

NOTES BY JOE KAHN

Sea Ray Boats, Inc.  
Cape Canaveral Plant  
Meeting with DEP  
July 23, 1999

AGENDA

SEA RAY:

AUGIE MORRISON  
PETE CASTELON  
KEVIN THOMPSON

Central:  
DST  
(by Joe Kahn)

VIVIAN GARFINK  
LEN KOZLOV  
ALAN ZAHM

They: AL LINCOLN  
CINDY PHILLIPS  
PAT COMER  
CLAIR FAWCETT  
HOWARD RHODES  
JOE KAHN

I. Introduction

II. Sea Ray Boats, Inc. - Overview of Cape Canaveral Plant

— DU, OF BRUNSWICK  
SEA RAY - MAIN CAMP, MERRITT ISLAND  
BOSTON WHARF - EDGEWATER  
SATA  
AZ, OH, 5 IN FL.

III. Air Construction Permit Application Status

IV. PSD Applicability - "Facility" Issue

NET DISPUTING  
SAME 2-DIGIT SIC  
as Commis Contract

V. 112(g) Case-by-Case MACT Determination

- COMMON SENSE
- CASE-BY-CASE
- DISCRETION TO USE/NOT EPA GUIDANCE
- LOOK TO CONNECTIONS BETWEEN TWO PLANTS  
PIPELINE  
RAILROAD  
DEPENDENCY
- REGION 8 GUIDANCE  
MAY 98
- REASONABLE

- Q. IS CASTELON ADJACENT
- SIM. BUT NOT IDENTICAL PRODUCTS.
  - NOT INTENDED TO BLEND AS SINGLE SOURCE.
  - NO TRANSFER.
  - ROADWAY & WATERWAY NOT USED AS CONDUIT

- LACK OF CAPACITY FOR LARGER PRODUCTS
- GROWTH IN 35-65'
- NOW MAX 65'
- 65' IN DESIGN
- NO SPACE FOR LARGER THAN 65' NOW.
- APPROX 1.2 MI FROM EXIST. CAVALCAN
- PROXIMITY TO PORT CAVALCAN

WELLCART - SARASOTA  
TAMPA  
SIM. SITUATION - TWO FACILITIES

**Table One. Emissions Listed by Chemical and/or Category**

<b>Chemical</b>	<b>CAS #</b>	<b>FL ID</b>	<b>Projected (lbs)</b>	<b>Projected (tons)</b>
<b>TOTAL VOC</b>		VOC	422,188.17	211
<b>TOTAL HAPs</b>		HAP	297,433.50	149
<b>Styrene</b>	100-42-5	H163	249,035.02	125



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION VIII**

**999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466**

**May 21, 1998**

**Ref: 8P2-A**

**Lynn Menlove, Manager  
New Source Review Section  
Utah Division of Air Quality  
P.O. Box 144820  
Salt Lake City, UT 84114-4820**

**Re: Response to Request for Guidance in  
Defining Adjacent with Respect to Source  
Aggregation**

**Dear Mr. Menlove:**

This is in response to your letter of January 15, 1998, to Mike Owens of my staff, requesting guidance and/or specific recommendations in the matter of Utility Trailer Manufacturing Company. For the purpose of determining if two Utility Trailer facilities should or should not be aggregated into a single source under Clean Air Act Title V and New Source Review permitting programs, you asked what is the specific physical distance associated with the definition of "adjacent." The word "adjacent" is part of the definition of "source" in the Utah SIP regulations, at R307-1-1. The SIP definition follows the Federal definition found in 40 CFR 51.166.

In brief, our answer is that the distance associated with "adjacent" must be considered on a case-by-case basis. This is explained in the preamble to the August 7, 1980 PSD rules, which says "EPA is unable to say precisely at this point how far apart activities must be in order to be treated separately. The Agency can answer that question only through case-by-case determinations." After searching the New Source Review Guidance Notebook, and after querying the other Regions and EPA's Office of Air Quality Planning and Standards, we have found no evidence that any EPA office has ever attempted to indicate a specific distance for "adjacent" on anything other than a case-by-case basis. We could not find any previous EPA determination for any case that is precisely like Utility Trailer, i.e., two facilities under common control, with the same primary 2-digit SIC code, located about a mile apart, both producing very similar products, but claimed by the company to be independent production lines.

Utah SIP regulations do not define "adjacent." The definition in the 1995 edition of Webster's New College Dictionary is: 1. Close to; nearby, or 2. Next to; adjoining. We realize this leaves considerable gray area for interpretation; however, since the term "adjacent" appears in the Utah SIP as part of the definition of "source," any evaluation of what is "adjacent" must relate to the guiding principle of a common sense notion of "source." (The phrase "common

sense notion" appears on page 52695 of the August 7, 1980 PSD preamble, with regard to how to define "source.") Hence, a determination of "adjacent" should include an evaluation of whether the distance between two facilities is sufficiently small that it enables them to operate as a single "source." Below are some types of questions that might be posed in this evaluation, as it pertains to Utility Trailer. Not all the answers to these questions need be positive for two facilities to be considered adjacent.

- Was the location of the new facility chosen primarily because of its proximity to the existing facility, to enable the operation of the two facilities to be integrated? In other words, if the two facilities were sited much further apart, would that significantly affect the degree to which they may be dependent on each other?
- Will materials be routinely transferred between the facilities? Supporting evidence for this could include a physical link or transportation link between the facilities, such as a pipeline, railway, special-purpose or public road, channel or conduit.
- Will managers or other workers frequently shuttle back and forth to be involved actively in both facilities? Besides production line staff, this might include maintenance and repair crews, or security or administrative personnel.
- Will the production process itself be split in any way between the facilities, i.e., will one facility produce an intermediate product that requires further processing at the other facility, with associated air pollutant emissions? For example, will components be assembled at one facility but painted at the other?

One illustration of this type of evaluation involved Great Salt Lake Minerals in Utah, which we wrote to you about on August 8, 1997, in response to your inquiry. (See enclosure #1.) We recommended, as EPA guidance, that you treat the two GSLM facilities as a single source (i.e., "adjacent"), despite the fact that they are a considerable distance apart (21.5 miles). We based that advice on the functional inter-relationship of the facilities, evidenced in part by a dedicated channel between them. We wrote that the lengthy distance between the facilities "is not an overriding factor that would prevent them from being considered a single source."

Another illustration is ESCO Corporation in Portland, Oregon, which operates two metal casting foundries (a "Main Plant" and a "Plant 3"), a couple of blocks apart. All castings produced by foundries at both facilities are coated, packaged and shipped at the "Main Plant". EPA Region 10 wrote to the State of Oregon on August 7, 1997 (see enclosure #2), that the guiding principle in evaluating whether the two facilities are "adjacent" is "the common sense notion of a plant. That is, pollutant emitting activities that comprise or support the primary product or activity of a company or operation must be considered part of the same stationary source." EPA determined that the two ESCO facilities must be considered a single major stationary source, since they function together in that manner, even though the Plant 3 foundry operates independently from the Main Plant foundry.

Another illustration is Anheuser-Busch in Fort Collins, Colorado, which operates a brewery and landfarm about six miles apart. A memo from OAQPS to our Regional Office, dated August 27, 1996 (see enclosure #3), stated that with regard to "contiguous or adjacent," the facilities should be treated as one source, due to their functional inter-relationship (landfarm as an integral part of the brewery operations), evidenced in part by a disposal pipeline between them. The fact that they are a considerable distance apart "does not support a PSD determination that the brewery proper and the landfarm constitute separate sources for PSD purposes."

Another illustration is Acme Steel Company, which operates an integrated steel mill consisting of coke ovens and blast furnaces at a site in Chicago, Illinois, along with basic oxygen furnaces, casting and hot strip mill operations at a site in Riverdale, Illinois, about 3.7 miles away. The blast furnace in Chicago produces hot metal that is transported via commercial rail to the BOF shop in Riverdale for further processing into steel. EPA Region 5 wrote to the State of Illinois on March 13, 1998 (see enclosure #4), that "Although the two sites are separated by Lake Calumet, landfills, I-94, and the Little Calumet River, USEPA considers that the close proximity of the sites, along with the interdependency of the operations and their historical operation as one source, as sufficient reasons to group these two facilities as one."

Therefore, in the matter of Utility Trailer, we recommend you evaluate, using questions such as those we posed above, whether the two facilities (one existing and one proposed for construction) will, in fact, operate independently of each other, as the company has claimed. Although Utility Trailer writes that "The present facility is not capable of conversion to the new trailer manufacturing process," they also write that the existing facility is "an inefficient manufacturing process which has made this facility less cost-competitive." This suggests to us the possibility that the existing facility could become a support facility for the new one. The company should be advised that if the two facilities are later discovered by the State and/or EPA to be actually operating as a single major source, and no Title V or PSD permit applications have been submitted where required by regulation, the company could become subject to State or EPA enforcement action or citizen suit.

Finally, please be aware that if the facilities are treated as two separate sources, no emission netting between them can be allowed, to avoid major source NSR permitting at either facility, in the event of future facility modifications.

We hope this letter will be helpful. It has been written only as guidance, as it remains the State's responsibility to make source aggregation determinations under EPA-approved State programs and regulations. This letter has been reviewed by specialists at OAQPS, by our Office of Regional Counsel, and by Office of General Counsel at EPA Headquarters. We apologize for the delay in getting our response to you.

If you have questions, please contact Mike Owens. He is at at (206) 553-6511 until late June, after which he may be reached at (303) 312-6440.

