

DETERMINATIONS OF APPLICABILITY-PREVENTION OF SIGNIFICANT DETERIORATION

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/1	1/20/76	What emission points should be considered when reviewing fuel conversion plants under PSD?	52.21(d) (1) (xiii)	--	All emission points of SO ₂ and particulate matter at a facility covered by the PSD review should be considered in determining the air quality impact of the facility. BACT determinations should be made for all emission points. Fuel conversion plants are defined for purposes of PSD as those plants which accomplish a change in state for a given fossil fuel. The large majority of the plants are likely to accomplish these changes through coal gasification, coal liquefaction, or oil shale processing.
PSD/2	1/20/76	What emission points should be considered when reviewing phosphate rock processing plants?	52.21(d) (1) (xviii)	--	A list of the processes commonly associated with phosphate rock preparation are as follows: I. Phosphate Rock Preparation Mining Nodulizing Beneficiation Grinding Drying Thermal De-fluorination Calcining Material Handling & Storage II. Phosphate Fertilizer Industry Phosphoric Acid Mfg. Wet Process Thermal Process Superphosphoric Acid Plant Vacuum Evaporation (evaporations, cooling tanks, hot wells) Submerged combustion Diammonium Phosphate Plants

N/E

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PSD/2	(Continuation)				<p>(reactor, granulator, dryer, cooler, screens, mills)</p> <p><u>Run-of-Pile Triple Superphosphate</u> (mixer, curing belt, conveyors, storage)</p> <p><u>Granular Triple Superphosphate</u> (reactor, granulator, dryer, cooler, screens, mills, storage)</p> <p>III. Other Products Elemental phosphorous Animal feed</p> <p>If, however, any of the chemical or fertilizer production processes are not associated with the phosphate rock processing operation, we feel there is no basis for their inclusion under the PSD regulation as presently worded.</p>
PSD/3	3/18/76	Must EPA grant PSD approval to a source when all requirements under §52.21 are met even if NAAQS, are impacted?	52.21.	Yes	<p>Our current authority under §52.21 does not allow EPA to disapprove a new source for reasons other than a violation of an applicable increment or failure to apply DACT. §51.18 review will be performed by the State. EPA could then void the State permit if issued erroneously.</p>

V/A

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PSD/4	5/76	What types of land use planning agencies must be conferred with under the new source review for PSD?	52.21(e) (1)(iii)	--	The intent of the June 12 modification was to include as a minimum those agencies with regulatory teeth. However, all agencies affected by PSD actions should be notified if possible.
PSD/5	7/9/76	<p>a) How does the PSD base-line apply to a source, which was permitted to burn 0.7ts oil prior to January 1975 and then in June 1976 secured a regulatory change and revised permit to allow for 2.5ts oil.</p> <p>b) A source operated at a reduced capacity and at a level of control better than that required by the SIP. Is the baseline figured at the SIP limit and for full, actual, or what capacity?</p> <p>c) In an area with an ambient SO₂ problem, can one source (A), not meeting BACT or RACT, erect a taller stack for a neighboring source (B) meeting BACT and/or RACT, in order to allow for a relaxed SIP regulation for source (A)? (A) and (B) contribute to an ambient violation.</p>	52.21	-- Conditional	<p>a) This change would count against the increment</p> <p>b) The baseline is figured from the maximum emissions level that a source actually emitted during 1974.</p> <p>c) In order for a source to gain an air quality credit for erecting a tall stack, it must first apply BACT. Therefore, source B can erect a taller stack which may provide for a relaxation of the SIP as it applies to source A, but only after a rigorous control strategy demonstration shows that the relaxation of the standards does not interfere with the attainment and maintenance of NAAQS.</p>

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PSD/6	7/16/76	Can an agency approve all independent phases of a large PSD source if it chooses to do so for reasons of national or regional concern?		Conditional	At least two key factors should be considered in determining whether to issue a single permit for both initial and subsequent stages of construction. One is the degree of certainty over whether and when additional construction will proceed. Only where the applicant makes a strong showing that all phases will definitely be built on a fixed schedule should a multi-phased permit even be considered. The second key factor is the degree to which the separate facilities to be constructed in phases could stand independently of each other from a business view point. As a general rule, a permit should only cover construction commencing within 18 months of issuance.
PSD/7	8/25/76	A catalytic cracking unit is being moved from Canada to Region VI where it will be "re-erected" at an existing petroleum refinery. The installation work will begin after 6/1/75. Is this unit subject to PSD review?	52.21(d) (1)(xi)	Conditional	If the catalytic cracking unit will increase SO ₂ and/or particulate emissions from the refinery, then unless there was a binding contract for continuous on-site construction executed prior to 6/1/75, the "re-erection" commencing after that date would trigger the PSD review procedures. If work has begun and no permit has been granted, the owner or operator is in violation of an implementation plan and subject to enforcement under §113 of the Clean Air Act.

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PSD/8	9/28/76	Are all facilities under the NSPS category "coal-preparation plants" subject to PSD?	52.21(d)	Conditional	NSPS covers several types of facilities under the category coal-preparation plants including large loading units. The PSD regulation cover all types of coal cleaning plants. Therefore, unless facilities such as large loading or coal preparation operations are located on site of a coal cleaning operation, they are not covered.
PSD/9	9/28/76	Can control greater than BACT (where NSPS exists) be required?		Conditional	Although we cannot require a source to go beyond NSPS, a source may agree to an enforceable commitment requiring additional control in order to satisfy the air quality increment.
PSD/10	9/28/76	What emission rate should be used for new sources to document their consumption of the PSD increment - actual or allowable?	--	--	Allowable emissions only should be used since these are enforceable.
PSD/11	9/28/76	Can the Regions require PSD applicants to perform the necessary diffusion modeling?	--	Yes	--

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PSD/12	12/1/76	Does the addition of a sulfur recovery unit to an existing source make the source subject to PSD?	§52.21(d)	Conditional	The addition of a sulfur recovery plant to an existing PSD source such as an oil refinery will act as a piece of control equipment and result in lower plant emissions. Thus, this addition would not be considered a modification to the existing source since no net increase in emissions has occurred. The review for PSD covers only those sulfur recovery plants associated with grass roots operations or expanded production capabilities of existing sources.
PSD/13	12/1/76	What is the intent of the PSD regulations concerning modifications (a) resulting in few additional emissions? (b) involving a peripheral rather than a major facility of a subject source?	--	--	(a) Strict interpretation of the PSD regulations subjects all modifications to review. Consideration is being given, however, to amend §52.21 establishing a quantitative limit. (b) The addition of peripheral facilities (e.g. a chemical plant at a petroleum refinery) to an existing PSD source is a modification and is subject to PSD if it would result in a net increase in source emissions. However, the proposed amendment discussed in (a) above will also apply here.

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PSD/14	12/1/76	Is it advisable to routinely specify the use of control equipment as BACT rather than defining an enforceable emission limit for the source?	52.21(d)(2)(ii)	Conditional	Defining an emission limit is a much better and direct means of controlling source emissions. However, where it is extremely difficult to estimate and measure emissions from a source EPA can and should authorize or specify control techniques as BACT in these cases.
PSD/15	12/1/76	<p>Do the following changes by existing or "grandfathered" sources affect the amount of PSD increment that is available for new subject sources?</p> <p>a) switching to higher sulfur content fuel</p> <p>b) increasing emissions beyond the maximum emissions of 1974 up to allowable SIP limit</p> <p>c) Increasing average and/or maximum production rate (without physical modification of the facility above 1974 production</p> <p>d) Plant shutdown</p> <p>i) temporary</p> <p>ii) permanent (source cannot legally resume its operation)</p> <p>e) Source cleanup via an established compliance schedule (since 1/1/75)</p> <p>f) source under construction which commenced construction prior to 1/75</p> <p>g) Temporary emissions associated with source construction and portable facilities</p>		<p>consumption</p> <p>consumption</p> <p>consumption</p> <p>i) no effect ii) expansion</p> <p>expansion</p> <p>no effect</p> <p>no effect</p>	

N/S

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PSD/16	12/1/76	For what reasons can the PSD permit be withheld?			
		a) Analytical difficulties		No	a) Limited time extension for final action provided in §52.21(e)
		b) EIS		No	b) current PSD regulations do not allow for the interruption of the review process for this reason, but pending amendments would.
		c) pending reclassification		Yes	
PSD/17	12/1/76	Can the Regional Administrator sign both the notice of delegation and change of address (rulemaking) for PSD delegations?		Yes	EPA order 1200.3A gives the authority for change of address to the RA and authority for delegation has also been delegated to the RA.
PSD/18	12/1/76	Do the PSD increments apply			
		a) over plant property?		Yes	a) The review for PSD is appropriate for both plant property and adjacent bodies of water unless the general public is completely and effectively precluded from access to these areas.
		b) over bodies of water?			
		c) in fugitive dust areas?		Conditional	c) CPDD is developing specific guidance for resolving the fugitive dust issue including the NSR in these areas.
		d) in non-attainment AQCR's?		Conditional	d) PSD increments apply except in those portions of a non-attainment AQCR which are exempt for being pervasively above the SO ₂ and/or TSP standards. This means about 75% of the land area (county basis) or 75% of the measurements representative of the area indicate ambient violations of the applicable standard. Also the state must notify EPA that a certain area pervasively exceeds the standards.

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PSD/19	12/1/76	Can control greater than that suggested in the SSEIS (no existing NSPS) be advocated for BACT?		Yes	However, due consideration must be given to the SSEIS document and CPDD should be first contacted.
PSD/20	12/1/76	If only one facility is modified within a subject source, is the PSD review applicable for this facility alone or for all facilities within the source which are affected by the modification?			Under the current regulations only the facility modified is to be reviewed for BACT under PSD unless other facilities within the source have to be changed themselves (capacity, process) to accomplish the principal modification. However, the entire source should be analyzed for emission increases which would count against the applicable PSD increment.
PSD/21	12/17/76	A) One of three existing boilers at a Kraft pulp mill is to be replaced by a new boiler while the other two are to be modified to burn oil (that is, they are to cease burning bark). How do the PSD regulations apply?	52.21(b) (1) 52.21(d) (1) (iii)	Conditional	A) The applicable source would be the existing Kraft pulp mill. Each of the boilers would be a facility within the source. (§52.21(b) (1) states that a source is comprised of one or more pollutant emitting facilities). For the source to be subject to PSD, there must be a net increase in the emissions of SO ₂ and/or PM resulting from the modification. The PSD regulations exclude, for review purposes, any increase resulting from a fuel switch. Therefore, the two boilers switching from bark to oil would not be included in any calculations to determine a net increase in emissions. If a net increase in emissions results from the addition of the new boiler in comparison with the boiler being shutdown, then the new boiler will be subject to the

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PSD/21 (cont.)					PSD requirements. The resulting BACT requirements (assuming the new boiler is subject to PSD) would only be applicable to that pollutant(s) for which there is an increase.
		B) Can EPA require BACT on a new facility being constructed at an old source?		Yes	B) Provided that there is a net increase of that pollutant at the source due to the modification and the existing source or new facility is one of the PSD 19.
		C) Can we require BACT for a new facility at an existing source if old facilities are closed down and the closures more than compensate for the new facility's emissions?		No	C) We cannot subject a source modification to PSD if there is no net increase of the applicable pollutant from the source.
		D) Can we require NSPS type limits through the PSD programs on boilers (not located at a steam electric plant) smaller than 250×10^6 BTU/hr? Further, can we require BACT on combination boilers at Kraft Pulp Mills.		Yes	
		E) Just how far can a source go toward construction without our approval? Three have contacted EPA wanting to pour footings and begin work while waiting for completion of the review.		--	PSD does not allow the source to begin any on-site construction prior to obtaining preconstruction approval. Pouring footings appears to be an obvious infraction of this requirement.

