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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MEMORANDUM:

DATE: October 10, 1978

SUBJECT: Source Construction Prior to Issuance of PSD Permit

FROM: Director
Division of Stationary Source Enforcement

TO: Thomas W. Devine, Chief
Air Branch, Region I

This is in response to your memo of September 8, 1978, requesting guidance on the extent to which a company can legally construct, prior to PSD permit issuance, a building which will house both PSD-affected and non PSD-affected facilities. General rules for determining the extent to which construction may proceed and specific points regarding the two cases outlined in your memo, MATEP and Hampshire Chemical, will be discussed below.

In general, a structure which is to house independent facilities, some of which are subject to PSD and some which are not, may be constructed before a PSD permit is issued only if the building is a necessary part of the PSD-exempt project and if it is in no way modified to specifically accommodate the PSD-affected facilities. For example:

We understand that the MATEP project mentioned in your memo involves the construction of steam boilers and diesel engines which are to be housed in the same building. The steam generators have been determined by the Region I Office to be exempt from PSD requirements. The diesel engines on the other hand are subject to PSD review. MATEP may begin construction on the building which will hold the boilers and the diesels, before the PSD permit is issued, as long as the drains, piping, footings for the diesels, and any other installations necessary to accommodate the diesels are not installed until the permit is issued. Although drains, diesel footings, and various other installations may be considered part of the structure of the building, they may not be constructed until the permit is issued if they are specific to the diesel engines and are not considered part of the boiler construction project.

The other case mentioned in your memo is the construction of the Hampshire Chemical wastewater treatment plant. As we understand it, the wastewater treatment facility is subject to PSD review because it will be equipped with a sludge incinerator. In this case, as in cases involving municipal wastewater treatment plants, the question of whether construction of all parts of the treatment facility must await permit issuance depends on the reliance of the treatment facility on the incinerator. That is, if the sludge incinerator is an integral part of the wastewater treatment facility (the facility would not be built without an incinerator), the PSD permit must be obtained before any work can begin on any portion of the treatment plant. If the installation of a sludge incinerator is "optional", the rules for determining what portions of any buildings or other structures common to the incinerator and other parts of the treatment facility will be those discussed earlier in this memo. By "optional" we mean that the treatment facility could be operated without the incinerator. In this way, if the PSD permit for the incinerator is denied, the portion of the treatment plant which has already been constructed will not be lost. It is extremely difficult to deny issuance of a permit when it results in a completed

portion of a project having to remain idle. Therefore, in order to avoid any equity arguments at a later time, it is better to prevent any construction now rather than to have a "white elephant" on our hands later on.

If you have any further questions on this issue, please contact Libby Scopino at FTS 755-2564.

Edward E. Reich

cc: Dick Rhoads
Peter Wyckoff