# *NSR Bulletin 1* - Introduction, Calculations and Synthetic Minor Rule Cite

## Introduction

The Central Office - NSR Unit would like to make use of the e-mail system to inform DO/Laa permit writers of developments and provide instructions for worksheet preparation. These e-mails will be used mainly to provide quick updates, while the Engineering Guides and other formal guidance will still be utilized for major topics. Some of you may recall the first issue of a newsletter earlier this year, however, we now plan to use the e-mail system (the earlier newsletter article on AP-42 has been incorporated here for reference).

These e-mail Bulletins should be considered written guidance from Central Office, to be permanently kept and used for reference. They will be sent to the main PTI contacts at each office (two or three key people - please check to see whether your appropriate people are receiving this). Those contacts should make sure that all staff permit writers receive the information. I will be the main person developing these e-mail Bulletins, by working with Mike Hopkins, AQM&P Section Manager, but as always, if you have any permitting questions, please contact the Central Office NSR contact for your area (Alan Lloyd, Safaa El-Oraby, Joe Loucek or myself). In addition, we would like to introduce our newest staff member, Sudir Singhal, who has recently joined our group. Please feel free to contact us with comments, or make suggestions for future topics.

## Calculations: Use of AP-42 Emission Factors (from NSR Newsletter v.1.n.1.)

In a recent netting PTI, the Feds denied it in the first go round because we did not use the most recent AP-42 emission factors available in a supplement to the fifth edition. As far as the Feds are concerned, if the emission factors are on their website, they are to be used. The default edition of AP-42 to be used is the fifth edition. Both the supplements and the fifth edition of AP-42 are available on the web. The address is:

http://www.epa.gov/ttn/chief/ap42etc.html

This web page has a link to the page with the supplements. You will need to download it and open it in Adobe Acrobat.

In future PTIs, when sighting AP-42 as the source for emission factors, please include the date shown on the bottom of the page for the section used, as well as the chapter number. For example, the most recent edition of AP-42 for unpaved roads was released 9/98. The correct sighting for this would be "AP-42 chapter 13.2.2 (9/98)." This clearly demonstrates to the PTI reviewer the source and edition used for quick reference and verification.

## Rule Citation for Synthetic Minors

We want to reiterate what was decided on the rule citation aspect of Synthetic Minor PTI writing during the 6/17/99 field office permitting conference call. For Synthetic Minors to avoid PSD (or any preconstruction requirement), OAC 3745-31-05(D) would be listed in the rules column to correspond to the applicable emissions limitations (such as X tons per rolling 12-month period). For a Synthetic Minor to avoid Title V status, OAC 3745-35-07(B) would be listed in the rules column. These citations would be placed on the state and federal side of a bifurcated PTI. They are considered to be a federally enforceable requirement in all PTIs.

In addition, we view 3745-31-05(A)(3), BAT, as a state only requirement, therefore we would list the BAT requirements on the “state only side” of bifurcated PTIs. The rule citation should specifically be "OAC 3745-31-05(A)(3)" in all PTIs. This will differentiate BAT from the new citation for Synthetic Minors, 31-05(D).

November 16, 1999

***Ohio EPA***
***Division of Air Pollution Control***

# *inter-office communication*

| | |
|---|---|
| ***to:*** | ***AQM&P Permit Review Staff, DO/laa Supervisors, Cindy DeWulf, Bob Hodanbosi, Tom Rigo, PMU PTI processing staff, TRI PTI review staff, Karon Gonzales - via e-mail*** |
| ***from:*** | ***Michael W. Ahern Environmental Supervisor, DAPC/PMU*** |
| ***subject:*** | ***Permit To Install related developments (some FYI and some specifically targeted affecting you, please read it all to see what applies)*** |
| ***date:*** | ***May 21, 1999*** |

A couple of meetings have occurred recently that affect how we process regular PTIs (Direct Final, Draft, Chapter 31 Modifications and Registrations). In addition some I thought I would take this opportunity to appraise you of some additional developments. Although not every topic affects ever person on the distribution list, please take a look at all that follows. You may find it interesting [... and if you do, you may need a vacation :) ]

A synopsis of the recent NSR and PMU regular PTI processing meetings are as follows:

**May 11, 1999 New Source Review meeting (with Susan Parkins and Mike Ahern attending from the PMU**);

*Discussions of returns* -

1. After some discussion, it was confirmed/determined that the AQM&P staff will provide all returns in the new PTI format to the DO/laa Supervisor via e-mail. This applies to what have traditionally been identified as "Official Returns".
2. The DO/laa permit writer and Susan Parkins must be copied on the e-mail to the DO/laa Supervisor (in order to get stop the clock on the AQM&P review time) . The e-mail (or an attachment to the e-mail) will identify the areas of concern and will be in a format that is consistent from one AQM&P reviewer to another (via a standardized format with the most common reasons for return available in some sort of check-off section and a section for permit specific notes - Misty Parsons will be taking the lead on developing the form).
3. Upon receipt of the e-mail, the DO/laa permit staff will open the t&c file located on their LAN and make any necessary changes.
4. Upon review, the DO/laa Supervisor will send an e-mail directly to the AQM&P review staff with the changed t&c attached. In addition, the DO/laa Supervisor will attach an electronic copy of the Worksheet/BAT file associated with the permit recommendation. This step is being added to the original instructions because many times the Worksheet information changes as a result of a return. **NOTE: Attachment of the Worksheet should become effective as of June 1.**
5. NOTE: The Supervisor must copy Susan Parkins on the return e-mail. Susan will update

the PTI tracking database to get the return off the DO/laa clock.

6. Upon receipt of the revised t&c document and the electronic Worksheet files, the AQM&P staff will save the t&c file into the appropriate Central Office subdirectory (j:\aqmps\pti\complete) and print a hard copy of the Worksheet file (PMU will use this information to ensure the public notice of the issued document is accurate and the permit gets to the right place).

From this point on, the recommendation will proceed just like any other regular PTI.

*A note to DO/laa Supervisors*: I will be contacting you or one of your staff to update the Worksheet/BAT template file in order to incorporate the common return reasons developed by the Permit Workgroup in addition to a couple of formatting changes that will help the readability of the WS/BAT template and assist PMU in ensuring we use the correct PTI template for the front half of the permit. The revised template will be accompanied by a note to you indicating the specific changes and any special notes you will need to pass on to your staff.

**May 20, 1998 PMU regular PTI processing meeting**:
Mike Ahern, Susan Parkins, Erin Milner, Becky Castle, and Sandy Craig met to discuss regular PTI processing issues and the upcoming Intranet-based PTI processing system. Most of this synopsis will focus on the current processing system.

PMU will modify the internal flow of initial PTI recommendations in the following manner beginning June 01, 1999:

1. All new PTI recommendations will go to Erin Milner
2. Erin will enter the information into the PTI tracker and print out the file folder labels
3. Erin will then pass the labels and the Worksheets to Karon
4. Karon will enter the PTI information into Telnet, place labels on the PTI file folders, and provide the entire package to AQM&P (rubber banded along with the log) to Mike Hopkins, AQM&P. NOTE: this is a departure from the past in that the PTI recommendations will not pass over Susan Parkins desk at this stage).
5. Mike Hopkins will assign the permits for review and note accordingly on the PTI logs.
6. Mike will provide TRI with the permit files for their review.
7. Mike will provide Pam McGraner with the PTI log sheet (with assignments/NR noted) for Pam to enter into the PTI tracker and Telnet.
8. TRI will conduct their review and provide the NR files directly to PMU and the review files to the appropriate AQM&P permit review staff.
9. Upon return from TRI, Susan Parkins will begin reviewing all PTI recommendations for significant errors (e.g., sentences dropping off midway through the sentence, etc) in addition to checking the fees. This will apply to all recommendations. Susan will also check to ensure the terms and conditions document is in the j:\aqmps\pti\complete subdirectory for the word processors. If the file is not available, Susan will work with AQM&P to ensure the file is saved into the complete subdirectory.

In addition to the above mentioned processing steps for regular PTIs, the staff involved in processing regular PTIs will meet weekly to discuss the combined PTI/PTO workload for the

upcoming week. Susan Parkins will provide what is coming down the pike regarding PTOs and Becky Castle will provide what is coming down the pike for PTOs. Meetings will be held Mondays at 1:30 pm in conference room A or B.

**NOTE FOR TRI STAFF** In an effort to reduce the total processing time for regular PTIs, PMU requests that NO REVIEW PTIs be provided to the PMU in the following preferential order; Monday (early morning preferably), Tuesday, or Wednesday.
**NOTE FOR AQM&P PERMIT REVIEW STAFF** Reviewed permits should continue to be provided as soon as the review is complete. This will help balance workload and reduce total processing time.

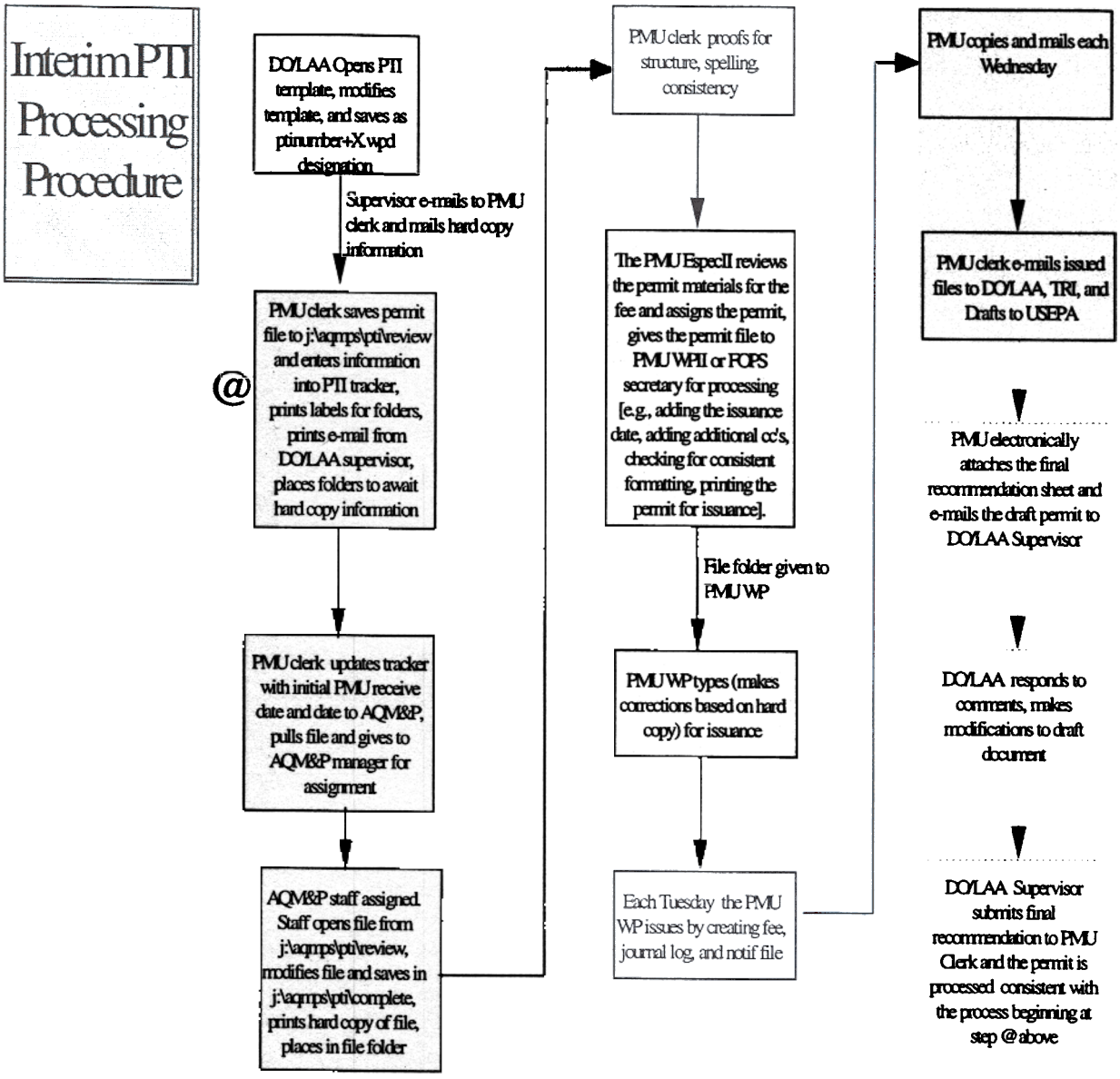
General Note - In order to increase the ability to proof more permits in a given week, PMU will solicit the assistance of Karon Gonzales to prepare issuance mailings and possibly assist in copying. Additionally, as a special project, Karon will be asked to assist in the annual PTI file purge.

During the meeting I also covered some of the Intranet-based PTI processing system. I showed the staff some of the screens and indicated that Susan Parkins will be assisting me in conducting a detailed review of what has been developed thus far. I will send out a separate update on this system as we get further along.

**Other Item - IMPORTANT FOR DO/laa Supervisors**:
Due to processing Draft and Final After Draft Administrative Modifications, please pass on to your staff the following file naming conventions:
Draft Modification ***ptinumberdm.wpd***
Final Recommendation Modification ***Ptinumberfm.wpd***
Direct final Administrative Modifications should continue to be identified as ***ptinumberm.wpd***

**LAST ITEM for EVERYONE - Public Notice of Draft Actions:**
PMU is investigating a change in how Draft permitting actions are handled. AS you may recall, the Division instituted a surrogate processing system for draft actions in 1997 as a result of the unreliability of being able to obtain actual publication dates in a timely or consistent manner. PMU is in the process of revising that system in order to, once again, be able to provide actual publication dates in a timely manner. The announcement of this system will be provided under separate correspondence and will outline the revise process flow of information. At that time, DO/laa personnel and the regulated community and public will be able to confidently know the actual comment period.

# Interim PTI Workflow

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# OEPA inter-office communication

o: Ed Fasko, Cleveland date: September 16, 1998

from: Misty Parsons mp through Mike Hopkins, AQM&P, DAPC

subject: Worksheet calculations and determining PTI allowables

You and I have previously discussed calculation methods used in preparing PTIs, and I had originally drafted this memo last year. I recently spoke with Roland Lacy, and he asked what we consider to be proper, state-wide calculations. Some basic guidance was provided in Mike Hopkins' December 9, 1997, memo. The calculations submitted by Cleveland are not necessarily incorrect, but we have a few comments on terminology, proper calculation and selection of the allowable.

Types of Calculations

The two most important types of calculations needed are

1 *Potential to emit, PTE* (based upon applying BAT, OAC 3745-31-05). This calculation is performed using the best information available to determine the short-term emissions (reliable factors from the company, AP-42, etc.). This short-term emission rate should represent the worst case operation possible based upon the physical design maximum (for some types of sources, a "reasonable" maximum PTE may be used). Next, figure in any capture and control efficiencies to get the controlled short-term. If this differs from the application, discuss this with the company. Finally, determine the TPY emissions for full time operation or the maximum possible yearly production capability, normally at 8760 hours/year.

2) *Calculation of the rule allowable amount* (when there is a rule). Examples of this would be a PM source that must comply with 17-11 (Fig. II or Table 1), or an OC source subject to OAC 3745-21-07(G)(2) Most rules specify the maximum amount of emissions allowed from existing sources. Most of our rules are federally enforceable (the version accepted by USEPA). The allowables set in the PTI can be no greater than the emission rate allowed by rule. [A rare exception would be something like when a 21-07(G)(9)(g) exemption is granted.] However, a unit may not be able to emit as much as the rule allows, because it's design generates less emissions (see PTE calculation).

Determining BAT and Setting PTI Allowables

BAT determinations for PTIs issued state-wide are case-by-case decisions, with several things being involved. BAT should represent the level that other similar sources recently permitted have been required to meet (in terms of technology and limits), as well as the level that is economically feasible, as determined by a BAT Study when one is needed (we do not require a study for all permits). Otherwise, the 3 possibilities for determining BAT and subsequently setting the PTI allowable are to use:

- the controlled potential for a controlled unit (otherwise use uncontrolled)
- the potential times a factor to increase it (as a cushion for margin of error in assumptions or when there may be a reasonable amount of deterioration as the source ages)
- the rule limit

If no rule exists, then you would clearly use the potential calculation result. If a rule applies, work the calculation for rule compliance, but

still set the PTI allowable at the level determined to be BAT. BAT can never be greater than what the rule allows, so it is either equal to or less than the rule. When the unit's PTE is well below the rule, it may not be appropriate to use the rule as the PTI allowable, and we often do not.