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PSD/22	12/22/76	May the PSD increments be influenced by improvements in AAQ brought about by tall stack construction on sources located in the area where the PSD candidate intends to locate?	52.21 (c) (2) (1)	--	Although the Agency's stack height increase guideline published in the Federal Register on 2/18/76, does not refer explicitly to the PSD increments, this guideline applies in a uniform manner, regardless of whether the NAAQS or the PSD increments are involved. Where PSD is concerned, only stack height increases completed after 1/1/75, are a potential issue since the PSD increments apply only to the air quality changes occurring after this date. For stack height increases begun prior to 2/8/74, unless the source has first applied BACT, credit may not be given for increases beyond two and one-half times the height of the facility serviced by the stack. For stack height increases begun after 2/8/74, sources must first apply BACT before any credit may be taken for the air quality impact brought about by the increase.
PSD/23	12/23/76	Is fuel switching subject to PSD review?	52.21	Conditional	The intent of the PSD regulation is to exclude the impact of fuel-switching in determining source applicability and to exclude BACT requirements on fuel switches except where the switch is an integral part of the plant action to expand its production. Fuel switching, however can affect the ability for other changes proposed now or in the future for the same source to receive PSD approval. Any net increase in SO ₂ or PM resulting from the fuel

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PSD/23 (cont.)					switch must be applied towards the applicable PSD increment(s), when considering the next applicant subject to PSD.
PSD/24	1/18/77	Is a gray iron foundry subject to PSD?	52.21(d)	No	A gray iron foundry is not to be considered as one of the nineteen source categories subject to 52.21(d) (i.e., it is not an iron and steel mill nor an integral part of one).
PSD/25	2/25/77	Do the PSD regulations apply to a source, not listed in 52.21(d)(1), if such source would violate a PSD increment?	52.21(d)(1)	No	A source of either SO ₂ or PM which would cause the increment to be exceeded cannot be stopped under PSD if it is not one of the stated 19 categories.
PSD/26	3/9/77	If a source is planning to locate in an area that has been designated as pervasively exceeding NAAQS, must that source undergo PSD review?	52.21	Yes	Every source included in the nineteen listed must undergo review to assure that an air quality increment will not be violated in a location outside that area designated as pervasively exceeding NAAQS.
PSD/27	4/1/77	Is a source that reconstructs its equipment to such an extent so as to satisfy the reconstruction criteria in Part 60, but which does not increase its emissions subject to PSD?	52.21(d)	Yes	Since the source will undergo such significant reconstruction it will be considered a new source. Although there will be no increase in emissions, the regulations require that all new sources apply best available control technology. In this case it was the entire source which was reconstructed and not just a specific facility within the source.

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PSD/28	5/2/77	Is a coal gasifier which is retrofitted onto an existing boiler subject to PSD? The coal gasifier is a demonstration unit which will be fed directly into the boiler, thus the emissions will be emitted from the boiler.	52.21(d) (1)	No	This facility does not constitute a fuel conversion plant as contemplated by §52.21(d) (1) (XVIII), but rather is a modification of the existing boiler.
PSD/29	5/23/77	Do PSD increments apply over property owned by a new source if the general public is effectively precluded from access to that property?	52.21(e)	No	As long as the general public is completely and effectively precluded from access to that property by a physical barrier, the PSD increments do not apply.
PSD/30	7/19/77	A) Is a petroleum refinery which constructs a new Fluid Catalytic Cracking Unit and a new 8,000 BPD HF Alkylation Unit, but does not increase its emissions subject to PSD? B) Does the addition of a second Finish Mill to an existing Portland cement plant make that source subject to PSD? C) Is an expansion at a petroleum refinery, which adds a catalytic reformer, a hydrodealkylation unit and a hydrogen purification unit subject to PSD?	52.21(d) 52.21(d) 52.21(d)	No Conditional Conditional	A) Since there will be no increase in emissions at the petroleum refinery, a modification has not occurred. B) The second Finish Mill will be subject to PSD if there is an increase in emissions from the stationary source (the Portland Cement Plant). C) Same as (b) above.

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Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/31	8/24/77	Can EPA after issuance of a PSD permit require a source to submit information so that EPA can review the final control device in order to verify the emission limit stated in the application, and upon review, disapprove the application if EPA determines the selected control device to be inadequate?	52.21(d)(2)	Yes	The PSD regulations in 40 CFR 52.21(d)(2) provide that an owner may not "commence" construction unless EPA determines, among other things, that the source will meet the BACT Emission limit.
PSD/32	9/8/77	Is a modification to an existing petrochemical plant which is located adjacent to a petroleum refinery subject to PSD?	52.21(d)	Yes	Anything occurring at the site of the petroleum refinery will be considered as a possible modification to the existing refinery.
PSD/33	9/9/77	Is an existing boiler (300 MM BTU/hr) which is modified to burn waste wood subject to PSD?	52.21(d)		Since this facility is not a part of a steam electric plant of more than 1000 MM BTU/hr heat input, it is not subject to PSD.
PSD/34	10/17/77	Is a Portland Cement Plant which is constructed at two locations (the clinker producing facility at one site and a finish grinding facility at another)	52.21(d)	Yes	Since both facilities fall within the definition of a Portland Cement Plant, both will be subject to PSD. This will require BACT at both facilities as well as independent air quality analysis.

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PSD/35	11/1/77	Will the installation of a coke calciner at an existing petroleum refinery be subject to PSD, if there is no increase in emissions?	52.21(d)	No	Since there will be no increase in emissions from the petroleum refinery (the affected source category) there is no modification and thus it will not be subject to PSD.
PSD/36	11/2/77	Is a cement plant which ceases operation in 1972 and reopens in 1977 as a lime plant subject to PSD?	52.21(d)	Yes	PSD regulations require that all new sources and modifications occurring since the baseline year of 1974 be reviewed for consistency with PSD. Since this facility was not in operation in 1974, its baseline must be considered to be zero and its re-opening reviewed to satisfy the PSD requirements.
PSD/37	11/9/77	Can PSD approvals for new sources using FGD systems be conditioned to require a contingency plan for periods of FGD malfunction?	---	No	Since the purpose of PSD and SIP regulations is to attain and maintain air quality, applicable emission limitations must be complied with at all times. Therefore it would not be appropriate to include in a PSD permit, a specific exemption from the requirements during malfunction of the FGD system. Rather, a notice of violation (NOV) should be issued and the source allowed an opportunity to prove the violation was unavoidable. Based

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PSD/37	(CONTINUED)				on the circumstances under which the excess emissions occurred and on any good faith effort by the source, the Region will decide whether or not further action by EPA is appropriate.
PSD/38	11/22/77	Are coal preparation plants constructed without a thermal dryer subject to PSD.	52.21(b)(1)	Conditional	Although §52.21(b)(1)(i) excludes from the PSD requirements coal preparation plants without thermal dryers, §52.21(b)(1)(ii) requires all sources not listed in §52.21(b)(1)(i) with potential emissions of 250 or more tons per year to get a PSD permit.
PSD/39	1/27/78	A new boiler is installed to provide a supplementary steam supply for two existing boilers. Is the new boiler subject to PSD requirements?	§52.21(d)	Yes	If construction of the new boiler commenced after June 1, 1975, it will be considered a modification of the existing steam electric plant and will be subject to PSD requirements. Should the boiler fail to obtain a PSD permit prior to March 1, 1978, and/or fail to commence physical on-site construction prior to December 1, 1978, it will be subject to the new PSD regulations proposed November 3, 1977.

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PSD/40	2/13/78	What actions taken by a source will be considered "commencement of construction"?	52.21(b)	--	"Commence" construction, as defined in §52.21(b) (7), has been interpreted to refer only to continuous on-site construction (i.e., significant and continuous site preparation work such as major clearing or excavation or placement, assembly, or installation of unique facilities or equipment at the site). A contractual obligation will be considered commencement of construction only if cancellation would result in a significant loss and if it provides for a continuous program of construction.
PSD/41	2/13/78	Is a fossil-fuel steam generator (>1000 MM BTU/hour heat input) subject to the PSD regulations for "fossil-fuel fired steam electric plants" if only 20-25% of the steam generated is ultimately used to produce electric power?	§52.21(d)	Yes	Such a source is subject to the 12/5/74 PSD regulations as a 1000 MM BTU/hour heat input fossil-fuel fired steam electric plant. If the plant fails to both obtain all final SIP preconstruction permits prior to March 1, 1978, and commence physical on-site construction prior to 9 months after the date of promulgation of the final regulations, it will be subject to the new PSD regulations proposed 11/3/77.

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PSD/42	3/1/78	Is the replacement of a few facilities within a source which causes a net decrease in emissions from the source as a whole, subject to PSD requirements?	§52.21(d)	No	<p>Under the 12/5/74 PSD regulations, a modification is subject to review only if a net increase in emissions results. An exception occurs when enough of a stationary source is replaced such that it constitutes a reconstruction and is, therefore, equivalent to a new source. The criteria for determining whether a reconstruction has taken place are established in 40 C.F.R. 60.15.</p> <p>Under the new PSD regulations proposed November 3, 1977, the emissions resulting from a "major modification" will be subject to BACT review even though a net increase in emissions from the entire source does not occur. In such cases, an ambient air quality review will generally not be required.</p>
PSD/43	3/20/78	Under the PSD regulations proposed November 3, 1977, would a fuel conversion be considered a "major modification" subject to PSD review?	§52.21(b)	Conditional	<p>Yes unless:</p> <ol style="list-style-type: none"> 1) the source was capable, prior to 1/6/75, of burning the alternative fuel without requiring modifications, or the design for the source showed a clear indication of the intent to switch fuels, or 2) the source obtained, prior to 3/1/78, all final preconstruction permits required by the applicable SIP and began physical on-site construction prior to 9 months after the date of promulgation of the final PSD regulations.

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PSD/44	3/23/78	Is a new Fluid Catalytic Cracking Unit (FOCU) which replaces a Thermoform Catalytic Cracking Unit (TOCU) at a petroleum refinery, considered a new or a modified source? A net decrease in emissions will result.	52.21(d)	Modified	For purposes of PSD a "source" is the entire stationary source located at a given site. In this case the source is the petroleum refinery and the FOCU is a facility within that source. Since there will be no net increase in emissions, the addition of the FOCU will not be subject to PSD review under the 12/5/74 regulations. However, under the new regulations proposed 11/3/77, it will be subject to BACT unless it both 1) obtains all final SIP pre-construction permits prior to 3/1/78 and 2) begins physical on-site construction prior to 9 months after the date of promulgation of the final regulations. Air quality reviews will generally not be required.
PSD/45	3/30/78	Does PSD apply to a replacement coke oven battery that is serviced by an existing by-products plant, when a net increase in SO ₂ emissions will not occur?	§52.21(b)	Yes	Under the new PSD regulations proposed 11/3/77, a "major modification" will be subject to BACT review if it will have potential emissions of 100 tons or more per year, regardless of any net decrease in emissions which might result from replacement or elimination of any existing facilities.

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PSD/46	3/30/78	How do the PSD regulations apply to asphalt plants which are continually relocating?	§52.21(j)	--	The latest draft of the PSD regulations (3/21/78) limit pre-construction review for temporary sources with 250 tons/yr. potential emissions to BACT and public participation. For such sources, EPA will attempt to expedite the public participation process, if possible, limiting it to 45 days. Please note this is only a draft of the final regulation and reliance on it should be minimized.

Transcript

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BD/47	4/5/78	<p>a) Should emissions from ships servicing a petroleum refinery be considered in determining the impact of the refinery for PSD purposes? :</p> <p>b) What type of enforceable requirements could be used to limit the ships' emissions while entering and leaving the port?</p> <p>c) Under the terms of the CAAA can foreign flag ships be exempted by a Governor's request as a source outside the U.S.?</p>	52.21	Yes	<p>The PSD permit should contain requirements for controlling emissions from the ships en route to and from the refinery or the applicable SIP should be required to be revised to restrict emissions from the ships.</p> <p>Requirements which could be used to limit emissions from the ships include emission limitations, and operating and design criteria such as sulfur in fuel restrictions, speed restrictions which may effectively limit fuel consumption, and any other requirement which could effectively limit the emissions in conformance with the PSD regulations.</p>
				No	<p>The fact that a particular source is owned by a foreign state does not exempt its emissions from PSD review if the source is located within the territorial U.S.</p>
BD/48	4/10/78	a) If a source shut down voluntarily two years ago and now wishes to reopen, will it be subject to PSD review?			<p>Based on the latest draft of the PSD amendments, the source would not be subject to PSD as long as 1) the allowable emission level as of the date of shut down does not increase upon reopening, 2) the source was actively maintained in the State emissions inventory.</p>

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PSD/48 (cont)		<p>b) A portland cement plant reconstructs one kiln and shuts down another. The net result of these modifications is a decrease in emissions. Is the rebuilt kiln subject to PSD review?</p>			<p><u>Update</u> - (Sept. 6, 1970) A source which shuts down would, upon reopening, be considered a new source if the shutdown is presumed to have been permanent. Whether a shutdown was permanent depends on the intention of the owner or operator at the time of the shutdown as determined by the surrounding facts and circumstances including the cause of the shutdown and the handling of the shutdown by the State. A shutdown lasting more than two years or resulting in removal of the source from the emissions inventory will be presumed to be permanent. The source may rebut this presumption.</p> <p>According to the latest draft of the PSD regulations (as of 4/10/78), a modification which results in a net emissions decrease must apply BACT but will not be subject to an air quality review as long as air quality is not caused to deteriorate.</p> <p><u>Update</u> - The regulations promulgated 6/19/78 provide that modifications resulting in net emissions decreases are exempt from air quality review. In addition, a facility which is modified but not reconstructed will not be subject to BACT review if a net decrease in emissions results. Note that the BACT exemption does not</p>

