avoid PSD review.

The Georgia Environmental Protection Division (GEPD) has asked EPA for an opinion on whether the Southwire changes can be disaggregated for PSD applicability purposes or whether they should be aggregated as one project. Our opinion is that GEPD could appropriately aggregate these activities into one project and that a change in the permit conditions should not be granted. We provide the basis for our opinion in the remainder of this letter.

In support of its application to disaggregate the changes, Southwire wrote a letter dated April 15, 2005, that was attached to GEPD's request letter to EPA. Southwire describes the changes affecting building wire production and the changes affecting utility wire production as being separate projects "undertaken as separate business decisions" and "based on independent economic justification." To help justify its view that such "independent" changes should not be aggregated even though occurring at about the same time, Southwire cites an EPA memo dated June 13, 1989, entitled "Guidance on Limiting Potential to Emit in New Source Permitting." Specifically, Southwire cites Section V.B. of the memo, the heading of which is "Guidelines for determining when minor source construction permits are shams."

As evident from the heading, the purpose of Section V.B. is to help identify "sham" permitting, that is, an improper avoidance of major new source review (NSR) such as PSD review. EPA did not address the concept of changes that can be considered independent based on the business decisions of the source owner. In our view, therefore, the June 1989 memo does not support a position that changes occurring close in time at the Southwire complex can be divided into independent projects for PSD applicability purposes.

Without more conclusive information to indicate otherwise, we have no reason to believe that GEPD improperly aggregated Southwire's activities in its PSD applicability determination. We also discourage the practice of a source owner knowingly agreeing to emission reduction measures for the purpose of avoiding PSD review and then soon thereafter applying for discontinuation of these reduction measures.

If you have any questions concerning the comments in this letter, please call Jim Little at (404) 562-9118.

Sincerely,

/s/

Gregg M. Worley
Chief
Air Permits Section