

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

AUG 03 1993

Thomas Yersanian, Principal
Commonwealth Resource Management Corporation
74 Pleasant Street
Mansfield, MA 02048

Dear Mr. Yersanian:

Thank you for your July 6, 1993 letter requesting EPA-Region I's determination on the applicability of its regulations and the Clean Air Act Amendments of 1990 (CAAA) to the Montachusett Regional Recycling Facility (MRRF). You indicated that EPA's Office of Air Quality Planning & Standards suggested you contact this office for the determination.

As you know, the CAAA revised section 169(1) of the Clean Air Act by expanding the list of major emitting facilities that are subject to the PSD requirements if they emit or have the potential to emit 100 tons per year (TPY) or more of any regulated pollutant. The revised list now includes municipal waste combustors capable of charging more than 50 tons per day (as opposed to the previous PSD requirement of 250 tons of waste per day).

Your letter also correctly points out that EPA, in its transitional guidance, did not address the requirements of new projects given the discrepancy between the CAAA and the current codified regulations. However, EPA's office of General Counsel (OGC) has informed us that this statutory change is considered to be immediately effective (i.e., as of the date of enactment of the CAAA).

Though Headquarters has not written this into any policy or guidance memorandum, Region I has informed its states that the above change is indeed in effect. I have attached two documents for your information. These are background technical support documents for two final rulemaking actions. Please note that on page 2 of each document, under the "Municipal Waste Combustor Provisions" section, it states that "EPA interprets this statutory change as being immediately effective".

Therefore, TIRU's MRRF project is subject to the 50 tons of waste per day statutory limit of the CAAA, and not the 250 tons of waste per day threshold of the PSD regulations found under 40 CFR SS52.21. In this case, the statute takes precedence over the codified requirement.

On the basis of our response, it would appear the issue you raised concerning the heterogeneity of the refuse and the averaging time used for determining the charging rate may be a moot point. However, for your information, it should be noted that 40 CFR Part 60, Subpart Ea uses a standard HHV of 4500 BTU/pound in calculating a municipal waste combustors capacity and not the 5500 BTU/hr used in the TIRU application.

I am hopeful that this response addresses your concerns. If you have any questions, please contact John Courcier of my staff at (617)565-3260.

Sincerely,

Linda M. Murphy, Director
Air, Pesticides & Toxics Management Division
Attachments

cc: M. Sewell, OAQPS