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PSD/48 (cont)					apply to reconstructed or replacement facilities.
PSD/49	4/14/78	a) What constitutes "potential emissions" from a tank storing organic materials?	52.21		<p>Potential emissions means those emissions expected to occur without the use of air pollution control equipment. Annual potential emissions shall be based on the maximum annual rated capacity of the source unless it is subject to enforceable permit conditions which limit the type or amount of materials combusted, the operating rate or the hours of operation. Potential emissions from the storage tank containing organic matter should be calculated as though the tank were equipped with a fixed roof.</p>
		b) Is an absorber of hydrocarbon vapors considered to be an air pollution control device if the vapors are being recovered as product?		Yes	<p>Potential emissions should be calculated as those emissions which would occur without the absorber installed.</p> <p>Update: The final PSD regulations promulgated June 19, 1978, define "air pollution control equipment" to include control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source and to its normal operation.</p>

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PSD/50	4/24/78	Did the PSD regulations promulgated 12/5/74 apply to a proposed coal liquefaction pilot plant which would be in operation for about 2 1/2 years?	\$52.21	No	The PSD regulations were not intended to cover temporary emissions although this source would fall into the category "fuel conversion plant". An enforceable requirement that would ensure operation of the plant is temporary should be included as a requirement of the State operating permit or an amendment to the State construction permit, if possible. If the source operates longer than two years or expands operations, it may become subject to PSD review.
PSD/51	5/1/78	Does the Clean Air Act as amended 8/77 require PSD review of hydrogen sulfide emissions from new geothermal power plants?	\$52.21	Yes	New geothermal power plants are subject to PSD review if they have the potential to emit 100 tons or more/year of hydrogen sulfide or any other pollutant regulated under the Clean Air Act.
PSD/52	6/1/78	a) When a new source incorporates one or more existing facilities, should the emission from those facilities be considered when calculating potential new emissions?	\$52.21	No	If the emissions from the existing facilities were allowed as of August 7, 1977, under the applicable SIP they will not constitute new emission from that site. Therefore, they should not be included when calculating potential new emissions.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/52 (cont.)		b) If existing facilities are moved to a new location to be incorporated as part of a new source, should emissions from those facilities be considered when calculating potential emissions of the new source?	§52.21	Yes	Existing facilities which are moved to a new location, even within the same airshed will be considered new facilities at the new site. Emissions from these facilities should be considered when calculating the potential emissions from the new source into which they are incorporated.
		c) If a company incorporates an existing boiler into a new source (same location) what will be the PSD implication?	§52.21		Emissions from the boiler will not be considered when calculating the potential emissions from the new source. If the boiler emissions increase above the baseline level (actual emissions as of 8/7/77, increment will be consumed. If boiler emissions increase by 100/250 tons/yr. above the baseline level, a "major modification" will have taken place and PSD review will be required.
		d) If a new topping plant is added to an existing petroleum storage plant, does this constitute a petroleum refinery, a modified petroleum storage plant, or some combination of the two?	§52.21		The draft PSD regulations define source as "any structure, building, facility, equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned by the same person (or by persons under common control). The storage plant with associated topping plant should be viewed as a single source, a petroleum refinery.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/52 (cont.)		e) Could an Administrative Consent Order issued to resolve a violation by a source for commencing construction without a PSD permit serve as a substitute for a PSD permit?	\$52.21		Such an Order may serve as a PSD permit if it is clearly labeled as such and if it meets all applicable procedural requirements.
PSD/53	6/12/78	a) What is the potential emission cutoff for determining applicability of the PSD regulations to new coal-fired boilers installed at an existing textile mill?	\$52.21		The latest draft of the PSD regulations defines sources as "any structure building, facility, equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned by the same person (or by persons under common control). The source category in this case is a textile mill and construction of two new boilers constitutes a modification of that source. The boilers are subject to PSD review if potential emissions are > 250 tons/year of any particular pollutant regulated under the Clean Air Act.
PSD/54	6/22/78	Could a proposed new fossil-fuel fired steam electric plant be issued a PSD permit conditioned on submittal of final design specifications for the proposed high efficiency scrubber?	\$52.21	No	A PSD permit should not be issued until design specifications are submitted. The source must provide enough information to demonstrate that the proposed control equipment will adequately reflect BACT and that applicable NAAQS and PSD increments will not be exceeded.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/54 (cont.)		The permit application contains only a manufacturer's guarantee of efficiency as a demonstration that NAAQS and PSD increments will not be violated.			
PSD/55	6/28/78	A steel mill plans to modify some of its coke batteries such that a net decrease in emissions from the mill will occur. If the owner/operator 1) obtained a SIP permit prior to 3/1/78 and (2) commences construction prior to 3/19/79, will the modification be subject to PSD review?	\$52.21	No	Since no net increase in emissions would occur from the source (steel mill) the modifications would not have been subject to the old PSD regulations promulgated 12/5/74. According to §52.21 (1) (3) of the regulations promulgated 6/19/78, a source which was not subject to the old regulations will be exempt from the new PSD requirements. If (1) all required SIP permits are obtained before 3/1/78 and (2) construction is commenced prior to 3/19/79.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/56	7/1/78	a) What constitutes physical on-site construction for purposes of "commencing" construction?	§52.21		Physical on-site construction refers to placement, assembly, or installation of materials, equipment, or facilities which will make up part of the ultimate structure of the source. In order to qualify, these activities must take place at the site of the proposed source or must be site specific. Activities such as site clearing and excavation work will generally not satisfy the commencement construction requirements.
		b) What constitutes a contractual obligation for purposes of commencing construction?	§52.21		In order to satisfy the commencement construction requirements, a contractual obligation must be a site specific commitment. Contracts for work on footings, pilings, etc. are considered site specific whereas contracts for site clearing or excavation work are not. The legislative history clearly indicates that contracts for non-site specific equipment such as boilers will not suffice, regardless of any penalty clauses. A contractual obligation must also be one which cannot be cancelled or modified without substantial loss. A loss which would exceed 10% of the total project cost would definitely be considered substantial. A loss \leq 10% of the total project cost might be considered substantial as determined on a case by case basis.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/56 (cont.)	7/1/78	c) What constitutes a reasonable time?	§52.21		In order to assure that construction proceeds in a continuous manner and is completed within a reasonable time, the regulations require that a break in construction of greater than 18 months or failure to commence construction within 18 months of PSD permit issuance will generally invalidate a source's PSD permit. This 18 month period may be extended by the Administrator upon a satisfactory showing that an extension is justified.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/57	7/5/78	<p>Mantua Terminals operates a large petrochemical terminal, where VCM is unloaded from barges using a standard enclosed vapor return system. Mantua proposes to then load the empty VCM barges with gasoline, yielding a potential VCM emission of 89 tons/year. Do the PSD regulations apply to this situation?</p>	52.21	No	Under PSD a permit was issued covering Mantua's new refinery and associated storage and transfer facilities. The only modification since the issuance of the permit would be the loading of gasoline into vinyl chloride vapor-containing barges. The potential increase in emission amounts to less than 100 tons/year, and is not now subject to PSD pre-construction review.
PSD/58	7/14/78	<p>Would a change of the material stored or transferred by the Seaview Petroleum Company be subject to PSD regulations, if prior to 1/6/75, the storage and transfer facilities were capable of handling the material intended to be stored and transferred, and that no change to a state permit issued prior to 8/7/77 would be required?</p>	52.21(b) (2) (ii) (c)	No	A change of the material stored or transferred would not be subject to PSD regulations, notwithstanding the potential to increase emissions by the requisite amounts, if prior to 1/6/75, the storage and transfer facilities were capable of handling the material, and that no change to a state permit issued prior to 8/7/77 would be required to allow such use.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/59	7/14/78	Should a pharmaceutical manufacturing plant be considered a chemical process plant?	52.21	Yes	For purposes of PSD, a pharmaceutical manufacturing plant should be considered a chemical process plant.
PSD/60	7/21/78	Should Marblehead Lime Company be allowed to amend its PSD permit of 1/3/78, for its proposed new kiln, to reflect an increase from 1200 tons/day to 1600 tons/day, to be offset by closure of old kilns?	52.21 (b) (2)	No	The PSD regulations do not make any provisions for amending a permit issued prior to 3/1/78. For a significant change, such as the 33% increase here, amending the permit will not suffice. The increase amounts to a major modification and a new permit would be required even if the new kiln, as originally proposed, had already been completed.
8D/61	7/28/78	(a) When is a source (in this case Alabama By-Products Corp.) required to undergo review for both offsets and PSD?	52.21, 51.10		The offset policy affects sources constructing in or impacting non-attainment areas, and PSD governs attainment areas. Since Alabama By-Products Corp. (ABC) impacts an area in attainment for SO ₂ and non-attainment for particulate matter, ABC coke battery #4 must undergo both a PSD review for SO ₂ and an offsets review for particulates.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/62	8/10/78	(a) With respect to 40 CFR 52.21 (b) (17) Reconstruction, what will constitute facility and source with respect to charcoal kilns?	52,21		The entire charcoal plant, including all structures, buildings and facilities located at the site, will be considered a source. Each individual kiln is considered a facility.
		(b) In determining whether a charcoal kiln has been reconstructed, should the fixed capital cost of the new components be compared with the fixed capital cost of an entire new charcoal production plant?		No	In determining whether a facility (e.g. kiln) is reconstructed, the fixed capital cost of the new components of the facility should be compared to the fixed capital cost of a new <u>facility</u> (kiln).
		(c) If five charcoal kilns, each with the potential to emit 25 tons/year of a pollutant, are reconstructed at a plant, are these reconstructed kilns subject to PSD review? (For each kiln, the fixed capital cost of the new components exceeds 50% of the cost of a new kiln.)		Yes	The reconstructed kilns are considered to be new facilities at the charcoal plant and the addition (reconstruction) of the five new kilns constitutes a major modification of the stationary source (potential new emissions of 125 tons/yr).

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/62 (cont.)		(d) Are reconstruction costs to be cumulative? That is, when the cumulative cost of reconstruction commenced since the effective date of the PSD regulations is greater than 50% of the fixed capital cost of the source, does reconstruction become subject to PSD?		Yes	When the fixed cost of new components for a facility or source accumulate to more than 50% of the fixed cost of a new facility or source, a reconstruction under PSD has occurred. Reconstruction costs will begin accumulating on the effective date of the PSD regulations or the date of the last PSD permit issued for the construction or reconstruction whichever time is more recent.
		(e) Is a replacement facility with potential emissions of 100/250 tons or more per year subject to PSD review, if a net reduction in emissions occurs plant-wide?		Yes	A replacement facility with potential emissions of 100/250 tons or more per year is subject to PSD review, regardless of whether a net reduction in emissions will occur plant wide.
PSD/63	8/16/78	Are PSD and NSR regulations applicable to the Northern Mariana Islands, where a power plant is going to be built?	52.21	No	Since NSR and PSD regulations are enforceable only through an applicable SIP, and since the Mariana Islands has not yet devised a SIP, it follows that neither NSR nor PSD regulations are currently enforceable in the islands. Compliance with NSPS by Saipan power is required.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/64	8/18/78	(a) Are additional permits required when asphalt batch plants relocate?	52.21	No	<p>The regulations allow for a one-time permit for asphalt batch plants without requiring additional permits for relocations as long as for each relocation,</p> <ol style="list-style-type: none"> <li data-bbox="1682 553 2085 675">i. emissions from the facility would not exceed allowable emissions, <li data-bbox="1666 711 2136 935">ii. emissions from the facility would impact no Class I area and no area where an applicable increment is known to be violated, and <li data-bbox="1648 971 2130 1122">iii. notice of the relocation is provided to the Administrator at least 30 days in advance.
		<p>(b) What does the PSD review consist of, for sources with allowable emissions less than the cutoffs of 50 tons per year, 1000 pounds per day, or 100 pounds per hour?</p>			<p>The review would consist of a determination that</p> <ol style="list-style-type: none"> <li data-bbox="1682 1260 2152 1481">i. the emissions from the source would not adversely impact areas with known violations of the applicable PSD increment or any Class I area,