Sincerely,

Richard R. Long  
Director  
Air Program

Enclosures (4)

cc: Rick Sprott, Utah DAQ  
Scott Manzano, Utah DAQ  
Jose Garcia, Utah DAQ

APPROXIMATE  
SCALE  
1" = 600'

OCTOBER  
1997

CANAVERAL CAUSEWAY (S.R. 528)

BENNETT

6400' ± 1.2 mi



*Sea Ray* RECEIVED

JUL 21 1999

July 20, 1999

BUREAU OF AIR REGULATION

Mr. Len Koslov, Administer of Air Resources Management for Central District  
State of Florida Department of Environmental Protection  
3319 Maguire Blvd., Suite 232  
Orlando, FL 32803

Re: Proposed Cape Canaveral Plant  
(DEP File # 0090182-001-AC)  
Sea Ray Boats, Inc.  
Merritt Island, FL

Post-It* Fax Note	7671	Date 7/21/99	# of Pages 1
To A.A. LINERO		From DENNIS WILSON	
Co./Dept.		Co.	
Phone #		Phone #	
Fax # 850-922-6979		Fax #	

Dear Mr. Koslov:

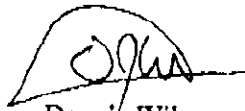
Please accept this letter as Sea Ray's response to the Department of Environmental Protection's request for additional time to review the air permit application for the above proposed facility dated May 4, 1999. Pursuant to Florida Statutes Sections 120.60 and 403.0876, Sea Ray consents to additional time for the department to review the permit application beyond the 90 day period that was to expire on August 5, 1999.

Sea Ray agrees to provide an additional twenty-five (25) days to review the permit application, which will be through August 30, 1999. This extension is based upon representations made by Department representatives, including yourself, as to the remaining time necessary to complete the reviews. This is also based upon the current schedule for this project, which requires the approval of the applicable permits.

Sea Ray remains committed to assist in the review of this application and if any additional information is required, please do not hesitate to contact our consultant, Pete Cantelou. We will immediately respond so that this process for approval can be completed within the above time period. Sea Ray does request that any additional requests for information not further extend the time period for review. Thank you for your assistance in this matter.

Sincerely,

SEA RAY BOATS



Dennis Wilson  
Vice President/General Manager

DW/dmn

cc: Angela Morrison  
Pete Cantelou  
A.A. Linero, DEP



**SEA RAY BOATS, INC.**  
**LEGAL DEPARTMENT**



Attorney Work Product  
Privileged and Confidential

Date: 7-20-99

To: A.A. Linares 850-922-6979

From: Doug Kitts

Pages including cover sheet: 2

Sea Ray Operator (423) 522-4181  
Preferred Fax: (423) 971-6434  
Alternate Fax: (423) 971-6423

Doug Kitts (423) 971-6503  
Allen McDonald (423) 971-6502  
Ellen O'Regan (423) 971-6558  
Linda Andrews (423) 971-6542

Remarks: \_\_\_\_\_  
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July 20, 1999

Mr Len Koslov, Administer of Air Resources Management for Central District  
State of Florida Department of Environmental Protection  
3319 Maguire Blvd., Suite 232  
Orlando, FL. 32803

Re: Proposed Cape Canaveral Plant  
(DEP File # 0090182-001-AC)  
Sea Ray Boats, Inc.  
Merritt Island, FL

Dear Mr. Koslov:

Please accept this letter as Sea Ray's response to the Department of Environmental Protection's request for additional time to review the air permit application for the above proposed facility dated March 4, 1999. Pursuant to Florida Statutes Sections 120.60 and 403.0876, Sea Ray consents to additional time for the department to review the permit application beyond the 90 day period that was to expire on August 8, 1999.

Sea Ray agrees to provide an additional three (3) weeks to review the permit application which will be through August 30, 1999. This extension is based upon representations made by Department representatives, including yourself, as to the remaining time necessary to complete the reviews. This is also based upon the current schedule for this project which requires the approval of the applicable permits.

Sea Ray remains committed to assist in the review of this application and if any additional information is required, please do not hesitate to contact our consultant, Pete Cantelou. We will immediately respond so that this process for approval can be completed within the above time period. Sea Ray does request that any additional requests for information not further extend the time period for review. Thank you for your assistance in this matter.

Sincerely,

SEA RAY BOATS

H. Douglas Kitts  
Group Senior Vice President/General Counsel

HDK:skm

cc: Angela Morrison  
Pete Cantelou  
A.A. Linero, DEP

# Memorandum

# Florida Department of Environmental Protection

**To:** Al Linero, P.E.  
Administrator, New Source Review Section

**From:** Joseph Kahn, P.E. *JLK*  
New Source Review Section

**Date:** July 15, 1999

**Re:** Facility Determination for Sea Ray Boats, Inc.

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Per your request, I have evaluated whether the proposed Sea Ray Cape Canaveral Plant and the existing Merritt Island plant, located approximately one mile apart, constitute one facility pursuant to Florida's rules. I reviewed the information and photographs you obtained and Sea Ray's July 14, 1999 letter to John Reynolds. I also reviewed available EPA letters and memos and Florida Department of State's corporation public records, and discussed this matter with Pat Comer. This determination was made pursuant to Florida's rules for its Title V and PSD programs.

Of particular importance are Rules 62-210.200(126), 62-210.200(178) and 62-212.400(2)(d)2., F.A.C., which set forth the considerations required to determine what constitutes a facility with respect to the Title V and PSD programs. Rule 62-210.200(126), F.A.C., defines "Facility" as all of the emissions units which are located on one or more contiguous or adjacent properties, and which are under the control of the same person (or persons under common control). Rule 62-210.200(178), F.A.C., defines "Major Source of Air Pollution" or "Title V Source" as a facility containing an emissions unit, or any group of emissions units, that: (a) emits 10 tons per year or more of any one hazardous air pollutant (HAP), 25 tons per year or more of any combination of HAPs, or any lesser quantity of a HAP as established through EPA rulemaking; (b) belongs to the same two-digit Standard Industrial Classification (SIC) Major Group, with a potential to emit 100 tons per year or more of any regulated air pollutant, considering fugitive emissions for HAPs; and (c) belongs to the same two-digit SIC Major Group, with a potential to emit 250 tons per year or more of any regulated air pollutant, not considering fugitive emissions. Rule 62-212.400(2)(d)2., F.A.C., establishes that "New Major Facilities" are those with emissions units in the same SIC Major Group that have potential emissions equal to or greater than 250 tons per year if not on the list of facility categories in Table 212.400-1.

These rules establish the criteria for determining what constitutes a facility for Title V and PSD purposes. For the two Sea Ray plants to be considered one facility, they would have to be located on contiguous or adjacent properties, be under the control of the same person, and be within the same two digit SIC Major Group, except for purposes of regulation for HAPs where the last criterion is not required. These criteria of Florida's rules are consistent with EPA's regulations and guidance. Addressing these criteria, one concludes:

1. The two plants are under common control (control of the same person). Although Sea Ray has stated that separate management will be installed at each facility, both facilities are owned by, and under the ultimate control of, Sea Ray Boats, Inc. A corporation is considered to be a person under Florida law. Interestingly, in a letter to the South Carolina Department of Health and Environmental Control dated July 31, 1998, EPA found that two corporations were under common control because they shared two common directors on their respective Board of Directors. In this case, there is only one corporate owner, more clearly establishing common control.

Memo to Al Linero, P.E.

July 15, 1999

2. The two plants are adjacent. EPA has established that adjacent should be defined as "close to or nearby" (see EPA's letter of March 23, 1995 to the Illinois Environmental Protection Agency) but has not established a distance requirement. In separate determinations, EPA has found that sources may be separated by other property and may be a mile or more away and still be adjacent. EPA has not been completely consistent in determining what distances are too far to constitute adjacent. For example, EPA has stated that a distance of 20 miles is too far (45 FR 52895, 8/7/80), but a later determination by EPA Region 8 in a letter of May 21, 1998 to the Utah Division of Air Quality references a previous recommendation that two plants located over 21 miles apart be considered adjacent.

The Region 8 letter suggests several questions that Utah use in considering whether two facilities are adjacent, and Sea Ray addressed these particular questions in its letter to the Department dated July 14<sup>th</sup>. It is clear from EPA's letter that these questions are not inclusive, but are intended to help determine whether two plants may operate as a single source. Other EPA correspondence does not suggest that adjacency must include an interaction between manufacturing facilities, and the Department does not believe that such an interaction is required for two plants to be adjacent. However, it may be illustrative to examine the potential for interaction in this case. Sea Ray states that the new facility is capable of manufacturing a product that is larger than the existing plant can produce. This is clearly a product line expansion. It is entirely conceivable that Sea Ray would have accommodated this expansion at the site of its existing plant if it had sufficient space to do so. Also, there is nothing to prevent Sea Ray in the future from manufacturing at its proposed plant, the same or similar smaller product that is produced at the current plant, if economic conditions warrant such a business decision. In any event, the two Sea Ray plants, located within approximately a mile of each other, connected by public roadway and accessible by water, are easily considered to be adjacent. No further evaluation of interaction is required for this determination.

3. The two plants belong to the same SIC Major Group, Group 37, Transportation Equipment. In fact, the plants belong to the same four-digit industry number: 3732, Boat Building and Repairing. This criterion is required for the Title V and PSD programs, but is not required for regulation of HAPs.

My conclusion is that the existing and proposed Sea Ray plants constitute one facility for purposes of Title V, PSD, and regulation of HAPs.

