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August 9, 1989

MEMORANDUM

SUBJECT: LAER Determination for a Previously Constructed Source

FROM: John S. Seitz, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO: Thomas J. Maslany, Director
Air Management Division
Region III

This is in response to your memorandum of November 8, 1988, requesting guidance on when LAER should be evaluated for a previously constructed source. To clarify what you stated in your November 8 memorandum, the permitting agency makes the initial LAER assessment at the time of the completed application. However, this is not to say that LAER determined at the time of complete permit application, since evaluation of LAER continues until the final permit is issued.

With respect to sources subject to NSR but constructed without undergoing review, your second option applies. Making the initial LAER assessment should take into consideration any technologies, practices or SIP limits in effect as of the date of the complete permit. Consistent with our policy for BACT/LAER evaluation, failure of a source to comply with the permitting requirements is not a basis for grandfathering the date for determining the appropriate LAER determination is no made until the issuance of the final permit.

If you have questions, please contact Scott Throwe of my staff at FTS382-2811.

cc: Gary McCutchen, NSR Section
Judy Katz, OEMC
Greg Foote
NSR contacts, Regions EX