There are reasons that this can be important. For instance, the larger rule allowable could trigger the modeling or other requirements. The company would have to comply with modeling a higher number than they could ever possibly emit by design, and might fail the modeling.

In addition, even when a BAT determination other than the rule is set as the PTI allowable, the rule should still be listed under the Applicable Rules column in the PTI Air Emission Summary section. The rule is still applicable, and the unit must comply with both BAT and the rule. If a violation occurs, they could exceed both the PTI limit and the rule.

Suggested Changes to Cleveland Calculations

We are suggesting some changes to your calculation sheet. Please see the attached examples and our Example Calculations.

In your calculations, Uncontrolled and Potential Emissions are sometimes "back-calculated" from the actual emissions, by using a control efficiency. This might be a somewhat reliable number, if based upon a stack test, but otherwise, you should try to start with the uncontrolled PTE and use that to determine the other rates. The calculation of Actual Emissions can still be done, and it is asked for in the Form B, but actual should not be used as the PTI allowable.

For the Potential Emissions section, some detail should be provided as to how the short-term number was determined. Then multiply it up to get the TPY, which it appears you are correctly doing at 8760 hours/year.

Your calculation of rule compliance is currently labeled something like "State Allowable" or "Allowable Emissions" on your sheet. This is not necessarily correct. It may be better to term this "Rule Limit" so it's not mistaken as, or assumed to be, the PTI allowable, which has not been selected yet. The TPY calculation here should also be at 8760 hrs/yr.

We would suggest eliminating your Federal Allowable calculation section. It should just be a repeat of the above. Certain versions of most state rules are federally enforceable, but we view Chapter 31 and BAT as State Only enforceable. When you need to determine what is "State and Federally Enforceable" you can do this after you've done all the other calculations.

Other calculations that may be needed are a Synthetic Minor Restriction (on hours, for example) when a company wants to have it's emissions restricted by a federally enforceable PTI. You would use this TPY as the PTI allowable, and include federally enforceable terms and an attached Synthetic Minor write-up. You must also include the Netting calculations (normally company provided) for netting PTIs, and the Air Toxics or NAAQS Pollutant Modeling calculations for permits where this is required.

Please provide this information to your permit staff. If you have any questions or see any problems, please contact me. Thank you.

cc: Alan Lloyd
Safaa El-Oraby
Joe Loucek

Example Calculations
Suggested Changes to Cleveland's Standard Format
and Guidance on Proper Methods

No application has been reviewed by CO. This is only an example, and is not necessarily complete (all pollutants need review). Actual review may produce different conclusions.

5. Calculations:

**Given** one 120.8 mmbtu/hr natural gas boiler
Operating schedule: 2000 hours/year (application)
Lo-NOx burner
Emissions unit has no add-on control

**PM/$PM_{10}$**

Potential to Emit (PTE)
*Company/manufacturer emissions estimate/factors.*
None provided.

*AP-42 Factor = 3 lb/mmft$^3$:*
(120.8 mmbtu/hr)*(3 lb/mmft$^3$)*(1 ft$^3$/1000btu) = 0.36 lbs/hr [uncontrolled]
(0.36 lbs/hr )*(8760 hr/yr)*(1 ton/2000lb) = 1.58 TPY

Federally Enforcable Rules/Limits
PTE (the true max. PTE is Federally Enforceable)
OAC 3745-17-10
40 CFR Part 60, Subpart Db

Rule Limits
*OAC 3745-17-10:*
(120.8 mmbtu/hr)*(0.02 lb/mmbtu) = 2.41 lb/hr
[Note: The source potential is less than this rule allows, so it complies.]
(2.41 lb/hr)*(8760 hr/yr)*(1 ton/2000lb) = 10.56 TPY

*40 CFR Part 60, Subpart Db:*
No limit for natural gas fuel. [Note: the rule is still an applicable rule.]

Actual Emissions
(120.8 mmbtu/hr)*(3 lb/mmft$^3$)*(1 ft$^3$/1000btu) = 0.36 lbs/hr
(0.36 lbs/hr )*(2000 hr/yr)*(1 ton/2000lb) = 0.36 TPY

PTI Allowable
All PTIs must represent BAT. BAT can be equal to, or more stringent than, existing source rules.
The AP-42 estimate is lower than our rule. In order to avoid modeling for PM10, and to set BAT, the allowable will be set as follows: 0.01 lb/mmbtu
(120.8 mmbtu/hr)*(0.01 lb/mmbtu) = 1.21 lb/hr*
(1.21 lb/hr)*(8760 hr/yr)*(1 ton/2000lb) = 5.3 TPY

* Normally only one short term allowable is set, and 0.01 lb/mmbtu will be the choosen allowable in this case.

## NOx

Potential to Emit (PTE)

*Company/manufacturer emissions estimate/factors = 0.0375 lb/mmbtu:*

(120.8 mmbtu/hr)*(0.0375 lb/mmbtu) = 4.53 lbs/hr [uncontrolled]
(4.53 lbs/hr)*(8760 hr/yr)*(1 ton/2000lb) = 19.84 TPY

*AP-42 Factor = 81 lb/mmft3:*

(120.8 mmbtu/hr)*(81 lb/mmft$^3$)*(1 ft$^3$/1000btu) = 9.78 lbs/hr [uncontrolled]
(9.78 lbs/hr)*(8760 hr/yr)*(1 ton/2000lb) = 42.84 TPY

Federally Enforcable Rules/Limits

PTE (the true max. PTE is Federally Enforceable)
40 CFR Part 60, Subpart Db

Rule Limit

No state rule exists

*40 CFR Part 60, Subpart Db:*

No limit for natural gas fuel. [Note: the rule is still an applicable rule.]

Actual Emissions

(120.8 mmbtu/hr)*(0.0375 lb/mmbtu) = 4.53 lbs/hr
(4.53 lbs/hr)*(2000 hr/yr)*(1 ton/2000lb) = 4.53 TPY

PTI Allowables

All PTIs must represent BAT. BAT can be equal to, or more stringent than, existing source rules.
Since this is a lo-NOx burner, the company's emissions estimate will be used, which is lower than AP-42.

(120.8 mmbtu/hr)*(0.0375 lb/mmbtu) = 4.53 lbs/hr
(4.53 lbs/hr)*(8760 hr/yr)*(1 ton/2000lb) = 19.84 TPY

## Calculation Summary

| Pollutant | Actual | PTE | State Only Enforceable* | State & Fed. Enforceable* | PTI Allowables |
|---|---|---|---|---|---|
| PM/PM10 | (see above) | (see above) | | 0.01 lb/mmbtu and 5.3 TPY | 0.01 lb/mmbtu and 5.3 TPY |
| NOx | | | | 4.53 lbs/hr & 19.84 TPY | 4.53 lbs/hr and 19.84 TPY |

* OAC 3745-31-05 BAT limits are State Only Enforceable, however, since these limits are at or above PTE, they are State and Federally Enforceable in this case.

## NSR Discussion

The proposed source complies with all applicable rules. The NSPS rule is applicable and will be cited, although there are no limits in the rule for natural gas units. NSR/PSD is not triggered. No modeling is triggered in this case, since the modeling thresholds are not exceeded. This ____(is/is not) located at a Title V facility. And so forth.

City of Cleveland
Bureau of Air Pollution Control
EES - Emissions Calculation Form

1. Facility Name: The Medical Center Co.
2. Source Description: 120.8 MMBtu/Hr Natural Gas Boiler equipped with Low Nox Burner
3. Source Inspected: Yes ( ) No ( x ) Date:
4. Operating: Yes ( ) No ( x )
5. Calculations:

AP-42 EMISSION FACTOR FOR NATURAL GAS PM = 3 LB/MMFT^3
Nox= 81 LB/MMFT^3

Nox BURNER DESIGN = 0.0375 LB/MMBTU
OPERATING HOURS / YEAR (from PTI application) 2000

LB/HR Calculation (120.8 MMBtu/Hr)*(3 lb/MMft^3)*(1ft^3/1000Btu) = 0.36 lb/hr PM
(120.8 MMBtu/Hr)*(81 lb/MMft^3)*(1ft^3/1000Btu) = 9.78 lb/hr NOx

Uncontrolled

(0.36 lb/hr)*(2000 hrs/yr)*(1 ton/2000 lbs) = 0.36 tons/year
should be 8760
(9.78 lb/hr)*(2000 hrs/yr)*(1 ton/2000 lbs) = 9.78 tons/year

Actual

PM: Actual = Uncontrolled

Boiler is equipped with a low Nox burner rated at 0.0375 lb/MMBtu actual heat input

Nox: (120.8 MMBtu/Hr)*(0.0375 lb/MMBtu) = 4.53 lb/hr
(4.53 lb/hr)*(2000 hrs/yr)*(1 ton/2000 lbs) = 4.53 tons/year

Allowable

From OAC 3745-17-10, Maximum Allowable for PM = 0.020 lb/MMBtu actual heat input

(120.8 MMBtu/hr)*(0.020 lb/MMBtu) = 2.41 lb/hr
(2.41 lb/hr)*(2000 hrs/yr)*(1 ton/2000 lbs) = 2.41 tons/year
should be 8760

Nox: N/A

Potential

PM: (.36 lb/hr)*(8760 hrs/yr)*(1 ton/2000 lbs) = 1.58 tons/year

Nox: (4.53 lb/hr)*(8760 hrs/yr)*(1 ton/2000 lbs) = 19.84 tons/year

Federal Allowable

PM: (2.41lb/hr)*(8760 hrs/yr)*(1 ton/2000 lbs) = 10.58 tons/year

N0x: N/A

| Pollutant | Uncontrolled* | Actual* | State Allowable* | Potential** | Federal Allowable** |
|---|---|---|---|---|---|
| PM tpy | 0.36 | 0.36 | 2.41 | .58 | 10.58 |
| NOx tpy | 9.78 | 4.53 | N/A | 19.84 | N/A |

Source Class : Major [ ] Minor [ ] Other[x ]
Recommendation: T-Status[ | Approve[x ] Deny[ ] Revoke[

Examiner Richard C Tayl Date: 7/16/98

*Based on actual operating hours **Based on 24 hours/day, 365 days/yr

**Premise No. 13-18-00-7519 , Source No.P003 , PTI No:13-3195**

**City of Cleveland Bureau of Air Pollution Control**
**EES - Emissions Calculation Form**

**1. Facility Name: SPS Technologies, Inc.**
**2. Source Description: Grit Blaster**
**3. Source Inspected: [ ]Yes / [ ]No Date: _____**
**Source Operating: [ ]Yes / [ ]No**

**4. Calculations:** operating schedule: avg. 12 hrs/day; max. 24hrs/day.
4380 hrs/yr 8760 hrs/yr

**TSP:** Uncontrolled Emissions: (capture efficiency is 100%)
[x (1-99%)] = 0.84 lb/hr
x = 84 lb/hr or 368 tpy

Back-calculated ? Needs more explanation

Actual Emission:
(0.84 lb/hr)*(4380 hrs/yr)*(1 ton/2000 lb) = 1.84 tpy

State Allowable: PWR: 4000 lb/hr
OAC 3745-17-11 Table I: allowable emission rate is 6.52 lb/hr
(6.52 lb/hr)*(4380 hrs/yr)*(1 ton/2000 lb) = 14.28 tpy
should be 8760

Potential emissions:
( 1.84 tpy)*(8760 hrs/yr)*(4380 hrs/yr) = 3.68 tpy

Federal Allowable:
(6.52 lb/hr)*(8760 hrs/yr)*(1 ton/2000 lbs) = 28.56 tpy

5. Emissions (Tons/Yr):

| Pollutant | Uncontrolled | Actual | State Allowable* | Potential** | Federal** Allowable |
|---|---|---|---|---|---|
| PART | 368 | 1.84 | 14.28 | 3.68 | 28.56 |

This should probably be the PTI allowable, not 28.56

Source Class: Major[x], Minor[ ], Other[ ]

Recommendation: T-Status[ ], Approve[x], Deny[ ], Revoke[ ].

Examiner: El Perez Date: 12/19/96

* Based on actual operating hours,
**Based on 24 hours/day, 365 days/yr.

# OEPA inter-office communication

to: DISTRIBUTION date: December 9, 1997

from: Mike Hopkins, AQM&P Section

subject: Update and Guidance on numerious important PTI review items

There have been a few recent decisions that effect the new source review (NSR) PTI program. As you know, our programs are evolving. We want to keep all permit writing staff up to date on current guidance. These are items to be aware of in the preparation of PTIs, which should be done correctly in order for the worksheet to be acceptable for issuance. Please share this information with all your permit writing staff.

**PTI Preparation Items**

A. Air Emission Summary

1. When the Air Toxics Policy is applicable as part of the BAT evaluation, the statement "Compliance with the Air Toxics Policy" should be listed under the BAT Determination in the Air Emission Summary.

2. For an emissions unit that is exempt from a rule, such as OAC 3745-21-07, due to use of non-PRM for example, the rule must still be listed under the Applicable Rules column. In addition, you should state under the BAT Determination that only non-photochemically reactive materials will be used.

3. All state and federal rules should be cited under the Applicable Rules column. These rules include namely the following: 3745-31-05; any applicable rules from Chapter 17 (such as 3745-17-07, 3745-17-08, 3745-17-11); any applicable rules from Chapter 21 (such as 3745-21-07, 3745-21-09); any from Chapter 18; any from Chapter 23; any from Chapter 75; and any from Chapter 15. These are most of the state rules that have emissions limits or relevant requirements (other ORC and OAC rules that do not have limits/requirements would still apply to a source, but do not need to be listed).

   As you know, the limit set for the allowable should result from the most stringent of all rules, including 31-05, the BAT rule. Therefore, all rules, not just the BAT rule, must be listed, no matter whether BAT is more stringent or not. We understand that the practice of listing all rules is also now being required by Jim Orlemann, Engineering Section, in PTO writing.

   When less stringent rules are also listed, they should be denoted in some way. We suggest that an asterisk be placed by any and all less stringent rules, with a footnote stating that they are less stringent than the rule that resulted in the limit (also a current PTO practice).

4. There should be a TPY allowable developed for each emission unit and it should be placed in the "Permit Allowable Mass Emissions..." column for the emission unit.

5. For a unit that is being modified, you should identify it as such under the emissions unit number (Ex., B001 modification), and explain the nature of the modification under the Source Description. Also, since that PTI will effectively replace the previous PTI for that unit, you should add language to the Additional Terms, Miscellaneous section, saying that the PTI supersedes the previous PTI for that emission unit, and give the emission unit number and the permit number of the PTI that is being replaced/superseded (something similar to the PTO language; see Tom Rigo's PTO guidance).

6. We would like to move towards a layout in the Air Emission Summary table that resembles the layout of the table in the emission unit specific terms and conditions in the PTO. The PTO group suggests that the permit limit established be listed on the same line as the rule upon which the limit is based.

   All you need to do here, for each emissions unit in the PTI, is list the limits/requirements (under Permit Allowable Mass Emissions and/or Control & Usage Requirements) opposite each Applicable Rule listed, instead of listing the rules line by line beneath each other. Please try this new format wherever possible.

B. Additional Terms and Stars Terms

   Several changes to the "toxics reopening" standard Stars term are needed. Part (c) of this term is not correct, since a PTI is not triggered when the TLV is made more stringent by ACGIH.. Please strike out this sentence, and be aware that a revised version with more changes is being prepared.

2. We would like the Additional Terms and Conditions of all PTIs to be organized with headings like those used in the emission unit Terms and Conditions of PTOs. They headings are: Applicable Emission Limitations and/or Control Requirements (optional when the Air Emission Summary has all the requirements), Operational Restrictions, Monitoring and/or Record Keeping Requirements, Reporting Requirements, Testing Requirements and Compliance Method Determinations, and Miscellaneous Requirements.

3. You are all becoming familiar with developing Compliance Method Determinations for PTOs. We recommend that you begin to include them in the Additional Terms of your PTIs.

4. We encourage the use of the Stars terms in PTIs whenever possible, and discourage the drafting of new language when Stars has terms that serve the purpose. However, some of the Stars terms being used in PTIs are written as if they are being placed in a PTO. Always check the term content, and revise it as needed so that it reads appropriately for the PTI.

   In addition, many monitoring and related recordkeeping and reporting requirements are included under that heading in the PTO General Terms, but the PTI does not have this information unless you add it to the Additional Terms. For instance, some of the Stars terms for reporting do not specify the reporting frequency, so make sure you include it.