**SEA RAY BOATS, INC.**  
**LEGAL DEPARTMENT**



Attorney Work Product  
Privileged and Confidential

Date: 7/14/99

To: John Reynolds (850) 922-6979

From: Doug Kitts

Pages including cover sheet: 3

Sea Ray Operator (423) 522-4181  
Preferred Fax: (423) 971-6434  
Alternate Fax: (423) 971-6423

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**RECEIVED**

July 14, 1999

**JUL 16 1999**

**BUREAU OF AIR REGULATION**

Mr. John Reynolds  
New Source Review Section  
Dept. of Environmental Protection  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Re: DEP File #0090182-001-AC  
Sea Ray Boats, Inc.  
Cape Canaveral Plant  
Merritt Island, FL

Dear Mr. Reynolds:

On June 28, 1999 a letter was received by our consultant, Mr. G.E. Cantelou, Jr., P.E., from Mr. A.A. Linero, Administrator of New Source Review Section advising that a formal determination will be required for PSD applicability concerning the referenced application. The question arises because of the location of the new plant site proposed by Sea Ray Boats relative to an existing permitted Sea Ray facility approximately one mile away. Specifically, the issue is whether the two plants would be considered "contiguous or adjacent" regardless of the one-mile distance, and therefore constitute single or separate facilities for air permitting.

Subsequently, by telephone, you requested of Mr. Cantelou that we review the supplemental information provided by Mr. Linero, compare the opinions of EPA to the circumstances at Sea Ray and report to you with Sea Ray's position in these regards.

It is Sea Ray's position that the two plants constitute separate facilities for the following reasons:

The Cape Canaveral Plant described in the air permit application (DEP File No. 0090182-001-AC submitted by Sea Ray Boats, Inc.) is located in Merritt Island, Florida approximately one mile from an existing Sea Ray facility. The facility operates under DEP Permit No. 0090093-002-AV. The property between the existing facilities (known as the Sykes Creek Plant and the Cape Canaveral Plant) is not owned, leased or used by Sea Ray.

The decision to construct a new plant was made by Sea Ray management because of increasing market demand for a larger product. The current Sea Ray facilities are not capable of building product in excess of 65'. This new facility will be capable of building products over 65' and it was designed for this purpose. To accommodate this, the proposed buildings at the Cape Canaveral Plant will be twenty percent taller than the largest building currently in use by the company. Another important consideration in regards to choosing this site was its water access and location relative to the inland waterway, Port Canaveral and the Atlantic Ocean, each of which will greatly facilitate delivery of the larger vessels produced here.

Mr. John Reynolds  
July 13, 999  
Page 2

The Cape Canaveral Plant is designed and planned to operate as a separate and independent facility and its proximity to another Sea Ray plant does not impact the Cape Canaveral Plant's ability to operate as an independent facility. It will have no common operational function with any other Sea Ray facility. In other words, this plant will not rely on any other Sea Ray facility to support the production of the new products planned for manufacture at this location and in turn will not offer support to the function of any other Sea Ray facility. Nor will the production process itself be split in any way between facilities and no intermediate products requiring further processing at another facility will be produced at this location.

A manager will be assigned to this plant and will be solely responsible for its operation. He will assemble his management team and production line staff, including maintenance crews, plant security and administrative personnel. This plant will have separate financial reporting and a separate P&L statement. The efforts of these employees will be dedicated to this facility. They will not be involved in the operation of another facility.

The new facility will also have its own purchasing function and will have its own warehouse for various production materials. There will not be any routine transferring of materials between this facility and the other Sea Ray facilities.

In summary, Sea Ray Boats, Inc. maintains that the Cape Canaveral Plant is designed and planned as a separate and independent operation to manufacture larger model boats beyond our current capability. Furthermore, there is not now, nor are there any future plans by the company to change the fact that there will be no functional inter-relationship between the Cape Canaveral Plant and the existing permitted Merritt Island facility. The two plants should therefore be considered separate facilities for air permitting purposes.

I trust that the information provided herein will suffice for your determination.

Please call me at (423) 522-4181 if I may be of further assistance.

Yours truly,

SEA RAY BOATS



Gary Stoecker  
Group Senior Vice President/Manufacturing

cc: A.A. Linero  
Len Koslov

**Golder Associates Inc.**

6241 NW 23rd Street, Suite 500  
Gainesville, FL 32653-1500  
Telephone (352) 336-5600  
Fax (352) 336-6603

RECEIVED



JUN 30 2000

June 28, 2000

BUREAU OF AIR REGULATION

9937586A/08

Mr. C. H. Fancy, P.E., Chief  
Bureau of Air Regulation  
Department of Environmental Protection  
Division of Air Resources Management  
2600 Blair Stone Road, Mail Station #5500  
Tallahassee, Florida 32399-2400

Re: DEP File No. 009 0093-003-AC; PSD-FL-274  
Sea Ray, Inc., Cape Canaveral Plant

Dear Clair:

Since the issuance of Final Permit Number PSD-FL-274 by the Department for the Construction of the Cape Canaveral Plant in Brevard County, Florida, Sea Ray Boats, Inc. has worked diligently to satisfy the requirements contained in the Emissions Unit Specific Condition, Section III, Paragraph 17 (Evaluation of Odor Control Technology). The condition states: "An initial requirement shall be the immediate evaluation of state-of-the-art enzyme bioaerosol odor destruction technology for the Cape Canaveral Plant. This technology shall be evaluated with the objective of removing approximately 70 to 80 percent of the styrene from the Lamination/Assembly Building exhaust air." Because this technology has proven not to be technically or economically feasible, Sea Ray requests that the Department allow Sea Ray to proceed with the pilot-scale system as set forth in the Specific Condition III-18 of the permit. In support of its request, Sea Ray provides the following information regarding the bioenzyme technology feasibility.

During negotiations between Sea Ray and the Department regarding the permit conditions, the permit review engineer, John Reynolds, provided information from CLASSI-ATRIUM JV dated December 21, 1999 and suggested that Sea Ray consider this technology for both odor control and removal of styrene. The information supplied by CLASSI-ATRIUM suggested that styrene emissions could be reduced from 50 to 7.5 parts per million (ppm) in 300,000 cubic feet per minute of air at an estimated cost of \$60,000 capital and \$8,000 per month operating costs. The cost would average about \$30 per hour of operation. The resulting cost-per-ton for styrene removal projected to be less than \$1,000, which was much lower than had been projected for incineration at greater than \$4,000 per ton of styrene removed.

The bioenzyme technology identified by Mr. Reynolds was, at the time, the only known source of this technology. Because this technology for styrene destruction had not been demonstrated, yet showed promise for a lower-cost alternative, the Department suggested a test to confirm both the technical and economic feasibility. Sea Ray



understood, based on the representation made by the Department, that CLASSI could perform such testing for less than \$10,000. Sea Ray accepted these terms and agreed to test this technique by injecting various bioenzymes into the air stream and measuring the destruction of styrene to determine its technical and economic feasibility. This agreement was finalized as Specific Condition III-17 of the permit.

In an effort to meet Condition III-17, Sea Ray has taken the following steps to evaluate the enzyme bioaerosol technology.

- On May 3, 2000, representatives of the Department (you, John Reynolds and staff from the Central District Office) were invited and attended a presentation to Sea Ray Boats, Inc. by Dr. Barry Liss of Clean Air Systems, Inc. (CLASSI). Dr. Liss provided handouts during his presentation containing an outline and other material (letters, periodicals, reports) supporting his technical approach to styrene destruction. Additionally, a description and copies of communication received from Dr. Liss were provided to the Department
- An analysis of the presentation materials provided by Dr. Liss and the proposal dated May 14, 2000 gave rise to potential environmental and health risk concerns with the alternatives that were being proposed for testing. It appeared that air emissions resulting from the application of the bioenzyme technology and other alternatives had properties far more toxic than the styrene being treated. These findings were summarized in my letter dated May 31, 2000. For example, I concluded based on the information provided by CLASSI: "More troubling, however, are the potential impacts from emitting benzaldehyde and formaldehyde, which are more toxic than styrene. Indeed, formaldehyde is a known carcinogen with much lower allowable values for human toxicity and worker exposure.....a comparison with the threshold limit values (TLVs) clearly indicate benzaldehyde is more toxic than styrene.....".
- The cost estimated by CLASSI during the May 3, 2000 meeting increased from the initial estimate of \$30 per hour to \$96 per hour of operation, or about \$480,000 per year. This would be equivalent to \$4,800 per ton of styrene removed.
- The health risk concerns were communicated to Dr. Liss through a May 31, 2000 telephone conversation and several letters requesting additional information. These concerns were confirmed by Dr. Liss's response. The May 31, 2000 letter from Dr. Liss stated: "Enzymatic attack in the vapor phase of styrene monomer will produce the following expected primary reaction products - styrene oxide, benzaldehyde, benzoic acid, formaldehyde, and formic acid."
- Subsequently, Dr. Liss informed Sea Ray that he had formed an alliance with TAESI, a firm with more experience in the field of bioenzyme treatment. This new alliance purports to have an add-on control system that will destroy styrene. Since announcing this new alliance and the proprietary information from his new partner regarding bioenzyme technology, Dr. Liss has continued

to conclude that his approach will produce intermediate HAP species. In addition, he recommends that his technology should not be considered without add-on controls to capture and destroy the intermediate HAP species produced (see attached letter of June 15, 2000).

- Dr. Liss in his June 15, 2000 letter states that such treatment (enzyme bioaerosol technology only) without add-on controls should not be considered. Additional controls, such as scrubbing and a fixed bioreactor will be required to safely treat the products of the bioenzyme application. CLASSI/TAESI did not provide the costs for the add-on control but concluded that the bioenzyme aerosol alone would only be marginally better than a regenerative thermal oxidizer (RTO). The estimated operational cost ranged from \$128/hour to \$64/hour; the latter being with reagent recycle. These operational costs would range from \$320,000 to \$640,000 per year without consideration of any capital costs. Operational cost alone is equivalent to \$3,200 to \$6,400 per ton of styrene removed. Such operational costs are clearly similar to those for thermal oxidizers. The estimated operational cost in the PSD/BACT analysis was \$488,000 (\$2,700 per ton of pollutant removed) for treating 370,000 cfm in a rotary concentrator/regenerative catalytic oxidizer.

