UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

NOV 19 1987

MEMORANDUM

SUBJECT: Request for Determination on Best Available Control Technology (BACT) Issues -- Ogden Martin Tulsa Municipal Waste Incinerator Facility

FROM: Gary McCutchen, Chief,
New Source Review Section, SIB, CPDD (MD-15)

Michael Trutna, Chief,
Air Toxics Program Section, SIB, CPDD (MD-15)

TO: J. David Sullivan, Chief,
ALO Enforcement Section, Region VI (6T-EA)

This is in response to your October 20, 1987, memorandum requesting assistance in clarifying BACT issues for a modification to the existing prevention of significant deterioration (PSD) permit for the Ogden Martin Tulsa municipal waste incineration facility.

As you are aware, no final Agency policy exists as yet on the more general issue of PSD permit modifications regardless of the status of the source (operating, under construction, etc.) or of the type or magnitude of the change requested. However, we currently plan to have a permit modifications package available by the end of this fiscal year. It will more comprehensively address the issue of permit modifications, including the group of issues dealing with BACT. In the interim, this memorandum addresses only BACT changes for this source and operating sources in similar situations.

First and most important, the source and permitting agency must understand that the source is obligated to meet all applicable permit conditions. Conditions in the existing permit remain in effect and enforceable until such time as relief may be granted (as in the case of a revised permit being issued). Accordingly, it is important to recognize that enforcement actions have and will serve as the primary mechanism in ensuring compliance. The BACT guidance described in this memorandum is applicable only if EPA finds that the BACT determination in the original permit is inappropriate. Any questions on what constitutes appropriate grounds for enforcement actions should be referred to Rich Biondi, Stationary Source Compliance Division.

The information that you have submitted indicates that on December 23, 1982, a PSD permit was issued for the construction and operation of three municipal waste incinerator/boiler units, each rated at 230 tons per day of municipal waste. Prior to construction, in February 1984 and again in May 1984, permit modifications were issued to the source resulting in a final permit for the construction of two 375 tons per day incinerator units. The units were constructed in conformity with the modified permit and subjected to compliance testing in 1986. Measured nitrogen oxides (NOx), sulfuric acid mist (H2SO4) and mercury emissions exceed the permit limit by a "significant" amount as defined in 40 CFR 52.21(b)(23)(i). The source has requested that the permit be revised to reflect the actual measured emissions of these pollutants.

You have requested a determination on whether the exceedance of permitted emissions by "significant" amounts, or the determination of a new "significant" pollutant by performance testing triggers the reopening of the BACT review process for the Ogden Martin facility. If BACT review is reopened, which pollutant(s) would be subject, to what degree should the limitations and economics of the existing facility come into play, and would the June 25, 1987, "Operational Guidance on Control Technology for New and Modified Waste Combustors" apply to this facility?

Based on the information presented, this response assumes that errors, faulty data, or incorrect assumptions contained in the original or modified permit applications have resulted in what may be inappropriate BACT emission levels and unpermitted significant emissions, and there is no indication that the applicant intentionally acted to misrepresent or conceal data in their° original and modified permit applications and BACT analysis. This guidance does not apply to any other type of noncompliance scenario. Any time a permit limit founded in BACT is being considered for revision, a corresponding reevaluation (or reopening) of the original BACT determination is necessary. This is necessary even if the permit limit is exceeded by less than a "significant" amount. The significance levels in the PSD regulations define applicability cutoffs and are not to be used when evaluating source compliance with PSD permit limits.

As discussed above, and prior to any attempt to revise or readjust an existing BACT limit, the source has an initial obligation to comply with the permit. At a minimum the source should be required to investigate and report to the permitting agency all available options to reduce emissions to a lower (if not the permitted) level. If compliance with the permit can be reasonably achieved, the source should be required to take steps to reduce emissions. If sufficient emission reductions down to the permitted level cannot be reasonably achieved, then a reevaluation of the permit may be warranted. In the process of reevaluating BACT, current BACT technology and requirements must be considered. For municipal waste combustors, the June 26, 1987, "Operational Guidance on Control Technology for New or Modified Municipal Waste Combustors" would apply; however, in this case, where the source is already operating, certain retrofit costs and other costs associated with an already existing facility may be considered.

For H2SO4, if potential emissions cannot be reduced below the significance level, a PSD review is required and the results must be incorporated in the source's PSD permit. As with NOx and mercury emissions, the BACT analysis considers current technology and requirements while weighing the additional retrofit costs and other costs associated with an already existing facility.

If a revision to the permit is determined to be appropriate, the revision must also address all other PSD requirements which may be affected by an allowable increase in permitted or newly regulated emissions (eg., protection of the standards and increments, additional impacts, monitoring) The control of emissions of toxic air pollutants is an important aspect of PSD review. This memorandum does not address potential air toxics issues. Questions on those matters may be addressed to Mike Trutna at FTS 629-5345 or Kirt Cox at FTS 629-5399, of the Air Toxics Programs Section.

The revised permit, just like the initial permit, must also go through a public review period before it may be issued.

If you have any questions regarding this matter, please have your staff contact David Solomon of the New Source Review Section at 629-5375.

cc: Richard Biondi
Judith Katz
Greg Foote

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI

ALLIED BANK TOWER AT FOUNTAIN PLACE
1445 ROSS AVENUE
DALLAS, TEXAS 75202

REPLY TO:6T-EA

MEMORANDUM:

DATE: October 20, 1987

SUBJECT: Request for Determination on BACT Issues - Ogden Martin Tulsa Municipal Waste Incineration Facility

FROM: J. David Sullivan, Chief
ALO Enforcement Section (6T-EA)

TO: Gary McCutchen, Chief
Control Programs Development Division
New Source Review Section (MD-15)

Michael Trutna, Chief
Control Programs Development Division
Air Toxics Program Section (MD-15)

I request your assistance in clarifying BACT issues associated with the application for a modification to the existing PSD permit for the Ogden Martin Tulsa Municipal Waste Incineration Facility. Performance tests conducted in 1986 indicated that actual emissions of nitrogen oxides, mercury, and sulfuric acid mist exceeded PSD permit limits, and the facility has requested permit modifications to increase allowable emissions to those measured. I am attaching relevant correspondence and portions of Ogden Martin's application to modify its PSD permit.

The measured NOx, H2SO4 and mercury emissions exceeded the permitted limit by a "significant" amount as defined by 40 CFR Section 52.21(b)(23)(i). H2SO4 emissions were previously permitted at 5.5 tons per year, which is below the significance level of 7 tons per year. The emission rate for H2SO4 determined by performance tests was 42.5 tons per year. Thus, the facility had not previously been reviewed for BACT for H2SO4. NOx and mercury emissions had previously undergone BACT review for the permitted levels. HCl emissions were determined by performance tests to be 504 tons per year.

We request a determination on whether the exceedance of permitted emissions by "significant" amounts, or the determination of a new "significant" pollutant by performance testing triggers the re-opening of the BACT review for Ogden Martin. If BACT review is reopened, which pollutant(s) would be subject, to what degree should the limitations and **/

**/ [The remainder of this memo is missing.]