C. Short term, Pounds/hour emissions limits

1. Draft guidance has been issued, but until it is finalized, please continue to place short-term, usually lbs/hr, emissions limits in all PTIs, with the exception of units like storage tanks, roads and storage piles. Feel free to call us and discuss any questions you have on short-term limits. All PTIs will continue to have tons/year limits for each emissions unit, and a total PTI TPY Summary section.

D. PSD/NSR Permits

1. When a PSD (or nonattainment area NSR Offset) permit has been issued in final form, the District/LAA staff permit writer needs to complete the submittal to the BACT/RACT/LAER Clearinghouse. This can be done by sending them the handwritten form, or done on-line.

2. We now have state rules that mirror the PSD and nonattainment area federal requirements, and they need to be cited under Applicable Rules for those type PTIs (OAC 3745-31-10 through 31-27).

E. Calculations and Review Information

1 Please submit complete calculations with each worksheet. We cannot accept PTI worksheets that have incomplete calculations, or that do not adequately explain the basis of the review. The calculations should be used to set the proper allowable. Several calculations normally are needed:

- short-term worst-case maximum and annual emissions at PTE (uncontrolled and controlled).
- rule allowable calculation (for example, the 17-11 Table 1 or Figure 2 calculation).
- calculation using emission factors (for example, a printout showing the AP-42 working and breathing loss for tanks; an equation showing emissions resulting from a particular ef used).
- actual emissions [for completing Form B; or helpful to know when developing federal or "state enforceable" emission limits (state limits to avoid or pass modeling, for example)].
- for a Synthetic Minor, you need to show how the restriction on hours, production or operation equates to the restricted permit allowable emissions limit.
- for a Netting, information showing past actual to future potential/allowable emissions is needed, ideally in a table that gives the net increases (if a complete table is in the application and Netting Determination as it should be, it does not have to be on the calculations sheet).
- whenever modeling is done, a review/calculation comparing the model result to the MAGLC (for toxics) or to the 1/2 increment state standard (NAAQS pollutants) is required. This should be written either on the printout or on a separate sheet attached to the printout.

In addition to calculations, a few offices submit a NSR write-up that tells important things about the review (such as whether NSPS was checked, but found not to apply). It would explain cases where no modeling was done, when it would otherwise appear to be needed. The CO reviewer would not know this without it being explained. Some record of these decisions is also needed in your files.

A separate write-up may not needed for all PTIs, but is often very helpful. This kind of explanation results in a PTI being better understood, and in some cases, not returned to the District/Local when it otherwise would have been. This NSR write-up is not mandatory, but the calculations section should explain any key or confusing things.

F. Miscellaneous Items

1. Please send an electronic copy of all Additional Terms greater than 2 pages in length to Mike Ahern via e-mail. The document should be saved as the PTI number (e.g., 016234.wpd) in WP 5.0/5.1 format. The text should be in courier 10 cpi or courier new regular. Use the F7 key to tab, do not use Italics, do not use special characters, formulas, text boxes, or any other special function in WordPerfect (these files are going into one of the oldest versions of WordPerfect available in the free world).

2. Please provide a basis for the fee (process weight, type of fuel burned, fee doubled for construction, etc.) and/or calculation(s) in order to clarify questions and minimize PTI delays (this can be on a separate sheet or written under the fee blank on the worksheet). [Ex., 10 mmBtu/hr boiler installed without a PTI would be calculated: $400*2 (started construction on or after 7/1/93, prior to obtaining a PTI) = $800]

3. Please do not photocopy the Form B to the back side of any of the worksheets. These documents are separated and entered by other staff. The Form B is a separate, 2-sided form.

PTI Appeals

A NSR staff member in CO (normally the person who reviewed the PTI, or the contact for that area of the state) will now be the main contact for resolving the appeal case. There had apparently been confusion or lack of coordination in the past. However, the roles of the staff involved will not really change.

When a PTI appeal occurs, an AGO attorney is assigned the case, and they will contact the DAPC CO NSR group. The CO NSR person will coordinate efforts and assist as needed. However, the DO/LAA permit writer will be the primary person responsible for working on the settlement, with CO providing guidance.

The DO/LAA permit writer will still be the key person involved in negotiations. They will:

- review the proposals submitted by the company to resolve the case (or make agency suggestions toward resolution), and discuss them with our attorney and the CO NSR contact;
- prepare permit changes that may be acceptable; and
- consult with the CO NSR contact and get their approval, before making any commitments.

**Future PTI Changes**

We are currently drafting major changes to the PTI. The format will be designed like the PTO with Emission Unit terms, and content changes will be made to the "boiler plate" at the front of the PTI. The main goal will be to make permit writing quicker, overall, since this way the PTI content can be transferred directly into the PTO, without time consuming rearrangement. Mike Hopkins, Misty Parsons and Mike Ahern are the main contacts for this project.

**Central Office PTI Contacts**

We also understand that there has been some confusion about permit writing since the Title V and PTO programs have been evolving. We are working to make many permit writing specifics consistent between the PTI and PTO programs. However, at the present, we have not finalized guidance for certain key elements in permit writing, such as the guidance on applying short-term emission limits. If you have any questions when preparing PTIs and modifications, or when deciding whether to supersede or modify a certain permit, please contact us. Below is the listing of CO PTI staff, by area.

| Alan Lloyd | Safaa El-Oraby | Misty Parsons |
|---|---|---|
| SWOAPCA | NEDO | Cleveland |
| RAPCA | Akron | Portsmouth |
| SWDO | CDO | SEDO |
| NWDO | Canton | Toledo |
| | | NOVAA (former area) |

Please feel free to contact the staff person for your area, or if they are unavailable, one of the other NSR staff or Mike Hopkins at (614) 644-2270. Thank you.

DISTRIBUTION

| | | |
|---|---|---|
| Don Waltermeyer, NWDO | Bob Goulish, NEDO | Phil Hinrichs, SWDO |
| Sam Araj, NWDO | Dennis Bush, NEDO | Ce'sar Zapata, CDO |
| Fred Klingelhafer, SEDO | Ron Hancher, SEDO | Tim Wilson, RAPCA |
| Bruce Blankenship, Canton | Frank Markunas, Akron | Curt Marshall, RAPCA |
| Brad Miller, Cincinnati | Ed Fasko, Cleveland | Karen Granata, TDOES |
| Don Walden, Portsmouth | | |

| | | | |
|---|---|---|---|
| cc: | Alan Lloyd, AQM&P | Misty Parsons, AQM&P | Safaa El-Oraby, AQM&P |
| | Mike Ahern, PMU | Tom Tucker, AQM&P | Paul Koval, AQM&P |
| | Jim Orlemann, Eng. | Tom Rigo, FO | |

MH/MP

OhioEPA

Ohio Environmental Protection Agency
Division of Air Pollution Control

# INTER-OFFICE COMMUNICATION

Distribution via E-Mail Only

FROM: Mike Hopkins, Manager, AQM&P

DATE: August 4, 1997

Establishment of Limits in Permits to Install, Permits to Operate and Title V Permits

---

Attached is a draft of a proposed engineering guide. This is being sent via e-mail to all DO/LAA engineering unit supervisors and Air Unit Supervisors. Please distribute this to all staff involved in the preparation of permit to install limits and terms and conditions. Please review the draft guide and submit your comments to Mike Hopkins, DAPC by Friday, August 22, 1997.

If you have any questions, please ask.

MH/
\ioc\tperyr.wpd

attachment

Distribution

Bob Hodanbosi, DAPC
Tom Rigo, DAPC
Jim Orlemann, DAPC
Misty Parsons, DAPC
Safaa El-Oraby, DAPC
Alan Lloyd, DAPC
Pam Smith, DAPC
Mike Ahern, DAPC
All DO/LAA Air Unit Supervisors
All DO/LAA Engineering Unit Supervisors

Ohio EPA

Division of Air Pollution Control

Engineering Guide # xx

Question:

*How should DO/LAA permit writing staff decide what emission limits should be listed in permits to install (PTIs)? Which limits in PTIs are enforceable, which ones are not?*

Answer:

First, it is almost impossible to describe all possible situations where limits should be established in PTIs. Often, DO/LAA staff will need to use good common sense to decide if a limit is necessary. However, certain general statements can be made concerning which limits are appropriate and which ones are not

As a general statement, limits should be established in a PTI whenever any applicable rule applies or whenever any Ohio EPA guidance requires a limit. Any limits that are not required by a rule or guidance should only be established after careful consideration of the need for the limit. In establishing limits, DO/LAA staff should always be thinking of how compliance with the

limit will be demonstrated. The following limits should always be established in a PTI:

1. Limits should be specified whenever they are listed in any applicable rule. For example, these limits may be in terms of pounds per hour, pounds of VOC per gallon of coating, grain per dry standard cubic feet, percent opacity etc. These may also be in the form of work practice standards, concentration-based limits or other various limits Remember that you will almost always need a pound per hour limit for any source significant enough to have an emissions test or significant enough to have a continuous monitor for that pollutant. Also remember that if more than one limit applies, you only need to list the most stringent limit in the permit.

2. A pounds per hour, pounds per day or pounds per week limit should be listed for any emissions unit that chooses to comply with the Best Available Technology rule by the use of the Ohio EPA Air Toxics Policy and the potential to emit must be restricted to be in compliance with the Air Toxics Policy (ie. if the source complies with the Air Toxic Policy at maximum operation, no additional limits are necessary

Most of the time this would be the pounds per hour limit that was used in the computer modeling for the Air Toxics Policy. However, when the option under the Air Toxics Policy that allows for an adjustment for a non-forty-hour week is used, a daily or weekly limit is appropriate

3. A short term limit should be established based on U.S guidance and/or Ohio EPA guidance for any emissions unit that is part of a "synthetic minor" permit which is developed to avoid attainment or nonattainment new source review requirements. (See an explanation of "short term limit" below.)

4. Pounds per hour limits should be established for any pollutant where modeling was required to demonstrate compliance with the National Ambient Air Quality Standards, the PSD significants/increment levels or the Ohio EPA the PSD increment policy

5. In addition to the above, a ton per year limit should be established for each emissions unit listed in the PTI Typically this limit should represent the maximum potential to emit of the emissions unit unless the emissions unit is

operationally restricted or a tighter limit is established to avoid modeling or other permitting requirements see the last question and answer

Note that it is normally not necessary or recommended that DO/LAA staff add more emission limits than are necessary to meet the above five criteria. It is also not normally necessary to add more than one short term limit. For instance, for a process operation that emits only VOC, uses no air toxics, and is not a "synthetic minor," a pounds per hour limit for VOC or a VOC content limitation (for coatings or inks is all that is needed for a short term limit. You would not normally need pounds per week, pounds per month, pounds per quarter limits or any operational restriction pertaining to the production capacity.

The term "short term limit" has two different meanings Normally, "short term limit" means the limit established in an applicable rule or policy. For example, the pound per hour, grain per dry standard cubic feet, or opacity limits

U.S. EPA uses "short term limit" to describe something other than an annual limit that restricts the potential to emit for the emissions unit below major source thresholds. This can be an

hourly limit, a daily limit, a monthly limit, or even a rolling 12-month or 365-day limit, where U.S. EPA's policies allow These limits are used in "synthetic minor" permits where a company is trying to avoid major new source review by restricting the facility's potential to emit.

Each emissions unit in a PTI should have a ton per year limit listed under the Permit Allowable section. In addition, the total allowables, in tons per year, for each pollutant should be listed under the Summary, Total Permit to Install Allowable Emissions section and should be the sum of the tons per year limits listed in the Permit Allowable section. The Ohio EPA does not consider the Summary section to be enforceable. This section is strictly for informational purposes only. The ton per year limits under the Permit Allowable section is considered to be State enforceable. It is not considered to be federally enforceable. U.S. EPA considers only short term limits to be federally enforceable. The following language will be added to each PTI to make this clear:

> *"The information contained under the Summary of Emissions section of the Permit to Install is for informational purposes only and is not enforceable."*

Usually, a ton per year limit is based on the maximum allowable short term limit multiplied by 8760 hours per year. It should represent the maximum annual emissions the emissions unit is capable of emitting if it operates in compliance throughout year. In other cases, the tons per year limit is based upon restricted operation and/or a more stringent short term limit than required by the applicable rules.

For uncontrolled sources, if the tons per year limit is based on the true potential to emit of the emissions unit, then no periodic recordkeeping or reporting is necessary. The one-time calculation of compliance contained in the permit to install application is sufficient. If the tons per year limit is based on some kind of restricted operation and/or emissions limit that restricts the emissions to below potential levels (including the use of control equipment), then some type of recordkeeping exceedance reporting is often needed. This determination should be made based on the guidance contained in Engineering Guide #65.

<u>Question</u>:

*In the past for a source that had minimal actual emissions during planned normal operations and large potential emissions, but where potential emissions were smaller than major source thresholds we set the tons per year allowables to be no more of actuals (or something similar). Should we continue to do this?*

Answer:

The advantage of restricting the tons per year limits below the potential to emit is to avoid some state modeling requirements, to avoid controls required by BAT, and to minimize the amount of "growth" consumed by the new source (this allows more "room" new sources in an air quality area). By setting a restriction, the tons per year allowable would be lower. Since the state modeling requirements are based on ton per year thresholds, some modeling can be avoided. This should only be done under the following conditions:

1) The DO/LAA staff has contacted the company and discussed the advantages and disadvantages of the additional restriction and the company has agreed to the restriction; and

2) The permit has appropriate recordkeeping and exceedance reporting to monitor compliance with the created limit.

Remember that even if you set ton per year limits tighter than the potential to emit of the source, you should not do the same for the short term limits. Short term limits should always be based on the enforceable potential to emit of the equipment

August xx

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Ohio EPA

Ohio Environmental Protection Agency
Division of Air Pollution Control

# INTER-OFFICE COMMUNICATION

**TO:** Distribution

**FROM:** Mike Hopkins, Manager, AQM&P and Jim Orlemann, Manager, Engineering through Bob Hodanbosi, Chief, DAPC

**DATE:** March 21, 1997

**RE:** Location of Permit to Install limitations/requirements in Title V permits

---

The Division of Air Pollution Control has recently fielded many questions concerning the proper location of PTI limitations/ requirements within Title V permits. The purpose of this memo is to clarify which Permit to Install limitations/requirements belong on the federal side of a Title V permit and which limitations/requirements belong on the state side of a Title V permit.

In the past it was thought that all PTI limitations/requirements from permits issued as draft must go on the federal side of the Title V permits. We no longer believe this is true. Instead, you should use the following rules when deciding the location of PTI limitations/requirements.

A. The following PTI limitations/requirements <u>and all associated terms and conditions</u> (monitoring, recordkeeping, reporting, and testing) must go on the federal side of a Title V permit.

1. New Source Performance Standards (NSPS)

2. National Emission Standard for Hazardous Pollutants (NESHAP).

3. Maximum Achievable Control Technology (MACT) standards.

4. Short term emission limits (lb/hr, lb/day, lb/month, lb/rolling 12-month, lb/rolling 365 day, lb/gallon, etc.) developed to restrict the potential to emit for synthetic minors.

5. Short term operational restrictions (gallons/hr, gallons/day, gallons/month, gallons/rolling 12-month, gallons/rolling 365-day, etc.) developed to restrict the potential to emit for synthetic minors.

6. Emission limits (other than (B)(1) below) specified in or derived from rules in the federally approved State Implementation Plan (SIP).

7. Emission limits or control requirements specified to comply with Best Available Control Technology (BACT) requirements for Prevention of Significant Deterioration (PSD).

8. Emission limits or control requirements specified to comply with Lowest Achievable Emission Rate (LAER) requirements.

9. Emission limitations, operational restrictions or shutdown requirements for emissions units that are reducing emissions for netting purposes.

10. Ambient monitoring terms required by one of the above-mentioned regulations.

11. Emissions limitations, control requirements or operational restrictions for an emissions unit that have been developed specifically to prevent a violation of the National Ambient Air Quality Standards by that emissions unit.

B. PTI limitations/requirements not listed above should be placed on the State Enforceable side of Title V permits, including:

1. Any limitation developed to comply with Best Available Technology (BAT) requirements.

2. Any ton/year emission limitation.

3. Any limitation based upon the application of the DAPC's "Air Toxic Policy."

If you have any questions, please contact Jim Orlemann or Mike Hopkins.