Over the last 6 months, the promise of a lower-cost enzyme bioaerosol technology for both odor control and styrene destruction at the Cape Canaveral plant has not materialized. Indeed, enzyme bioaerosol technology alone will, as acknowledged by the proponents of the technology, result in the emission of a variety of other HAPs. As noted earlier, some of these intermediate HAPs are much more toxic than styrene. Moreover, the estimated operating costs (excluding the costs associated with scrubbing and/or a fixed bed bioreactor) are within the range of other proven control technologies and there is still considerable uncertainty as to the ultimate level of styrene destruction that the final design can achieve.

It is now apparent that both Sea Ray and the Department developed in good faith a permit condition that has obvious risks to public health. Moreover, CLASSI and TAESI, proponents of the technology and leaders in their field, clearly conclude that bioenzyme technology alone lacks technical and economic feasibility. In the beginning, enzyme bioaerosol technology offered lower cost odor reduction and styrene destruction, which was to be demonstrated by a test. In fact, this was the only reason for the test. The lack of technical and economic feasibility of the bioenzyme aerosol technology has been determined and Specific Condition III-17 has been satisfied through the information provided by CLASSI as well as Sea Ray's own analysis.

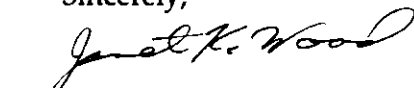
Given that the enzyme bioaerosol technology identified in Specific Condition III-17 is not feasible, it is proposed that the Department allow Sea Ray to proceed with the pilot plant program (Specific Conditions III-18 of the permit). If the Department desires Sea Ray to test an enzyme bioaerosol, Sea Ray must be allowed additional time to find another bioenzyme material and perform the tests required by the permit. Such tests would be performed after proper due diligence to confirm that its application is feasible and will not produce health risks.

Regardless of the final resolution of Specific Condition III-17, Sea Ray intends to evaluate and give every consideration to the forthcoming proposal from CLASSI/TAESI regarding their add-on control system for styrene destruction. If this technology shows promise, it is Sea Ray's intention to submit it to the Department for use as an option to incineration in the pilot-scale system that is required under Specific Condition III-18 of the permit.

In view of the extension of Condition III-17 till August 9, 2000, prompt consideration regarding this proposal is appreciated.

If you have any questions, please call me.

Sincerely,

  
Kennard F. Kosky, P.E.  
Principal

KFK/jkw

Enclosure

cc: Dan Goddard, Sea Ray, Inc.  
Kevin Thompson, Sea Ray, Inc.  
Doug Kitts, Sea Ray, Inc.  
Pete Cantelou, CHP  
A. A. Linero, FDEP

06/15/2000 16:56

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DR. BARRY LISS

PAGE 02

Post-It* Fax Note	7671	Date	6-22	# of pages	2
To	Ken Kosky	From	Pete		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

**SSI****STEMS, INC.**

6275 N. FEDERAL HIGHWAY, SUITE 166

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Mr. Peter Cantelou  
Cantelou, Herrera & Powell, Inc.  
1400 Samo Road  
Melbourne, FL 32936

June 15, 2000

**SUBJECT : Response To Your June 13, 2000 Letter Via Fax**

Dear Mr. Cantelou,

Below is an itemized response to the letter you faxed me yesterday, 6-13-00, at 4:28 PM EDT:

1. As I told you at the meeting we had following my 5-3-00 presentation, it will take CLASSI at least two to three weeks from the time you authorize us to proceed to prepare for the testing. You did not simply authorize me to proceed. You stated that if my response to your request for addition information was satisfactory to clarify my answers in the 6-7-00 letter then you would be prepared to proceed. You cannot expect the clock to start ticking until Sea Ray accepts the test plan and a purchase order is issued.

2. Regarding your request for testing Part 1 of CLASSI/TAESI Enzyme Bioaerosol Technology only, I have the following comments: Based upon confidential disclosures of TAESI to CLASSI regarding their experiences with enzyme bioaerosol destruction of VOC's, similar to those projected to be emitted at Sea Ray's new facility, and the projected yield and intermediate product distribution that such treatment would exhibit, CLASSI has come to the opinion that such treatment, without additional controls, should not be considered because:

2.1 Direct injection into the exhaust stack of Sea Ray's lamination area without additional control features such as scrubbing and a fixed bed bioreactor would result in the emissions of a variety of HAP's other than styrene, and

2.2 Without the use of reagent recycle and intermediate (HAP) species capture in a bioreactor, the projected economics for the bioenzyme approach will be only marginally better than an RTO and significantly more than our integrated process.

The Florida DEP indicated that they would extend the permit deadline for testing provided Sea Ray was committed by contract to promptly conduct the testing that CLASSI/TAESI specified was sufficient to provide the detailed design basis for a performance guarantee. We are re-evaluating the minimum size of the testing required to provide a performance guarantee and will present a cost and schedule for testing of our integrated process ASAP.

3. Regarding the necessity of employing a responsible engineer (PE), CLASSI/TAESI will do so prior to and in conjunction with the submission of a revised test plan.

4. The cost projection for bioenzymes in the 5-3-00 handouts was \$98/hr based on 200,000 CFM of foul air and 5,000 hours per year operation. At 270,000 CFM this would increase to \$128/hr without reagent recycle. With a recycle and a fixed bed adsorber/bioreactor added, this cost should be able to be cut nearly in half.

5. TAESI will be participating in all new In-Air™ applications with CLASSI. Because TAESI is the financially stronger partner, I assume Sea Ray will want to contract with them directly for full scale plant system guarantee purposes. I am requesting TAESI's Lynn Shugarman to contact you directly regarding this matter to make sure that our team will satisfy Sea Ray's requirements. Our understanding is that I will continue to function as Program Manager for the CLASSI/TAESI team.

6. Regarding CLASSI/TAESI being required to provide all supplies, materials and disposal, we will revise our total fee for the testing accordingly and will complete this task promptly.

7. Regarding your next to last paragraph of yesterdays letter in which you stated "...Sea Ray will provide testing", I assume you mean analytical services equivalent or superior to those quoted to CLASSI by 'Pace' or 'Enthalpy'. CLASSI/TAESI must agree with Sea Ray that the number of sampling points and test duration is adequate to both qualify our testing and for us to provide our performance guarantee. In particular, we will need to identify the "real" Inlet loading range that the guaranteed performance will be based upon.

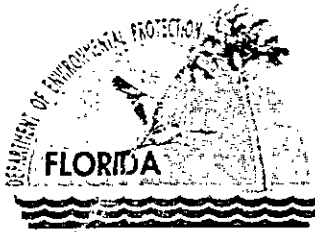
I trust that this answers all of your questions and concerns expressed in your letter of 6-13-00.

Respectfully,

*Dr. Barry Liss*

Dr. Barry Liss

cc: J.O.Ferrer (CLASSI), N.Gabe (ECI), A.Q.Joffe (CLASSI), B.Livingston (CLASSI), S.Myers (CLASSI), M.B.Sherwin (CLASSI), L.Shugarman (TAESI), G.E.Susser, Esq. (CLASSI), E.C.West (CLASSI)



Jeb Bush  
Governor

# Department of Environmental Protection

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

June 28, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. G. E. Cantelou Jr., P.E.  
Cantelou, Herrera, and Powell, Inc.  
1400 Sarno Road  
Melbourne, Florida 32935

Re: DEP File No. 0090182-001-AC  
Sea Ray Boats Inc. - Cape Canaveral Plant

Dear Mr. Cantelou:

Per our telephone conversation of June 25, we have determined that a case-by-case determination of Maximum Achievable Control Technology (MACT) is required for the referenced project that will emit the hazardous air pollutant styrene in excess of 10 tons per year. In order for the Department to make that determination, Sea Ray first needs to provide a MACT proposal. Attached is some useful information to aid in submitting a MACT proposal.

According to Sea Ray, the proposed expansion site is not contiguous with the existing site. We will need to make a formal determination on the matter. We understand that Sea Ray will provide us with additional information to help us make that determination. We will visit the existing facility and proposed expansion site at an early date. Attached are some opinions prepared by the Environmental Protection Agency. Perhaps one or more of these may be comparable to the circumstances at Sea Ray.

As of now, the application is still under review by our Central District office in Orlando. The contact is Alan Zahm at 407/ 893-3335. However, if you have any questions regarding the MACT determination requirement need, please contact Ms. Cindy Phillips at 850/921-9534. If you have any questions regarding PSD applicability, please contact Mr. John Reynolds at 850/921-9536.

Sincerely,

A. A. Linero, P.E. Administrator  
New Source Review Section

AAL/aal

Enclosure

c: Alan Zahm, P.E., Central District  
Cindy Phillips, P.E., Air Toxics Unit  
John Reynolds, New Source Review Section

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## What Information is Needed from the Applicant for a Case-by-Case MACT Determination?

{REFERENCE: Federal Register / Vol. 61, No. 250 / Friday, December 27, 1996 / Rules and Regulations}

63.43 (d) Principles of MACT determinations. The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the permitting authority:

(1) The MACT emission limitation or MACT requirements recommended by the applicant and approved by the permitting authority shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the permitting authority.

(2) Based upon available information, as defined in this subpart, the MACT emission limitation and control technology (including any requirements under paragraph (d)(3) of this section) recommended by the applicant and approved by the permitting authority shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

(3) The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the permitting authority may approve such a standard if the permitting authority specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in section 112(h)(2) of the Act.

