August 6, 1996

Reply To
Attn Of: AT-082

Martin Bauer, Chief
Construction Permits Bureau
Division of Environmental Quality
Idaho Department of Health
and Welfare
1410 North Hilton
Boise, Idaho 83706-1255

Dear Mr. Bauer:

This is a partial response to your letter of April 5, 1996 to David C. Bray. I apologize for the length of time that it has taken to get a response, but with the recent promulgation of EPA's federal operating permits program (40 CFR Part 71) for Idaho and Alaska, our permit program resources have been directed at completing the interim approvals for those two Title V programs to minimize the time that the federal program will be in effect. It has also taken significant time to track down the most recent guidance on the two specific issues discussed in your letter. We will be able to get back to working in earnest on Idaho's PSD/NSR SIP submittal by the middle of August.

In general, EPA agrees with the conclusions as stated in your letter. However, EPA still has serious concerns about Idaho's approach to the specific issues of when to include fugitive emissions in potential to emit calculations, and how to determine when a major modification has occurred. In order to address these issues, I have enclosed a number of recent EPA guidance documents on these subjects.

First, on the specific issue of counting fugitive emissions for sources in a source category regulated by a section 111 or 112 standard, I have enclosed a copy of a March 1, 1996 letter from Robert G. Kellam, Acting Director, Information Transfer and Program Integration Division, Office of Air Quality Planning and Standards to Donald P. Gabrielson of the Pinal County Air Quality Control District, Arizona. The third item in the letter specifically addresses the requirement for counting fugitive emissions for sources within an NSPS source category even if the source itself is not subject to the NSPS. I've also enclosed three other recent guidance documents on the issue of counting fugitive emissions in major source applicability determinations.

Along with the March 1, 1996 letter, these four documents address such issues as counting fugitives from co-located listed and non-listed source categories (March 8, 1994 and June 2, 1995 memoranda from Lydia Wegman to Regional Air Office Directors), clarification as to what is considered a "functionally equivalent opening" (April 16, 1996 letter from Cheryl Newton, EPA Region 5 to Paul Dubenetzky, State of Indiana), clarification as to how to determine whether emissions could "reasonably" pass through a stack, vent, or functionally equivalent opening (March 1, 1996 letter from Robert G. Kellam to Donald P. Gabrielson), and clarification as to what fugitive emissions are counted if a source falls within a listed source category (March 1, 1996 letter from Robert G. Kellam to Donald P. Gabrielson). These guidance documents represent EPA's determination as to what is necessary to comply with the requirement of section 302(j) of the Act and, as such, must be followed by any State in order to receive approval of its permit programs for major stationary sources.

Second, on the issue of determining when changes trigger the definition of major modification, I have enclosed a series of five EPA guidance memoranda dating from January 2, 1981 through September 18, 1989 that all address EPA's policy of accumulating emissions for determining whether a "net emissions increase" has occurred. All of these memoranda reaffirm EPA's policy that the determination of the net emissions increase does not include contemporaneous emissions changes unless the plantwide emissions increases from the proposed modification itself would be significant. It is important to note that many of these memoranda indicate that EPA will be revising the PSD/NSR rules to make the rules consistent with the policy, however to date, such revisions have not been made. On the contrary, the proposed revisions to the PSD/NSR rules published on July 23, 1996 make fundamental changes to the definition of major modification which, if promulgated as proposed, would invalidate this policy. As such, while a change to Idaho rules which is consistent with current EPA policy would be approvable as a revision to the Idaho SIP, EPA recommends against making such a change at this time pending the final promulgation of revised EPA regulations.

Because of the priority Title V workload, we have not yet completed our review of the PSD/NSR SIP submittal so are unable to send you detailed comments at this time. For the same reason, we have not yet been able to further investigate the provisions of your current SIP rule which exempt fugitive dust emissions. We will forward the findings of our review as soon as it is completed. However, before we can complete our review, we will need to receive a formal SIP revision submitting the recent revisions to your rules covering periods of excess emissions. I am aware that certain changes to your rules addressing the Part 70 emergency provisions were submitted as revisions to your Title V program submittal, however, no revisions to the SIP excess emission provisions have yet been received by EPA.

If you have any questions on the status of your SIP submittal, please contact David Bray (206) 553-4253.

Sincerely,

Joan Cabreza
Permits Team Leader
Office of Air Quality

Enclosure