MH/JO/ \ioc\limit1.wpd

Distribution:

All DO/LAA Air Unit Supervisors
All DAPC Section Managers
Jenny Tiell, Dir. Office
Safaa El-Oraby, DAPC
Jeanne Mallett, Legal
Misty Parsons, DAPC
Alan Lloyd, DAPC

# OEPA inter-office communication

to: Distribution date: February 2, 1994

from: Mike Hopkins, AQM&P and Clara Dailey, PMU

subject: Permitting of sources under PTI Registration status

After receiving the first Registration PTI worksheets, we have found that there are a few areas that need clarification. We want to provide you with further guidance on how to determine if a source qualifies for Registration status, as well as how the worksheet should be submitted to Central Office.

Several important things to consider when Registration is requested are:

The source must emit less than 5 tons/year of uncontrolled, potential emissions to qualify for Registration. A source can have control and receive Registration, but we must still decide on the basis of the uncontrolled emission rate. This amount is per source, and not per permit. Also, a source can have up to 5 tons of each pollutant, not the total of all pollutants.

No NSPS sources can be placed on Registration status. This includes storage tanks.

NESHAP or hazardous air pollutant sources that USEPA has promulgated a standard for cannot be placed on Registration.

Sources that are installed or that began construction prior to October 8, 1993 cannot be placed on Registration status; this status did not exist at that time, therefore, a PTI is required.

ORC 3745.11(J) states that for sources installed after July 1, 1993, the PTI fee will be doubled to received a permit issued after January 1, 1994. This is for all PTI's and Registration PTI's. Therefore, for sources qualifying for Registration that have been installed (or began construction) after October 8, 1993, but have not received any permit, the fee doubles for those permits issued after January 1, 1994, so please figure the fee appropriately.

There are several things that Central Office needs with the Registration worksheets:

If a source is subject to the Air Toxics Policy, please include a New Source Review Coding Form so that a toxic review can be performed, or send us a copy of the modeling if you do it.

When submitting PTI Registration forms, please include all calculations for controlled and uncontrolled emissions, verifying that the source emits less than 5 tons/year uncontrolled. Also, include a short note as to the source of the numbers used in the calculations. For example, if a number is obtained from a manufacturer, include a note off to the side stating that this number came from the manufacturer. This should be done for all PTI's.

The construction status is important, so make sure that you include the date on the worksheet when construction began, if already started. The installation schedule for each source should be included with the Registration package, just like it should be for a PTI worksheet.

When Registration status is requested, but you determine that a source cannot be placed on a Registration PTI, you should notify the source as soon as possible. We only have 60 days to notify the applicant if Registration is not applicable, and Central Office has received some Registration worksheets that must be full PTI's very close to the 60 day deadline. We want to emphasize that you must review these early on to determine if they qualify for Registration or not.

When we have noticed any registration worksheets submitted that should really be PTI's, we have generally changed the worksheet and processed the paperwork as a PTI, and notified the field office.

There are pollutants (other than VOC, PM, SO2 and NOx) that are not listed in the rule that are emitted alone or in combination with other listed pollutants from a source. Central Office is reviewing the rule to determine if a source should be placed on Registration in these cases, and what the cutoffs should be for these pollutants to allow Registration. For CO, the determination at this time is that if a source emits less than 5 TPY of CO, it can be placed on Registration, otherwise it needs a PTI. Sources emitting ozone are not to be placed on Registration.

And finally, please fill out your forms as expeditiously as possible. Your cooperation is greatly appreciated.

MH/CD/MP/SG

<u>Distribution</u>

Don Cavote, CDO
Doug Seamen, Cleveland
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Gerry Rich, NWDO
Harold Strohmeyer, NOVAA
Barry Burton, Cincinnati
Don Moline, Toledo
Alan Lloyd, AQM&P
Sara Geary, PMU

Ohio Environmental Protection Agency

Prevention of Significant Deterioration

Permit Processing Schedule

The question posed by many entities is "How long does it take to obtain a Prevention of Significant Deterioration (PSD) permit?". The federal PSD regulations allow up to one year for processing a permit, and that amount of time may be needed for very complex or controversial projects. In particular, the need to schedule and hold a public meeting on a permit will add to at least 60 days to the processing time.

In order to provide for equitable treatment among the PSD applicants and allow for more uniform processing, the following schedule has been developed by the Ohio EPA for processing the typical PSD permit. Permits will be processed in the order that a complete application is filed. This schedule relies upon the company responding promptly to request for information and documentation by the Ohio EPA.

| Milestone | Projected Time | Total Time (Typical) |
|---|---|---|
| 1. Facility submits PSD application | 0 | 0 |
| 2. Ohio EPA determines completeness of application | 30 days | 30 days |
| 3. Facility responds to deficiencies | -- | 45 days |
| 4. Ohio EPA issues draft PSD permit for public comment | 45 days after Ohio EPA determines completeness | 90 days |
| 5. Public comment period closes | 45 days | 135 days |
| 6. Facility responds to comments by public/U.S. EPA | -- | 150 days |
| 7. Ohio EPA issues revised PSD permit | 15 days after Ohio EPA receives facility responses | 165 days |
| 8. PSD permit becomes effective | 30 days | 195 days |

The processing of New Source Review (Emission Offsets) will follow the same timeline, except step No. 8 is not required.

R. Hodanbosi
August 29, 1988

AIR PERMIT SYSTEM SOURCE
IDENTITY CODES

B BOILER

D DRY CLEANING FACILITY

F FUGITIVE DUST
(TRADITIONAL)

G GASOLINE DISPENSING
FACILITY

J LOADING RACK

K SURFACE COATING

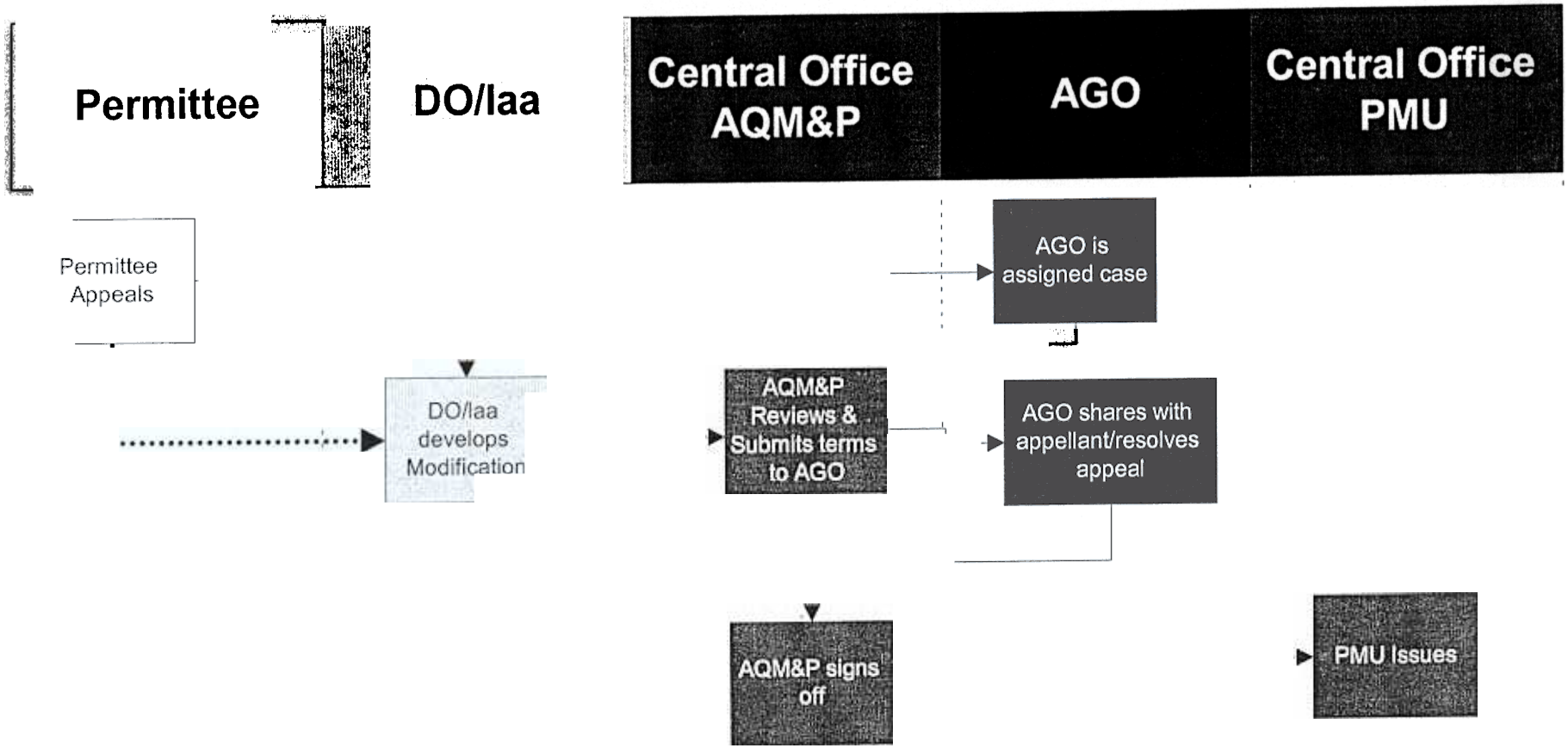
L SOLVENT METAL CLEANING

N INCINERATOR

P PROCESS

R SPRAY BOOTH

T STORAGE TANK


Permittee
DO/laa
Central Office AQM&P
AGO
Central Office PMU
Permittee Appeals
AGO is assigned case
DO/laa develops Modification
AQM&P Reviews & Submits terms to AGO
AGO shares with appellant/resolves appeal
AQM&P signs off
PMU Issues

File NSR MANUAL

**OhioEPA**

State of Ohio Environmental Protection Agency

STREET ADDRESS: Central District Office MAILING ADDRESS:

TELE: (614) 728-3778 FAX: (614) 728-3898

October 21, 1998

Dave Newsad
Residuals Management Technology, Inc.
5890 Sawmill Road, Suite 100
Dublin, OH 43017-1591

re: clarification on definition of "beginning installation"

Dear Dave:

This letter is in response to your request for clarification on Ohio EPA's policy regarding what constitutes "beginning installation" with regards to permitting.

As you are aware it is difficult to give a policy for an issue such as beginning installation which will cover all situations. For any particular situation, where there is a specific question regarding the Ohio EPA's policy on what constitutes starting installation, the Ohio EPA should be contacted. In general, the following are the current policies of the Ohio EPA.

The first situation to be discussed is the installation of new air contaminant sources in an existing building. It is the general policy of the Ohio EPA that such activities as planning order of equipment and materials, site-clearing, grading, and on-site storage of equipment and materials are allowed before receipt of the permit to install and they do not constitute "beginning installation". Based on some conversations that we had about a year ago, I understand there you also had some specific questions regarding site preparation. For instance, can old duct-work, piping, and similar such infrastructure of the building be removed before receiving the permit to install? In general it is the policy of the Ohio EPA that these activities are considered site-preparation and can be undertaken.

Regarding storage of equipment on-site, the Ohio EPA may consider placing an emissions unit in its final location in a building as beginning installation. For instance, if a boiler is placed in its final location inside of a building, this would probably be considered beginning installation and would require that the permit to install be issued before such activity occurred.

In regards to a new building, the planning, ordering of equipment and materials, site-clearing, grading, and on-site storage of equipment and materials are allowed before the receipt of the permit to install. However, the construction of the building itself could not begin before receipt of the PTI.

Note that the above general guidance describes Ohio EPA interpretations of the Ohio EPA rules and guidances. As you are aware, USEPA has considered entering into a binding contract as an action that is considered starting construction for major sources. The Ohio EPA has not seen any recent enforcement by the the USEPA concerning this issue, but that does not mean USEPA would not choose to enforce this policy in the future.

As stated earlier, these are only guidelines. For specific situations, the Ohio EPA should be contacted for a determination regarding that particular situation.

Sincerely,

Isaac A. Robinson, III
District Air Unit Manager
Central District Office

xc: Mike Hopkins, Central Office-DAPC
Bruce Colman, CDO
Mike Riggleman, CDO
César Zapata, CDO

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George V. Voinovich
Governor
Donald R. Schregardus
Director

# MEMORANDUM

To: Jim Orlemann, Engineering Steering Committee

From: Don Cavotel DAPC, CDO

Subject: Operation of new sources subsequent to a PTI issuance

Date: February 2, 1993

---

As you know, DAPC recently initiated an installation certification process as part of the PTI process for any new air pollution source

In the process of implementing this process and following the procedure of not issuing PTOs until source installation certification has been completed CDO has received concerns/complaints from industry about delaying PTO issuance pending the source installation certification.

Typically, once the source installation certification has been received it takes thirty (30) to sixty (60) days to complete the application review, draft a PTO and have the PTO reviewed and issued by DAPC.

The delay in PTO issuance can result in significant delays in start-up of production on the source pending issuance of the PTO. CDO has been told by companies that this process puts their facility at a significant competitive disadvantage to other companies which do not comply with the regulation and for which Ohio EPA does not enforce the rule. In addition, if DAPC returns the draft PTO to the district due to some unacceptable term of the PTO than the issuance of the PTO is delayed even further.

CDO staff know of no legal mechanism for new sources to operate without a PTO unless compliance testing is required in the PTI and the ninety (90) day period to operate is granted pursuant to OAC 3745-35-02(C)(4)(b).

It is our understanding the allowance of the ninety (90) day operating period in the PTI can only be legally granted if a source is explicitly required to conduct emission and/or emission control equipment performance testing in the PTI.

In discussing this issue among CDO staff it appears in the past the requirement to delay start-up of new sources pending issuance of the PTO has been inconsistently enforced and permits to install have been "illegally" issued with the allowance for a ninety day operating period in the PTI (without the requirement to test the source) by CDO staff. We also suspect inconsistency in enforcing this requirement occurs in other DOs/LAAs.

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In conclusion, in cases where a complete PTO application is submitted and all requirements of the PTI have been complied with, it appears reasonable to us and worth the time and effort for a legal mechanism (i.e. rule change, if necessary) be instituted to allow legal operation of the source pending processing of the paperwork (i.e. PTO).

Considering the workload and resources in CDO we do not believe it is possible to significantly reduce the time it takes to review and process PTOs for new sources as the PTO system currently is set up.

We also believe the allowance of the operation of these sources, contingent upon submittal of complete applications and the facility complying with all PTI requirements, would meet the program goals of DAPC which is "To protect the health of the people of Ohio from air pollution in the most cost efficient method possible for our businesses.." as well as meet the needs of industry.

Some CDO air permit review staff would like to volunteer their assistance in developing and adopting changes to the permitting system and would like to meet with you, and any other DAPC staff interested, in the near future to discuss the possibility of implementing improvements to increase the efficiency of the permitting process.

If you have any questions, contact me directly

DC/DN/dn/sc

cc: Bob Hodanbosi, DAPC, CO
Vaughn Laughlin, DAPC, CDO
Mike Hopkins, DAPC, CDO ✓
Chris Bulinski, DAPC, CDO
Chad Delbecq, DAPC, CDO
Dave Burroughs, DAPC, CDO
Dave Newsad, DAPC, CDO
Brad Thomas, DAPC, CDO

# office communication

to: DO Unit Supervisors/LAA Directors date: Nov. 17, 1988

from: Bob Hodanbosi, Division of Air Pollution Control

subject: Changes to the Conditions in Permits to Install (PTI's)

The question has been raised as to the proper procedure for sources to follow after a PTI has been issued for a source, but prior to start-up. According to the current Permit to Operate (PTO) rules [Ohio Administrative Code (OAC) Rule 3745-35], a new source is in violation of these rules if, upon start-up, it operates without a PTO. The problem seems to be an inherent conflict with the way the rules are written. The conflict first appears in OAC Rule 3745-35-02(A) where it essentially states that an air contaminant source may not operate without a PTO. Then, in OAC Rule 3745-35-02(C)(4)(b), it states that a source cannot obtain a permit without first demonstrating through performance tests that it can operate within the limits of the PTI. The rule further states that the testing must be completed within 90 days of start-up. Consequently, a source must operate without a permit during the time the performance testing must be completed.

In order to clarify this situation, a provision will be added to Standard Condition No. 8 of the PTI worksheet that permit the source to operate for a 90-day start-up period. This provision will appear in the ~~the~~ Performance Test Condition as follows:

> "The facility will be permitted to operate during a 90-day period in accordance with OAC Rule 3745-35-02(C)(4)(b). The purpose of this period of operation is to fulfill the performance tests conditions used in the determination of compliance with the provisions of this Permit to Install."