(4) If the Administrator has either proposed a relevant emission standard pursuant to section 112(d) or section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(e) Application requirements for a case-by-case MACT determination.

(1) An application for a MACT determination (whether a permit application under title V of the Act, an application for a Notice of MACT Approval, or other document specified by the permitting authority under paragraph (c)(2)(ii) of this section) shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in paragraph (d) of this section.

(2) In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

(i) The name and address (physical location) of the major source to be constructed or reconstructed;

(ii) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(iii) The expected commencement date for the construction or reconstruction of the major source;

- (iv) The expected completion date for construction or reconstruction of the major source;
- (v) the anticipated date of start-up for the constructed or reconstructed major source;
- (vi) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the permitting authority to determine MACT;
- (vii) Any-federally enforceable emission limitations applicable to the constructed or reconstructed major source;
- (viii) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the permitting authority to determine MACT;
- (ix) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the permitting authority to determine MACT;
- (x) A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in paragraph (d) of this section;
- (xi) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the permitting authority);
- (xii) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and
- (xiii) Any other relevant information required pursuant to subpart A.

(3) In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this subpart without a change in control technology, the application for a MACT determination shall contain the following information:

- (i) The information described in paragraphs (e)(2)(i) through (e)(2)(x) of this section; and
- (ii) Documentation of the control technology in place.



<BASE HREF="http://www.epa.gov/region4/air/regulators/part70/bmw.txt">

July 31, 1998

Mr. James A. Joy, III, P.E., Chief  
Bureau of Air Quality Control  
South Carolina Department of Health  
and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

Re: BMW Title V Applicability

Dear Mr. Joy:

This letter is in response to Florence Berry's letter dated June 24, 1998, requesting guidance on the applicability of the Title V permitting program to the newer stationary source BMW of North America, Inc. (BMW NA), located across a public highway from the older stationary source BMW Manufacturing (BMW MC).

EPA has determined that these two sources should be considered one facility, and BMW NA is a major source for the purposes of Title V. Section 112 of the 1990 Clean Air Act Amendments (the Act) defines a major source as:

For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule.

These two sources are on contiguous property and share two common directors on their respective Board of Directors which qualifies as common control. Since the two sources meet the

criteria outlined above, they are considered one facility for Section 112 of the Act. Furthermore, since BMW MC is a major source under Section 112 of the Act, BMW NA is considered to be part of this major source for Section 112 applicability. The Act contemplated that any major source for Section 112 would also be a major source for Title V permitting. Unfortunately, the definition of a major source under Part 70 [State Operating Permit Programs] is not consistent with the definition given in Section 112, and it states that the group of stationary sources must belong to a single major industrial grouping to be considered as one facility. Although EPA agrees with BMW NA that the two stationary sources are in different major industrial groups, the stationary sources must be considered one facility for Title V permitting since the sources are one facility under Section 112 of the Act.

EPA will be promulgating an automobile Maximum Achievable Control Technology (MACT) standard in the future which will apply to both sources. South Carolina should check the applicability section of this MACT standard when it is promulgated to determine what requirements apply to the two sources. In particular, research and development sources will be exempt from the Automobile Manufacturing MACT, although a Research and Development MACT may be promulgated at a later date.

I hope this information answers all your questions. If you have any questions or need any more information, please contact John Hewson of my staff at (404) 562-9214.

Sincerely,

/s/

R. Douglas Neeley, Chief  
Air, Radiation, and Technology Branch

cc: Ms. Florence A. Berry  
Environmental Engineering Associate

Engineering Services  
South Carolina DHEC  
Bureau of Air Quality  
2600 Bull Street  
Columbia, South Carolina 29201



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466

May 21, 1998

Ref: 8P2-A

Lynn Menlove, Manager  
New Source Review Section  
Utah Division of Air Quality  
P.O. Box 144820  
Salt Lake City, UT 84114-4820

Re: Response to Request for Guidance in  
Defining Adjacent with Respect to Source  
Aggregation

Dear Mr. Menlove:

This is in response to your letter of January 15, 1998, to Mike Owens of my staff, requesting guidance and/or specific recommendations in the matter of Utility Trailer Manufacturing Company. For the purpose of determining if two Utility Trailer facilities should or should not be aggregated into a single source under Clean Air Act Title V and New Source Review permitting programs, you asked what is the specific physical distance associated with the definition of "adjacent." The word "adjacent" is part of the definition of "source" in the Utah SIP regulations, at R307-1-1. The SIP definition follows the Federal definition found in 40 CFR 51.166.

In brief, our answer is that the distance associated with "adjacent" must be considered on a case-by-case basis. This is explained in the preamble to the August 7, 1980 PSD rules, which says "EPA is unable to say precisely at this point how far apart activities must be in order to be treated separately. The Agency can answer that question only through case-by-case determinations." After searching the New Source Review Guidance Notebook, and after querying the other Regions and EPA's Office of Air Quality Planning and Standards, we have found no evidence that any EPA office has ever attempted to indicate a specific distance for "adjacent" on anything other than a case-by-case basis. We could not find any previous EPA determination for any case that is precisely like Utility Trailer, i.e., two facilities under common control, with the same primary 2-digit SIC code, located about a mile apart, both producing very similar products, but claimed by the company to be independent production lines.

Utah SIP regulations do not define "adjacent." The definition in the 1995 edition of Webster's New College Dictionary is: 1. Close to; nearby, or 2. Next to; adjoining. We realize this leaves considerable gray area for interpretation; however, since the term "adjacent" appears in the Utah SIP as part of the definition of "source," any evaluation of what is "adjacent" must relate to the guiding principle of a common sense notion of "source." (The phrase "common

sense notion" appears on page 52695 of the August 7, 1980 PSD preamble, with regard to how to define "source.") Hence, a determination of "adjacent" should include an evaluation of whether the distance between two facilities is sufficiently small that it enables them to operate as a single "source." Below are some types of questions that might be posed in this evaluation, as it pertains to Utility Trailer. Not all the answers to these questions need be positive for two facilities to be considered adjacent.

- Was the location of the new facility chosen primarily because of its proximity to the existing facility, to enable the operation of the two facilities to be integrated? In other words, if the two facilities were sited much further apart, would that significantly affect the degree to which they may be dependent on each other?
- Will materials be routinely transferred between the facilities? Supporting evidence for this could include a physical link or transportation link between the facilities, such as a pipeline, railway, special-purpose or public road, channel or conduit.
- Will managers or other workers frequently shuttle back and forth to be involved actively in both facilities? Besides production line staff, this might include maintenance and repair crews, or security or administrative personnel.
- Will the production process itself be split in any way between the facilities, i.e., will one facility produce an intermediate product that requires further processing at the other facility, with associated air pollutant emissions? For example, will components be assembled at one facility but painted at the other?

One illustration of this type of evaluation involved Great Salt Lake Minerals in Utah, which we wrote to you about on August 8, 1997, in response to your inquiry. (See enclosure #1.) We recommended, as EPA guidance, that you treat the two GSLM facilities as a single source (i.e., "adjacent"), despite the fact that they are a considerable distance apart (21.5 miles). We based that advice on the functional inter-relationship of the facilities, evidenced in part by a dedicated channel between them. We wrote that the lengthy distance between the facilities "is not an overriding factor that would prevent them from being considered a single source."

Another illustration is ESCO Corporation in Portland, Oregon, which operates two metal casting foundries (a "Main Plant" and a "Plant 3"), a couple of blocks apart. All castings produced by foundries at both facilities are coated, packaged and shipped at the "Main Plant". EPA Region 10 wrote to the State of Oregon on August 7, 1997 (see enclosure #2), that the guiding principle in evaluating whether the two facilities are "adjacent" is "the common sense notion of a plant. That is, pollutant emitting activities that comprise or support the primary product or activity of a company or operation must be considered part of the same stationary source." EPA determined that the two ESCO facilities must be considered a single major stationary source, since they function together in that manner, even though the Plant 3 foundry operates independently from the Main Plant foundry.

Another illustration is Anheuser-Busch in Fort Collins, Colorado, which operates a brewery and landfarm about six miles apart. A memo from OAQPS to our Regional Office, dated August 27, 1996 (see enclosure #3), stated that with regard to "contiguous or adjacent," the facilities should be treated as one source, due to their functional inter-relationship (landfarm as an integral part of the brewery operations), evidenced in part by a disposal pipeline between them. The fact that they are a considerable distance apart "does not support a PSD determination that the brewery proper and the landfarm constitute separate sources for PSD purposes."

Another illustration is Acme Steel Company, which operates an integrated steel mill consisting of coke ovens and blast furnaces at a site in Chicago, Illinois, along with basic oxygen furnaces, casting and hot strip mill operations at a site in Riverdale, Illinois, about 3.7 miles away. The blast furnace in Chicago produces hot metal that is transported via commercial rail to the BOF shop in Riverdale for further processing into steel. EPA Region 5 wrote to the State of Illinois on March 13, 1998 (see enclosure #4), that "Although the two sites are separated by Lake Calumet, landfills, I-94, and the Little Calumet River, USEPA considers that the close proximity of the sites, along with the interdependency of the operations and their historical operation as one source, as sufficient reasons to group these two facilities as one."

Therefore, in the matter of Utility Trailer, we recommend you evaluate, using questions such as those we posed above, whether the two facilities (one existing and one proposed for construction) will, in fact, operate independently of each other, as the company has claimed. Although Utility Trailer writes that "The present facility is not capable of conversion to the new trailer manufacturing process," they also write that the existing facility is "an inefficient manufacturing process which has made this facility less cost-competitive." This suggests to us the possibility that the existing facility could become a support facility for the new one. The company should be advised that if the two facilities are later discovered by the State and/or EPA to be actually operating as a single major source, and no Title V or PSD permit applications have been submitted where required by regulation, the company could become subject to State or EPA enforcement action or citizen suit.

