

February 20, 1998

4APT-ARB

James A. Joy, III, P.E., Chief
Bureau of Air Quality Control
South Carolina Department of Health and
Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Dear Mr. Joy:

Thank you for your letter dated August 14, 1997, regarding the written applicability determination for several possible title V facilities in South Carolina. You specifically requested title V applicability determinations for four different situations involving contiguous and adjacent facilities. For each situation described in your request letter, we have included below the specific facility information which was provided by your office, followed by our applicability determination.

Situation #1

There are four facilities located on contiguous and adjacent property. Westvaco Corporation owns and operates three of these facilities. The fourth facility is a cogeneration unit (SIC Code 4931) that is a limited-liability corporation (LLC) formed by Westvaco Corporation and South Carolina Electric and Gas. The three Westvaco facilities are an unbleached kraft pulp and paper mill (SIC Code 2621 and 2611), a chemical manufacturing facility (SIC Code 2861), and a research and development (R&D) facility associated with 2861 and 2821. These combined facilities emit hazardous air pollutants and criteria air pollutants above the threshold. Each individual facility, standing alone (with the exception of the R&D facility), emits criteria pollutants and HAPs above the threshold. SC DHEC believes that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit.

Through regulation, guidance, and individual determinations, the U.S. Environmental Protection Agency (EPA) has established several mechanisms for use by sources and permitting authorities in determining common control as used in the definition of "major source" under Title I and Title V of the Clean Air Act. First, common control can be established through ownership (i.e., same parent company or a subsidiary of the parent company). Second, common control can be established if an entity such as a corporation has decision-making authority over the operations of

a second entity through a contractual agreement or a voting interest. If common control is not established by the first two mechanisms, then one should next look at whether there is a contract for service relationship between the two companies or if a support/dependency relationship exists between the two companies in order to determine whether a common control relationship exists.

Clearly, the unbleached kraft pulp and paper mill, the chemical manufacturing facility, and the R&D facility are under common control since they are owned by Westvaco. With regard to the cogeneration facility, EPA Region 4 agrees that it is not part of the same parent company as Westvaco since, generally, a joint venture is not a subsidiary to either party of the joint venture. However, it is the position of EPA Region 4 that the cogeneration facility, via its contractual relationship forming the joint venture, is under common control of Westvaco with the rest of the Westvaco facilities.

EPA Region 4 agrees with South Carolina's assessment that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit. Therefore, based on the definition of a "major source", it is the position of EPA Region 4 that the Westvaco facilities and the cogeneration facility constitute one major stationary source for title V applicability purposes since the four facilities are located on land contiguous and adjacent to one another, Westvaco Corporation has common control of operations in all four facilities, and combined HAP emissions exceed the major source thresholds.

Situation #2

Bowater Incorporated owns a facility that manufactures bleached kraft pulp and paper and thermo-mechanical pulp (SIC Codes 2611, 2621). Georgia-Pacific (GP) owns a hardboard plant which is located inside the Bowater facility. GP purchases raw materials from the Bowater facility including power, wastewater treatment, and wood chips. GP owns the land on which the GP facility is located. Additionally, Peridot Chemicals owns a chemical manufacturing plant (SIC Code 2819) adjacent to other facilities. Fifteen percent of the total chemicals produced by the Peridot facility are supplied to Bowater. The Bowater and GP facilities emit hazardous air pollutants and criteria air pollutants above the thresholds (both individually and combined). SCDHEC believes that the GP and Bowater facilities emissions should be aggregated when considering if it is necessary to obtain a title V permit. SCDHEC believes that GP and Bowater emissions should be considered together in determining title V applicability. SCDHEC believes that the Peridot facility should not be included in the applicability determination.

Based on the information provided, the Peridot Chemicals facility does not appear to have a common control relationship with either Bowater or GP. Bowater and GP appear to have a contract-for-service relationship since Bowater supplies one hundred percent of GP's raw materials for power, wastewater treatment, and wood chips. There are no provisions in title V of the Act for excluding contracted operations in defining major sources. In addition, contract-for-service activities may indicate that sources are under common control. However, in determining if there is a common control relationship between Bowater and GP, one needs to understand more clearly how these "companion" facilities interact with each other. Although Bowater provides integral services to GP, the GP facility does not appear to be dependent upon the Bowater facility for operation except by convenience, therefore the facilities do not appear to be under common control. However, since both operations are independently major sources, both operations are independently subject to title V requirements.

