

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
999 18th STREET- SUITE 500
DENVER COLORADO 80202-2405

Ref: BAT - AP

Aug. 22, 1991

Cathy Rhodes
Air Pollution Control Division
4210 East 11th Avenue
Denver CO 50220

Dear Cathy:

This letter is in response to your request dated July 18, 1991 for guidance regarding the definition of a source for PSD purposes. The specific case involves co-generation gas turbines that are separated by one-half mile and have some difference in the ownership relationship of each facility.

To provide guidance on this subject, we will attempt to discuss various aspects of the new source review definition of source which is somewhat different from the normal way that a source might be defined. "Stationary source" is defined as "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 of more contiguous or adjacent properties, and are under the control of the same persons (or persons under common control)." The 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 two-digit code) as described in the Standard Industrial Classification Manual.

There are three unique parts in the definition of a stationary source under the new source review regulations which need to be examined to determine what constitutes the source or sources in the case of Colorado Power Partners (CPP):

1. "all of the pollutant emitting activities which belong to the same industrial grouping".

The pollutant-emitting activities for the subject operations are all identical, hence they have the same SIC code classification.

2. "Are located on one or more contiguous or adjacent properties"

The location of the gas turbines are separated by one half mile but will share a greenhouse water supply, a PSCo interconnection power line, and

dirty water and sewer service lines. Adjacent or contiguous facilities can mean facilities that are physically separated by some distance. In a memo dated June 30 1981, from the Division Director of Stationary Source Enforcement, two facilities that were located one mile apart were determined to be adjacent. (enclosed) The one-half mile separation of these two gas turbines should be considered adjacent for purposes of determining if they are a single stationary source.

3. "are under the control of the same person (or persons under common control)"

CPP built a 50 Megawatt project.

Ownership is determined to be:

50% to Cogeneration Technology, Inc. (CTI) Partners

50% to Twombly Partners

CTI Partners plans to built a 68 megawatt Project

Ownership is claimed to be:

100% - CTI Partners

The amount of control or ownership by CTI Partners is 50% or more in each of the two projects which seems to make it clear that common control of both projects does exist. A memo dated March 16, 1979 from the Division Director at Stationary Source Enforcement points out that a person (or persons) with 50% voting interest in an entity will be considered to have control. (enclosed)

I hope this guidance will be helpful in your determination. If you have questions our response, please contact John Dale at (303) 294-7611 or Monica Morales at (303) 294-7613.

Sincerely

Douglas M. Skie, Chief
Air Programs Branch

Enclosures: