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

APR 11 1980

MEMORANDUM

OFFICE OF ENFORCEMENT

SUBJECT: Exemptions from PSD Permit Requirements
for Coal Conversions Resulting from DOE Prohibition Orders

FROM: Director
Division of Stationary Source Enforcement

TO: Howard R. Heim, Chief
Air Programs Branch - Region 3

This in response to your memo of March 6, 1980, regarding the applicability of PSD to Delmarva's Edge Moor Power Station which must begin burning coal in response to a prohibition order from DOE. As stated in your memo, there is an apparent discrepancy between Section 169 of the Act and Section 52.21(b) (2) (ii) of the June 19, 1978 PSD regulations as concerns the applicability to DOE ordered fuel conversions.

Section 169 of the Act indicates that for PSD purposes the term "modification" shall be defined as it is in Section 111 of the Act. Section 111 provides that, "A conversion to coal (A) by reason of an order under Section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 or any amendment thereto...shall not be deemed to be a modification..." These two sections of the Act seem to indicate that certain DOE-ordered conversions should be exempt from the PSD regulations. However, Section 52.21(b) (2) (ii) attempts to limit that exemption in effect by modifying it with the phrase, "unless previously limited by enforceable permit conditions."

The modifying phrase says that if a source holds a SIP permit which prohibits it from burning coal, it will not be eligible for the exemption, even if the state plans to amend the SIP permit.

In view of the discrepancy between Section 169 and Section 111, this Office, OGC, and OAQPS plan to recommend that the final Alabama Power rulemaking delete the limiting phrase. I suggest that you advise Delmarva of our intent. As I understand it, Delmarva will not begin the fuel conversion until late this year. By that time it is hoped that the PSD rules proposed on September 5, 1979 will be finalized. Deletion of the limiting phrase would exempt Delmarva from PSD review requirements.

Three questions about increment consumption were raised by your memo and by a subsequent telephone conversation between Bob Blaszczyk and Libby Scopino. The three questions and my responses to them are as follows:

1. Q. - What is the mechanism for evaluating increment consumption by a source which is exempt from PSD review?

A. - Increment consumption is evaluated by the next major source or modification that applies for a permit in the area, or by the permitting authority during its periodic increment assessment. There is no mechanism available to stop an exempt source from constructing or modifying even if it would violate the increment. However, as soon as a violation is discovered, the State would be required to restore the increment through a revision to the SIP. I agree that the DCO process is not an adequate mechanism for

considering increment consumption.

2. Q. - What portion of Delmarva's emissions should be counted into the baseline?

A. - Delmarva's actual emissions, as of the baseline date, should be counted into the baseline. In calculating actual emission levels, the hours of operation, Capacity utilization, and types of materials combusted, processed or stored should be based on the preceding year of operation unless another previous year would be more representative.

Assuming the baseline has been triggered around the Edge Moor Plant, Delmarva's baseline emissions would be based on oil because it has been burning oil since 1971.

3. Q. - What portion of Delmarva's emissions consume increment?

A. - The increment consumption is calculated by modeling the difference between Delmarva's baseline emissions and its allowable emissions after the switch to coal. See 43 FR 26400&1 for discussion on increment consumption.

If you would like to discuss these issues further, please contact me or Libby Scopino of my staff at 755-2564.

Edward E. Reich

cc: David Hawkins
Walter Barber
Richard Rhoads
Michael James