Finally, please be aware that if the facilities are treated as two separate sources, no emission netting between them can be allowed, to avoid major source NSR permitting at either facility, in the event of future facility modifications.

We hope this letter will be helpful. It has been written only as guidance, as it remains the State's responsibility to make source aggregation determinations under EPA-approved State programs and regulations. This letter has been reviewed by specialists at OAQPS, by our Office of Regional Counsel, and by Office of General Counsel at EPA Headquarters. We apologize for the delay in getting our response to you.

If you have questions, please contact Mike Owens. He is at at (206) 553-6511 until late June, after which he may be reached at (303) 312-6440.

Sincerely,

Richard R. Long  
Director  
Air Program

Enclosures (4)

cc: Rick Sprott, Utah DAQ  
Scott Manzano, Utah DAQ  
Jose Garcia, Utah DAQ

February 20, 1998

4APT-ARB

James A. Joy, III, P.E., Chief  
Bureau of Air Quality Control  
South Carolina Department of Health and  
Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

Dear Mr. Joy:

Thank you for your letter dated August 14, 1997, regarding the written applicability determination for several possible title V facilities in South Carolina. You specifically requested title V applicability determinations for four different situations involving contiguous and adjacent facilities. For each situation described in your request letter, we have included below the specific facility information which was provided by your office, followed by our applicability determination.

## Situation #1

There are four facilities located on contiguous and adjacent property. Westvaco Corporation owns and operates three of these facilities. The fourth facility is a cogeneration unit (SIC Code 4931) that is a limited-liability corporation (LLC) formed by Westvaco Corporation and South Carolina Electric and Gas. The three Westvaco facilities are an unbleached kraft pulp and paper mill (SIC Code 2621 and 2611), a chemical manufacturing facility (SIC Code 2861), and a research and development (R&D) facility associated with 2861 and 2821. These combined facilities emit hazardous air pollutants and criteria air pollutants above the threshold. Each individual facility, standing alone (with the exception of the R&D facility), emits criteria pollutants and HAPs above the threshold. SC DHEC believes that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit.

Through regulation, guidance, and individual determinations, the U.S. Environmental Protection Agency (EPA) has established several mechanisms for use by sources and permitting authorities in determining common control as used in the definition of "major source" under Title I and Title V of the Clean Air Act. First, common control can be established through ownership (i.e., same parent company or a subsidiary of the parent company). Second, common control can be established if an entity such as a corporation has decision-making authority over the operations of a second entity through a contractual agreement or a voting interest. If common control is not established by the first two mechanisms, then one should next look at whether there is a contract for service relationship between the two companies or if a support/dependency relationship exists between the two companies in order to determine whether a common control relationship exists.

Clearly, the unbleached kraft pulp and paper mill, the chemical manufacturing facility, and the R&D facility are under common control since they are owned by Westvaco. With regard to the cogeneration facility, EPA Region 4 agrees that it is not part of the same parent company as Westvaco since, generally, a joint



venture is not a subsidiary to either party of the joint venture. However, it is the position of EPA Region 4 that the cogeneration facility, via its contractual relationship forming the joint venture, is under common control of Westvaco with the rest of the Westvaco facilities.

EPA Region 4 agrees with South Carolina's assessment that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit. Therefore, based on the definition of a "major source", it is the position of EPA Region

4 that the Westvaco facilities and the cogeneration facility constitute one major stationary source for title V applicability purposes since the four facilities are located on land contiguous and adjacent to one another, Westvaco Corporation has common control of operations in all four facilities, and combined HAP emissions exceed the major source thresholds.

#### Situation #2

Bowater Incorporated owns a facility that manufactures bleached kraft pulp and paper and thermo-mechanical pulp (SIC Codes 2611, 2621). Georgia-Pacific (GP) owns a hardboard plant which is located inside the Bowater facility. GP purchases raw materials from the Bowater facility including power, wastewater treatment, and wood chips. GP owns the land on which the GP facility is located. Additionally, Peridot Chemicals owns a chemical manufacturing plant (SIC Code 2819) adjacent to other facilities. Fifteen percent of the total chemicals produced by the Peridot facility are supplied to Bowater. The Bowater and GP facilities emit hazardous air pollutants and criteria air pollutants above the thresholds (both individually and combined). SCDHEC believes that the GP and Bowater facilities emissions should be aggregated when considering if it is necessary to obtain a title V permit. SCDHEC believes that GP and Bowater emissions should be considered together in determining title V applicability. SCDHEC believes that the Peridot facility should not be included in the applicability determination.

Based on the information provided, the Peridot Chemicals facility does not appear to have a common control relationship with either Bowater or GP. Bowater and GP appear to have a contract-for-service relationship since Bowater supplies one hundred percent of GP's raw materials for power, wastewater treatment, and wood chips. There are no provisions in title V of the Act for excluding contracted operations in defining major sources. In addition, contract-for-service activities may indicate that sources are under common control. However, in determining if there is a common control relationship between Bowater and GP, one needs to understand more clearly how these "companion"

facilities interact with each other. Although Bowater provides integral services to GP, the GP facility does not appear to be dependent upon the Bowater facility for operation except by convenience, therefore the facilities do not appear to be under common control. However, since both operations are independently major sources, both operations are independently subject to title V requirements.

EPA Region 4 agrees with South Carolina's assessment that the Peridot Chemicals facility should not be included in the applicability determination. However, EPA Region 4 does not agree that the GP and Bowater emissions should be considered together in determining title V applicability. Therefore, based on the definition of a "major source", it is the position of EPA Region 4 that the Peridot Chemical, Bowater, and GP facilities constitute separate sources for purposes of title V applicability

since there does not appear to be a common control relationship between them. However, those facilities which are independently major sources are independently subject to the title V requirements.

### Situation #3

Willamette Industries owns a bleached kraft pulp and paper mill (SIC Code 2611) and a medium density fiberboard (MDF) (SIC Code 2493) plant on adjacent and contiguous property. ECC International owns a chemical manufacturing facility (SIC Code 2819) which is located on Willamette's property. ECC International leases the land from Willamette. ECC provides one hundred percent of its output to Willamette's bleached kraft paper mill. These facilities all emit hazardous air pollutants and criteria air pollutants. The kraft mill is the only stand-alone "major source." SCDHEC believes that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit.

Additionally, SCDHEC is requesting a Prevention of Significant Deterioration (PSD) determination for the three facilities. All three facilities were initially considered separately for PSD purposes. However, the facilities have supplied additional information regarding their inter-relationships that may make them subject as one source under PSD.

Clearly, the bleached kraft pulp and paper mill and the MDF plant are under common control since they are owned by Willamette.

Based on the information provided, ECC and Willamette appear to have a contract-for-service relationship since ECC provides one hundred percent of its output to the bleached kraft paper mill. As mentioned in situation #2 above, contract-for-service activities may indicate that sources are under common control. However, in determining if there is a common control relationship between ECC and Willamette, one needs to understand more clearly how these "companion" facilities interact with each other. Based on the information provided, ECC provides one hundred percent of its output to Willamette's bleached kraft pulp and paper mill, and Willamette supplies steam, electricity and waste treatment services to ECC. In addition, in the event of the loss of any service, the ECC plant is shut down until service is restored. Since both facilities provide each other with goods or services that are integral to or contribute to the output provided by the separately "owned or operated" activity with which they operate or support, both facilities are determined to be under common control.

EPA Region 4 agrees with South Carolina's assessment that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit. Therefore, based on the definition of a "major source", it is the position of EPA Region 4 that the Willamette facilities and ECC constitute one major stationary source for title V applicability purposes since all three facilities are located on land contiguous and adjacent to one another, are under common control, and combined HAP emissions exceed the major source thresholds.

With regard to the PSD applicability determination, based on the information supplied to date, it is the position of EPA Region 4 that the bleached kraft pulp and paper mill (SIC 2611) and the medium density fiberboard (MDF) plant (SIC 2493) owned by Willamette Industries should be considered separate sources for the purposes of PSD. Aside from the differing major group SIC codes, neither source acts as a "support" facility for the other. Each source is engaged in manufacturing different principal

products and neither source's product is utilized by the other. Since Willamette and ECC are considered to be under common control, ECC is considered a "support" facility for the kraft pulp mill despite differing SIC codes. Therefore, the Willamette kraft pulp mill and the ECC facility should constitute one source for PSD applicability purposes.

Situation #4

International Paper owns a bleached kraft mill (SIC Code 2611) and a container plant (SIC Code 2653) on adjacent and contiguous property. These facilities emit hazardous air pollutants and criteria air pollutants. SCDHEC believes that these facilities'

emissions should be aggregated when considering if it is necessary to obtain a title V permit.

Clearly, the kraft mill and container plant are under common control since they are owned by International Paper. EPA Region 4 agrees with South Carolina's assessment that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit. Therefore, based on the definition of a "major source", it is the position of EPA Region 4 that the International Paper bleached kraft mill and container plant constitute one major stationary source for title V applicability purposes since both facilities are located on contiguous or adjacent properties, are under common control, belong to a single major industrial grouping, and combined emissions exceed the major source thresholds.

If we may be of further assistance, please contact me or have your staff contact Yolanda Adams of my staff at (404) 562-9116 regarding title V issues or Gregg Worley of my staff at (404) 562-9141 regarding PSD issues.

