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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 1 1981

MEMORANDUM

OFFICE OF ENFORCEMENT

SUBJECT: PSD Questions

FROM: Director
Division of Stationary Source Enforcement

TO: Merrill S. Hohman, Director
Air & Hazardous Materials Division, Region I

This is to respond to your memo of February 26, 1981 in which you requested answers to five questions that were raised by industry representatives concerning PSD. I would like to respond to your questions in the order in which they were raised.

(1) The answer to this question is found in section 52.21 (b)(3)(i) of the August 7, 1980 amendments to the PSD regulations. In order for a decrease in emissions to be considered contemporaneous, the actual decrease itself must take place within five years of the particular physical change or change in method of operation at a stationary source. The decrease must be enforceable in order to be creditable; however, enforceability is a requirement distinct from the five year contemporaneous time frame of the actual emissions decrease.

(2) In order to determine if PSD review is applicable for a modification, it is necessary to look at the source status (major vs. non-major) before and after the proposed modification. If the existing source is of major status for one pollutant but the results of the modification will bring the source below the major source threshold for that pollutant, PSD review will not be required. In order for PSD review to be applicable for the case in question, the source must either retain its major status for SO₂ or propose increases that would make the source major for TSP after the modification. Any contemporaneous creditable increases or decreases in emissions should be included when determining the emission results of the proposed modification.

(3) PSD review, or exemptions to PSD review are based on preconstruction information. A major source which qualifies as a non-profit health institution may receive an exemption from PSD review. The effect of a change in the source's non-profit status upon its exemption would depend on any conditions of the exemption or factors concerning the change in status. This office would like to reserve judgement on your question until more specific information on the source in question is available.

(4) The following definition of "municipal solid waste," which is found in 40 CFR 60.51(b) should be used when determining a possible exemption under 40 CFR 52.21(b) (2).

"Solid Waste" means refuse, more than 50 percent of which is municipal type waste consisting of a mixture of paper, wood, yard

wastes, food wastes, plastics, leather, rubber, and other combustibles, and noncombustible materials such as glass and rock.

This definition is used to maintain consistency between the PSD and NSPS programs. The policy of using NSPS definitions (where appropriate) for PSD and NSR is supported by language in the PSD workshop manual and in an October 24, 1980 memo from OAQPS to the Regional Offices (copy attached).

(5) The definition of "steam generating unit" given in 40 CFR 60.41 a should be used when determining an exemption under 40 CFR 52.21 (b)(2)(iii)(d). As you mentioned in your memo, the application of the aforementioned exemption was more narrowly defined between proposal and promulgation of the PSD amendments. The proposed rule exempted from modification any use of RDF generated from municipal solid waste. The promulgated rules exempted the use of RDF only at steam generating units. The language in the August 7, 1980 preamble and the purpose of the exemption itself, however, supports the use of the broader definition of "steam generating unit."

If you have any questions regarding this response, please contact Janet Littlejohn of my staff at 755-2564.

Edward E. Reich

Attachment

cc: Mike Trutna (OAQPS)
Peter Wyckoff (OGC)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: February 26, 1981

SUBJECT: PSD Questions

FROM: Merrill S. Hohman, Director
Air & Hazardous Materials Division

TO: Edward E. Reich, Director
Division of Stationary Source Enforcement
Washington, DC

Subsequent to our recent PSD workshop, representatives of the attending industries presented us with some interesting questions. I am hopeful that you can assist us in answering the following questions. Assume all sources are in PSD areas for all pollutants.

Question 1: A source shuts down an old boiler in 1976. Several years after the shutdown, the source decides to build a new boiler and commence construction on it in 1983. (Therefore, the emissions reduction from the old facility would not normally be considered contemporaneous because it occurred beyond the five year period before the new source construction.) However, the old boiler shutdown was not federally enforceable until the source consented to a permit condition in 1979. Question: Would the reduction from the shutdown be considered contemporaneous?

Question 2: An existing source is considered major for SO₂ emissions only. (It has the potential to emit SO₂ at a level that is slightly in excess of the 250 tons per year applicability level.) The source plans a new boiler modification that increases only TSP above the "de minimus" levels. Normally, this would bring TSP under a PSD review. However, after the modification is completed, there will be enough contemporaneous reductions to bring the SO₂ levels below 250 tons per year; therefore, making the source, as modified, a minor source. Question: is the source still considered a major source after the modification and subject to a PSD review for TSP, or would it be considered a minor source and not subject to PSD?

Question 3: A source applies to the Governor and requests an exemption from

PSD because they are a nonprofit health institution. Assume the request is approved and EPA concurs.

Scenario A: After the source commences construction, but before it starts operation, ownership changes to an organization that cannot be considered "non-profit" and would not operate the source in a "non-profit way".

Question: Is Region I correct in assuming that the source being operated by the new owners would be subject to a PSD review?.

Scenario B: Source is built and commences operation. Ownership changes to the organization not considered non-profit after the source is operating. Question: Would the new owners be required to retrofit BACT and be subject to other PSD requirements because they no longer qualify for the "non-profit" exemption, or would they be exempt from PSD because there is only a change in ownership (and no increase in emissions)?

Question 4: Is there a definition for municipal solid waste as that term is used under the exemption at 40 CFR 52.21(b)(2)(iii)(d)? Would construction site waste that consists mostly of wood, with some nails and bolts, bits of concrete and gravel, steel strapping, wire, shingles, etc., be considered municipal solid waste? Note: Such waste is currently being landfilled at a municipal dump.

Question 5: Under the same exemption indicated in Question 4, the term "steam generating unit" is used. On page 52704 of the August 7, 1980 revisions, the preamble states that only the switch to RDF at a "steam generating unit" is exempt. It goes on to explain that the term shall have the same meaning for the purposes of PSD as it does for the purposes of the new NSPS for certain electric utility "steam generating units". Under 40 CFR 60.41a, there is a definition for "steam generating unit" and a definition for "electric utility steam generating unit". Question: Which definition is applicable? Since the exemption may either apply to virtually all boilers, under one definition or only those that contribute to the generation of electricity for sale, under the other definition the distinction is important.

Since these are questions that involve real case situations, we would appreciate it greatly if you could respond to these questions by March 13, 1981.

Please contact John Courcier of my staff if you should have any questions. He can be reached at (FTS) 223-4448.

cc: Janet Littlejohn, DSSE