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Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/64 (cont.)					<p>ii. a valid state new source review permit had been obtained, and</p> <p>iii. there was adequate opportunity for public comment on the proposed new source.</p>
PSD/65	8/18/78	<p>Utilities began construction on several power plants well before June 1, 1975. The utilities temporarily discontinued construction on the power plants, some for as long as 18 months or more. By March 1, 1978, the utilities had restarted construction. Are these power plants subject to the June 19 PSD regulations?</p>	52.21	No	<p>The power plants are not subject to the June 19 regulations, if indeed construction on them commenced (within the meaning for Section 169 (2)) before June 1, 1975 and the discontinuances were temporary. If the utilities in discontinuing construction intended in fact to close the projects permanently, the reopening would be subject to the new regulations.</p>
PSD/66	9/1/78	<p>Should potential emissions from a new source be calculated using the number of hours it is allowed to operate if hour limits are part of a fully approvable SIP new source permit?</p>	52.21	Yes	<p>Potential emissions from a new source should be calculated using the number of hours it is allowed to operate if the limitation on operating hours is a provision of a fully approvable SIP new source permit.</p>

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/67	9/6/78	(a) Is a source which shut down approximately four years ago because of an industrial accident, which was not and is not required to obtain a permit under a SIP, subject to PSD requirements? The source was not subject to PSD requirements prior to March 1, 1978.	52.21(1)(3)	No	<p>A source which had been shut down would be a new source for PSD purposes upon reopening if the shutdown was permanent. A shutdown lasting for two years or more, or resulting in removal of the source from the emissions inventory of the state, is presumed permanent. Since the source was not subject to the old PSD regulations it would not be subject to the June 19, 1978 PSD regulations if:</p> <ol style="list-style-type: none"> <li data-bbox="1637 889 2078 1019">i. all required SIP permits had been obtained by March 1, 1978, and <li data-bbox="1626 1052 2107 1271">ii. construction commences before March 19, 1979, is not discontinued for 18 months or more, and is completed within a reasonable time. <p>Here, all required SIP permits were obtained by March 1, 1978, since none was required. The source would not be subject to the new regulation if the</p>

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/67 (cont.)		(b) Would the answer to (a) above, change if the source is or was required to obtain a SIP permit?		Conditional	reopening is commenced before March 19, 1979, is not discontinued for over 18 months and is completed within a reasonable time. If the source were treated as an existing source for PSD purposes (temporary shutdown), it still would not be subject to the new regulations, since they do not apply to sources on which construction commenced before June 1, 1975. If the source shut down temporarily, it would not be required to obtain a PSD permit in order to start up. If the source shut down permanently, it would be required to obtain a PSD permit unless the SIP permit was obtained prior to 3/1/78, and any construction necessary for reopening is commenced prior to 3/19/78, is not discontinued for 18 months or more and is completed within a reasonable time.

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/67 (cont.)		(c) Is the EPA required in all cases to forebear from issuing a PSD permit until a SIP permit has been issued?		No	EPA should refrain from issuing a PSD permit prior to issuance of a SIP permit only in cases where the source is also subject to the Interpretative Ruling.
		(d) For the purpose of determining what constitutes air pollution control equipment, what is meant by "normal product of the source or its normal operation"?			If a source cannot capture any of its product without the use of some type of control device, the least efficient control device typically used in the industry will be considered vital to the process.
		(e) Are the enforcement authorities created under Section 167 of the Clean Air Act independent of those created in Section 113?		Yes	The Office of Enforcement is drafting guidance on implementation of Section 167 with authority not necessarily otherwise provided by Section 113. In the interim, violations of the PSD requirements should be enforced under 113 mechanisms, except when a state had issued a permit EPA considered invalid. In this situation, 167 provides the authority to halt the construction of the source directly, without seeking a judicial declaration that the state permit is

code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/68	9/29/78 <i>CP</i>	(a) Under what circumstances may a BACT exemption be granted to a modification at the source?	52.21(j)		Where a facility within a source is reconstructed or replaced or where a facility is added, the BACT exemption in 52.21 (J)(4) is not available, regardless of any accompanying emissions decrease. The only instance in which the exemption applies is where an existing facility is modified and the modification does not constitute a reconstruction.
		(b) Which PSD requirements apply to temporary asphalt batching plants that apply BACT as a state requirement?			The asphalt batching plants would initially be required to obtain a PSD permit, since state requirements for BACT does not exempt a source from the requirements to obtain a PSD permit. The temporary batching plant need only undergo PSD review once as long as the conditions stated in response PSD/64 are met.
PSD/69	9/29/78 <i>CV</i>	Would modifications which were individually less than 100 tons per year potential emissions and which were made to	52.21	No	Such modifications contribute to the PSD baseline air quality, as opposed to consuming increment. Any modification which would be

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/69 (cont.)		a major source between 1/6/75 and 8/7/77, cumulatively count against the PSD increment?			individually, a major modification, consumed increment if the modification occurred after 1/6/75.
SD/70	10/3/78	Would replacing an old heater with a new heater at a petrochemical plant be considered a routine replacement and, therefore, exempt from PSD review according to Section 52.21(b) (2) (1) ?	52.21 (b) (2) (1)	No	Routine replacement means the routine replacement of parts, within the limitations of reconstruction, and would not include the replacement of an entire facility (i.e., an old heater, at a petrochemical plant, which has ended its normal useful life.)
SD/71	10/4/78	Under Section 52.21 (1) (5) what sources are exempt from PSD review?	52.21(1) (5)		An exemption is provided from PSD review to sources which are subject to the emission offset ruling and would impact no area attaining the NAAQS. The non-attainment requirements would impose emission limitations reflecting the lowest achievable emission rate (LAER), which is more stringent than BACT. Sources which would impact clean air areas are not exempted from PSD review requirements. Any major modification with potential

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/71 (cont.)					emissions \geq 100/250 tons/year which would impact a clean area, regardless of any accompanying emissions reduction at the source, requires PSD review. A source subject to the offset policy as well as PSD, which does not result in a net emissions increase and which applies LAER, need satisfy only the public participation requirements to obtain a PSD permit.
PSD/72	10/5/78	See PSD/62 for identical question and response			
PSD/73	10/10/78	If a source is proposing construction of a facility which requires a PSD permit and the facility is to be built and/or housed in a building with a related but independent facility which does not require a PSD permit, what portion of the building can legally be constructed prior to issuance of the PSD permit?	52.21		A structure which is to house independent facilities, some of which are subject to PSD and some of which are not, may be constructed before a PSD permit is issued only if the building is a necessary part of the PSD-exempt project and if it is in no way modified to specifically accommodate the PSD-affected facilities. The MATCP

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD/73 (cont.)					<p>project involves the construction of steam boilers, exempt from PSD requirements, and diesel engines, subject to the PSD requirements. The boilers and engines are to be housed in the same building. MATEP may begin construction on the building before the PSD permit is issued as long as the drains, piping, footings for the diesel and any other installation necessary to accommodate the diesels are not installed until the permit is issued.</p>
PSD/74	10/26/78	<p>Is it appropriate to issue a PSD permit to a steam generator conditioned such that BACT for the control of NO_x emissions would be specified just prior to the commencement of construction rather than at the time of permit issuance?</p>	52.21	Conditional	<p>There are two alternatives available for addressing BACT in this case.</p> <p>(1) If the source agrees, a PSD permit may be issued without specifying BACT. The permit would contain a provision allowing EPA to specify BACT prior to commencement of construction of the source. The source must agree, since the</p>

Code	Date of Response	Question	Affected Regulation	Determin- ation	Discussion
PSD/74 (cont.)		It is expected that technology emerging within the next few months will result in far more effective NO _x control.			PSD regulations contemplate requiring BACT which is current <u>at the time the permit is issued.</u>
					(2) If the source does not agree to a conditional permit, currently available BACT must be specified at the time the permit is issued. That BACT determination cannot be revised to reflect new technology as long as the permit remains valid.
					Please note that in the case of <u>phased construction projects</u> , the Administrator does intend to condition permits such that BACT for later construction phases may be reassessed if necessary. With phased construction projects there is often a long time span between issuance of the permit and construction of later phases. See 43 FR 26396, June 19, 1978.

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/75 10/31/78	<p>On August 18, 1978, the Pittston Co. received a PSD permit to construct a refinery and marine terminal. Would EPA agree that Pittston need commence construction no earlier than 18 months from permit issuance, that is, no earlier than Feb. 18, 1980?</p>	52.21(1)(4)	No	<p>Sections 52.21(1)(2)(4), when read together, require a permittee under 52.21(1)(4) to commence construction within the same amount of time that would be the case for a person issued the permit just before March 1, <u>i.e.</u>, within one year and 18 days from permit issuance. In the case of Pittston, construction must commence on or before September 5, 1979.</p>
PSD/76 11/15/78	<p>a) Does a major source which (1) has allowable emissions equal to or greater than 100 tons/year, and is therefore subject to the Emission Offset Ruling (44 FR 3274), and (2) would impact no clean areas require PSD review?</p>	52.21	Cond.	<p>Such a source need not obtain a PSD permit if it has demonstrated that no clean area will be impacted and if the determination of no clean area impact has been subject to public review in accordance with 52.21(r).</p>
	<p>b) Does §52.21(1)(5) exempt a source which, with respect to a particular pollutant, would affect only dirty areas but would not be subject to the Offset Policy because its allowable emissions were less than 100 tons/year?</p>	52.21(1)(5)	No	<p>Section 52.21(1)(5) exempts only sources which are subject to the more stringent requirements of the Interpretative Ruling. <u>Update:</u> The Interpretative Ruling was amended 1/16/79, and now applies to sources with potential emissions of 100 tons or more per year. It is no longer possible for a source to have an emission level which is above the PSD cutoff but below the IR cutoff.</p>

Ref.	Question	Affected Regs	Determ.	Discussion
PSD 76 (cont.)	<p>c) Would a source which has allowable emissions less than 100 tons per year and which impacts a dirty air area, be required to "offset" its impact on the dirty area?</p>	52.21(1)	No	<p>The Interpretative Ruling requires offsets only for sources with allowable emissions of <u>≥</u> 100 tons per year. It considers the impact of smaller sources on nonattainment areas to be insignificant. To require offsets for smaller sources for PSD purposes would be in effect to amend the Interpretative Ruling which we clearly did not intend.</p> <p><u>Update:</u> The Interpretative Ruling was amended 1/16/79 and now requires offset for sources with potential emissions of 100 tons or more per year and allowable emissions of more than 50 tons per year. An effect of the amendment is that this question can no longer arise.</p>
	<p>d) When a source is subject to both the offset policy and the PSD requirements with respect to a particular pollutant, must the source obtain a new source review permit before a PSD permit can be issued?</p>		Yes	<p>Such a permit is necessary in order to demonstrate, for PSD, purposes, that the source meets all applicable legal requirements relating to the non-attainment area or areas it would affect.</p>

Ref.	Question	Affected Rege	Determ.	Discussion
PSD/77 11/22/78	Would EPA apply the new regulations of 6/19/70 to a modification which was not subject to the old regulations; began construction prior to 11/77; and failed to obtain its state permit by 3/1/78?	52.21(1)(3)	Yes	EPA intended that a modification escaping the old regulations could escape the new ones only if, among other things, it had received any permit the SIP required by 3/1/78. The SIP permit requirement cannot be waived, even for a modification on which construction began before 11/77.
PSD/78 11/29/78	<p>a) Must any asphalt hot-mix plant meeting the requirements of the SIP & NSPS, and not impacting on a Class I or an area where a known violation of an applicable increment exists, undergo a full PSD review?</p> <p>b) What is considered to be a "safe" distance from a Class I area?</p>	52.21(k)&(j)	Condi- tional	<p>A hot-mix asphalt plant is subject to full PSD review unless an exemption from BACT review and/or the air quality impact review requirements is obtained under §52.21(j)(4), or §52.21(k)(1).</p> <p>EPA does not have a policy of establishing specific "safe" distances. Sources can estimate their emissions impact by the desk-top calculations shown in <u>Guidelines for Air Quality Maintenance Planning and Analyses, Volume 10 (Revised): Procedures for Evaluating Air Quality Impacts of New Stationary Sources, EPA-450/4-77-001</u> (U.S. EPA, Library Service Office, Research Triangle Park, NC 27711).</p>

