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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MEMORANDUM:

DATE: July 13, 1981

SUBJECT: PSD Applicability for Ashland Chemical's Maleic Anhydride Plant in Neal, West Virginia

FROM: Director
Division of Stationary Source Enforcement

TO: W. Ray Cunningham, Chief
Air Media and Energy Branch, Region III

In a memo dated May 27, 1981, you requested a determination from this Office regarding the applicability of PSD review for a switch in feedstock materials at Ashland Chemical's maleic anhydride plant in Neal, West Virginia. Ashland proposes to change its feedstock from benzene to butane, which will eliminate benzene emissions but will increase VOC emissions by approximately 2500 tons per year. It is then necessary to determine if this increase in emissions is subject to PSD review.

The PSD regulations (40 CFR 52.21 (b) (2) (iii) (e)) exempt from review fuel switches or use of an alternate raw material if the source was capable of accommodating the fuel or material before January 6, 1975. This exemption is a result of the intent expressed by Congress that Section 169 of the Clean Air Act (Act) adopt to the extent possible, the same definition of "modification" used in Section 111 (a) of the Act (43 FR 26396).

The definition of "modification", which is included in regulations promulgated pursuant to Section 111 of the Act, provides an exemption for the use of an alternate fuel or raw material if the facility was designed to accommodate the alternate use (40 CFR 60.14 (e) (4)). This section goes on to state that: "A facility shall be considered to be designed to accommodate an alternate fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change".

Information from Ashland Chemical indicates that the facility was originally designed to use either benzene or butane. Contracts for the construction of the facility, which included dual feedstock capability, were signed in May 1974. Thus, it appears that the facility was capable of accommodating butane as an alternate feedstock before January 6, 1975 and the proposed switch to butane should not be subject to PSD review.

This determination was made with the concurrence of the Office of General Counsel and the Office of Air Quality Planning and Standards. If you have any questions regarding this determination, please contact Janet Farella of my staff at 755-2564.

Edward E. Reich

cc: Peter Wyckoff, OGC
Mike Trutna, OAQPS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III- 6th & Walnut Sts.
Philadelphia, Pa. 19106

SUBJECT: PSD Applicability Determination for
Ashland Chemical Company

DATE: MAY 27 1981

FROM: W. Ray Cunningham, Chief
Air Media and Energy Branch

TO: Edward E. Reich, Director (EN341)
Stationary Source Enforcement Division

Ashland Chemical Company notified EPA Region III on January 19, 1981 that Ashland wished to change the feedstock of its maleic anhydride plant in Neal, West Virginia, from benzene to butane. Ashland stated that it was aware of the PSD requirements and believed that they did not require Ashland to obtain a permit before changing feedstocks. The company argued that its Neal plant was "capable of accommodating" butane before January 6, 1975 and that PSD, therefore, did not apply, as specified by 40 CFR 52.21(b) (2) (iii) (e).

On April 10, 1981 Region III notified Ashland that we believed the company did require a PSD permit. Region III stated that our view was that under the PSD regulations a source could be considered "capable of accommodating" an alternative fuel as of January 6, 1975 only if construction of the source had "commenced" as of that date. We pointed out that Ashland could not be considered to have "commenced" construction as of January 6, 1975 since Ashland had not obtained a State construction permit as of that date.

In a meeting with us on April 27, 1981 and in letters dated April 13 and 28, 1981, Ashland objected to our determination. Ashland claimed that the definition of "capable of accommodating" had not been specified by EPA, but that it should certainly not be as stringent as the definition of "commence construction." Ashland pointed out that it had signed a contract for construction of the Neal plant on May 1, 1974 and that this contract called for a dual feedstock capability. Accordingly, Ashland argued that its Neal plant should be considered to have had the "capability of accommodating" butane since that time.

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Ashland also raised several additional issues. Ashland claimed that EPA should not consider Ashland's change to the use of butane a "modification" since its Neal plant was designed with a dual feedstock capability. Ashland also claimed that 40 CFR 52.21(i) (4) (i) exempted its Neal plant from PSD review. Ashland reasoned that 40 CFR 52.21(i) (4) (i) provides that its Neal plant is subject to the PSD regulations as they existed prior to August 7, 1977, and that, since the Neal plant was exempt from PSD prior to August 7, 1977, there is no basis for imposing PSD requirements at this time.

I would appreciate your opinion of whether Ashland is subject to PSD. Ashland has informed us that it must have our answer to this question soon. The company has indicated that it will be required to replace the Neal plant's existing catalyst soon and that it must decide whether to order a butane or benzene catalyst. Therefore, please provide us with your opinion by June 10, 1981.

I have enclosed copies of all correspondence relevant to this case for your use. If you have any questions or desire any additional information, please contact Ray Chalmers of my staff at 215/597-8309.

Enclosures