If you have any questions, please do not hesitate to contact me at (614) 644-2270.

BH:jlc

cc: Bill Hayes, Legal
Jim Orlemann, Engineering
Clara Dailey, A&C

RECEIVED
NOV 17 1988
Ohio Environmental Protection Agency
CENTRAL DISTRICT OFFICE

# County of Hamilton

## SOUTHWESTERN OHIO AIR POLLUTION CONTROL AGENCY

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Phone: (513) 251-8863

Thomas W. Wen
Administrator
CHARLES E. SCHUMANN
Director

April 6, 1987

Mr. David Lu,
Environmental Engineer
General Electric, AEBG
1 Neumann Way, Mail Drop N123
Cincinnati, Ohio 45215

RE: OEPA Permit to Install Regulation

Dear Dave:

The purpose of this letter is to provide an interpretation of Ohio Administrative Code (OAC) rule 3745-31 "Permit to Install New Sources of Pollution". Specifically, you requested an interpretation on what phase of a new project could be accomplished prior to obtaining a permit to install from the director of Ohio EPA.

The key provisions of OAC rule 3745-31 are the definitions of the terms "installation" and "new source" in OAC 3745-31-01, and the wording of paragraph (A) of section 3745-31-02. The definitions are as follows:

> "Install" or "installation" means to construct, erect, locate or affix any air contaminant source or any treatment works.
>
> "New source" means any air contaminant source and/or source for which an owner or operator undertakes a continuing program of installation or modification or enters into a binding contractual obligation to undertake and complete, within a reasonable time, a continuing program of installation or modification, after January 1, 1974.

OAC 3745-31-02(A) reads as follows:

> Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the installation of a new source of air pollutants or a new disposal system as defined in division (G) of section 6111.01 of the Revised Code, or cause, permit, or allow the modification of an air contaminant source or a disposal system, or establish or modify a solid waste disposal facilitiy, without first obtaining a permit to install from the director. With regard to disposal systems as defined in division (G) of section 6111.01 of the Revised Code, application for a permit to install shall include plans for the disposal system, and issuance of a permit to install shall constitute approval of plans for the disposal system pursuant to sections 6111.44 and 6111.45 of the Revised Code.

Mr. David Lu
General Electric, AEBG
Page -2-

> INSERT

Based on the above wording, a violation of OAC rule 3745-31-02 occurs when actual physical construction of a new source of air contaminants, or actual physical modification of an existing source of air contaminants, occurs before a permit to install has been issued. Any activities prior to actual installation, such as entering into a contract to purchase a piece of equipment, or entering into a contract to install a piece of equipment, are allowed to be completed prior to having a permit to install. These activities make the source a new source by definition, but do not constitute installation of the new source.

We strongly encourage all owners or operators to submit the necessary applications well in advance of the planned installation date. A certain amount of time is necessary for reviewing an application and issuing a permit. Until a permit to install has been issued, any actions taken by the applicant would carry a certain amount of risk. For instance, if a company purchases an air contaminant source prior to obtaining a permit, they face a chance that the Ohio EPA will not approve the installation of the source, or will require significant modification or additional expenditures for add-on air pollution control equipment. Therefore, submittal of an application for a permit to install at the earliest possible time is prudent.

Please note that this letter addresses the Ohio Permit to Install requirements only, and that certain Federal regulations may contain different definitions or applicability requirements.

If you have any questions, or would like to discuss the contents of this letter in further detail, please call me at (513) 251-8777.

Sincerely,

Thomas N. Tucker

Thomas N. Tucker,
Environmental Scientist

TNT/jr

# Inter-Office Communication

to: Thomas Tucker, SWOAPCA date: April 1, 1987

from: Bob Hodanbosi, DAPC

subject: Definition of Installation

RECEIVED S/W/O AIR POLLUTION CONTROL
APR 3 1987

INSERT

I have had an opportunity to review your draft letter concerning "installation" under the Ohio EPA Permit to Install rules. In general, I agree with the content of the letter. When we discuss the construction of a new facility with an entity, we define "installation" as the pouring of foundation for the construction of the building that contains the source. We have allowed the construction of office buildings associated with a new facility before permit issuance.

Please call if you have any questions.

BH/jlc

EN 1001 ( 3/84 )

Definition of "Start of Construction"

The following is intended to define OEPA's policy on what is the start of construction for permit to install purposes;

For a new green field facility, start of construction is when the entity begins pouring concrete for the foundations for the structure.

For an addition to an existing facility, start of construction is when the entity starts pouring concrete for the foundation for the building expansion or for the foundation for any new equipment.

For an addition to an existing facility in which no substantial building modifications (foundations) are necessary, start of construction is when the entity receives new equipment at the facility.

An entity can feel free to do any site preparation work that is necessary up to the point as identified above. A PTI must be issued prior to starting construction.

PTI Exemptions

A completed exemptions package is undergoing final review. Hope to propose rules soon and have tentatively scheduled a hearing date for late June. This is for the first group of sources.

Respectfully Submitted
James W. Sumner
Secretary Pro Tem

# County of Hamilton

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SOUTHWESTERN OHIO AIR POLLUTION CONTROL AGENCY
1632 CENTRAL PARKWAY, ROOM 201
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PHONE: (513) 651-9437
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INTERIM DIRECTOR

Serving Butler, Clermont, Hamilton, and Warren Counties.

JUN 3 1992

Bob: Is this still current? If so, I'll distribute. (Anthony Sullivan is Pat for policy - this is all anyone found). Thanks. Matt

OK

## Telecopier Cover Letter

PLEASE DELIVER THE FOLLOWING TELECOPIED PAGE(S) TO:

NAME: PAT WALLING-MILLER

COMPANY: OEPA: DAPC

FAX #:

TOTAL # OF PAGES INCLUDING COVER SHEET: 5

DATE: 4-9-92

SENDER: Jim Sadelfeld - SWOAPCA

If you do not receive all of the pages and/or any problems arise please call ASAP at (513) 651-9437

Our Facsimile Number is (513) 651-9528

Comments:

Pat, here is the info on new construction. The issue was initiated by Dark Lee when he was at G.E. Attached is our letter to him followed by an IAC from Bob followed by minutes from a NSR committee meeting minutes. Let me know if you need anything else

Jim

through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated . . . [section 111(a)(1)].

*B. Regulatory Background*

1. Implementation of Particulate Matter Standards

a. *Section 110 State Implementation Plans.* Since 1971 EPA has promulgated, in 40 CFR Part 51, regulations covering a wide range of the planning requirements set forth by section 110. On November 7, 1986 EPA promulgated (51 FR 40658) restructured Part 51 regulations. References to Part 51 in this notice are to the recodified sections.

b. *Part D State Implementation Plans.* (1) *Section 107(d) designations.* The EPA promulgated attainment status designations for particulate matter and four other NAAQS on March 3, 1978, in 40 CFR Part 81 Subpart C (43 FR 8962).

In the preamble of this action, EPA pointed out that it had designated some rural areas "attainment" or "unclassifiable" for particulate matter despite data showing that these areas were experiencing violations of the particulate matter NAAQS (43 FR 8963). Under its Fugitive Dust Policy, EPA defined as "rural" any area with low population that lacked major industrial development or major industrial particulate matter emissions. In the absence of evidence to the contrary, EPA at that time presumed rural dust to be less harmful than urban dust because it consisted primarily of natural materials not contaminated by industrial products.

The EPA also promulgated a rule explaining that it could redesignate areas when air quality data showed that a change was warranted. See 40 CFR 81.300.[3]

(2) *Guidance for Part D State Implementation Plan revision: "RACT plus studies" policy.* The EPA published most of its guidance for SIP's for nonattainment areas in the form of a "general preamble" interpreting the Part D planning requirements (44 FR 20372, April 4, 1979). The EPA generally required States to apply RACT to all stationary sources unless the State could show that controls on a particular source or group of sources would not bring about attainment any faster. Moreover, the States had to submit all needed control measures in fully enforceable form (44 FR 20375). For particulate matter, however, EPA allowed States to postpone the adoption of control measures for "nontraditional" sources until the States had an opportunity to study what control measures would be efficacious (44 FR 20378). "Nontraditional" sources included area or background sources such as vehicle traffic and construction activities. All emissions from industrial processes at stationary sources were subject to the requirement for enforceable RACT measures.

Later, as EPA reviewed specific plan revisions, it expanded this policy to allow States to postpone the submittal of attainment demonstrations for the particulate matter standards until the States had a chance to quantify the effects of controlling nontraditional sources. However, the demonstrations, when submitted, still had to provide for attainment of the primary standards by the end of 1982. Also, EPA required areas that postponed demonstrations to impose RACT measures on all traditional sources, since they would be unable to show that they could attain with less stringent controls.

(3) *New source review rules.* The EPA originally issued guidance on the NSR requirements of section 173 in the general preamble. However, in 1980 EPA promulgated detailed regulations on the content of approvable State programs (45 FR 31304, May 13, 1980 and 45 FR 52678, August 7, 1980), codified at 40 CFR 51.165(a) [formerly 51.18(j)]. Part D and these regulations provide, among other things, that State plans must require major stationary sources and major modifications to offset their proposed emissions and achieve the "lowest achievable emission rate" (LAER).[4]

(4) *Environmental Protection Agency action on Part D plans: construction bans, conditional approvals, and policy for correcting deficient Part D plans.* By July 1, 1979, no nonattainment areas had fully approved SIP's, and very few had SIP provisions in effect that limited construction as required by sections 110(a)(2)(I) and 173(4). Consequently, on July 2, 1979, EPA published a regulation that inserted the section 110(a)(2)(I) and section 173(4) construction bans into all SIP's that lacked them (44 FR 39471, now codified at 40 CFR 52.24). In the same notice, EPA announced that the section 110(a)(2)(I) ban had become effective in each nonattainment area that lacked an approved or promulgated Part D plan revision. The EPA explained that it would remove these bans when it took final action approving or promulgating a plan that met all relevant Part D requirements. The EPA, however, subsequently concluded that the section 110(a)(2)(I) construction ban would not apply if a State lacked a Part D revision for a secondary NAAQS, since section 110(b) allows States to obtain extensions for submitting secondary plans and the legislative history of Part D shows Congress' chief concern was the protection of human health (47 FR 44729, October 12, 1982).

Many nonattainment areas failed to attain the primary standards by the end of 1982. The EPA has interpreted the Act, however, as not requiring the Agency to impose the full array of available sanctions immediately in all of these areas. Instead, on November 2, 1983, EPA announced that it would find plans for areas that failed to attain to be "inadequate" under section 110(a)(2)(H) and 110(c)(1)(C) (48 FR 50686). The EPA would require States to submit revisions for these areas and, if any area failed to comply, EPA would find that the State was not implementing the portion of its SIP that requires revisions in response to a notice under section 110(a)(2)(H). This finding would trigger a construction ban under section 173(4) and funding restrictions under section 176(b).

The EPA acknowledged in its November 1983 notice that it was considering a revision to the particulate matter standard (48 FR 50697). Consequently, EPA deferred, and is continuing to defer, the issuance of notices of inadequacy for particulate matter plans.

2. Implementation of Prevention of Significant Deterioration Requirements

Prior to the enactment of Part C in 1977, EPA had promulgated Federal PSD regulations as 40 CFR 52.21 in response to court rulings that the 1970 Act required SIP's to include PSD measures. See *Sierra Club* v. *Ruckleshaus*, 344 F. Supp. 253 (D.C. Cir. 1972), aff'd per curiam, 4 ERC 1815 (D.C. Cir. 1972), aff'd by an equally divided court, sub. nom. *Fri* v. *Sierra Club*, 412 U.S. 541 (1973). The EPA inserted the Federal PSD regulations directly into each SIP pursuant to section 110(c) of the Act [39 FR 42510]. In 1978 EPA substantially amended its Federal PSD regulations to conform them to the detailed PSD requirements contained in the 1977 amendments [43 FR 25380 (now codified.

[3] One court has ruled that section 107(d) does not authorize EPA to redesignate areas to nonattainment unless a State concurs in the redesignation. *See Bethlehem Steel Corp. v. EPA*, 726 F.2d 1303 (7th Cir. 1983). No other court has yet decided this issue.

[4] Under regulations recently upheld by the Supreme Court, *Chevron, Inc.* v. *NRDC*, 104 S. Ct. 2778 (1984), EPA defines "major stationary source" for purposes of the nonattainment area NSR program as essentially an entire plant.

OhioEPA
State of Ohio Environmental Protection Agency

STREET ADDRESS: MAILING ADDRESS:

TELE: (614) 644-3020 FAX: (614) 644-2329

All District Offices and Local Air Agencies

From: Mike Hopkins, Manager, Air Quality Modeling and Planning Section, DAPC, Ohio EPA

Draft vs. Direct Final Permits

Date: November 20, 1995

One of the responsibilities of the permit review staff in the District offices or Local Air Agencies is to recommend that either a draft permit to install or a direct final permit to install is issued. This memo is designed to answer the question: When should the field office permit reviewer recommend that a draft permit to install is issued vs. a direct final permit to install?

A draft permit should be issued if any of the following apply:

1) The permit is for a *major stationary source* or a *major modification* under the federal Prevention of Significant Deterioration rules or equivalent state rules,

2) The permit is for a *major stationary source* or a *major modification* under the federal Nonattainment New Source Review rules (offset policy) or equivalent state rules

3) The permit is for a synthetic minor for the purposes of avoiding either (1) or (2) above,

4 The permit is for a National Emissions Standards for Hazardous Air Pollutants (NESHAP) source under 40 CFR 61,

5) The permit is for a Maximum Achievable Control Technology (MACT) source under 40 CFR 63 (except for Drycleaner MACT sources),

6) The permit is for an infectious waste incinerator,

7) The source owner has requested that the permit be issued as a draft to make the limits federally enforceable,

8) The permit is for a source which, in the judgement of the field office staff, is likely to generate significant public comment.



George V. Voinovich, Governor
Nancy P. Hollister, Lt. Governor

If any of the above apply, then a draft permit should be issued.

Note that we no longer require that all NSPS permits go out as draft permits. We used to require this because of language in our contract with USEPA. However, this language has now been changed and the requirement has been dropped.

The same reasoning holds true for permit modifications. If the modification is for a "paper" modification, it can be issued as a direct final. However, if the change is defined as a *modification* under OAC rule 3745-31-01 and one of the above criteria is true, then a draft permit should be issued.

If you have any questions, please call me at 614-644-3611

MH/
policy\draftvsf.wpd

cc: Bob Hodanbosi, DAPC
Alan Franks, Dir. Office
Vaughn Laughlin, Dir. Office
Jeanne Mallett, Legal
Misty Parsons, DAPC
Alan Lloyd, DAPC
Clara Dailey, DAPC
Sara Geary, DAPC

# OEPA inter-office communication

to: Distribution date: February 24, 1994

from: Misty Parsons, mp AQM&P and Clara cd Dailey, PMU

subject: Field office PTI recommendations for issuance as draft or final

We have recently been asked to improve our efforts in determining whether each PTI we review at Central Office should be issued as a preliminary (draft) or as a direct final.

As you know, we routinely issue permits for NSPS, NESHAP, Synthetic Minor, Netting, Offset, PSD and certain known controversial types of sources (for example thermal soil units) as drafts. Permits for any particular source that the agency knows is controversial, and permits that the applicant wants issued as a draft, are also generally issued as drafts.

Often, only the field office staff is aware of a company's preference or that a source is controversial. Therefore, we are asking you to pay particular attention to the Preliminary and Final blanks at the top of the standard terms and conditions page, which you submit with every worksheet. These blanks are your instructions to us as to how the permit is to be issued (the Preliminary blank is not to be used to indicate that your review is the preliminary review). If you check the Preliminary blank, and the source is not one of those normally issued as draft, we will generally issue it as a draft, knowing that there is a reason that you want it as a draft, such as public interest. If you check Final on the form and we concur, a direct final permit will be issued as usual.

In general, we don't want to issue any more permits as drafts than is necessary, since final permits are not issued as quickly as direct finals. In addition, it has been decided that dry cleaner MACT PTI's will be issued as direct finals.

Please make sure that all staff preparing PTI's at your office are aware of this procedure. The Central Office staff will make every effort to issue the PTI's according to the indication you provide on the worksheets. Thank you for your assistance. If you have any questions, please contact us.

