



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF:

JUN 12 1990

J. Michael Valentine, Director  
Air Quality Division  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, Minnesota 55135

Dear Mr. Valentine:

This is in response to your January 24, 1990, letter to Joseph W. Paisie concerning 3M Company's (3M) request to divide it's Chemolite plant according to different 2-digit Standard Industrial Classification (SIC) Codes and also concerning the non-accumulation policy in areas which are group 3 for particulate matter less than 10 microns in diameter (PM<sub>10</sub>). The non-accumulation issue was discussed during a phone conversation with Mr. Niemioja. With respect to the SIC Code issues, we have reviewed the material submitted in your letter and considered the information from subsequent discussions with Peter Wyckoff representing 3M. We concur with the concern presented by the State that it would be very difficult to keep track of any separate sources which would be generated by subdividing the Chemolite plant on a SIC Code basis. The difficulty arises because one building may have more than one activity that fall in different 2-digit SIC Codes, and furthermore, there may be activities in buildings separated from each other that have a common 2-digit SIC Code.

The Prevention of Significant Deterioration (PSD) regulations at 40 CFR 52.21 (b) (5) and (6), which would generally apply to the plant, define two terms "stationary source" and "building, structure, facility or installation" as follows:

" 'Stationary source' means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act."

" 'Building, structure, facility, or installation' means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group' (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement."

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The key phrase in the definition is "pollutant-emitting activity which belong to the same industrial grouping . . ." The definition further indicates that if activities have the same 2-digit SIC Code they are in the same industrial grouping. The regulations do not say, however, that pollutant-emitting activities which have different 2-digit SIC Codes are in different industrial grouping and therefore are different sources. The comprehensive aspect of the term "industrial grouping" is made clear in the preamble to the August 7, 1980 rulemaking on page 52695 of the Federal Register where it is stated, "thus one source classification encompasses both primary and support facilities even when the latter includes units with a different two-digit SIC Code." In an approach similar to that in the August 7, 1980, Federal Register, it is reasonable to conclude that the physical grouping of the various pollutant-emitting activity in permanent buildings, even though the activities have different 2-digit SIC Codes, is a common sense industrial grouping and should be called one source. We therefore, conclude that the State has a sound basis for continuing to classify the activities at the Chemolite plant as one source according to its primary activity.

The only exception to this preferred approach, which we are aware of, is the case where a sub-source which is acting as a support facility has the potential to be a major 100 ton per year (tpy) PSD source in and of itself and the sub-source is nested with a group of activities whose primary activity constitute one of the 250 tpy source categories. In such cases, the 100 tpy source may be subject to PSD review while the total activities may not be large enough to trigger PSD review as a 250 tpy major source. In this case, the 100 tpy source could be either a new source or an existing source experiencing a significant modifications and thus, the nested 100 tpy source or modification alone would be subject to PSD review. Furthermore, in this case, netting could only occur within the 100 tpy source if the overall 250 tpy type source was not major. (The PSD regulations do not provide for netting to take place at minor sources).

If 3M wishes to suggest another exception that falls outside the scope of this guidance, we would have to make a source specific determination. In that event, as a minimum, the following additional information would be needed for consideration:

1. With respect to any pollutant that was potentially subject to the PSD rules, emission reductions used to net a modification out of PSD review must have come from the source that was being modified. If 3M in the past has used an emission reduction for a netting credit from an activity that would be a candidate for subdividing into a source different from the source being modified, then that netting action should be interpreted as 3M's position that the two activities are indeed the same source and thus cannot be subdivided. Data must be supplied by 3M such that all netting activities occurring since August 7, 1980, (the promulgation date for the definition of source used in the Federal PSD regulations and the construction ban) can be reviewed to determine if inter-"source" netting was done with respect to activities which could be candidates for separate sources by SIC Code subdivision.

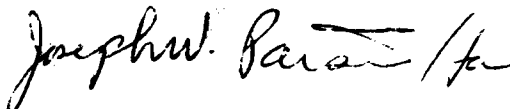
2. If a new pollutant-emitting activity, which would be major and which would be a candidate for a separate source, started since August 7, 1980, and it did not get a PSD review but netted out of review, such netting, should be considered evidence that the activity was considered by 3M as part of one source. Otherwise, such subdivided sources must be considered as constructing and operating without a valid PSD permit. Data must be supplied by 3M and reviewed to determine if such subsources were constructed.
3. The data submitted for items 1 and 2 must include a list of all intermediate products produced at the Chemolite Plant since August 7, 1980, that were used in making other intermediate products or final products at the Chemolite Plant. The data must include the identification of buildings in which the intermediate and final products were produced and the dates of production. These data must include 3M's suggested new SIC Codes. This will be needed to determine if any sub-divided candidate acted as a support facility for another sub-divided candidate. If this would be found to be the case at any time since August 7, 1980, then the subdivisions could not be made.

The analysis called for above with respect to PSD must also be done with respect to any construction sanctions in 40 CFR 52.24. Although the above cited data would be important in any consideration of subdividing a source, there is no assurance that the practical problem of keeping track of subsources can be solved.

The United States Environmental Protection Agency would be generally opposed to establishing a policy for subdividing a complex industrial development into different sources. This is because many other construction permit applicants could be hurt. This is because they would not be able to transfer netting credits between activities because such activity could be classified as different sources. To accommodate 3M's request may require an amendment to the regulations.

We hope that this will give you sufficient guidance in responding to the request of 3M. If you have additional questions, please feel free to contact Ronald Van Mersbergen at 312/886-6056.

Sincerely yours,



Steve Rothblatt, Chief  
Air and Radiation Branch

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