EPA Region 4 agrees with South Carolina's assessment that the Peridot Chemicals facility should not be included in the applicability determination. However, EPA Region 4 does not agree that the GP and Bowater emissions should be considered together in determining title V applicability. Therefore, based on the definition of a "major source", it is the position of EPA Region 4 that the Peridot Chemical, Bowater, and GP facilities constitute separate sources for purposes of title V applicability since there does not appear to be a common control relationship between them. However, those facilities which are independently major sources are independently subject to the title V requirements.

Situation #3

Willamette Industries owns a bleached kraft pulp and paper mill (SIC Code 2611) and a medium density fiberboard (MDF)(SIC Code 2493) plant on adjacent and contiguous property. ECC International owns a chemical manufacturing facility (SIC Code 2819) which is located on Willamette's property. ECC International leases the land from Willamette. ECC provides one hundred percent of its output to Willamette's bleached kraft paper mill. These facilities all emit hazardous air pollutants and criteria air pollutants. The kraft mill is the only stand-alone "major source." SCDHEC believes that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit.

Additionally, SCDHEC is requesting a Prevention of Significant Deterioration (PSD) determination for the three facilities. All three facilities were initially considered separately for PSD

purposes. However, the facilities have supplied additional information regarding their inter-relationships that may make them subject as one source under PSD.

Clearly, the bleached kraft pulp and paper mill and the MDF plant are under common control since they are owned by Willamette.

Based on the information provided, ECC and Willamette appear to have a contract-for-service relationship since ECC provides one hundred percent of its output to the bleached kraft paper mill. As mentioned in situation #2 above, contract-for-service activities may indicate that sources are under common control. However, in determining if there is a common control relationship between ECC and Willamette, one needs to understand more clearly how these "companion" facilities interact with each other. Based on the information provided, ECC provides one hundred percent of its output to Willamette's bleached kraft pulp and paper mill, and Willamette supplies steam, electricity and waste treatment services to ECC. In addition, in the event of the loss of any service, the ECC plant is shut down until service is restored. Since both facilities provide each other with goods or services that are integral to or contribute to the output provided by the separately "owned or operated" activity with which they operate or support, both facilities are determined to be under common control.

EPA Region 4 agrees with South Carolina's assessment that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit. Therefore, based on the definition of a "major source", it is the position of EPA Region 4 that the Willamette facilities and ECC constitute one major stationary source for title V applicability purposes since all three facilities are located on land contiguous and adjacent to one another, are under common control, and combined HAP emissions exceed the major source thresholds.

With regard to the PSD applicability determination, based on the information supplied to date, it is the position of EPA Region 4 that the bleached kraft pulp and paper mill (SIC 2611) and the medium density fiberboard (MDF) plant (SIC 2493) owned by Willamette Industries should be considered separate sources for the purposes of PSD. Aside from the differing major group SIC codes, neither source acts as a "support" facility for the other. Each source is engaged in manufacturing different principal products and neither source's product is utilized by the other. Since Willamette and ECC are considered to be under common control, ECC is considered a "support" facility for the kraft pulp mill despite differing SIC codes. Therefore, the Willamette kraft pulp mill and the ECC facility should constitute one source for PSD applicability purposes.

Situation #4

International Paper owns a bleached kraft mill (SIC Code 2611) and a container plant (SIC Code 2653) on adjacent and contiguous property. These facilities emit hazardous air pollutants and criteria air pollutants. SCDHEC believes that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit.

Clearly, the kraft mill and container plant are under common control since they are owned by International Paper. EPA Region 4 agrees with South Carolina's assessment that these facilities' emissions should be aggregated when considering if it is necessary to obtain a title V permit. Therefore, based on the definition of a "major source", it is the position of EPA Region 4 that the International Paper bleached kraft mill and container plant constitute one major stationary source for title V applicability purposes since both facilities are located on contiguous or adjacent properties, are under common control, belong to a single major industrial grouping, and combined emissions exceed the major source thresholds.

If we may be of further assistance, please contact me or have your staff contact Yolanda Adams of my staff at (404) 562-9116 regarding title V issues or Gregg Worley of my staff at (404) 562-9141 regarding PSD issues.

Sincerely,

/s/

R. Douglas Neeley
Chief
Air & Radiation
Technology Branch