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/78 (cont.)	c) Is a PSD review required of a source that impacts a non-attainment as well as an attainment area?			See PSD/76
	d) Is the application of LAER or BACT required under any circumstances and in any designated area?			<p>BACT applies to all 100/250 ton (potential emissions) sources (including asphalt plants) with allowable emission levels greater than 50 tons/year, 1,000 lbs./day or 100 lbs./hour. An exemption from this requirement is available where a facility is revamped and no net increase in emissions would occur from the source.</p> <p>The Interpretative Ruling applies LAER to sources with potential emissions of 100 tons or more per year and allowable emissions of 50 tons or more per year. (as of 1/16/79)</p>
	e) What is the definition of a known violation of an applicable increment?	52.21(c)		<p>A violation of an ambient air quality increment occurs when the increase in pollutant concentration over the baseline level exceeds the increment allowed under 52.21(c). Baseline is defined in 52.21(b)(11) and reflects actual air quality as of 8/7/77. Allowable emissions of major sources permitted since 1/6/75 and minor sources constructed after 8/7/77 consume increment.</p>

Ref.	Question	Affected Reqs	Determ.	Discussion
PSD/78 (con't)	f) How are emissions for a hot-mix asphalt plant calculated?			Annual potential emissions are based on the maximum annual rated capacity of the plant, unless the plant is subject to enforceable permit conditions limiting the annual hours of operation.
	g) Is it necessary that a State permit for a 50-ton source be granted before a PSD application can be submitted?		No	The reviews for State and PSD permits should proceed concurrently. A State permit must be issued before a PSD permit only in cases where the source is required to obtain offsets.
	h) Which pollutants are covered by PSD and non-attainment review, and how are they applied?			Although PSD increments have been established only for sulfur dioxide and particulates, the PSD regulations apply to all pollutants which are regulated under the Clean Air Act. (Currently: SO ₂ , TSP, NO _x , CO, hydrocarbons, asbestos, beryllium, fluorides, H ₂ S, lead, mercury, reduced sulfur compounds-H ₂ S, carbonyl sulfide and carbon disulfide, sulfuric acid mist, vinyl chloride, and total reduced sulfur-H ₂ S, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide). Regulated pollutants other than SO ₂ and particulate matter are subject to all PSD requirements (including DACT) except the analyses for increment and NAAQS impact. The emission offset policy applies to the criteria pollutants TSP, SO ₂ , NO _x , CO, and hydrocarbons.

Ref.	Question	Affected Reqs	Determ.	Discussion
PSD/78(h) (cont.)				While the offset ruling technically does not apply to new sources of lead emissions which would violate the NAAQS for lead, such sources will be required to abate emissions after construction if necessary to attain and maintain the lead standard.
	i) Is an asphalt hot-mix plant exempt from PSD review if it can prove that potential emissions are less than 250 tons/year?		Yes	If potential emissions from an asphalt hot-mix plant are less than 250 tons/year, the plant is not subject to PSD review.
	j) Does "providing an opportunity for a public hearing" mean that a public hearing must actually be held?	52.21(r)(2)(v)	No	Under 52.21(r)(2)(v), it is stated that only an opportunity for a public hearing must be provided.
	k) Must an asphalt hot-mix plant undergo PSD review every time it relocates?		Condi- tional	According to 52.21(i)(7), a portable facility which has received a PSD permit meeting the requirements of the new regulations may relocate without undergoing additional PSD review, provided the following conditions are met: i) emissions from the facility would not exceed allowable emission

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/78 (cont.)				<p>ii) emissions from the facility would impact no Class I area and no area where an applicable increment is known to be violated; and</p> <p>iii) Notice is given to the Administrator at least 30 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location.</p>
PSD/79 12/11/78	<p>Will consumption of the applicable PSD increment result from the increased utilization of existing recovery boiler capacity at an expanded kraft pulp mill? The boilers are permitted (by the State) at the maximum design capacity. The expansion involves installation of new digesters and qualifies as a major modification.</p>	52.21	Yes	<p>The increase in emissions which results from the increased utilization of existing recovery boiler capacity is not included as part of the baseline but rather, consumes the available PSD increment. The preamble to the PSD regulations (43 FR 26400) states that increases in capacity utilization, as well as increases in hours of operation, should be included in the baseline only if:</p> <ol style="list-style-type: none"> 1) The increased emissions were allowed to the source as of 8/7/77, and 2) the source could reasonably have been expected to make these increases on 8/7/77.

Ref.	Question	Affected Reqs	Determ.	Discussion
PSD/79 (cont.)				As a general rule, when a major modification is necessary to bring about an increase in hours of operation or in capacity utilization, it is assumed that the resulting increased emissions could not reasonably have been expected to occur as of 8/7/77. The kraft pulp mill has not met condition 2 above since the existing recovery boilers can operate at full capacity only after a major modification, the addition of new digesters, occurs.
PSD/80 12/11/78	Should construction-related emissions be considered in determining whether a source is required to undergo second-tier review?	52.21	No	Potential as well as allowable emissions estimates for a source should be calculated without taking into account any emissions which result from construction of the source. Then, if the source is determined to be subject to 2-tier PSD review on the basis of its operating emissions, any emissions resulting from construction of the source should be subject to BACT. The construction of a building or other structure which is not a major stationary source or major modification should not come under PSD review regardless of the magnitude of the expected emissions from the construction project.

Ref.	Question	Affected Reqs	Determ.	Discussion
PSD/81 12/13/78	a) Do the PSD regulations apply to sources which emit hydrogen sulfide (H ₂ S) even though a NAAQS for H ₂ S has not been established? The source involved is a geothermal power plant.	52.21	Yes	The PSD regulations apply to sources which increase, by 100/250 tons per year, the potential emissions of any pollutant regulated under the Act. See 43 Fed. Reg. 26389, 6/19/78. H ₂ S emissions are regulated under 40 CFR 60.280. See PSD/78(h).
	b) Do PSD requirements apply where air quality is worse than the NAAQS?	52.21 (1)(5)	Yes, unless...	for the pollutant in question, the source would impact no clean area and would be subject to the Emission Offset Policy (44 FR 3274, 1/16/79). See Section 52.21(1)(5) of the PSD regulations for this exemption.
	c) In what areas does BACT apply?			Except for the exemption in §52.21(1)(5), PSD applies everywhere and, therefore, BACT will also apply everywhere.
	d) If H ₂ S has an adverse effect, why isn't it regulated as a NAAQS?			Although EPA considers H ₂ S as a significant contributor to air pollution and adverse health effects, EPA believes it would be more efficient to control H ₂ S emissions through Section 111 for new and existing sources. The standards apply to the most significant contributors of H ₂ S. The PSD regulations require all sources with potential emissions <u>≥</u> 100/250 tons/year and allowable emission <u>≥</u> 50 tons/year to apply BACT because they are significant pollutants, regardless of whether NAAQS have been developed.

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/82 12/18/78	What activities may the owner of a major source conduct prior to receiving a PSD permit?	52.21		Certain limited activities will be allowed in all cases. These allowable activities are planning, ordering of equipment and materials, site-cleaning, grading, and on-site storage of equipment and materials. Activities undertaken prior to PSD permit issuance would be solely at the operator's expense, and would not guarantee permit approval. All on-site activities of a permanent nature are prohibited until a permit is received. On-site activities include installation of building supports and foundations, paving, laying of underground pipe work, construction of permanent storage structures, and activities of a similar nature.
PSD/83 3/16/79	Are the International Paper Company's paper mill and the Arizona Chemical Company's plant, which are both located on the same piece of property, a single source? The Arizona Chemical Company is half owned by the International Paper Company and half owned by American Cyanamide. International Paper owns the land upon which the two plants are situated.	52.21(b)(4)	Yes	<p>"Source" is defined under PSD as "any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)".</p> <p>Although the PSD regulations offer no guidance on what is meant by common control, the revised emission offset policy (44 FR 3274-05, January 16, 1979) provides guidelines which also apply to PSD:</p>

Ref.	Question	Affected Reqs	Determ.	Discussion
PSD/83 (cont.)				<p>*EPA proposes to establish criteria for determining issues of common control. For example, any person with a ten percent voting interest in an entity, or with the power to make or veto decisions by the entity to implement major emission - control measures, might be deemed to control the entity. Such criteria would also be used for determining whether facilities are part of the same source. (p. 3279)</p> <p>Although the issue is subject to public comment, DSSE feels that a person with as much as 50% voting interest in an entity should be considered to control the entity. If International Paper has 50% voting interest in Arizona Chemical Company, it can be considered "in control" for PSD purposes, and the International Paper mill and the Arizona Chemical plant can be considered a single source.</p>
PSD/84 3/26/79	<p>a) The Public Service Electric & Gas Company (Bergen Station) would like to supplement the the use of its normal fuel (No. 6 oil) with a powdered refuse-derived fuel, Eco-Fuel II. This will be for an experimental 90 day period. No changes will be made to the boiler to accommodate this fuel. Does the switch to Eco-Fuel constitute a major modification?</p>	52.21(b)(2) (11)(d)	Condi- tional	<p>The Bergen Station is eligible for the exemption in 40 CFR (b)(2)(11)(d) since it could accommodate this alternative fuel prior to 1/6/75. If, however, Bergen Station was precluded from using this alternative fuel by some previously enforceable permit condition, then the switch would constitute a modification.</p>

Ref.	Question	Affected Reqs	Determ.	Discussion
PSD/84 (cont.)	<p>b) If the Bergen Station qualifies for the exemption, must EPA require a PSD permit for the silo and pneumatic conveyor system which will be constructed to carry out the experimental phase?</p>		Condi- tional	<p>A PSD permit would be required if the combined potential emissions from the silo and pneumatic conveyor system exceed 100 tons per year for any pollutant.</p>
	<p>c) If this experimental phase is not exempt from PSD requirements, to what extent may EPA consider the duration, experimental nature, and possible energy savings of the use of Eco-Fuel in determining BACT?</p>			<p>All such factors will be given consideration in any BACT analyses. The weight accorded each factor will be based on the relevant facts in the case.</p>
	<p>d) What types of modification may a source make to facilitate a fuel conversion and yet still qualify for the exemption for sources "capable of accommodating such fuel" prior to 1/6/75?</p>			<p>Generally the exemption in 40 CFR 52.21(b)(2)(ii)(d) pertains only to the boiler, steam generator, or other process equipment which directly utilizes the fuel or raw material. This means that any increased emissions from a boiler which could burn coal but for which there were no coal handling facilities would qualify under this exemption. However, please note that the coal handling facilities (or any other new equipment) could qualify for a modification based on its own potential to emit 100 (250) tons or more per year.</p>

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/85 3/26/79	Does the Consolidated Edison Company's proposed switch from .3% sulfur oil to 1.5% sulfur oil constitute a "major modification" for purposes of PSD?	52.21	No	An increase in the sulfur content of a particular fuel burned at a source does not constitute use of an "alternative" fuel; is not considered a change in the method of operating; and hence does not constitute a major modification.
PSD/86 4/16/79	Is a fuel switch from natural gas to a vaporized mixture of two-thirds distillate fuel oil and one-third fuel gas exempt from the definition of major modification based on the fact that the boilers have been capable of accommodating this fuel all along? The conversion involves two 300 million Btu/hour boilers and will require installation of an oil-fired vaporizer.	52.21(b) (2)(ii)(d)	Yes	<p>Since the boilers can switch from gas to vaporized oil without making any modifications to the boilers themselves, they are considered to have been capable of burning oil prior to 1/6/75. Therefore, increased boiler emissions will not be subject to PSD review, but will consume increment.</p> <p>In addition to the increased boiler emissions there will be some direct emissions from the firing of the new vaporizer. Should the (direct) potential emission from the vaporizer amount to 100 tons or more of a regulated pollutant per year, a PSD review would be necessary.</p>

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/87 4/12/79	A new docking facility is built which will handle shipments of crude oil. Are emissions from ships which service the dock to be considered primary or secondary emissions?	\$52.21	Condi- tional	<p>If a facility is directly involved with the operation of a PSD-affected source, the emissions from that facility are primary. On the other hand, if the emissions are associated with but not directly involved in the operation of the source, they are secondary. An example of secondary emissions from a PSD-affected docking facility would be the emissions which result from the ballasting of ships servicing the dock. This does not mean that all ship emissions are necessarily secondary to the operations taking place on the dock. On the contrary, any ship emissions which result from the unloading of the ships are directly involved in dock operations and therefore are considered primary. Emissions from ships boilers, to the extent the boilers are operated for the purpose of unloading oil, are primary emissions. See 44 FR 3281, 1/16/79 for a discussion of EPA's secondary emissions policy.</p> <p>NOTE: This determination has since been overruled. OGC will be issuing an explanatory memo.</p>
PSD/88 4/12/79	If an electric power plant begins construction prior to 6/1/75 but then discontinues construction for more than 18 months is that power plant subject to PSD review.	\$52.21(b)(8)	Yes	<p>The original PSD regulations (December 5, 1974) define the term "commenced" to mean that "an owner or operator has undertaken a continuous program of construction... "As a matter of policy, we established that a construction program which was interrupted for a</p>

