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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

In the matter of:)
)
LAKE COUNTY WASTE TO ENERGY FACILITY) Order
)
OKAHUMPKA, FLORIDA)
PROCEEDINGS UNDER)
SECTION 167 OF THE CLEAN)
AIR ACT, AS AMENDED, 42 U.S.C. SECTION 7477)

ADMINISTRATIVE ORDER

This Administrative Order is issued this date by the Regional Administrator, Region IV, United States Environmental Protection Agency (EPA) pursuant to section 167 of the Clean Air Act (the Act), 42 U.S.C. Section 7477.

FINDING OF FACT

1. The NRG/Recovery Group, Inc., proposes to construct and operate a Lake County Waste to Energy Facility (Lake County) in Okahumpka, Lake County, Florida. The Lake county facility will consist of two mass burn incinerators which will each incinerate approximately 250 tons per day of municipal solid waste. These incinerators will be fueled with a combination of municipal solid waste and wood chips. These incinerators will emit particulate matter, sulfur dioxide (SO₂), nitrogen oxides, carbon monoxide, volatile organic compounds, lead, beryllium, fluoride, sulfuric acid mist, mercury, dioxins,

-2-

dibenzofurans, and hydrogen chloride. All of the aforementioned pollutants are regulated by the Act except dioxins, dibenzofurans, and hydrogen chloride.

2. The area of Construction of the Lake County Waste to Energy Facility is located in an attainment area for all pollutants regulated by the Act. [40 Code of Federal Regulations (C.F.R.) Section 81.310] The facility is considered a major stationary source because its potential emissions (which are subject to regulations under the Act) are above the Prevention of Significant Deterioration (PSD) of Air Quality threshold level. Consequently, this facility is regulated under the PSD rules and regulations.

3. On March 11, 1986, the NRG/Recovery Group applied to the Florida Department of Environmental Regulation (DER) for a PSD permit to construct and operate two 250 tons per day municipal solid waste energy recovery units at its Lake County Facility located on Jim Rogers Road in Okahumpka, Florida, pursuant to the Florida State Implementation Plan (SIP) [Florida Administrative Code (F.A.C.) Rule 17-2.500 et seq.].

4. On May 20, 1986, in response to said PSD application, the Florida DER issued a Preliminary Determination which contained, in the State's judgment, the Best Available Control Technology (BACT) for the proposed incinerators. The BACT Determination contained emission limits for all applicable pollutants regulated by the Act and contemplated that a baghouse (to control particulates) in combination

with a scrubber (to control acid gases) constituted BACT.

5. On July 2, 1986, EPA notified the Florida DER that the SO₂ emission limit contained in the Florida DER BACT Determination may not adequately reflect BACT (i.e., proposed SO₂ emission limit not sufficiently stringent) and that the BACT Determination should also consider the effect of controlling SO₂ on Unregulated Pollutants such as hydrogen chloride and dioxin. Furthermore, EPA informed DER that it was EPA policy that the control of nonregulated air pollutants may be considered in imposing a more stringent BACT limit on regulated pollutants, if there is a reduction in the nonregulated air pollutants which can be directly attributed to the control device selected for the abatement of the regulated pollutants.

6. On August 15, 1986, DER issued a second PSD Preliminary Determination with a modified BACT Determination. The modified BACT Determination no longer contained the requirement for acid gas Controls, but only required that the applicant leave space for the acid gas control equipment in the event there would be a future state rule change for resource recovery facilities. Removal of the requirement to employ acid gas control meant the modified BACT Determination could not adequately address EPA's concern about a more stringent SO₂ emission limit.

7. On September 19, 1986, EPA notified DER that EPA was not persuaded by Lake County's contention that municipal solid waste incineration with acid gas control is not

economically feasible.

8. On September 24, 1986, the Florida DER issued its Final Determination and PSD permit to the NRG/Recovery Group for the proposed Lake County facility. The Final Determination and State PSD permit did not require the installation of acid gas control.

9. On October 23, 1986, EPA notified the Florida DER that EPA did not concur with DER's Final Determination regarding the issue of BACT. EPA recommended that the Final Determination and the Florida DER permit be reissued with a BACT Determination which reflects state-of-the-art technology (acid gas control and more stringent emission limitations for particulate matter and SO₂).

10. On January 30, 1987, EPA-Region IV prepared an independent BACT analysis, which varied from DER's Final Determination, in that it contained more stringent emission limitations for particulate matter and SO₂ (achieved through the use of high efficiency particulate emission and acid gas controls).

11. On February 11, 1987, EPA notified Florida DER that the DER PSD permit issued to the NRG/Recovery Group for the Lake County facility on September 24, 1986, was deficient and that EPA may initiate appropriate enforcement action against the Lake County facility to prevent or delay the construction of the facility.