Distribution

Don Cavote, CDO
Doug Seaman, Cleveland
Jerry Garro, Akron
John Paul, RAPCA
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Dennis Bush, NEDO
Don Walden, Portsmouth
Jim Braun, AQM&P
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Gerry Rich, NWDO
Harold Strohmeyer, NOVAA
Barry Burton, Cincinnati
Don Moline, Toledo
Alan Lloyd, AQM&P
Sara Geary, PMU

# inter-office communicatior

to: Warren Tyler, Director & Virginia Aveni, Deputy Director date: August 21, 1986

from: Pat Walling, Chief, DAPC PW/BH

subject: Direct Final Action for Air Permits to Install (PTI's)

The Division of Air Pollution Control has evaluated various approaches to expedite the processing of air PTI's. The first step that we are taking is to begin to issue insignificant or minor air PTI's as "direct final" actions that will be effective upon issuance. This will reduce total processing time by approximately 60 days for these minor sources. Major or controversial PTI's will still be issued as "draft" to obtain public comment prior to the issuance of a final PTI.

Attached for your information is a copy of the public notice that will appear in the Weekly Review that announces this change in permit processing.

If you have any questions, please contact Bob Hodanbosi or me at 466-6116.

BH/jlc

Attachment

cc: District Office Air Unit Supervisors
Local Air Agency Directors
Ohio EPA Division Chiefs
DAPC Section Managers
Air PAG Subcommittee
Steve Grossman
Paul Flanigan
Alan Lapp
Mike Greenberg
Larry Frimerman
Oakley Kelch
Al Franks
Vivian Davis
Clara Dailey
Air Lines

# OHIO EPA POLICY ANNOUNCEMENT

## Background

The Agency has been involved in a cooperative effort this past year with the Air Public Advisory Group to develop an expedited approach for the processing of air Permits to Install (PTI's). One method available to the Agency would be to issue air PTI's as "final actions" instead of draft actions. This action would substantially reduce processing time as approximately 6 to 8 weeks would be eliminated. This procedure would be accomplished by identifying small sources that have minor environmental impact and issuing these PTI's as final actions, thereby eliminating the draft permit step. Major installations or sources governed by a federal Clean Air Act regulation will be issued as a "draft" permit before a final permit is issued in the manner now used by Ohio EPA.

In order to ensure adequate public participation, the receipt of all PTI applications will be advertised, as will the issuance of the final permit. This is the current practice of the Agency. In the case of "draft" actions, this issuance of the draft action will also be advertised. All final actions of the Director will remain appealable to the Environmental Board of Review (EBR) within 30 days of public notice.

## Policy

Beginning August 1, 1986, the following categories of sources will be ssued as draft and then final PTI's:

1. Sources governed by the New Source Performance Standards (NSPS)
2. Sources governed by the National Emission Standards for Hazardous Air Pollutants (NESHAP)
3. Sources governed by the Prevention of Significant Deterioration (PSD) rules
4. Emission Offset Sources
5. Any other source that is considered a "major" under the Clean Air Act.
6. Any source that, in the opinion of the Director, is of significant public interest to warrant the opportunity for public hearing and/or public comments.

All other PTI's will be issued as "direct final actions" of the Director.

If you have any questions concerning this announcement, please contact Patricia Walling or Robert Hodanbosi, the Division of Air Pollution Control, at (614) 466-6116.

*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

to: New Source Review Contacts

from: Michael Hopkins, AQM&P

subject: Existing sources with no PTI

date: ~~March 18, 1998~~

We have had numerous inquiries concerning requirements for existing sources installed after January 1, 1974 which never obtained a PTI. The Title V process has uncovered many of these sources.

The basic rule we have tried to follow is that the source should meet the requirements that were in place at the time the source was installed. This would include the technology review (BAT) as well as the modeling and toxic reviews. We have found, though, that these dates are not always known or have not been passed on. In some instances, we are looking for the earliest reference to a requirement (i.e., the earliest Hodanbosi memo or letter identifying a requirement).

We are also currently creating a BAT database which will go back approximately three years. For sources installed prior to that, we will have to use our best engineering judgement.

To assist you in identifying the requirements in place at any point in time, we are attempting to reconstruct as many of the milestone dates as possible. Examples of the significant dates we are attempting to identify are:

| | |
|---|---|
| January 1, 1974 | PTI rules adopted, PTI required |
| April 9, 1981 | State modeling thresholds identified |
| January 9, 1984 (approx) | Option A toxics policy |
| October 17, 1988 | PSD increments for NOx added |
| June 3, 1993 | PM10 increments replace TSP |

The attached list of PSD rules changes points out that there have been many rules changes that may affect the requirements a source may have been subject to at any point in time. There have also been numerous revisions to state PTI rules as well as changes to VOC, SO2 and particulate requirements which may have affected BAT for a given PTI. These would be too numerous to list, but there may be examples that have played a role in your review of existing sources. Please note any significant milestones you believe should be included on a list of significant dates and contact Bill Spires at 614-644-3618 or at bill.spires@epa.state.oh.us.

*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

**to:** New Source Review Contacts

**from:** Michael Hopkins, AQM&P

**subject:** Existing sources with no PTI

**date:** July 17, 1997

Redone

We have had numerous inquiries concerning requirements for existing sources installed after January 1, 1974 which never obtained a PTI. The Title V process has uncovered many of these sources.

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# PSD Rules Evolution

The Prevention of Significant Deterioration (PSD) rules originated from a lawsuit over one of the Clean Air Act (CAA) goals, i.e., to "protect and enhance" the quality of the nation's air. The PSD regulations, applicable to new and modified major stationary sources of air pollution, first appeared in final form on December 5, 1974.

The two main goals of this program were to: 1) create "classes" of allowable incremental increases in sulfur dioxide and total suspended particulate matter (TSP) concentrations (PSD Class I, II, and III increments), and 2) establish a New Source Review (NSR) program that would require a source to: demonstrate that it would not violate PSD increments; apply state-of-the-art controls — Best Available Control Technology (BACT); and undergo public review.

Versions of the rules surfaced in two sections of the Code of Federal Regulations (CFR). Part 52 contained PSD rules for programs run by EPA or states receiving PSD delegation. Part 51 defined requirements for states to develop their own PSD rules and programs. Over the years, the rules have gone through several revisions due to lawsuits and changes to the CAA. This chart presents a chronology of changes to the PSD regulations as they appeared in the *Federal Register*. Since the PSD rules in 40 CFR Parts 51 and 52 went through a similar evolution, only the changes to Part 52 are shown.

| | | |
|---|---|---|
| 12/5/74 | 39 FR 42510-42517 | The first set of PSD rules applied to sulfur oxides or particulate matter emissions from a list of 18 source categories. New or modified stationary sources that had not commenced construction prior to 6/1/75 were required to obtain a PSD permit. |
| 11/3/77 | 42 FR 57459-57462 | Changes to the 12/5/74 PSD rules were required by the 1977 Clean Air Act (CAA) amendments (signed 8/7/77). Key changes included new mandatory Class I areas (e.g., national parks), more restrictive Class II and III increments, and requirements to show compliance with the National Ambient Air Quality Standards (NAAQS). These rules applied to sources that commenced construction on or after 8/7/77. |
| 6/19/78 | 43 FR 26380-26410 | This set of rules replaced the 12/5/74 PSD rules (as amended) and implemented the remaining new requirements of the 1977 CAA amendments, including collection of up to a year of ambient monitoring data for any PSD permit application submitted after 8/7/78. (However, dispersion modeling was often accepted in place of monitoring data.) The list of covered sources expanded to 28 categories. PSD permits were required for any listed source with potential emissions increases of 100 tons per year or more of *any pollutant* regulated under the CAA. Sources not on the list but with potential emissions increases of 250 or more tons per year were also required to obtain a PSD permit. Potential emissions were defined *before* application of controls. Sources that obtained preconstruction permits before 3/1/78 and commenced construction before 3/19/79 were exempt from the 6/19/78 rules. |
| 5/10/79 | 44 FR 27558-27604 | Reference to the quality assurance requirements for collecting PSD ambient air monitoring data (Appendix B of Part 58) was incorporated into §52.21(n). |
| 8/7/80 | 45 FR 52676-52748 | As a result of the *Alabama Power* court decision on the 1978 rules, the PSD regulations were substantially rewritten. *The 8/7/80 rules form the basis of the current program.* "Potential emissions" were redefined and based on maximum capacity taking into account any *federally enforceable* physical and operational limits (such as pollution control equipment). The list of 28 source categories and the 100/250 ton per year thresholds for defining new "major" sources remained. The same thresholds applied to modifications of "minor" sources. Lower, "significant" thresholds for individual pollutants were established for modifications of major sources. Stringent preconstruction monitoring requirements were added (i.e., modeling data could be substituted only under limited conditions). PSD permits required by the 6/19/78 rules but not by the 8/7/80 rules could be rescinded, and numerous transition dates were specified for various new requirements (e.g., applicability, BACT, monitoring). |

# PSD Rules Evolution (cont.)

| | | |
|---|---|---|
| 6/25/82 | 47 FR 27554-27562 | An EPA interpretation in the 8/7/80 rules was changed by deleting requirements to: 1) include vessel emissions when determining if a new source or modification was significant or major and 2) include mobile source emissions as secondary emissions when assessing air quality impacts of new/modified sources. |
| 10/26/84 | 49 FR 43202-43216 | EPA reaffirmed the current requirement to include fugitive emissions from listed source categories when determining if a source is major for NSR. |
| 7/12/85 | 50 FR 28544-28553 | Additional requirements to address adverse impacts on visibility in Class I areas were listed. |
| 11/7/86 | 51 FR 40656-40677 | References to sections of Part 51 were changed to reflect restructuring and consolidation of Part 51. |
| 7/1/87 | 52 FR 24634-24723 | EPA replaced the particulate matter NAAQS with the $PM_{10}$ NAAQS, and §52.21 was updated with a $PM_{10}$ significant net emissions increase and preconstruction monitoring significance level. Changes were also made to the monitoring significance levels for lead, beryllium, and hydrogen sulfide. |
| 7/14/87 | 52 FR 26401-26402 | Corrections were made to the 7/1/87 $PM_{10}$ rules. |
| 1/6/88 | 53 FR 392-396 | Supplement A to the *Guideline on Air Quality Models (Revised)* was incorporated. |
| 10/17/88 | 53 FR 40656-40672 | PSD increments were defined for nitrogen oxides. |
| 6/28/89 | 54 FR 27274-27300 | "Federal enforceability" guidance was reaffirmed and amended to specify conditions that allow state operating permits to be federally enforceable. Other parts of the PSD rules were also reaffirmed. Requirements for the innovative technology waiver in relation to Class I areas were relaxed. The definition of Volatile Organic Compounds (VOC) was revised to exclude certain negligibly photochemically reactive compounds. |
| 2/11/91 | 56 FR 5488-5527 | Significant net emissions increases were defined for regulated air pollutants added by the Municipal Waste Combustors New Source Performance Standard. |
| 2/3/92 | 57 FR 3941-3946 | The VOC definition was changed to refer to §51.100(s) where VOC was redefined to exclude additional negligibly photochemically reactive compounds. |
| 7/21/92 | 57 FR 32314-32339 | A broad NSR exclusion for utility pollution control projects was added (in part due to the *WEPCO* and *Puerto Rican Cement* court decisions). |
| 6/3/93 | 58 FR 31622-31638 | EPA replaced the particulate matter PSD increments with $PM_{10}$ PSD increments, and portions of §52.21 were updated accordingly. |
| 7/20/93 | 58 FR 38816-38884 | The reference to the modeling guideline was changed to Appendix W of Part 51, and Supplement B to the *Guideline on Air Quality Models (Revised)* was incorporated. |
| 8/9/95 | 60 FR 40465-40474 | Supplement C to the *Guideline on Air Quality Models (Revised)* was incorporated. |

Trinity's *History of PSD Rules* is an historical reference of *Federal Register* notices on final PSD rules (as defined in §52.21) from December 1974 to present. Preambles to the final rules are included. To purchase a copy, call our Education Department at (214) 661-8100.

*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

| | |
|---|---|
| **to:** | **Air Permit To Install Permit Writers and Permit Supervisors** |
| **from:** | **Michael W. Ahern Environmental Supervisor, DAPC/PMU** |
| **subject:** | **Corrected Copy Processing Guidance - (via e-mail and posted on PTIs2000)** |
| **date:** | **March 23, 2001** |

No fee will be charged for corrected copies; corrected copies are not actions of the Director. If a fee must be charged for a change to a permit document, it must be completed as a modification in PTIs2000 as an action of the Director.

***DO/laa Guidance***

I. Corrected Copy Requests must be entered into PTIs2000 as a new record using the following steps:

A. Log into PTIs2000
B. Choose Facility / Permit Information
C. Enter the facility ID
D. Confirm or change the Contact information
E. Describe the corrections in the PTI description and Submit
F. Choose **To enter a brand new PTI application, click on the NEW button**

New

G. Enter the same PTI number as the issued permit with a new receive date.
H. Describe the nature of the correction in the PTI description (Note, this will be used in the cover letter of the corrected copy)
I. Change or confirm the mailing contact information
J. Submit basic PTI information.
K. Exit to Main Menu
L. Choose Emission Unit(s) & Permit Designation
M. Choose Option 2
N. Choose the old PTI receive date and the new PTI receive date.
O. Confirm all the PTI and Permit designation information (this will bring you back to the main menu)
P. Choose PTI Task List
Q. Enter the PTI number
R. Choose the corrected copy receive date
S. Complete the tasks up to task 09.
T. To complete task 09, choose the "Corrected Copy" option from the pick list:

**Task 9: DO/LAA staff selects permit type.**

**Permit Type: Application Received**

**Is a permit needed?** ☑ **Yes** ☐ **No**

**Select:** Permit Type

- Permit Type
- Draft State Only
- Draft State-Fed
- Draft Denial
- Direct Final State Only
- Direct Final State-Fed
- Registration
- Corrected Copy

U. Complete Task 10 - Submit recommendation to Supervisor

V. Supervisors, complete task 12 and assign the corrected copy to Mike Ahern, DAPC PMU

W Identify in the comments area of PTIs2000 what must be corrected in the document with sufficient detail for (even) Mike Ahern to be able to use as directions for creating the corrected copy from the issued PMU document to the PMU Supervisor (Mike Ahern).

II. Please contact the PMU Supervisor (Mike Ahern) first if the permit was issued prior to January 1998 (this should be extremely rare).

III. If the corrections are significant (meaning they are to numerous or complicated to be understood by the central office), obtain a copy of the prior issued electronic permit, make changes to the document using ***bold italics*** for added text and ~~strikeout~~ text for text that is to be removed. Save the file as **ptinumbercor1.wpd** Note: the 1 indicates the corrected copy iteration of the document, so if a second correction is required, it would be saved as **ptinumbercor2.wpd**. E-mail the file to the airpti@epa.state.oh.us e-mail address and indicate in the comments section of PTIs2000 that an electronic file is available for the central office to process.

***PMU Guidance***

I. The PMU Supervisor will review/confirm the request to determine if it can be accomplished as a corrected copy or if a modification must be processed in PTIs2000 and will assign the request to the AQM&P OAIII to develop the corrected copy by forwarding the e-mail from the DO/laa Supervisor.

II. The OAIII will create the corrected copy

A. The OAIII will sign-out the file from the PTI file room

B. The OAIII will open the issued permit document from the j:\fops\pti\issued\archive directory and resave the permit into the current year archive directory as **ptinumbercor1.wpd** Note: the 1 indicates the corrected copy iteration of the document, so if a second correction is required, it would be saved as **ptinumbercor2.wpd**.

C. The OAIII will identify on the original "Rigo Signature" page that the permit was corrected by indicating **"Corrected Copy: DATE"**, make the corrections as necessary, and use the highlight function in WP to indicate the areas in the document that were affected by the correction.

1. Adding highlighting is accomplished by selecting the area or text, right clicking the mouse, and choosing "highlight).

D. The OAIII will insert the Corrected copy cover letter at the top of the document by running the

"Corrected Copy Cover Page" macro.

E. The OAIII will copy the cc list from the original "Rigo" signature page to the inserted "Rigo" signature page. Note: actual mailing addresses for "outside" cc's may need to be obtained

F. After resaving the corrected copy, the OAIII will print the document out, self-proof, stamp the Directors signature page if necessary, and have Tom Rigo sign the Corrected Copy cover page.

III. The OAIII will send an electronic copy of the Corrected Copy to the appropriate DO/laa supervisor.

IV. The Clerk II will attach the mailing labels to the original of the corrected copy, make copies for all Ccs plus one copy for Legal Records..