Sincerely,

/s/

R. Douglas Neeley  
Chief  
Air & Radiation  
Technology Branch

July 15, 1997

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
1600 WaterMark Drive  
Columbus, Ohio 43215-1034

Dear Mr. Hodanbosi:

The purpose of this letter is to advise your agency on how three facilities in Cleveland, Ohio--LTV Steel, Stein, Inc., and Allegra, Inc.--should be classified under the Title V operating permit program. LTV Steel produces slag as a by-product of its steel production. The LTV facility sells its basic oxygen furnace (BOF) slag to Stein, and its blast furnace slag to Allegra. Stein and Allegra process the slag into aggregates to sell to other companies. The issue presented is whether these three facilities should be considered as separate Title V sources or as one Title V source. Our analysis indicates that they should be considered a single source.

The prevention of significant deterioration regulations in 40 CFR 52.21(b)(5) and (6) and the Title V operating permit regulations in 40 CFR 70.2 define a stationary source as any building, structure, facility, or installation whose pollutant-emitting activities belong to the same industrial grouping, are located on contiguous or adjacent properties, and are under the control of the same person or entity (or entities under common control). According to the March 16, 1979, USEPA memorandum from the Division of Stationary Source Enforcement director titled "Definition of a Source," determinations of what entities are under common control with the applicant are to be made on a fact-specific case-by-case basis. A number of factors could decide common control status.

USEPA is guided by the definition of control used by the Securities Exchange Commission (SEC). For SEC purposes, control means, "[T]he possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person (or organization or association) whether through the ownership of shares, contract, or otherwise." See 17 CFR 210.1-02(g) (1996). If two sources are under different ownership, but one company has some decision-making ability in the second facility through a contractual agreement or a voting interest, the sources can be considered under common control.

Adjacent sources under different, independent ownership, may be considered under common control due to the nature of their operations. It is our understanding that, by contract: LTV Steel provides 100 percent of its slag product to the Stein and Allegra facilities; the Stein and Allegra facilities receive all of their slag product from the LTV Steel facility; and Stein and Allegra are required by contract to accept 100% of LTV's BOF slag and blast furnace slag, respectively. Accordingly, but for the existence of the LTV Steel facility, there would be no slag processing plants at this location.

Although the three facilities may be independently owned and operated (and the companies operating them may run facilities elsewhere in the nation that do not interact with each other), the

operations of the Stein and Allega facilities at this particular location appear to be entirely dependent upon agreements or contracts with the LTV Steel facility. Thus the functions of the Stein and Allega facilities at this location are subject to control by LTV Steel through contract, as LTV would have power to cause the direction of the management decisions and policies of the Stein and Allega facilities. Therefore, for Title V purposes, LTV Steel, Stein, and Allega here are considered under common control.

USEPA's position is reflected in Engineering Guide # 58, a policy statement issued by the Ohio Environmental Protection Agency (OEPA). This Engineering Guide serves to clarify the definition of "facility" for new source review and Title V permitting. It states that two independently owned facilities may be under common control if there is a financial interest between them. The examples provided therein illustrate that if the two facilities are co-located and have the same 2-digit SIC code, and if the primary function of one facility is to support the production of the other facility's principal product, then the two facilities should be considered as one source for permitting.

The other factors important in determining whether facilities should be aggregated as a single source are clearly satisfied. LTV Steel, Stein, and Allega have the same 2-digit SIC code, so they belong to the same industrial grouping. Stein and Allega operate on property owned and leased by LTV Steel. The three facilities are located on contiguous property. Since the three factors are satisfied, it is USEPA's position that LTV Steel, Stein, and Allega should be aggregated together as a single source for Title V permitting.

Another independent rationale for aggregating Stein and Allega with LTV Steel as a single major source is because Stein and Allega are "support facilities" for LTV. As indicated in the August 7, 1980, Federal Register (45 FR 52695), "one source classification encompasses both primary and support facilities, even when the latter includes units with a different two-digit SIC code. Support facilities are typically those which convey, store, or otherwise assist in the production of the principal product." Stein and Allega are the sole recipients of LTV Steel's slag. Since the removal of slag is essential to LTV Steel's lawful production process, Stein and Allega assist in the production of LTV Steel. Therefore, they are support facilities and together constitute a single source.

While the three facilities are to be considered the same source for Title V applicability, individual Title V permits may be issued to them separately, or to different responsible parties. I hope this information is useful. We will consider any further information submitted by OEPA with regard to the issues presented in this matter. If you have any questions, please call Kaushal Gupta, of my staff, at (312) 886-6803.

Sincerely yours,

/s/

Cheryl L. Newton, Chief  
Permits and Grants Section

cc: Jeanne Mallet, OEPA

<BASE HREF="http://www.epa.gov/region04/air/regulators/part70/fpl3-6.txt">

March 20, 1996

4APT-AEB

Mr. Gerald J. Kissel  
Air Permitting Supervisor  
Florida Department of Environmental  
Protection  
Southwest District  
3804 Coconut Palm Drive  
Tampa, Florida 33619

SUBJECT: Title V Source Definition for Florida Power & Light,  
Manatee Power Plant

Dear Mr. Kissel:

Your letter of February 19, 1996, to Jewell A. Harper, requested a determination of whether two facilities owned by Florida Power & Light (FPL), located in Manatee County, Florida, should be considered one "source" as the term is applied under Title V of the Clean Air Act and its implementing regulations found at 40 CFR Part 70. Your letter specified that FPL owns and operates an oil-fired 1600 MW power plant and the oil terminal supplying the plant. The facilities are connected by a fourteen mile pipeline. The oil terminal supplies approximately 99.9% of the throughput to the power plant.

The definition of "major source" in 40 CFR section 70.2 establishes the following:

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in paragraphs (1), (2), or (3) of this definition.

Based upon the information provided, it is our determination that the two FPL facilities may be treated as separate sources under Title V permitting. Although the facilities are under common control, they do not belong to the same industrial grouping. With regard to the adjacency of the oil terminal, previous EPA guidance has indicated that a distance of twenty

FPLpipe

miles is too far (45 FR 52695). Region 4 will support your Department's decision on the issue of adjacency.

Thank you for the opportunity to assist you in this matter. If you have any questions about this letter, please contact Gracy R. Danois of my staff at 404/347-3555, extension 4150.

Sincerely,

/s/

Jewell A. Harper  
Chief  
Air Enforcement Branch  
Air, Pesticides and Toxics  
Management Division

cc: John C. Brown, Jr., P.E.

[ [Part 70 Permits Page](#) | [Air Division Home Page](#) ]

## Contiguous or Adjacent Properties as related to Title V

(1/25/96 RO/S/L conference call)

**Intro:** During previous conference calls we addressed different terms and concepts as they apply to the "major source" definition found in Part 70. In November, we discussed the term "common control" as it applied to multiple owners or operators at any stationary source or group of stationary sources. In doing so, we discussed concepts like the landlord-tenant relationship and listed various screening tools used in making of a decision. Last month, we described methods for drawing site boundaries around possible title V sources and went over several hypothetical scenarios. A basic assumption made in both of these calls was that the sources involved were located on contiguous or adjacent properties. For this call we will discuss the phrase "contiguous or adjacent" and apply it toward title V permit processing. As always, we begin by looking at the definition of a major source under Part 70.2:

*"Major source"* means any stationary source (or any group of stationary sources that are located on one or more *contiguous or adjacent* properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraphs (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on *contiguous or adjacent* properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987."

**Paragraph (1)** of the major source definition deals with section 112 sources. There are two relevant points that need to be made regarding this paragraph: First, the term "adjacent" is not used; and second, HAPs are aggregated without regard to the SIC code. The answer to the first point is found in the Part 63 preamble which states that, "EPA has historically interpreted 'contiguous property' to mean the same as 'contiguous or adjacent property' in the development of numerous regulations to implement the Act. In other words, contiguous includes in its definition, the terms 'nearby, neighboring, and adjacent.'" Since the "major source" definition in section 112(a) of the Act did not include the term "adjacent" EPA thought it would be confusing to define it differently in Part 63 and Part 70. The second point was discussed in part during the last conference call, what's important to reemphasize is, that for section 112 purposes, a plant site is defined by its **geography** (whether its on contiguous property) and **control** and not whether there is a relationship between production processes (i.e., SIC grouping).<sup>[1]</sup>

**Paragraphs (2) & (3)** of the definition involve sources that emit regulated air pollutants in attainment areas and nonattainment area pollutants respectively. The term "contiguous or adjacent" for both of these paragraphs is applied in a manner consistent with PSD/NSR applicability determinations. For these sources, each plant site is defined by geography, control, and its 2-digit SIC code. Of course, different SIC groups may be aggregated if they meet the primary activity test or support facility test.<sup>[2]</sup>

**Guidance:** Contiguous or adjacent property determinations are resolved on a



case-by-case basis. The phrase has not been defined in literal terms (i.e., number of feet allowed between two or more sources that are physically separated from each other) or through an empirical formula. Although there isn't a plethora of information on the topic, there are some general guidelines available. As your agency attempts to determine whether the distance between two or more sources can be considered contiguous or adjacent, you may wish to note some of the following items:

1. A physical separation of property does not in itself constitute separate sources, for example, the fact that some property at a plant site is divided by a highway or a railroad right-of-way does not create separate and distinct sources (59 FR 12412, 3/16/94);
2. EPA has stated that a distance of 20 miles is too far (45 FR 52895, 8/7/80);
3. EPA made a determination that two GM auto plants, separated from each other by approximately one mile (and connected by a private rail), could be considered one major source (E. Reich to S. Rosenblatt memo, 6/30/81);
4. Region 4 determined that two bulk gasoline terminals located approximately one-half mile from each other should be considered one source primarily based upon geographic **proximity** and secondarily upon shared diesel and water pipelines (J.A. Harper to S. Jenkins letter, 5/18/95);
5. In a determination involving a natural gas processing company and a collocated natural gas transmission company (same owner; contiguous property; different SIC), EPA reiterated its position on defining **distances** by stating that, "EPA is unable to say precisely at this point how far apart activities must be in order to be treated separately. The Agency can answer that question only through case-by-case determinations" (45 FR 52695, 8/7/80; J. Divita to E. Bell, 11/3/86);

There are some other factors you may wish to consider when evaluating sources which are physically separated: like whether there are any unique structures (i.e., private rail line, pipelines, etc.) that "tie" the sources together; or circumvention of NSR requirements in the near term by using interim contracts to establish separate operations on noncontacting parcels of land with the intent to merge later and take advantage of the netting provisions<sup>[3]</sup>; or circumvention of permit review through a real estate scheme (e.g., company purchases a large piece of land and sets up an "unrelated" corporation in the middle of the property in order to split their property into multiple, distinct sites).