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/88 (cont.)				<p>period of 18 months or more had not "commenced" according to the definition in §52.21(b)(7). Therefore, the electric utility in question was subject to the old PSD regulations because it did not commence construction before 6/1/75.</p> <p>Since the utility was subject to the old PSD regulations and failed to get a PSD permit by 3/1/78, it is now subject to the new regulations. See 43 FR 26406, §52.21(1)(2), 6/19/78.</p>
PSD/89 4/12/79	a) Does the addition of a sulfur recovery plant constitute the modification of a petroleum refinery?	§52.21(b)(2)	Yes	<p>Although PSD/12 stated that the addition of a sulfur recovery plant would not be subject to PSD, that determination was made under the old regulations. And under the old regulations a modification occurred only if there was a net increase in emissions on a source-wide basis.</p> <p>The new regulations however, define the term "major modification" such that the regulations apply to a sulfur recovery unit if the potential emissions from the unit will amount to 100 tons/year of a regulated pollutant. The potential emissions of the unit are calculated without considering any emission reductions which would occur simultaneously.</p>

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/89 (cont.)	b) For purposes of determining whether a sulfur recovery plant has been reconstructed, what components are considered to be part of it?	§52.21		Furthermore, Congress specifically stated in §169(1) of the Clean Air Act that sulfur recovery plants were air pollution sources intended to be covered under PSD. The sulfur recovery plant is comprised by the Claus unit and any units downstream of the Claus.
PSD/90 5/11/79	If a facility which is in one of the 28 listed source categories locates at a source which is <u>not</u> in one of the 28 categories, does the 100 ton or the 250 ton/yr potential emission cutoff apply?	§52.21	the 250 ton/yr. cutoff	"Source" is defined in the PSD regulations as "any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)". Using the example of a textile mill which will be modified by the addition of a 250 mm Btu/hr boiler, the textile mill would be considered the "source", according to the definition above. Since textile mills are not one of the 28 listed categories, the 250 ton limit would apply. In order for the addition of the boiler to be considered a "major modification" the boiler would have to have potential emissions of 250 tons/year.

Ref.	Question	Affected Reqs	Determ.	Discussion
PSD/91 5/16/79	<p>The Power Plant and Industrial Fuel Use Act defines the term "peakload power plant" as a "power plant which, over any 12 calendar month period, generates electricity not in excess of the power plant's design capacity multiplied by 1,500 hours". For PSD purposes, can a DOE-certified peakload power plant base potential emissions on 1,500 hours of operation per year?</p>	552.21	No	<p>Limitations on hours of operation may be considered in calculating potential emission rates only if they are enforceable by EPA. These power plants should request State permits limiting their operating hours to 1,500/year.</p>
PSD/92 6/6/79	<p>Should a drift eliminator be considered an integral part of a natural draft cooling tower or should it be considered an air pollution control device? The purpose of the drift eliminator is to reduce evaporative water losses from the cooling tower, but it is also effective in reducing salt (particulate) emissions.</p>	52.21		<p>The PSD regulations define "air pollution control equipment" as equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Since the drift eliminator is not essential to the operation of the cooling tower, it should be considered air pollution control equipment.</p>

Ref.	Question	Affected Regs	Determ.	Discussion
PSD/93 6/2/79	a) Are the provisions for issuing permits to phased construction projects applicable to sources with mutually independent phases?	Preamble	Yes	Example: A power plant with several boilers that will be constructed one at a time.
	b) May a PSD permit be issued to a multi-phased source before each phase has obtained a State permit?		Yes	The regulations do not require that any source obtain State permits before a PSD permit will be issued, except where offsets are required. But in order for a PSD permit to remain valid, a State permit must be issued within 18 months of PSD permit issuance. In the case of phased projects the State permits for each phase must be obtained within 18 months of the date specified in the PSD permit.
	c) Must the plans for each phase of a construction project be well-defined before a PSD permit can be issued?		Yes	

Reference	Question	Affected Regs	Determ.	Discussion
PSD/94 10/23/79	Is a proposed major source or modification, which will emit vinyl chloride, subject to both a LAER review for VOC under the Offset Policy and a BACT review for VC under PSD?	52.21(1)(5)	Yes	Section 165(a)(4) of the Act applies preconstruction requirements to each pollutant regulated under the Act. VOC is regulated for ozone and VC is regulated as a carcinogen. It is possible that BACT for VOC and LAER for VC may require two different levels of control.
PSD/95 11/14/79	May the performance testing for stationary IC engines required under PSD review, be conducted by the manufacturer at the plant rather than by the owner/operator at the actual operating site?	51.24	Condi- tional	The proposed NSPS for IC engines provides for initial performance testing by the manufacturer. However, PSD reviews are conducted on a case-by-case basis, and in cases where EPA feels it would be inappropriate for a particular engine to be tested by the manufacturer, the testing requirements may be specified accordingly. In addition EPA reserves the right to conduct testing at any other time.
PSD/96 12/21/79	Do glass manufacturing plants belong under the chemical processing plant category identified in Section 169 of the Act?	52.21(b)(1)(1)	No	

Reference	Question	Affected Regs	Determ.	Discussion
PSD/97 12/19/79	How do the PSD regulations apply to municipal incinerators?	51.24(b)(1)(1)		The regulations apply to any new group or individual incinerator with a charging capacity of 250 tons/day, if it has the potential to emit 100 tons or more/year of a regulated pollutant or any smaller incinerator which has the potential to emit 250 tons or more/year of a regulated pollutant.
PSD/98 1/9/80	For sources which are making a fuel switch, is it correct that any available fuel suitable for use in operation may be used to determine "before modification" emissions and any fuel for which the operator is willing to accept enforceable permit conditions may be used to determine "after modification" emissions?	52.21	Yes	<p>Potential emissions of a source before modification should be based on any type of fuel the source was capable of burning. After modification, potential emissions should be based on the dirtiest type of fuel the source is capable of burning.</p> <p>For both before and after modification calculations, enforceable permit conditions may limit potential emissions.</p>

Reference	Question	Affected Regs	Determ.	Discussion
PSD/99 1/9/80	Is a plant which produces fiberglass reinforced shower enclosures and bathtubs considered a "glass fiber processing plant"?	51.24(b)(1)(1)	Condi- tional	If the plant manufactures the fabric from raw fiberglass or its process involves combining fiberglass and polyester resin, it is considered a glass fiber processing plant. Plants which process pre-fabricated fiberglass products would not be included.
PSD/100 3/5/80	How is the baseline date established for PSD areas?	51.24(b)(12)		The baseline is established as of the date after August 7, 1977, that the first permit application by a proposed major source or modification is filed for a PSD area.
	Under a fuel switch, to what extent are increased emissions counted toward the consumption of the applicable PSD increment?	51.24(b)(11)		A fuel switch will consume the amount of increment modeled as the difference between the maximum air quality impact allowed under the SIP on the baseline date and the maximum air quality impact allowed under the SIP at the time the source begins operation.
	If a source has been "grandfathered" what is the regulatory framework for assessing the extent of the source's PSD increment consumption?	51.24(b)(11)		The impact on the increment will be assessed by the next PSD applicant in the area or if the permitting authority conducts a periodic increment assessment first.

Reference	Question	Affected Regs	Determ.	Discussion
PSD/101 1/5/80	Is a major source subject to PSD review if construction commenced after March 19, 1979?	52.21	Yes	<p>A major source would not be subject to PSD review only if:</p> <ol style="list-style-type: none"> 1. All final Federal, State, and local preconstruction permits were obtained before March 1, 1978, 2. Construction commenced before March 19, 1979, and 3. Did not discontinue construction for a period of 18 months or more and construction is (was) completed within a reasonable time.
PSD/102 3/11/80	If a source has a phased construction permit, must the second phase commence construction 18 months after the first phase?	Preamble	Yes	<p>Phases must commence construction within 18 months of the date agreed to in the permit, but there must not be more than 18 months between the completion of one phase and the start of the next. Major departures from the original start dates can provide grounds for reprocessing an application.</p>

Reference	Question	Affected Reqs	Determ.	Discussion
PSD/103 3/25/80	May a source's potential to emit be limited by a city issued permit which contains an annual limit on the amount of fuel to be combusted by a source?	51.24(b)(3)	Condi- tional	Potential to emit can be limited by enforceable permit requirements. However the requirements must be enforceable under a SIP in order to ensure that the PSD threshold will not be exceeded.
PSD/104 4/11/80	What portion of a source's emissions should be counted into the baseline?	51.24(b)(12)		Actual emissions, as of the baseline date, should be counted into the baseline. When calculating actual emissions, the hours of operation, capacity utilization, and types of materials combusted, processed or stored should be based on the preceding year of operation, unless another previous year would be more representative.
PSD/105 4/25/80	Must a reconstructed coke battery which produces no increase in the iron and steel mill's potential to emit SO ₂ secure a PSD permit?	52.21	No	A reconstruction occurs only when the entire source is reconstructed. In this case the source is an iron and steel mill, not a coke battery.
	Must the reconstructed battery employ BACT?	52.21	No	

REFERENCE	QUESTION	AFFECTED RIS	DETERMINATION	DISCUSSION
PSD/106 4/24/80	<p>Can two independent facilities be considered part of the same source when they are located on adjacent properties and are owned by the same person?</p> <p>In this particular case what category would the "source", be included under?</p>	<p>§52.21(b)(1979)</p> <p>§52.21(b)(1)</p>	Yes	<p>A source includes all units owned or operated by the same person on contiguous or adjacent properties.</p> <p>All the units at the source fall under the source category "power plant". A proposed power plant and a coal mine are considered all one source, a power plant.</p> <p>Update with August 7, 1980 Regs: Under the new regulations source is defined as all pollutant emitting activities of the same industrial grouping (same major group under the SIC manual) located on contiguous or adjacent property and under common control. Under this definition, a power plant and coal mine would be two sources. However, the mine emissions would be considered secondary emissions of the power plant.</p>
PSD/107 4/29/80	Would a SIP relaxation, allowing the burning of 2.2% sulfur fuel oil consume PSD increment?	§52.21(b)(1)	Yes	Any SIP relaxation which is admitted to EPA after the applicable baseline date consumes increment. The SIP relaxation consumes increment for all pollutants which, as a result of the relaxation, increase above baseline levels.

REFERENCE	QUESTION	APPLICABLE RIS	DETERMINATION	DISCUSSION
PSD/100 5/5/80	Is hollout considered commencement of operation under PSD?		No	Consistent with the approach taken under NSIS, holl-out is considered a construction activity rather than commencement of operation.
PSD/109 5/5/80	Can two facilities which are separated by 1.8 miles of pipeline be considered "adjacent" if they are operated as one facility?	Sept. 5, 1979 proposal (44 FR 51924)	Yes	<p>The two facilities are commonly owned and are operated together as a single refinery. They are separated by 1.8 miles and are interconnected by a network of pipelines. The pipelines are used to transport intermediary products from one site to another. Neither site produces finished products by itself. Therefore, evidence supports the two sites should be considered a single source for PSD applicability.</p> <p>Update August 7, 1980 Rejo: Determination remains the same providing the two facilities have the same "Major Group" classification (52.21(b)(6) 8/7/80)</p>
PSD/110 6/9/80	Should fugitive emission be included in determining the potential to emit for a surface coal mine and coal preparation facility?	§52.21(i)(4)(vii)	Conditional	<p>The two facilities are considered one source. The main activity at the site is the coal mine and in determining PSD applicability, the source would be considered a surface coal mine. Therefore, fugitive emissions would generally not be counted in the source's potential to emit.</p> <p>Fugitive emissions are only to be considered from sources regulated as of 8/7/80 under 40 CFR Part 60 and 61 and source categories listed under 52.21(i)(4)(vii). The mine's potential emissions would therefore include non-fugitive mine emissions and all emissions (fugitive and non-fugitive) from the coal preparation plant. If potential emissions exceed 250 tons/yr. the mine is subject to PSD review and DACT would then be applied to all emissions, both fugitive and non-fugitive, for the entire operation.</p>

