



Joseph E. Kernan
Governor

Lori F. Kaplan
Commissioner

May 26, 2004

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
(317) 232-8603
(800) 451-6027
www.in.gov/idem

TO: Interested Parties / Applicant

RE: Ispat/Inland Steel Indiana Harbor Coke Company, LP / 089-16374-00382

FROM: Paul Dubenetzky
Chief, Permits Branch
Office of Air Quality

Notice of Decision: Section 112(j) Applicability Determination

Please be advised that on behalf of the Commissioner of the Department of Environmental Management, I have issued a decision regarding the enclosed matter. Pursuant to IC 4-21.5-3-5(f) this order is effective fifteen (15) days after it is served. When served by U.S. mail, the order is effective eighteen (18) calendar days from the mailing of this notice pursuant to IC 4-21.5-3-2(e).

If you wish to challenge this decision, IC 4-21.5-3-7 requires that you file a petition for administrative review. This petition may include a request for a stay of effectiveness and must be submitted to the Office of Environmental Adjudication, 100 North Senate Avenue, Room 1049, Indianapolis, IN 46204, **within eighteen (18) calendar days of the mailing of this notice.** The filing of a petition for administrative review is complete on the earliest of the following dates that apply to the filing:

- (1) the date the document is delivered to the Office of Environmental Adjudication (OEA);
- (2) the date of the postmark on the envelope containing the document, if the document is mailed to OEA by U.S. mail; or
- (3) the date on which the document is deposited with a private carrier, as shown by receipt issued by the carrier, if the document is sent to the OEA by private carrier.

The petition must include facts demonstrating that you are either the applicant, a person aggrieved or adversely affected by the decision or otherwise entitled to review by law. Please identify the permit, decision, or other order for which you seek review by permit number, name of the applicant, location, date of this notice and all of the following:

- (1) the name and address of the person making the request;
- (2) the interest of the person making the request;
- (3) identification of any persons represented by the person making the request;
- (4) the reasons with particularity, for the request;
- (5) the issues, with particularity, proposed for consideration at any hearing; and
- (6) identification of the terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing documents of the type issued by the Commissioner.

If you have technical questions regarding the enclosed documents, please contact the Office of Air Quality, Permits Branch at (317) 233-0178. Callers from within Indiana may call toll-free at 1-800-451-6027, ext. 3-0178.

Enclosure
FN-112jdet.dot 9/16/03



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live.

Joseph E. Kernan
Governor

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May 26, 2004

George Bradley Jr. 61-50 DW
Ispat / Inland Steel
Indiana Harbor Coke Company, L.P.
3210 Watling Street MC 2-990
East Chicago, IN 46312

Re: Response to Review Request No. 16374:
 Section 112(j) Applicability Determination
 Plant ID: 089-00382

Dear Mr. Bradley:

Ispat / Inland Steel – Indiana Harbor Coke Company, L.P., located at 3210 Watling Street MC 2-990 in East Chicago, Indiana, submitted a request for an applicability determination regarding the requirements of Section 112(j) of the Clean Air Act (CAA) on May 17, 2002. The letter was submitted in accordance with 40 CFR 63.52(d)(1) and requested that the Indiana Department of Environmental Management, Office of Air Quality (IDEM, OAQ) determine if Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. is subject to the requirements of Section 112(j) (40 CFR 63.50 through 63.56) for the Coke Oven, Pushing, Quenching, and Battery Stacks source category. Additional information was submitted on November 6, 2003.

Pursuant to 40 CFR 63.50, the requirements of Section 112(j) will apply only if your entire source is a major source of hazardous air pollutants (HAPs) and one or more of your processes or emissions units belong in a category or subcategory for which the United States Environmental Protection Agency (U.S. EPA) has failed to promulgate an emission standard on or before the Section 112(j) deadline. IDEM, OAQ has determined that your source is not subject to Section 112(j) for the Coke Oven, Pushing, Quenching, and Battery Stacks source category. An explanation of this determination is provided below.

MAJOR SOURCE DETERMINATION

The information submitted in the Part 1 MACT Application indicates that Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. is not a major source of HAPs. However, IDEM, OAQ has determined that Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. and Ispat Inland, Inc. are a single source for the purposes of determining whether or not they constitute a major source under 40 CFR 63.2.

