

(A-18J)

December 19, 2006

Kevin Kessler, Acting Director
Bureau of Air Management
Wisconsin Department of Natural Resources
101 South Webster Street
P.O. Box 7921
Madison, Wisconsin 53707-7921

Dear Mr. Kessler:

I am writing in response to the May 12, 2006, letter from Jeffrey C. Hanson, P.E., that requested assistance from the United States Environmental Protection Agency (U.S. EPA) in determining whether an expansion at Putzmeister Inc. (Putzmeister) would be subject to non-attainment New Source Review (NAA NSR). Putzmeister is located in Racine County, Wisconsin.

In June 2005, U.S. EPA redesignated Racine County from a severe non-attainment area under the 1-hour ozone standard to a moderate non-attainment area under the 8-hour ozone standard. With the 8-hour requirements replacing the 1-hour requirements, the major source threshold for volatile organic compounds (VOC) changes from 25 to 100 tons per year (tpy).

The Wisconsin Department of Natural Resources (WDNR) issued Putzmeister a permit in 1998 under the 1-hour ozone standard that limited its potential emissions of VOC to 24.9 tpy to avoid classification as a major source and to avoid NAA NSR review. Putzmeister took the 24.9 tpy limit in accordance with the NAA NSR thresholds in effect at that time. Putzmeister has proposed a physical change at its facility that will necessitate an increase in its established VOC limit, and is requesting its allowable facility VOC emissions be increased to 99 TPY.

Specifically, your letter requested guidance regarding the applicability of 40 CFR §51.165(a)(5)(ii) to Putzmeister's proposed modification. The NAA NSR rules at 40 CFR §51.165(a)(5)(ii) state:

At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Based on our review of the facts in this case, it is our view that the provision above is not implicated by the proposed changes at Putzmeister.

Wisconsin has a State Implementation Plan (SIP) approved NAA NSR program. U.S. EPA approved this into the SIP on January 18, 1995, and it became effective on February 17, 1995. (See 60 FR 3538.) Pursuant to this approval, the WDNR is responsible for issuing NSR-related applicability determinations based on Wisconsin's regulations, in compliance with its SIP. The above is our position on the application of U.S. EPA's NAA NSR requirements as set forth at 40 CFR 51.165, 52.24 and part 51, Appendix S, which Wisconsin may consider in interpreting its own SIP-approved regulations. We consulted with U.S. EPA's Office of Air Quality Planning and Standards and the Office of General Counsel in making this interpretation.

Thank you for your patience in this matter. If you have any further questions, please feel free to contact me, or have your staff contact Susan Siepkowski, of my staff, at (312) 353-2654.

Sincerely yours,

/s/

Stephen Rothblatt, Director
Air and Radiation Division