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MEMORANDUM

SUBJECT: Prevention of Significant Deterioration (PSD) Applicability
Determination for Multiple Owner/Operator Point Sources Within
a Single Facility

FROM: John Calcagni, Director
Air Quality Management Division (MD-15)

TO: Irwin L. Dickstein, Director
Air and Toxics Division (8AT-AP)

This is in response to your June 15, 1989 request for clarification of the Environmental Protection Agency's (EPA's) policy concerning how nonfugitive emissions should be considered in determining applicability for major new sources or modifications with multiple owners or operators. This issue must be addressed in order to determine PSD applicability and permitting requirements for a new airport being planned by the City and County of Denver, Colorado (Denver). In short, you need to know whether the entire airport should be considered a single stationary source or whether the activities under the control of each airline (or other independent entity operating at the airport) should each be considered a separate source.

I understand that, at this point, Denver has submitted neither information concerning the type and size of airport facilities (including emission sources) it plans to build, nor data indicating the type and amount of air emissions anticipated from operations at the new airport. Also, Denver has not provided either the Colorado Department of Health (the permitting authority) or Region VIII with any information on the proposed airport's ownership, leasing agreements, or operation that would assist in judging control of the construction and eventual operation of the airport (for the purpose of determining "stationary source"). With virtually no specific information upon which to base a well-informed decision, my staff has evaluated the situation in general terms and discussed the project with several EPA new source review experts for their interpretation.

The PSD regulations define a "building, structure, facility, or installation," for source definition and emissions accounting purposes, as follows:

". . . all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control

2

of the same person (or persons under common control) . . .
Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (which have the same two-digit code) as described in the Standard Industrial Classification Manual . . ."

The Standard Industrial Classification (SIC) Manual classifies virtually all activity at an airport under Major Group 45, so that if the SIC Manual grouping was the only criterion to consider, then the airport and all pollutant-emitting activities therein would be considered a single source. However, the definition requires that, for applicability purposes, emissions be aggregated not just on the basis of the SIC code but also

based on a determination of "control" of the pollutant-emitting activities at a stationary source. Thus, the question of control appears to be the key criterion in determining what constitutes a "stationary source" at the proposed Denver airport.

The PSD applicability determination for a new stationary source must be made before construction commences so that, if the source is major, the source may obtain the necessary preconstruction PSD permit. When PSD applicability involves a determination of "control," the determination should be based on control at the time construction would commence on the proposed source. Control at this stage of a project would most often rest with the source owner. In cases where an airport authority (or an equivalent managing entity) acquires property, develops plans, and establishes a contract for the construction of a new airport, the airport authority (or equivalent) would be considered to be in "control" of the airport buildings or facilities for which it establishes a construction contract. Therefore, we believe, in the absence of information to the contrary, that the City and County of Denver is the owner (and as such is in "control") of the proposed airport and that the airport, as defined by SIC Major Group 45, is a single stationary source for the purpose of determining PSD applicability. This finding remains the same even if Denver intends after construction to lease discrete portions of the airport's pollutant-emitting facilities to an airline or other independent entity such that the lessee would have "control" over certain pollutant-emitting activities.

As a result of the finding that the airport is a single stationary source, all potential emissions of each pollutant must be aggregated to determine whether the airport is subject to PSD. If the airport emits more than 250 tons per year (tpy) of any pollutant regulated by the Clean Air Act, the source would be required to obtain a PSD permit. If it emits less than 250 tpy, no PSD permit is required. However, other State air quality permitting requirements may apply (i.e., minor source permit).

3

I hope that this will be helpful to you in future discussions with the Colorado Department of Health and Denver. If you have questions about this determination or wish to discuss this when you obtain additional information from Denver, please call Gary McCutchen of my staff at FTS 629-5592.

cc: NSR Contacts, Regions I-X
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