REFERENCE	QUESTION	AFFILIATED RIS	DETERMINATION	DISCUSSION
PSD/111 6/9/80	<p>Shall fugitive emissions be included in determining potential to emit for asphalt concrete plants?</p>	52.21(1)(4)(vii)	Yes	Fugitive emissions are to be counted for all sources regulated as of 8/7/80 under Section 111 or 112 of the CAA in any of the source categories listed under Section 52.21(1)(4)(vii) of the August 7, 1980 regulations.
PSD/112 6/18/80	<p>Two power plants, which were issued state construction permits in 1978, prior to PSD applicability, now wish to increase their SO₂ emissions by burning higher sulfur coal. Is this a SIP relaxation and is a SIP revision necessary?</p> <p>Is a power plant which received a PSD permit in '78 and wants to increase emissions, by amending their permit subject to the old or existing PSD regulations?</p>	<p>§51.18 §51.24(a)(2)</p>	Yes	<p>In order for either of the sources in question to increase their allowable SO₂ emissions, an amended Part 51.18 permit or SIP revision must be obtained. An amended permit will be enforceable under the applicable implementation plan. PSD review of the change to higher sulfur coal is not required but SIP revisions may only be approved upon a showing that the revisions would not cause or contribute to a violation of an applicable increment.</p> <p>Any change in the permitted emission limitation would require the permit either to be amended or the source to get a new permit. In either case, the source would be subject to the regulations in effect at the time of the new application. This would mean a BACT and air quality analysis would be required before the SO₂ emission limitation could be altered.</p>

REFERENCE	QUESTION	AFFECTED RIS	DETERMINATION	DISCUSSION
PSN/11) 6/19/80	Is the Guardian Industries Flat Glass Plant grandfathered under the June 19, 1978 PSD regulations?	§52.21(f) June 19, 1978	No	<p>In order to be grandfathered under the June 19, 1978 PSD regulations, a source must have:</p> <ol style="list-style-type: none"> 1. Received all necessary SIP preconstruction permits by March 1, 1979, and have met one of the following: <ul style="list-style-type: none"> 2. Begun a continuous program of off-site construction or 3. Entered into binding agreements for on-site construction which cannot be cancelled without substantial loss, or 4. Entered in agreements for off-site construction which irrevocably commits the source to a specific site. <p>Available information indicates that Guardian did not meet condition 2, 3, or 4 above. Substantial loss is determined on a case-by-case basis. Losses of 10% or more of total construction costs of a project would be considered substantial. Losses of less than 10% could be considered substantial, depending on commitment to a specific site to a point where relocation was not possible and a delay or modification would be severely disruptive.</p> <p>An "irrevocable commitment" is also assessed on a case-by-case basis, depending on whether contracts or binding agreements for off-site construction have been entered into for a source which can only be located at a specific site.</p>

REFERENCE	QUESTION	AFFECTED RIS	DETERMINATION	DISCUSSION
PSD/114 7/7/80	In order to avoid PSD review, an industrial scrap processing plant would like to reduce its potential to emit with limited hours of operation of its shredder. The plant has 4 diesel engines, two which generate electricity for the plant and two which drive the shredder. How is potential to emit for this source determined?	52.21(b)(3) June 19, 1978		Under the June 19, 1978 PSD regulations, potential to emit may include limitations on hours of operation. If the limitations are included in enforceable permit conditions. (51.18 permit). Limited hours of operation could be placed on the shredder in a 51.18 permit. The potential to emit of the source would then include the design capacity of the two engines which drive the shredder, including limited hours of operation, and the maximum design capacity of the engines which generate plant electricity without hour limitations. These engines would not include limitations since they can operate independently from the shredder.
PSD/115 7/7/80	Do modifications of the fuel handling and feed equipment at a generating plant make it subject to PSD review? The modification is being proposed in order for the facility to achieve its original level of production (production dropped when the facility shifted to a low sulfur coal).	June 19, 1978 (43 FR 26309)	Yes	Potential emissions are limited by the quantity of fuel the source is capable of combusting. The ability of the generating plant to combust additional fuel subsequent to the modification results in increased emissions. Since the generating plant was not capable of accommodating this additional fuel without changes to the fuel handling and feeding equipment, this would represent an increase in the potential to emit. The source would be subject to PSD review if the changes result in an increase of 100 TPY of uncontrolled SO ₂ or particulate matter or 10 TPY of controlled emissions. The June '78 regulations would be applied. Update of Aug. 7, 1980 Regulations: Source would be subject to PSD review if the changes result in a significant net increase in emissions, i.e., 40 tons SO ₂ , 25 tons PM.

REFERENCE	QUESTION	AFFECTED RULES	DETERMINATION	DISCUSSION
PSD/116 8/6/80	Is a municipal incinerator which has been shutdown for five years, subject to PSD review if it wishes to reactivate?	§52.21	Yes	A source which has been shut down would be a new source for PSD purposes upon reopening if the shutdown was permanent. In this case, the shutdown is considered permanent because it has lasted five years and the State has removed the incinerator from its emissions inventory. Therefore, the source would be treated as a new source (or modification if it occurs at an existing major source) for PSD purposes.

DATE	REFERENCE	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD 117	10/3/80	Are sources which have been shutdown for 2 years and removed from the emissions subject to PSD review upon reactivation?	52.21	Conditional	<p>While EPA continues to maintain that sources which are shutdown for more than 2 years and are removed from the State's emission inventory are presumed to be permanent shutdowns, and thus subject to PSD upon reactivation, the source can rebut this presumption by providing evidence that the shutdown was not intended to be permanent.</p> <p>In addition, with the inclusion of the contemporaneous provisions in the 8/7/80 PSD amendment, it appears that shutdowns will have to be considered in order for sources to obtain credit for contemporaneous decreases.</p> <p>Future guidance will be provided concerning this issue.</p>
PSD 118	11/25/80	How should the firing rate of a facility which will co-fire municipal waste and papermill sludge be calculated for PSD applicability purposes?	52.21(b) (1)(1)(a)		<p>The firing rate should be based on the solids content of the municipal waste and the dry weight of the papermill sludge, to be consistent with NSPS applicability.</p>
PSD 119	(Memo from Barber to Gardbring) 11/26/80	May a source which was issued a PSD permit be granted an extension on the commencement of construction date based on a decrease in consumer demand?	52.21(a)(2)	Conditional	<p>Although agency policy is still being formulated on this issue, the following steps should be taken when evaluating such a request:</p> <ol style="list-style-type: none"> 1. Assure company projections are reasonable. 2. Coordinate with the State where source is locating. 3. Publish Federal Register notice on proposed extension and solicit comments. 4. For phased projects, alert source that an extension, if granted will apply only to the first phase.

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-120	1/22/01	For purposes of modification under PSD how is a "net emissions increase" determined?	52.21(b)(3)		The first step for determining a net emissions increase is to assess if the modification, itself will cause a significant (i.e. greater than de minimus) increase in any regulated pollutant. If there will be a significant increase, the 5 year contemporaneous time period is triggered and all creditable increases and decreases during this period should be assessed. If, after evaluating the creditable increases and decreases, there is still a significant increase in emissions PSD review applies. If the modification itself, will not cause a significant increase, the contemporaneous time period is not triggered and PSD review will not apply. The regulations will be amended to clarify this position.
PSD-121	1/22/01	Should Ethanol fuel Plants be classified as chemical process plants for the purposes of PSD applicability?	52.21(b)(6)	Yes	The Agency regards as a minimum, any source listed under Major Group 28 of the Standard Industrial Classification (SIC) manual as a chemical process plant. Ethanol fuel is listed under SIC Major Group 28

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-122	2/13/81	When determining a "net emissions increase" is there any limitation on the 5 year contemporaneous time period for creditable increases or decreases for PM or SO ₂ ?	52.21(b)(3)	Yes	Increases or decreases in SO ₂ can only be creditable if the increase or decrease is required to be considered in computing the amount of available increment. Changes in PM or SO ₂ emissions commencing prior to January 6, 1975 can not be considered creditable.
		For other criteria pollutants?	52.21(b)(3)(iv)	No	The only limitation on creditable decreases or increases for criteria pollutants other than PM and SO ₂ is the 5 year period before construction of the modification commences. (There are no increments for these criteria pollutants)
PSD-123	3/4/81	May a PSD permit be issued to a source prior to the source satisfying any applicable NSR requirements?	52.21(f)(5)	Yes	PSD and NSR are currently viewed as two distinct programs, consequently, a source may meet its NSR and PSD obligations separately. A PSD permit may be issued prior to the completion of NSR requirements.
PSD-124	4/1/81	A. May a decrease in emissions be considered creditable if it occurred beyond the 5 year contemporaneous time frame but was made federally enforceable within the 5 year period?	52.21(b)(3)(i)	No	The actual decrease in emissions must occur within the five year contemporaneous time frame.

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-124	4/1/81	B. A source is major for SO ₂ . A modification is proposed that will cause a reduction of SO ₂ to below the major source threshold and a greater than de minimus increase in TSP. Is PSD review required?	52.21	No	For PSD review to apply, the source must maintain a major status either by retaining major SO ₂ emissions or by proposing changes which will make the source major for TSP.
		C. Non-profit health and educational facilities are eligible for an exemption from PSD review. Is the exemption effected if there is a change in the source's non-profit status?	52.21(i)(4)(vi)	Conditional	The effect of a change of a source's non-profit status upon its PSD exemption is dependent on the nature of the change. The Agency will review any such change in status on a case-by-case, source specific basis.
PSD-124	4/1/81	D. What definition of municipal solid waste should be used when determining a possible exemption under 52.21(b)(2)?	52.21(b)(2)		The definition contained in the NSPS for Incinerators, 40 CFR 60.51(b) be used. The definition is used to maintain consistency between the NSPS and PSD programs.
PSD-124	4/1/81	E. Should the definition of "steam generating unit" or "electric steam generating unit" be used when determining an exemption under 52.21(b)(2)(iii)(d)?	52.21(b)(2)		"Steam generating unit" as defined in 40 CFR 60.41 a is the appropriate term to use when considering an exemption under 52.21(b)(2)(iii)(d).

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-125	4/29/81	Do demolition activities fall within the definition of "begin actual construction" and thus require a PSD permit?	52.21(b)(1)	1b	<p>The definition of "begin actual construction" does not cover demolition activities. The Agency has maintained a policy that site preparation activities do not, in and of themselves, trigger PSD review.</p> <p>The definition of "construction" for PSD includes the term demolition, but this was included in order for emission reductions from demolitions to be added to the available increment.</p>

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-126	May 15, 1981	What criteria must "secondary" emissions meet in order to be included in air quality impact assessments for PSD purposes?	52.21(b)(18)		<p>The emissions must be:</p> <ol style="list-style-type: none"> 1. Specific 2. Well defined 3. Quantifiable 4. Impact the same general area <p>"Impact the same general area" has been interpreted to mean the area of significant impact which is defined as all those areas in which the source's emissions would produce an ambient effect of $1 \mu\text{g}/\text{m}^3$ or more (Annual basis)</p>

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-127	June 12, 1981	May a source increase its hours of operation and take an exemption under 52.21(b)(2)(iii)(f) (which exempts from review an increase in hours of operation or production, unless prohibited by an enforceable permit condition established after Jan 6, 1975) if the source had received a permit restricting operation before Jan. 6, 1975?	52.21(b)(2)(iii)	Yes	The important date under the exemption in 52.21(b)(2) is January 6, 1975. This marks the beginning of the PSD program. Action taken prior to that date could not have been undertaken with any prior knowledge of the PSD requirements. This in fact is acknowledged in the wording of the exemption which refers to permit conditions established after January 6, 1975. Therefore, the source could take the exemption if their permit was issued prior to Jan. 6, 1975.

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-128	June 24, 1981	Does PSD review apply to stationary gas turbines that switch from middle distillates to natural gas?	52.21	Conditional	In this particular case, the switch will not cause either an increase in any emission rate or any creditable increases in actual emissions and therefore will not be subject to PSD review.
PSD-129	June 30, 1981	Should two GH facilities which are programmed together, have a dedicated railway service between them, but are located a mile apart, be considered one source for the purpose of PSD review?	52.21(b)(6)	Yes	<p>The definition of source under PSD has 3 criteria:</p> <ol style="list-style-type: none"> 1. Common Industrial Grouping 2. Common ownership or control 3. Contiguous or adjacent sites <p>The facilities in question, without argument, meet the first two criteria. And, based on the unique set up of these facilities EPA considers them adjacent and therefore can be considered one source for PSD.</p>

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-130	July 13, 1981	Is the switch from benzene to butane feedstock at an Ashland Chemical Maleic Anhydride Plant subject to PSD review?	52.21(b)(2) (iii)	Conditional	<p>The PSD regulations exempt from review a switch in raw materials if the source was capable of accommodating the material before Jan. 6, 1975.</p> <p>A source is considered to be designed to accommodate an alternate material if the use could be accomplished under its construction specifications in existence prior to that time.</p> <p>The plant in question was originally designed and contracts signed for dual feedstock capability in May 1974. The switch, therefore, is not subject to PSD review.</p>

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-131	July 15, 1981	What is the status of the term "federally enforceable" as used in the PSD regulations?	52.21 51.24		On July 15, 1981 EPA issued a temporary stay (90 days) of the PSD rules with regard to the use of the term "federally enforceable". During the period of the stay, the term federally enforceable wherever used in the regulations, will no longer be in effect. In addition, during the course of the stay, EPA will reconsider the issue of federally enforceable requirements and solicit comments on the issue.

