

ENVIRONMENTAL PROTECTION AGENCY

SEP 29 1978

MEMORANDUM

SUBJECT: BACT Exemptions in PSD Review

FROM: Director
Division of Stationary Source Enforcement

TO: David Kee, Chief
Air Enforcement Branch
Region V

This is in response to your memo of August 30, 1973, requesting a clarification of the BACT exemption in S52-21(j)(4) of the PSD regulations.

Section 52.21(j)(4) reads as follows:

Where a facility within a source would be modified but not reconstructed, the requirements for best available control technology, notwithstanding paragraph (j)(2) of this Section, shall not apply to such facility if no net increase in emissions of an applicable pollutant would occur at the source, taking into account all emission increases and decreases at the source which would accompany the modification, and no adverse air quality impact would occur (emphasis added).

Where a facility within a source is reconstructed or replaced or where a facility is added, the BACT exemption in paragraph (j)(4) is not available (regardless of any accompanying emissions decrease). The preamble to the PSD regulations states, with regard to modifications resulting in net emissions decreases,

This exemption would not be applicable as to BACT in situations where a major facility is added to or is reconstructed at a source, whether the addition is to replace previous production capacity or for growth. (pg. 26394, center column, paragraph 3)

Therefore the only instance in which S52.21(j)(4)

applies is where an existing facility is modified and the modification does not constitute a reconstruction.

The apparent conflict between paragraphs (j)(2)(ii) and (j)(4) can be eliminated by viewing paragraph (j)(2)(ii) as providing instructions for calculating allowable emissions in cases where net emission decreases occur (whether through facility modification, reconstruction, or replacement) and paragraph (j)(4) exempts one category of net emissions decreases, facility modification, from BACT.

Your memo also requests a determination as to which PSD requirements apply to temporary asphalt batching plants that apply BACT as a State requirement. You state that all other aspects of PSD including public participation are satisfied by the State review process. The asphalt batching plants are assumed to have allowable emission levels of greater than 50 tons/year, which our experience indicates is quite unlikely.

The preamble to the PSD regulations states on page 26394,

... once a portable facility has received a PSD permit, it may relocate without undergoing PSD review, provided that the source notifies the reviewing agency of such relocation 30 days in advance, the proposed relocation would impact no class I area and no area where the increment is known to be violated, and emissions from the facility would not exceed allowable emissions.

The asphalt batching plants would initially be required to obtain a PSD permit. The fact that the State requires application of BACT does not exempt a source from the requirement to obtain a PSD permit. The State may not make the same considerations in determining BACT as those required under Part C of the Clean Air Act. Additionally, the public must be provided the opportunity to comment on any anticipated clean air impacts. PSD review of temporary sources such as portable asphalt batching plants does not include an ambient air quality impact review. See 43 FR 26407.

In summary, a temporary asphalt batching plant need only undergo PSD review once as long as relocation will

not impact a Class I area or an area where the increment is known to be exceeded; the emissions from the facility will not exceed the allowable level; and the reviewing Agency is notified 30 days in advance.

If you have any questions on this memorandum, please contact Libby Scopino (FTS 755-2564) of my staff.

151
Ed
Edward E. Reich

cc: Eric Cohen
Mike Trutna
Darryl Tyler

DSSE:EN-341:LScopino:ncb:3202:52564

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: AUG 30 1978

SUBJECT: BACT Exemptions in PSD Review

FROM: David Kee, Chief
Air Enforcement Branch
Enforcement Division


TO: Edward E. Reich, Director
Division of Stationary Source Enforcement (EN-341)

I request your assistance in clarifying the intent of the PSD regulations promulgated on June 19, 1978, with regard to BACT exemptions.

The language in paragraphs (j)(2)(ii) and (j)(4) of the regulations, conflict in advising when to apply reductions in emissions at a source for the purpose of granting a BACT exemption to a modification at the source. Please clarify under what circumstances an exemption may be granted.

In addition, must temporary asphalt batching plants that would have actual emissions greater than 50 tons per year of particulates, but would be applying BACT as required by State emission limits, be reviewed under PSD. All other facets of PSD including public participation are satisfied by the State review process.

Thank you for your assistance.


David Kee

