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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF GENERAL COUNSEL

DATE: August 25, 1976

SUBJECT: PSD Review Requirements for
Modified Petroleum Refineries

DATE: August 25, 1976

FROM: Richard G. Stoll, Jr., Attorney
Air Quality & Noise Control Division (A-133)

TO: Robert R. McKearin
Assistant Regional Counsel
Region VI

This is in response to your memorandum of August 18. It is my understanding that installation work began after June 1, 1975 on a catalytic cracking unit at an existing petroleum refinery in your Region. The cracking unit had been in operation in Canada, and its components have been moved to your Region for "re-erection." You are seeking written confirmation from me that such "re-erection" commencing after June 1, 1975 would trigger the review procedures of EPA's prevention of significant deterioration (PSD) regulations (40 CFR 52.21(d)).

This is to confirm that if the catalytic cracking unit will increase SO₂ and/or particulate emissions from the refinery, then unless there was a binding contract for continuous on-site construction executed prior to June 1, 1975, [SEE FOOTNOTE 1] the "re-erection" commencing after that date would trigger the PSD review procedures. If this work has begun and no permit has been granted, the owner or operator is in violation of an implementation plan and subject to enforcement under Section 113 of the Clean Air Act. 40 CFR 52.21(e) (2).

New or modified petroleum refineries for which construction or modification has commenced on or after June 1, 1975 are unquestionably subject to review. 40 CFR 52.21(d) (1) (xi). Only modifications which do not increase SO₂ or particulate emissions (or fuel switchings) may be exempt. 40 CFR 52.21(d) (1). The fact that the modification in question may be the result of moving certain equipment from Canada and "re-erecting" it in your Region is totally irrelevant under the PSD regulation.

[FOOTNOTE 1] See Roger Strelow's memoranda of December 18, 1975 and April 21, 1976 to all Regional Administrators.

It is also irrelevant for PSD purposes that the cracking unit be exempt from NSPS standards because it was originally erected prior to the proposal for those standards.[SEE FOOTNOTE 2] The basic purpose of the PSD regulation is assure that significant new emissions in an area do not cause or contribute to violations of the applicable air quality increments. This purpose would not be served by ignoring new emissions caused by equipment which is dismantled in one area and "re-erected" in the area of concern.

cc: George Stevens, DSSE
Kent Berry, OAQPS

[FOOTNOTE 2] Whether your Region's assumption regarding the NSPS exemption is correct is an open question as far as I know. If you have not done so, you should check this matter with headquarters' Division of Stationary Source Enforcement.