V. The Clerk II will send the "original" to the Permittee via certified mail; send a copy to each CC via US mail or internal mail as applicable; one copy to Alan Lapp, Legal Records; and place one copy in PTI file prior to returning the file to the PMU file room to be filed.

**The processing goal is to complete a corrected copy within two weeks of assignment by the PMU Supervisor.**

*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

**to:** Distribution via e-mail

**from:** Michael W. Ahern Environmental Supervisor, DAPC/PMU

**subject:** Update to April 25, 1997 guidance on PTI Modification requirements

**date:** June 23, 2000

The purpose of this guidance is to update the procedures used to process permit to install modifications. This guidance is intended to replace the "PTI Modifications" memo sent to you on April 25, 1997. Please forward the following updated guidance to all staff who are involved in processing modifications. Further, I would recommend that the permit review supervisor discuss this guidance with their staff to ensure that future modifications are processed in accordance with this guidance.

DAPC officially changed the formatting of PTIs to the "STARS format" as of February 1999. This change effectively ended issuance of new PTIs in the old TELNET format ("Old format") by establishing a permit that was structured using standard general terms and conditions followed by emissions unit specific terms and conditions. The response by the regulated community to-date has been overwhelmingly positive. As a result, many District Office and local air agency permit writers have begun changing permits previously issued in the old format to the STARS format. Additionally, DAPC overhauled the permit processing system to an Intranet-based system (PTIs2000) beginning January 2000. This is cause for reevaluation of the April 1997 guidance concerning processing modifications.

I first want to provide some clarification of the different types of modifications and how they should be processed, prior to going into what should accompany modification requests.

## Clarification on the Types of Modifications[1]

There are essentially three types of modifications currently:

*Administrative modifications* - A modification to a previously issued permit (document) that addresses changes to the permit that are not strictly typographical in nature and that do not meet the definition of a modification to an air contaminant source as defined in Ohio Administrative Code Chapter 31.

*Chapter 31 modifications* - This type of modification occurs when the change requested is determined to be a "Modification" under OAC rule 3745-31-01. Since it is considered a modification under that rule, the

[1]Please note that a modification is distinguished from a "Corrected Copy". Although a modification can contain corrections, "Corrected Copies" are strictly typographical in nature, are not "Actions of the Director" (i.e., they are not "Public Noticed" and there is no fee for processing), and they do not undergo review of the requested changes from a regulatory perspective. Processing steps for "Corrected Copies" is provided under separate memo.

permittee is required to submit a permit to install application for the change. It is our policy to process this type of application with a new Permit To Install number. Language in the permit should state that the new permit is superceding the previous permit to install issued on the certain date. (In rare instances the existing PTI can just be modified without creating a new PTI. Please discuss this possibility with your NSR contact and PMU prior to taking this approach).

*AGO modifications* - AGO (Attorney Generals Office) modifications are, strictly speaking, always one of the two types of modifications identified above. The vast majority of AGO modifications will fall under the "Administrative Modification" description and are initiated based on an appeal to the Environmental Review Appeals Commission of the prior final issued PTI. Once the permit modification has been developed for issuance, it must first be approved by the Central Office NSR group and the Attorney General's Office, thus resulting in a procedural distinction as viewed by the Central Office.

## Processing Requirements for Modifications

All modifications must be established in PTIs2000. The processing of the *modification must follow the same path as the previously issued permit* (i.e., if the original permit was issued draft/final, the modification must be issued draft/final). If the original permit issuance was prior to the use of PTIs2000, a modification record must be created.

### Emissions unit identification in PTIs2000:

***Administrative Modifications*** - *All* emissions units identified in the prior issued permit must be identified in PTIs2000 with emissions unit descriptions identical to what is identified in the prior issued permit (unless a change in the emissions unit description is part of the modification). The fee should be identified as zero for all emissions units that are NOT being modified as part of the administrative modification. The term "Modified" should be added to the emissions unit description for each emissions unit that is being administratively modified.

***Chapter 31 Modifications*** - Only the emissions units being processed under the new PTI number associated with a Chapter 31 modification should be entered into PTIs2000. Fees should be applied consistent with the August 08, 1997 guidance on fee applicability.

NOTE: For either type of modification, the PTI description must contain the prior issue date and PTI number regardless of the type of modification being processed.

### Administrative Modifications

***Hard copy and/or Electronic Required information***
The information that accompanies each one of the modification types identified above depends largely on what is being changed and what type of modification is being processed.

A. NOTE: All modification documents must reflect the five digit PTI number as required in PTIs2000. In addition, all electronic PTI modification documents must conform to the following file naming

convention *ptinumber***mplus** **the iteration of the modification**.wpd (e.g., 0109524**m4**.wpd for the fourth time a modification has been processed). Please note, if you are electronisizng a permit that has previously been modified, name the electronic file with the current iteration of the modification (e.g., if a permit was issued in 1985 and has been modified via a physical cut and paste method two times in the past and you are now modifying it for a third time and taking the opportunity to electronisize the document, name the file as ptinumber**m3**.wpd). The goal is to be able to easily identify the most recent version of the permit by the file name and to reduce the likelihood of overwriting a prior version of the permit.

**B.** In all cases, you should insert a briefing memo (see attached template) into the beginning of the electronic document, or as a cover page to a hard copy submission with a description of the following ***(Please note: the description is for internal processing purposes and will not appear in the permit or newspaper. This memo should be inserted into the very beginning of the modification document you are recommending. It should <u>not</u> be sent separately)***:

1. Who initiated the modification - The permittee or the Agency

2. A fairly detailed description of the basis for, and nature of the modification (e.g., "correction of emissions unit allowables due to inaccurate original estimates" [*use caution; an increase in allowables under this example may still require re-review of modeling, PSD, etc.*] )

3. Whether or not the modification is associated with an Environmental Review Appeals Commission appeal (i.e., AGO Modification).

4. The permit allowable summary by pollutant (if not included in subsequent pages of the terms and conditions document).

**C.** ***Required materials accompanying the administrative modification request:***
The materials that must accompany the administrative modification request depends largely on the format of the prior and modified permit.

A completed Administrative Modification Briefing memo (see Section B above) and;

2. The Terms and Conditions being modified

   a. **Old format to old format** ***(NOTE: Since you will need to prepare a PTO or Title V permit, it is highly recommended that you use the new PTI format instead of keeping the terms in the old format. However, if timing is critical, use of the old format is acceptable on a case-by-case basis.)***

   The following materials are needed for modification requests that are in the old format:

      i. **(Hard Copy)**

      (a) Indicate in PTIs2000 that you are sending the recommendation via

hard copy (do this by entering a "Comment" into PTIs2000)

(b) A hard copy of the briefing memo (placed on top of all other info)

(c) A clean copy of the previously issued permit - *Single-sided copies only*

(d) A marked up copy of the previously issued permit indicating the changes to be made. Note: these marks must be in red pen and be highlighted to ensure all changes are accurately processed by the PMU (see attached). In addition, notes concerning where added text is to be inserted when the changes are significant would be greatly appreciated.

**OR**

ii. **(Electronic)**

A ***bold italics*** ~~strikeout~~, version of the electronic issued PTI document (PMU has processed fully electronic permit documents since January, 1998. Please contact Becky Castle for an electronic document if one is not available in your office and was issued after January, 1998)

**b. Old format to new format**

The following materials are needed when processing a modification from the old format to the new format:

Submission must be entirely electronic for a modification that also includes changing the format of the PTI from the Telnet format to the STARS format. ***HOWEVER***, it is essential to provide the information identified above in the Sections A&B of this memo so that PMU can create the total allowable emissions summary. The permit review by AQM&P will be the at the same level of detail as a new issue permit.

**c. New format to new format**

The following materials are needed when processing a modification that was initially created in the new format:

Submission must be entirely electronic. ***HOWEVER***, it is essential to provide a detailed description of the changes being made as identified above in Sections A&B of this memo. In addition, it is essential that you identify changes to the text using ***bold italics*** to identify inserted text and to identify text to be removed from the permit using ~~strikeout~~. AQM&P will use this notation to identify the appropriate sections of the permit to review. PMU will clean the permit up prior to issuance by removing the ~~strikeout~~ text and ***bold italics*** codes.

**Chapter 31 Modifications**

Chapter 31 Modifications **must** be assigned a new PTI number and **must** be processed electronically using PTIs2000 as a new (STARS) permit/structure. ***VERY IMPORTANT: Only the emissions unit(s) meeting the definition of Modification as identified in Chapter 31 should be included in Chapter 31 modifications.*** Please be certain to identify the previously issued PTI number that is being superceded in the PTI modification by identifying it in the PTI description **and** in the emissions unit description (e.g., Terms in this permit supercede those identified in PTI 03-11357 issued 11/22/89). In addition, please be certain the "blue sheet" is part of the terms and conditions document upon recommendation to the Central Office.

I hope this updated guidance will reduce confusion and inconsistency in processing our modifications. Please remember, ***PTIs2000*** has a "comments" field that will allow users to identify PTI specific nuances concerning the development of modifications.

**Summary Checklist for you internal use (do not send this page with your recommendations:**
The following is a checklist that you can use to ensure your recommendation is processed efficiently.

| Modification Checklist | | | | |
|---|---|---|---|---|
| Description | | | Admin | 31 Mod |
| PTIs2000 Data Entry Requirements | | | | |
| | Entered PTI modification into PTIs2000 | | x | x |
| | New PTI number assigned | | | x |
| | New emission units only | | | x |
| | All original emissions units included | | x | |
| | Five digit PTI number used | | x | x |
| | Added "modified" to the emissions unit description | | x | |
| | Draft/Final decision same as original | | x | x |
| | Fee zero for non modified emissions units | | x | |
| Documentation Requirements | | | | |
| | Briefing memo included | | x | x |
| | | Includes who initiated the modification - agency/permittee | x | x |
| | | Includes detailed description of the reason/nature of the mod | x | x |
| | | Identifies if the modification is for a ERAC/AGO appeal | x | x |
| | | Includes permit allowable summary by pollutant | x | x |
| | Old Permit Format to Old Permit Format | | | |
| | | Clean original included | x | |
| | | Marked up original included | x | |
| | | Or | | |
| | | Bold/Strikeout electronic included | x | |
| | Old Permit Format to New Permit Format | | | |
| | | Bold/Strikeout electronic included | x | |
| | | File naming convention followed | x | |
| | New Permit Format to New Permit Format | | | |
| | | Bold/Strikeout electronic included | x | |
| | | File naming convention followed | x | |
| | New permit required | | | x |
| | | Electronic Recommendation | | x |
| | | File naming convention followed | | x |

# *ADMINISTRATIVE MODIFICATION*
# inter-office communication

**to:** DAPC, Air Quality Modeling and Planning

**from:**

**subject:** Administrative Modification of Permit To Install

**date:**

Choose one:

Initiated by: ☐ Permittee ☐ DO/laa

☐ This modification is the result of an appeal to the Environmental Review Appeals Commission

## *Please fill out the following:*

**SUMMARY (for informational purposes only)**
**TOTAL PERMIT TO INSTALL ALLOWABLE EMISSIONS**

| Pollutant | Tons Per Year |
|---|---|

Please provide a fairly detailed description of the basis for the modification and how the permit is being modified:

## *Additional comments:*

*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

to: District Office or Local Air Agency Air Permit Supervisor

from: MWA Michael W. Ahern, DAPC/PMU

subject: PTI modifications

date: April 25, 1997

When requesting a PTI modification, please include a copy of the original PTI and a copy of the PTI with changes. (Please refer to the attached example.) Use red ink to change, add, and/or remove PTI requirements in the "Copy with Changes". After marking with red ink, highlight your changes. Preparing PTI modification requests like the attached example will cut down on any confusion during review, preparation, and proofing of PTI modifications resulting in more efficient, accurate, and timely processing of the permit package. Please note that modifications (as well as returned PTI's, and Final PTI Recommendations)<u>should</u> <u>not</u> be sent directly to AQM&P. This slows down the review process, creates confusion regarding where the permits are in the process (i.e., who is responsible for the permit at any given time), and severely reduces PMU's ability to assist the regulated community in tracking the progress of their permits. Feel free to send a <u>copy</u> of the permit language directly to AQM&P if you believe the traditional process of sending the permit packages to PMU may result in a significant dely. However, you <u>must</u> send the permit package to PMU so that it may be logged into the DAPC, CO system to ensure that the permit is processed in a timely and accurate manner.

Additionally, please keep the facility contact/mailing address information in mind when marking your "Copy with Changes". If this information has changed since the PTI was originally issued, the PTI modification may be mailed to the wrong person and possibly the wrong address. PTI modifications are automatically mailed to the person/address indicated on the PTI being modified.

Finally, in the cover memo for modifications, please clarify whether the modification is due to agency error and/or if it is initiated by the facility. If the modification is due to agency error (i.e., administrative error) regardless of who initiates the modification, the facility will not be charged for the modification. However, the facility should be charged a fee equal to half the fee of all affected emission units at today's rate (not to exceed $2000) if the modification is initiated by the facility due to a change in their process, stack test results, incorrect application, minor rewording, etc.

Beginning May 05, 1997, PTI modification requests missing the elements identified above may be returned.

cc: Tom Rigo, DAPC CO
Mike Hopkins, DAPC CO
Misty Parsons, DAPC CO
Alan Lloyd, DAPC CO
Safaa El-Oraby, DAPC CO

C:\DOLAA\PTIMOD.WPD

OhioEPA
State of Ohio Environmental Protection Agency

STREET ADDRESS: MAILING ADDRESS:
1800 WaterMark Drive
Columbus, OH 43215-1099
TELE: (614) 644-3020 FAX: (614) 644-2329

CERTIFIED MAIL

Re: Permit to Install
Pickaway County
Application No: 01-6606
NSPS

February 26, 1997

AGP GRAIN LIMITED
HOWARD ANDERSON
309 W. MAIN ST.
CIRCLEVILLE, OH 43113

Original,

Enclosed please find an Ohio EPA Permit to Install which will allow you to install the described source(s) in a manner indicated in the permit. Because this permit contains several conditions and restrictions I urge you to read it carefully.

The Ohio EPA is urging companies to investigate pollution prevention and energy conservation. Not only will this reduce pollution and energy consumption, but it can also save you money. If you would like to learn ways you can save money while protecting the environment please contact our Office of Pollution Prevention at (614) 644-3469.

You are hereby notified that this action by the Director is final and may be appealed to the Ohio Environmental Board of Review pursuant to Chapter 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Board of Review within thirty (30) days after notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio Environmental Protection Agency within three (3) days of filing with the Board. An appeal may be filed with the Environmental Board of Review at the following address:

Environmental Board of Review
236 East Town Street, Room 300
Columbus, Ohio 43215

Very truly yours,

Thomas G. Rigo

Thomas G. Rigo, Manager
Field Operations & Permit Section
Division of Air Pollution Control

cc: US EPA
CENTRAL DISTRICT OFFICE, DAPC

TERMINATION OF PERMIT TO INSTALL

Substantial construction for installation must take place within 18 months of the effective date of this permit. This deadline may be extended by up to 12 months if application is made to the Director within a reasonable time before the termination date and the party shows good cause for any such extension.

NOTICE OF INSPECTION

The Director of the Ohio Environmental Protection Agency, or his authorized representatives, may enter upon the premises of the above-named applicant during construction and operation at any reasonable time for the purpose of making inspections, conducting tests, or to examine records or reports pertaining to the construction, modification or installation of the source(s) of environmental pollutants identified within this permit.

CONSTRUCTION OF NEW SOURCES

The proposed source(s) shall be constructed in strict accordance with the plans and application submitted for this permit to the Director of the Ohio Environmental Protection Agency. There may be no deviation from the approved plans without the express, written approval of the Agency. Any deviations from the approved plans or the above conditions may lead to such sanctions and penalties as provided under Ohio law. Approval of these plans does not constitute an assurance that the proposed facilities will operate in compliance with all Ohio laws and regulations. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed sources are inadequate or cannot meet applicable standards.