Please remember that our office is available to assist you in making such determinations.

**Endnotes:** (hit your browser's back button to return)

[1] Because the objectives of the title V program and the section 112 are different. EPA explained (54 FR 12412) that "[t]he separation of HAP emission sources by SIC code would be an artificial division of sources that, in reality, all contribute to public exposure around a plant site."

[2] Each source is classified by its primary activity, which is determined by the principal product or group of products produced or distributed, or services rendered. Support facilities are typically those which convey, store, or otherwise assist in the production of the principal product.

[3] If the company's motives are unclear, but the permit authority elects to permit as two sources, we would encourage adding a condition to the permit requiring notification if the two sources merge operations. If the merge occurs within a short time frame, say two years, after permit issuance the department may want to investigate such activities as circumvention of the major source permitting requirements and take the appropriate action.

Terminals

<BASE HREF="http://www.epa.gov/region04/air/regulators/part70/t5site.txt">

May 18, 1995

4APT-AEB

Susan Jenkins  
Air Protection Branch  
Environmental Protection Division  
Georgia Department of Natural Resources  
4244 International Parkway  
Suite 120  
Atlanta, GA 30354

SUBJ: Source Definition for Colonial Terminals, Inc.  
Savannah, Georgia

Dear Ms. Jenkins:

Your letter of April 4, 1995, to Brian Beals requested a determination of whether two facilities owned and operated by Colonial Terminals, Inc., located in Savannah, Georgia, should be considered one "source" as that term is applied under Title V of the Clean Air Act (Act) and its implementing regulations found at 40 CFR Part 70. Your letter enclosed supporting documentation submitted to you from Colonial Terminals. Specifically, the two facilities are separated approximately one-half mile apart, have diesel fuel and water pipelines between them, and operate under SIC code 4226.

In the beginning portion of the "major source" definition, the Part 70 regulations state:

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraphs (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987 (40 CFR

Terminals

70.2).

The two Colonial Terminals facilities without question meet the criteria of common control and same industrial grouping. The remaining test is one of adjacency. Based on the information provided, we have concluded the two facilities are in close proximity and should be treated as one source under Part 70. Additionally, we have noted that both facilities use the same access road, share diesel fuel and water pipelines, and interestingly, have their storage tank numbers listed sequentially on the air quality permits issued to both facilities.

Thank you for the opportunity to assist you and provide guidance. If you should have any questions about this letter, please contact Mr. Alan Drake of my staff at 404/347-3555 vmx4151.

Sincerely yours,

/s/

Jewell A. Harper, Chief  
Air Enforcement Branch  
Air, Pesticides and Toxics  
Management Division



U.S. Environmental Protection Agency  
Region 5 - Air and Radiation Division

## Correspondence



March 23, 1995

(AR-18J)

Donald Sutton, Manager  
Permit Section  
Bureau of Air  
Illinois Environmental Protection Agency  
P.O. Box 19276  
2200 Churchill Road  
Springfield, Illinois 62794-9276

Dear Mr. Sutton:

The purpose of this letter is to respond to Illinois Environmental Protection Agency's (IEPA) February 27, 1995, request for reconsideration of the interpretation of stationary source applicability to Color Communications, Inc. located in Chicago, Illinois.

IEPA questioned the use of the preamble of the August 7, 1980, Federal Register to support the United States Environmental Protection Agency's (USEPA) February 2, 1995, determination that the two Color Communication buildings are considered one source. Webster's dictionary defines adjacent as close to or nearby. USEPA considers the one city block distance between buildings to be nearby and therefore adjacent. This has been USEPA's national position for 15 years. To make an exception would violate the federal position.

Until further evidence to prove that the two buildings are not adjacent is furnished, USEPA does not think that it is appropriate to reconsider the February 2, 1995, determination.

As always, we are available to assist you in permitting this source. If you have any questions in regards to this letter, please contact Genevieve Nearmyer at (312) 353-4761.

Sincerely yours,

/s/

Cheryl Newton, Chief  
Permits and Grants Section

cc: Robb Layman  
Division of Legal Counsel  
Illinois Environmental Protection Agency

---

AIR AND RADIATION DIVISION  
77 WEST JACKSON BOULEVARD (A-18J)  
CHICAGO, ILLINOIS 60604

**(800) 621-8431 OR (312) 353-2212**

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3.18

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## MEMORANDUM

DATE: June 30, 1981

SUBJECT: PSD Definition of Source

FROM: Director  
Division of Stationary Source EnforcementTO: Steve Rothblatt, Chief  
Air Programs Branch, Region V

This is to respond to your memo of June 8, 1981, in which you requested a determination of whether two General Motors facilities, located in Lansing, Michigan, should be considered one "source" as that term is applied under PSD review. Specifically, the two facilities are approximately one mile apart, have a dedicated railroad line between them and are programmed together to produce one line of automobiles.

The PSD regulations define stationary source as any building, structure, facility or installation which emits or may emit any pollutant regulated under the Clean Air Act. The regulations go on to define "building, structure, facility or installation" as:

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 (U. S. Government Printing Office stock number 4101-0066 and 003-005- 00176-0, respectively) (40 CFR 52.21 (b) (6)).

The two General Motors facilities without question meet the criteria of common ownership and same industrial grouping. The remaining test is one of adjacency. Based on the unique set-up of these facilities as described above and previous EPA determinations, (see attached) this office agrees that the two facilities can be considered adjacent, and therefore, may be treated as one source for the purpose of PSD review.

Since the two segments of the source are located in a non-attainment area, I would like to emphasize that the use of this determination is contingent upon the adoption of the PSD definition of "source" for non-attainment review.

If you have any questions regarding this determination, please contact Janet Farella of my staff at 755-2564.

Edward E. Reich

cc: Peter Wyckoff (OGC)  
Mike Trutna (OAQPS)

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: JUN 8, 1981

SUBJECT: Defining Two Separate Plants as One Source

FROM: Steve Rothblatt, Chief  
Air Programs Branch

TO: Edward E. Reich, Director  
Stationary Source Enforcement Division, (E341)

Region V has been asked by the State of Michigan and the General Motors Corporation to make a determination as to whether or not two plants on different sites constitute a single source. The purpose of this memo is to describe the circumstances related to this request and seek your counsel before we respond to the State and GM. We request your recommendation on our tentative position by June 12, 1981 at which time we will be responding to the State.

During the assembly of some vehicles in Lansing, Michigan, auto bodies are made in the Fisher Body plant and then are transported by truck to an Oldsmobile plant one mile away. At the Olds plant the bodies are placed on frames and the fenders and hoods are attached. At the present time the bodies are painted at the first location and the fenders and hoods are painted at the second location. GM is proposing to move the painting operations to one of the locations.

Under the present definition of source in nonattainment areas, GM would have to meet the Part D new source review requirements. However, under the March 12, 1981 proposed definition of source, the curtailment of painting at one place in a source could be used to offset additional painting elsewhere in the source and thus the source would avoid the Federal new source review requirements. The issue of concern for GM is whether or not these two plants which are separated by approximately 4,500 feet can be considered as one source.

Our investigation has revealed that both plants come under the same SIC code. Additionally, the two plants are the only facilities served by a special spur of the C&O Railroad for raw material delivery and in the future the spur will be used to move unpainted parts from one plant to another when the painting is done at one location. Furthermore, at other locations in the State where vehicles are assembled in this two step body/frame fashion, the two plants are under one roof or are connected by a conveyor for transporting the bodies.

It is our opinion that these Lansing plants are functionally equivalent to a source and that U.S. EPA has the flexibility to arrive at that conclusion. The Federal Register of August 7, 1980 on page 52695 states the following when discussing proximity of PSD activities "EPA is unable to say precisely at this point how far apart activities must be in order to be treated separately. The Agency can answer that question only through case-by-case determinations." With the distance between the two plants less than one mile and the plants being connected by a railroad used only for GM, we believe that the plants meet the requirement of being adjacent and therefore can be considered one source.

Such an interpretation appears to be consistent with U.S. EPA's position which appears in the March Federal Register on page 16281. This position as stated, when supporting the change in "source" definition, is "even outside of these 'construction moratorium' areas under the present regulatory scheme, the

August 7 definition can act as a disincentive to new investment and modernization by discouraging modifications to existing facilities."

We have concluded that should the March 12, 1981 proposed definition of source become final, the State under the existing SIP though a variance from the Commission will be able to issue a State permit to GM. The State will also require a phased in LAER by 1986. Thus, the environmental costs of this interpretation will be negligible.

Please contact Ronald J. Van Mersbergen at FTS 886-6056 for further information.

cc: E. Smith  
M. Trutna

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