The definition of “major source” in 40 CFR 63.2 means, “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any [HAP] or 25 tons per year or more of any combination of [HAPs]...” No definition of “common control” is provided in 40 CFR 63. The United States Environmental Protection Agency (U.S. EPA) provided some information regarding the interpretation of the definition in the preamble to the original proposal of 40 CFR 63, Subpart A General Provisions published on August 11, 1993 (58 FR 42760). On page 42766, U.S. EPA states “..the EPA selected an interpretation of major source that is based mainly on the statutory definition given in Section 112(a)(1) and the approach taken in the regulation implementing Title V of the Act.” The only difference in the relevant portion of the definitions of major stationary source between the 40 CFR

Part 63 definition (refer to the definitions of “major source” and “stationary source”) and the Part 70 definition (refer to the definition of “major source” and “stationary source”) and definition for the major new source review rules (refer to the definition of “stationary source” and “building, structure, facility, or installation” for major new source review) is the reference to the major SIC code grouping that exists in the Part 70 and major new source review definitions. The U.S. EPA clarified why the reference to SIC codes that is included in the Title V (Part 70) definition of “major source” was not included in the definition of “major source” for 40 CFR Part 63 in the preamble for the March 16, 1994 promulgation of 40 CFR 63, Subpart A General Provisions (59 FR 12430). No distinctions regarding “common control” were made in either preamble or in any of the revisions to 40 CFR Part 63, Subpart A that have been proposed or promulgated since then. Since none of the rules define the term “common control”, interpretations of “common control” for the definition of major source from 40 CFR 70.2 and major new source review can be applied to the term “common control” in 40 CFR 63.2.

Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. is located at Ispat Inland, Inc., and Ispat Inland, Inc. is a major source of hazardous air pollutants (HAPs). Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. and Ispat Inland, Inc. are considered a single source for the purposes of Part 70. Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. is a separate corporate entity from Ispat Inland, Inc. However, the majority of the coke produced is sold to Ispat Inland, Inc. and additional coke is sold to other sources co-located with Ispat Inland, Inc. that are part of the same major source. The operations of both companies are interconnected. Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. operates the source, but the original permit and subsequent modifications have been permitted as a joint project with Ispat Inland, Inc. In obtaining permits for those modifications, Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. has used emissions reductions from units at Ispat Inland, Inc. for major new source review netting purposes.

The concept of the definition of “major source” for 40 CFR 63.2 includes the entire source and not just the affected source for the relevant standard. The provisions are clear that the affected source itself does not have to be major, as long as it is part of a major source of HAPs.

Indiana Harbor Coke Company is located at Ispat Inland, Inc., and has been determined to be under common control with Ispat Inland, Inc. because of the on-site contractor relationship. Therefore, Indiana Harbor Coke Company is part of a major source of HAPs. Since Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. is a major source of HAPs, IDEM, OAQ evaluated the source categories for which Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. requested an applicability determination.

SOURCE CATEGORY DETERMINATION

Coke Oven, Pushing, Quenching, and Battery Stacks NESHAP

Since the final MACT standard for Coke Oven, Pushing, Quenching, and Battery Stacks was promulgated on April 14, 2003, Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. is no longer subject to Section 112(j) for that source category. However, Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. is subject to the promulgated MACT standard because it operates an existing affected source that is part of a major source of HAP in accordance with the criteria in 40 CFR 63.7271 and 63.7282. Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. shall comply with the promulgated MACT standard in accordance with the schedule provided in the MACT standard. The MACT requirements include the applicable General Provisions requirements of 40 CFR 63, Subpart A. The MACT and the General Provisions of 40 CFR 63, Subpart A will become new applicable requirements, as defined by 326 IAC 2-7-1(6), that must be incorporated into the Part 70 permit. IDEM, OAQ will include the MACT requirements in the draft Part 70 permit, T-089-11311-00382.

If U.S. EPA promulgates a final MACT standard prior to IDEM, OAQ issuing a permit containing the Section 112(j) determination requirements, a source is no longer subject to Section 112(j) for that source category, including the requirement to submit a Section 112(j) Part 2 MACT Application. A source is still subject to Section 112(j) for any other source categories that do not have promulgated MACT standards.

This determination is based on the information provided by Ispat / Inland Steel – Indiana Harbor Coke Company, L.P., IDEM, OAQ records, and the information currently available from the U.S. EPA.

Note that if additional equipment or capacity is added or operational practices are changed, the Section 112(j) requirements may be triggered in accordance with 40 CFR 63.52(b). If the events described in 40 CFR 63.52(b) occur at the source, Ispat / Inland Steel – Indiana Harbor Coke Company, L.P. shall submit a Part 1 MACT Application in accordance with the requirements and schedule contained in 40 CFR 63.52(b).

Questions should be directed to Rebecca Mason, IDEM, OAQ, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana, 46206-6015, or call (800) 451-6027, and ask for Rebecca Mason at extension 3-9664, or dial (317) 233-9664.

Sincerely,

Original Signed by Paul Dubenetzky

Paul Dubenetzky, Chief
Permits Branch
Office of Air Quality

RLM

CC: File – Lake County
Lake County Health Department
Air Compliance – Dave Sampias
Teresa Freeman
Northwest Regional Office
Administration Section
U.S. EPA Region V – Genevieve Damico

Mr. Anthony C. Sullivan
Barnes and Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204-3535