12. On February 11, 1987, EPA notified the NRG/Recovery

Group that the Florida Dir PSD permit was deficient and that unless the DER PSD permit was modified to reflect what EPA Considers BACT, EPA may initiate appropriate enforcement action to prevent or delay the construction of the facility.

CONCLUSIONS OF LAW

1. The Administrator of the EPA pursuant to his authority under Section 109 of the Act, 42 U.S.C. Section 7409, promulgated National Primary and Secondary Ambient Air Quality Standards (NAAQS) for Certain criteria pollutants, including total suspended particulate matter, sulfur oxides (SO₂), nitrogen oxides, carbon monoxide, ozone, and lead. (40 C.F.R. Sections 50.4 - 50.12)

2. Pursuant to Section 110 of the Act, 42 U.S.C. Section 7410, the Administrator of EPA, in 45 Federal Register 52676 (August 7, 1980), promulgated amended regulations for PSD in areas where the existing air quality is better than said ambient standards and incorporated said regulations into the various implementation plans of each state. The relevant regulations are codified at 40 C.F.R. Section 51.24.

3. The Florida SIP contains federally approved PSD regulations, based on the above-referenced PSD regulations, for such attainment or "clean air" areas. (F.A.C. Rule 17-2.500)

4. The area or construction for the Lake County Waste to Energy facility is an attainment area For NAAQS for all pollutants. (40 C.F.R. Section 81.310)

- 6 -

5. NRG/Recovery Group is the owner and operator of the major emitting resource recovery facility in Lake County, Florida, and proposes to construct at that site pursuant to the PSD permit issued to the Lake County Waste to Energy facility by Florida DER on September 24, 1986.

6. EPA finds the Florida DER PSD permit issued to the Lake County Waste to Energy facility to be deficient in that it fails to require the installation of acid gas control. The Florida DER PSD permit also fails to require more stringent emission limitations for particulate matter and SO₂. These deficiencies invalidate the State-issued PSD permit.

7. The construction of the Lake County Waste to Energy Facility pursuant to an invalid permit will violate Section 165(a) Or the Act, 42 U.S.C. Section 7475(a), and 40 C.F.R. Section 51.24. Consequently, the issuance of this order, pursuant to Section 167 of the Act, U.S.C. Section 7477, is requirement to prevent such construction.

8. The authority of the Administrator of EPA pursuant to Section 113(a) or the Act, 42 U.S.C. Section 7413(a), to make findings of violation of the Florida SIP, to issue notices of violation and to confer with the alleged violator has been delegated, first, to the Regional Administrator [earlier delegation consolidated to Delegations Manual, No. 7-6 (July 25, 1984)] and second, to the Director, Air, Pesticides, and Toxics Management Division, Region IV [earlier delegation consolidated

-7-

in Region IV Delegation Manual, No. 4-2 (March 15, 1985)].

9. The authority of the Administrator of EPA to issue orders pursuant to Section 167 of the Act, 42 U.S.C, Section 7477, was delegated to the Regional Administrator [earlier delegation consolidated to Delegations Manual, No. 7-38 (July 25, 1984)]. The Regional Administrator, Region IV, has also consulted with the Associate Enforcement Counsel for Air and the Director of the Stationary Source Compliance Division pursuant to delegation requirement.

ORDER

Consequently, based upon investigation and analysis of all relevant facts, including any good faith efforts to comply, and pursuant to Section 167 of the Clean Air Act, 42 U.S.C. Section 7477, the NRG/Recovery Group, Inc. (Lake County Waste to Energy facility), is hereby ORDERED:

1. effective immediately upon receipt of this order, not to commence any on-site construction activity of a permanent nature on its two 250 tons per day municipal solid waste energy recovery units, including, but not limited to, installation of building supports and foundations, paving, laying of underground pipe, construction of permanent storage structures and activities of a similar nature.

2. not to commence any on-site construction activity until it has received a Prevention of Significant Deterioration (PSD) permit and Final Determination that incorporates all

the requirements for PSD pursuant to and in accordance with the provisions of Part C, Subpart 1 or the Clean Air Act, as amended, 42 U.S.C. Section 7470 et. seq., the regulations promulgated thereunder at 40 C.F.R. Section 51.24 and/or the regulations of the federally enforceable Florida State Implementation Plan, Rule 17-2.500 of the Florida Administrative Code, and Chapter 403 of the Florida Statutes including EPA's Best Available Control Technology analysis, dated January 30, 1987 (which addresses acid gas control and more stringent emission limitations for sulfur dioxide and particulate matter), and;

3. to submit, no later than ten (10) days after receipt of this Order, certification that the prohibition in paragraph one (1) of this Order has been observed and will continue to be observed until the permit referenced in paragraph two (2) of this Order has been issued. Such certification shall be submitted to:

Winston A. Smith, Director
Air, Pesticides, and Toxics
Management Division
United States Environmental
Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30365
(404) 347-3043

JUN - 3 1987

Date

Jack E. Ravan
Regional Administrator