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-132	August 3, 1981	1.) Under the permitting procedures for PSD when does the service of notice occur?	40 CFR 124.19		Service of Notice occurs upon the mailing of the notice (of permit decision). An appeal may be filed within 30 plus 3 days from the date of the notice or from some later date as specified in the notice.
		2.) Who does the Administrator have to notify of the final permit decision?			The Administrator must notify the applicant and each person who submitted written comments or requested notice of the final decision. The decision does not have to be published in the Federal Register until it becomes effective.
		3.) Who may file an appeal (and on what conditions) of a PSD permit?	40 CFR 124.19		Any person who filed comments or participated in a public hearing concerning a PSD permit may petition the Administrator to appeal any condition of the permit.
		4.) Can changes in permit conditions be made without notice & comment?	40 CFR 124.19(c) Conditional		Material changes in a permit cannot be made without opportunity for notice and public comment. The Administrator may remand a permit condition back to a Regional Office without notice and comment.
		5.) When may a person seek judicial review of a final PSD permit decision?	40 CFR 124.19		If the person took part in the public hearing or filed comments on the draft permit he may seek judicial review. If a person did not comment or participate in the public hearing he may only seek review on any changes made between the draft and final permit decision. Any appeal must be made within 30 days of the final permit decision.

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-133	August 26, 1981	A petroleum storage facility (4 tanks) at a refinery plans to make a product storage change. Assume no physical changes to the tanks and that the tanks were capable of handling the new product before Jan. 6, 1975. Is the product change subject to PSD review?	52.21(b)(2)	No	The multi-tank storage change would be considered a single project under PSD. Since the tanks were capable of accommodating the new product prior to Jan. 6, 1975, emission increases from the tanks do not count towards PSD applicability. If however, other physical changes associated with the project cause a significant increase in emissions, PSD review would be required.

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-135	May 5, 1982	1) A source has an existing PSD permit issued under the August 7, 1980 rules, with a .85% sulfur in fuel limitation. The source wants to amend its 51.18 permit to limit the amount of oil fired and use 1% sulfur fuel. The potential to emit for the source will now be below 250 TPY. May the source have its PSD permit rescinded?	52.21 (w)	YES	Section 52.21 (w) does not preclude the Administrator from rescinding a permit when the regulations no longer apply. The federally enforceable limitations reducing the potential to emit should be realistically enforceable. EPA should be confident the source can and will operate at reduced levels and that there is no appearance of circumvention of the regulations.
		2) Does the rescission of the above permit affect the baseline date? (The source's PSD application triggered the baseline for SO ₂)	52.21 (b) (14)	NO	The baseline date is triggered by the first complete application for a PSD permit submitted after August 7, 1977. The baseline date is not affected by a permit denial or rescission. The baseline can only be "deactivated" by a source that triggered the baseline under the June 19, 1978 rules but is no longer subject under the August 7, 1980 rules.

CODE	Date of Response	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSD-136	July 9, 1982	1.) During a shut-down of source the baseline of the area was triggered for SO ₂ . Upon reactivation, what emission may the source count as creditable?	52.21 (b) (13)		The baseline concentration includes the <u>actual</u> emissions of a source occurring on the baseline date. The source may only credit later date as
		3.) Who may file an appeal (and on what conditions) of a PSD permit?	40 CFR 124.19		The Administrator must notify the applicant and each person who submitted written comments or requested notice of the final decision. The decision does not have to be published in the Federal Register until it becomes effective.
		4.) Can changes in permit conditions be made without notice & comment?	40 CFR 124.19(c) Conditional		Any person who filed comments or participated in a public hearing concerning a PSD permit may petition the Administrator to appeal any condition of the permit. Material changes in a permit cannot be made without opportunity for notice and public comment. The Administrator may remand a permit condition back to a Regional Office without notice and comment.

CODE	DATE OF RESPONSE	QUESTION	AFFECTED REGULATION	DETERMINATION	DISCUSSION
PSI-137	12/3/82	Is the installation of two stationary gas turbines at the Virgin Island Water & Power Authority's St. Croix and St. Thomas plants subject to PSD review?	52.21(b)(2)	Yes	The turbines will cause a significant increase in PM, SO ₂ , NO _x , HC and CO emissions and will not be restricted by any federally enforceable permit conditions.

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-138	Memo (Biondi to Johnston) 1/5/83	Is PSD applicable to a series of accumulated emission increases totalling above significance levels, even when each individual emission increase is below the PSD threshold level?	§52.21(b) (3)	No	Although language in the preamble to the PSD regulations could indicate that EPA intended to accumulate de minimus emission increases at a stationary source, the regulations themselves did not indicate this. The regulatory language has been interpreted to exclude from the regulations any modification that did not in and of itself result in a significant emission increase, even though when combined with other modifications the criteria for a significant emission increase would be met. Policy considerations included 1) EPA and industry resources should not be directed to "small" changes and, 2) applying BACT to the last modification triggering the review would be wasteful (EPA ruled out requiring the retroactive application of BACT to earlier changes). It was also noted that the de minimus increase would be included when considering contemporaneous emission increases and decreases.

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-139	Memo (Reich to Walter) 2/4/83	<p>A power plant, now burning natural gas (oil standby) may switch to petroleum coke. It would be necessary to install equipment to handle bottom ash. No other changes would have to be made. Is the unit "capable of accommodating" the new fuel? (meaning PSD may not be applicable)</p>	\$52.21(b) (2)(iii)(e)	No	<p>The boilers have never had the physical capability of handling bottom ash, and the design specifications also do not contain any such provisions (therefore, they were not capable of handling the alternate fuel before 1/6/75). Thus, the boilers are not considered capable of accommodating petroleum coke as an alternate fuel.</p>
		<p>In the above case, are there other considerations affecting PSD applicability?</p>	\$52.21(b)(2) (1)	Yes	<p>PSD is applicable if this change would result in a significant net emissions increase at the plant.</p>

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-140	Memo (Reich to Cunningham) 2/8/83	Under the current 8/7/80 PSD regulations, is there a provision for grandfathering SIP revisions pending before 6/78 or any other date?		Yes	A SIP relaxation pending at the time a baseline date is established is exempt from individual increment analysis, but such relaxations do consume increment and so will have to be considered by the State when it conducts periodic assessments and when permitting subsequent applicants.

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-141	Memo (Reich to Simon) 3/24/83	Does an increase in steam production to a level above the permitted level make PSD applicable?	§52.21(b)(2)	Yes	Increased production will be subject to PSD since the source has been limited by a federally enforceable permit condition. The PSD review should only apply to the modified unit.
		Does an increase in sulfur in fuel content, above the current level but still within limits set in the permit, make PSD applicable?	§52.21(b)(13)	No	The increase in emissions is an actual emissions increase occurring after the baseline date and so does consume increment, although it is not subject to PSD review itself.

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-142	Memo (Reich & Pederson to Davis & Seals) 4/21/83	Does the removal of control equipment, when accompanied by an upgrade of other control equipment (resulting in maintaining present levels of particulate emissions but in an increase in SO ₂ emissions to a level still below the NSPS emission limit) constitute a major modification under PSD?	CAA Sect. 169 (1)(c)	Conditional	<p>The removal of equipment (scrubbers in this case) would not constitute a major modification under NSPS based on 40 CFR 60.14 (e)(a). The PSD modification provisions do not specifically contain this exemption. However, the Clean Air Act provides that modifications for PSD shall be defined as in Section 111(a) for NSPS modifications. EPA has interpreted this to include all exemptions to modifications included in the NSPS regs. prior to the enactment of the PSD regs. to be inherently included in the PSD exemptions.</p> <p>However, another qualification is that the change must not be less environmentally beneficial. A determination under NSPS that the change will not be less environmentally beneficial (based on application of best technology) does not necessarily mean that the same conclusion must be reached under PSD (based on air quality impact). This must also be evaluated before it can be exempted as a major modification.</p>

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-143	Memo (Reich to Kee) 5/6/83	In an area redesignated from nonattainment to attainment, can a source's emission limits be raised above its original limits of new source requirements (LAER) and emission offset requirements, and would PSD then have to be satisfied?	\$52.21	Yes	EPA cannot require the continued application of nonattainment requirements once an area has been redesignated to attainment. If this relaxed limit will not interfere with the maintenance of the NAAQS nor any applicable air quality increment, it can be approved. Since, in this case, the change in emission limitations will result in a significant net increase in emissions, the source is required to obtain a PSD permit and to comply with the permit requirements. The State or local agency should review its authority to ascertain whether it possesses the authority to modify the existing permit.

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-144	Letter (Reich to Daniel) 6/2/83	A coal preparation facility (one of the 28 listed source categories) and a surface coal mine (not listed) are located at a common site.	§52.21(b) (5) and (6)	Yes	Since the two facilities are located at the same site, are under the control of the same owner, and belong to the same Major Group in the SIC Manual, they are considered as one.
		a) Do these two facilities constitute one source?		250 tpy	The primary activity of this source is coal mining, which is not identified in the list of 28 source categories with a potential emission threshold of 100 tpy.
		b) What potential emission threshold applies?			

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-145	Memo to Region 9 (Meyers to Howekamp) 6/3/83	Are sources and control agencies required to aggregate individual changes below PSD <u>de minimus</u> levels over time, so that PSD would be triggered once the cumulative effect of the changes exceeds <u>de minimus</u> levels?	§52.21 (b) (3)	No	Although the regulations are unclear, SSCD's interpretation is that individual <u>de minimus</u> changes need not be aggregated, because 1) aggregation could impose a significant resource burden on sources which may never be subject to PSD, 2) controls would have minimum air quality benefit because they would only be required on the last change, 3) air quality would be protected because the changes would consume increment.

Determinations of Applicability

Code	Date of Response	Question	Affected Regulation	Determination	Discussion
PSD-146	Memo to Region 9 (Meyers to Howekamp) 7-11-83.	A power company was issued a PSD permit to install a 6th unit, with the condition that Units #1-5 limit the sulfur in fuel combusted to 0.5%. The company now requests that this limit be raised to a level which would provide for no significant net contemporaneous increase over the source's actual SO ₂ emissions prior to burning 0.5% sulfur oil. Is PSD applicable?	\$52.21(b)(3) (iii)	Yes	A major modification is "any physical change in or change in the method of operation... that would result in a significant net emissions increase." It was determined previously that the proposed switch qualifies as a change in the method of operation. "Net emission increase" considers any other increases or decreases in actual emissions at the source that are contemporaneous...and otherwise creditable." The proposed switch is contemporaneous because it would occur within 5 years of the time Units # 1-5 switched to 0.5% sulfur fuel. However, the decrease is creditable "only if the Administrator has not relied on it in issuing a permit for the source under this section." Since the original PSD permit was conditioned on Units #1-5 burning 0.5% sulfur fuel, this decrease is not creditable, and the switch would therefore qualify as a major modification.

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-147	Memo (Reich to Johnston) 7/28/83	A pulp and paper company is proposing to install a bleaching plant and a larger digester. These units will not cause increased emissions, but emissions from the recovery boiler will increase above significant levels because of this construction. Emissions will remain below maximum design permit levels. Is PSD applicable?	§52.21(b)(2) 45 FR 52718 §52.21(j)(3)	Yes	The recovery boiler's proposed operating rate is higher than that provided by the existing digester capacity, and so any increase in actual emissions from the recovery boiler which results from the increased capacity provided by the larger digester must be considered for PSD applicability. If there is a significant net increase, the PSD requirements should be applied, although the boiler will not have to apply BACT because it will not itself be undergoing a physical change or change in the method of operation.

Determinations of Applicability

Code	Reference	Question	Affected Regulation	Determination	Discussion
PSD-148	Memo (Reich to Laing) 7/28/83	Is PSD applicable to a boiler unit originally designed to accommodate coal, but which has never burned coal, and now needs to make changes to enable its use? Approximately \$5 million in modifications to the steam generating unit will be required.	\$52.21(b)(2)(iii)(e)(i)	No	For the coal conversion exemption apply, it is necessary that the entire plant, rather than simply the boiler, was capable of accommodating coal before the 1/6/75 applicability date. In this case, coal handling and support facilities have been available since prior to 1/6/75, and require only minor adjustments to accommodate coal. Therefore, the unit is exempt from PSD. See NSPS D-108.

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