If the construction of the proposed source(s) has already begun or has been completed prior to the date the Director of the Environmental Protection Agency approves the permit application and plans, the approval does not constitute expressed or implied assurance that the proposed facility has been constructed in accordance with the approved plans. The action of beginning and/or completing construction prior to obtaining the Director's approval constitutes a violation of Ohio Administrative Code (OAC) Rule 3745-31-02. Furthermore, issuance of the Permit to Install does not constitute an assurance that the proposed source will operate in compliance with all Ohio laws and regulations. Approval of the plans in any case is not to be construed as an approval of the facility as constructed and/or completed. Moreover, issuance of the Permit to Install is not to be construed as a waiver of any rights that the Ohio Environmental Protection Agency (or other persons)

## AIR EMISSION SUMMARY

The air contaminant sources listed below comprise the Permit to Install for AGP GRAIN LIMITED located in Pickaway County. The sources listed below shall not exceed the emission limits/control requirements contained in the table. This condition in no way limits the applicability of any other state or federal regulations. Additionally, this condition does not limit the applicability of additional special terms and conditions of this permit.

| Ohio EPA Source Number | Source Identification Description | BAT Determination | Applicable Federal & OAC Rules | Permit Allowable Mass Emissions and/or Control/Usage Requirements |
|---|---|---|---|---|
| I003 | Grain dryer Meyer model ME 750 | Compliance with terms and conditions of this permit and applicable rules | 3745-31-05<br>3745-17-11<br>3745-17-07<br>40 CFR Part 60 Subpart DD | 4.95 lbs/hr PM<br>1.78 TPY PM<br>0.007 lb/hr $SO_2$<br>>0.01 TPY $SO_2$<br>0.031 lb/hr VOC<br>0.01 TPY VOC<br>1.55 lbs/hr $NO_x$<br>0.56 TPY $NO_x$<br>0.389 lb/hr CO<br>0.14 TPY CO<br>1.24 lbs/hr $PM_{10}$<br>0.45 TPY $PM_{10}$ |

SUMMARY
TOTAL PERMIT TO INSTALL ALLOWABLE EMISSIONS

| Pollutant | Tons/Year |
|---|---|
| PM | 1.78 |
| $SO_2$ | >0.01 |
| VOC | 0.01 |
| $NO_x$ | 0.56 |
| CO | 0.14 |
| $PM_{10}$ | 0.45 |

## NSPS REQUIREMENTS

The following sources are subject to the applicable provisions of the New Source Performance Standards (NSPS) as promulgated by the United States Environmental Protection Agency, 40 CFR Part 60.

| Source No. | Source Description | NSPS Regulation (Subpart) |
|---|---|---|
| F003 | Grain dryer | DD |

## AIR POLLUTION NUISANCES PROHIBITED

The air contaminant source(s) identified in this permit may not cause a public nuisance in violation of OAC Rule 3745-15-07.

## NINETY DAY OPERATING PERIOD

The facility will be permitted to operate during a 90-day period in accordance with OAC Rule 3745-35-02(C)(4)(b). The purpose of this period of operation is to fulfill the performance tests conditions used in the determination of compliance with the provisions of this Permit to Install or other applicable Ohio EPA rules.

## ADDITIONAL SPECIAL TERMS AND CONDITIONS

1. NEW SOURCE PERFORMANCE STANDARDS (NSPS)

   This source is subject to the applicable provisions of the New Source Performance Standards as promulgated by the United States Environmental Protection Agency, 40 CFR Part 60, Subpart DD.

2. The application and enforcement of these standards are delegated to the Ohio EPA. The requirements of 40 CFR Part 60 are also federally enforceable.

**OhioEPA**
State of Ohio Environmental Protection Agency

STREET ADDRESS:
1800 WaterMark Drive
Columbus, OH 43215-1099

MAILING ADDRESS:

TELE: (614) 644-3020 FAX: (614) 644-2329

CERTIFIED MAIL

Re: Permit to Install
Pickaway County
Application No: 01-6606
~~NSPS~~

February 26, 1997

Copy until hanged

AGP GRAIN LIMITED
HOWARD ANDERSON
309 W. MAIN ST.
CIRCLEVILLE, OH 43113

Enclosed please find an Ohio EPA Permit to Install which will allow you to install the described source(s) in a manner indicated in the permit. Because this permit contains several conditions and restrictions I urge you to read it carefully.

The Ohio EPA is urging companies to investigate pollution prevention and energy conservation. Not only will this reduce pollution and energy consumption, but it can also save you money. If you would like to learn ways you can save money while protecting the environment please contact our Office of Pollution Prevention at (614) 644-3469.

You are hereby notified that this action by the Director is final and may be appealed to the Ohio Environmental Board of Review pursuant to Chapter 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Board of Review within thirty (30) days after notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio Environmental Protection Agency within three (3) days of filing with the Board. An appeal may be filed with the Environmental Board of Review at the following address:

Environmental Board of Review
236 East Town Street, Room 300
Columbus, Ohio 43215

Very truly yours,

Thomas G. Rigo

Thomas G. Rigo, Manager
Field Operations & Permit Section
Division of Air Pollution Control

cc: US EPA
CENTRAL DISTRICT OFFICE, DAPC

TERMINATION OF PERMIT TO INSTALL

Substantial construction for installation must take place within 18 months of the effective date of this permit. This deadline may be extended by up to 12 months if application is made to the Director within a reasonable time before the termination date and the party shows good cause for any such extension.

NOTICE OF INSPECTION

The Director of the Ohio Environmental Protection Agency, or his authorized representatives, may enter upon the premises of the above-named applicant during construction and operation at any reasonable time for the purpose of making inspections, conducting tests, or to examine records or reports pertaining to the construction, modification or installation of the source(s) of environmental pollutants identified within this permit.

CONSTRUCTION OF NEW SOURCES

The proposed source(s) shall be constructed in strict accordance with the plans and application submitted for this permit to the Director of the Ohio Environmental Protection Agency. There may be no deviation from the approved plans without the express, written approval of the Agency. Any deviations from the approved plans or the above conditions may lead to such sanctions and penalties as provided under Ohio law. Approval of these plans does not constitute an assurance that the proposed facilities will operate in compliance with all Ohio laws and regulations. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed sources are inadequate or cannot meet applicable standards.

If the construction of the proposed source(s) has already begun or has been completed prior to the date the Director of the Environmental Protection Agency approves the permit application and plans, the approval does not constitute expressed or implied assurance that the proposed facility has been constructed in accordance with the approved plans. The action of beginning and/or completing construction prior to obtaining the Director's approval constitutes a violation of Ohio Administrative Code (OAC) Rule 3745-31-02. Furthermore, issuance of the Permit to Install does not constitute an assurance that the proposed source will operate in compliance with all Ohio laws and regulations. Approval of the plans in any case is not to be construed as an approval of the facility as constructed and/or completed. Moreover, issuance of the Permit to Install is not to be construed as a waiver of any rights that the Ohio Environmental Protection Agency (or other persons)

## AIR EMISSION SUMMARY

The air contaminant sources listed below comprise the Permit to Install for AGP GRAIN LIMITED located in Pickaway County. The sources listed below shall not exceed the emission limits/control requirements contained in the table. This condition in no way limits the applicability of any other state or federal regulations. Additionally, this condition does not limit the applicability of additional special terms and conditions of this permit.

| Ohio EPA Source Number | Source Identification Description | BAT Determination | Applicable Federal & OAC Rules | Permit Allowable Mass Emissions and/or Control/Usage Requirements |
|---|---|---|---|---|
| I003 | Grain dryer Meyer model ME 750 | Compliance with terms and conditions of this permit and applicable rules | 3745-31-05<br>3745-17-11<br>3745-17-07<br>40 CFR Part 60 Subpart DD | 4.95 lbs/hr PM<br>1.78 TPY PM<br>0.007 lb/hr $SO_2$<br>>0.01 TPY $SO_2$<br>0.031 lb/hr VOC<br>0.01 TPY VOC<br>1.55 lbs/hr $NO_x$<br>0.56 TPY $NO_x$<br>0.389 lb/hr CO<br>0.14 TPY CO<br>1.24 lbs/hr $PM_{10}$<br>0.45 TPY $PM_{10}$ |

SUMMARY
TOTAL PERMIT TO INSTALL ALLOWABLE EMISSIONS

| Pollutant | Tons/Year |
|---|---|
| PM | 1.78 |
| $SO_2$ | >0.01 |
| VOC | 0.01 |
| $NO_x$ | 0.56 |
| CO | 0.14 |
| $PM_{10}$ | 0.45 |

## NSPS REQUIREMENTS

The following sources are subject to the applicable provisions of the New Source Performance Standards (NSPS) as promulgated by the United States Environmental Protection Agency, 40 CFR Part 60.

| Source No. | Source Description | NSPS Regulation (Subpart) |
|---|---|---|
| F003 | Grain dryer | DD |

## AIR POLLUTION NUISANCES PROHIBITED

The air contaminant source(s) identified in this permit may not cause a public nuisance in violation of OAC Rule 3745-15-07.

## NINETY DAY OPERATING PERIOD

The facility will be permitted to operate during a 90-day period in accordance with OAC Rule 3745-35-02(C)(4)(b). The purpose of this period of operation is to fulfill the performance tests conditions used in the determination of compliance with the provisions of this Permit to Install or other applicable Ohio EPA rules.

## ADDITIONAL SPECIAL TERMS AND CONDITIONS

1. NEW SOURCE PERFORMANCE STANDARDS (NSPS)

   This source is subject to the applicable provisions of the New Source Performance Standards as promulgated by the United States Environmental Protection Agency, 40 CFR Part 60, Subpart DD.

2. The application and enforcement of these standards are delegated to the Ohio EPA. The requirements of 40 CFR Part 60 are also federally enforceable.

*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

**to:** Distribution

**from:** Michael W. Ahern through Tom Rigo, DAPC/FOPS

**subject:** PTI Modification Fee Assessment clarification

**date:** August 8, 1997

Recently the Field Operations and Permits Section has received several inquiries regarding the fee applied to Permit To Install modifications. I hope the following provides some clarification to the memo sent out by Clara Daily on October 29, 1993:

1 All changes to a PTI document that do not meet the rule definition of "Modify or Modification" in OAC rule 3745-31-01-(kk), and that are initiated by the permittee, are to be charged one-half the permit fee (not to exceed $2,000) established in division (B) or (F) of ORC Section 3745.11 regardless of whether or not the permittee has begun the modification.

2. All changes to a PTI document or the development of a new PTI document based on operational additions or changes to an existing source that meet the definition of "Modify or Modification" in OAC rule 3745-31-01-(kk) that are initiated by the permittee are to be charged the full permit fee established in division (B) or (F) of ORC Section 3745.11 regardless of whether or not the permittee has initiated the modification. However, unlike a new installation, the fee associated with the modification should not be doubled even if the permittee has begun the modification. The PTI fee should be assessed "by emissions unit" if the PTI includes modified and new emissions units (i.e., new emissions units installed prior to obtaining the PTI would be charged double the fee while modified emissions units would only be charged the full fee).

3. All permit modifications due to Agency error will be processed at no expense to the permittee. NOTE: This type of modification <u>does not</u> result in a new PTI number.

J:\FOPS\GUIDANCE\PTIFEE.WPD

Please feel free to distribute this guidance as you deem appropriate.

Distribution List:

Isaac Robinson, CDO
Fred Klingelhafer, SEDO
Dennis Bush, NEDO
Gerry Rich, NWDO
Phil Hinrichs, SWDO
Lynn Malcolm, Akron RAQMD
Dan Aleman, Canton APCD
Cory Chadwick, Hamilton County DES
Joseph Jasper, Cleveland DE
John Paul, RAPCA
Leon Weitzel, Lake County GHD
Don Walden, Portsmouth CHD
Richard Canestraro, NOVAA
Susan Duckworth, Toledo DPC
Robert Ramhoff, Mahoning Trumbull APC
Mike Hopkins, DAPC/AQM&P

J:\FOPS\GUIDANCE\PTIFEE.WPD

| | Type | Structure |
|---|---|---|
| **OAC Chapter 3745-31 Permit To Install** | | |
| Regular or Chapter 31 Modification | Draft | State-Only; State-Federal |
| Regular or Chapter 31 Modification | Final After Draft | State-Only; State-Federal |
| Regular or Chapter 31 Modification | Direct Final | State-Only; State-Federal |
| Registration | Registration | State-Only;Telnet |
| Administrative Modification | Draft | State-Only; State-Federal;Telnet |
| Administrative Modification | Final After Draft | State-Only; State-Federal;Telnet |
| Administrative Modification | Direct Final | State-Only; State-Federal;Telnet |
| | | |
| **OAC Chapter 3745-35 Operating Permit** | | |
| Regular, FESOP or Modification | Draft | State-Only |
| Regular, FESOP or Modification | Final After Draft | State-Only |
| Regular or Modification | Direct Final | State-Only |
| Registration | Registration | Letter only |
| | | |
| **OAC Chapter 77 Title V Operating Permit** | | |
| Regular, Major Modification | Draft | State-Federal |
| Regular, Major Modification | Preliminary Proposed | State-Federal |
| Regular, Minor Permit Modification, Major Modification | Proposed | State-Federal |
| Regular, Administrative Permit Amendment (off permit change), Minor Permit Modification, Major Modification | Final | State-Federal |
| | | |
| | | |

| | State Only | | State-Fed | | Telnet | |
|---|---|---|---|---|---|---|
| Permit Type | Draft | Final | Draft | Final | Draft | Final |
| New Permit | X | X | X | X | | |
| Registration | | X | | | | |
| Admin Mod | X | X | X | X | X | X |
| Chap 31 Mod | X | X | X | X | X | X |

# OhioEPA

State of Ohio Environmental Protection Agency

et Address:
Lazarus Gov. Center
122 S. Front Street
Columbus, OH 43215

TELE: (614) 644-3020 FAX: (614) 644-2329

Mailing Address:
Lazarus Gov. Center
P.O. Box 1049
Columbus, OH 43216-1049

**RE:** FINAL PERMIT TO INSTALL
FIELD(10) COUNTY
Application No: FIELD(1)

**DATE:** FIELD(2)

FIELD(5)
FIELD(30) FIELD(43)
FIELD(31) FIELD(32)
FIELD(33), FIELD(34) FIELD(35)

**CERTIFIED MAIL**

| | |
|---|---|
| FIELD(21) | TOXIC REVIEW |
| FIELD(13) | PSD |
| FIELD(16) | SYNTHETIC MINOR |
| FIELD(17) | CEMS |
| FIELD(19) | MACT |
| FIELD(22) | NSPS |
| FIELD(20) | NESHAPS |
| FIELD(14) | NETTING |
| | MAJOR NON-ATTAINMENT |
| FIELD(18) | MODELING SUBMITTED |
| FIELD(29) | GASOLINE DISPENSING FACILITY |

Enclosed please find an Ohio EPA Permit to Install which will allow you to install the described source(s) in a manner indicated in the permit. Because this permit contains several conditions and restrictions, I urge you to read it carefully.

The Ohio EPA is urging companies to investigate pollution prevention and energy conservation. Not only will this reduce pollution and energy consumption, but it can also save you money. If you would like to learn ways you can save money while protecting the environment, please contact our Office of Pollution Prevention at (614) 644-3469.

You are hereby notified that this action by the Director is final and may be appealed to the Ohio Environmental Review Appeals Commission pursuant to Chapter 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed within thirty (30) days after the notice of the Directors action. A copy of the appeal must be served on the Director of the Ohio Environmental Protection Agency within three (3) days of filing with the Commission. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
236 East Town Street, Room 300
Columbus, Ohio 43215

Very truly yours,

Thomas G. Rigo

Thomas G. Rigo
Field Operations and Permit Section
Division of Air Pollution Control

CC: USEPA
XXXX

FIELD(38)

## FINAL PERMIT TO INSTALL FIELD(1)

Application Number: FIELD(1)

APS Premise Number: FIELD(3)

Permit Fee: $FIELD(37)

Name of Facility: FIELD(5)

Person to Contact: FIELD(30) FIELD(43)
Address: FIELD(31) FIELD(32)
FIELD(33), FIELD(34) FIELD(35)

Location of proposed air contaminant source(s) [emissions unit(s)]:
**FIELD(6)**
**FIELD(7), Ohio**

Description of proposed emissions unit(s):
**FIELD(11)**

The above named entity is hereby granted a Permit to Install for the above described emissions unit(s) pursuant to hapter 3745-31 of the Ohio Administrative Code. Issuance of this permit does not constitute expressed or implied approval or agreement that, if constructed or modified in accordance with the plans included in the application, the above described emissions unit(s) of environmental pollutants will operate in compliance with applicable State and Federal laws and regulations, and does not constitute expressed or implied assurance that if constructed or modified in accordance with those plans and specifications, the above described emissions unit(s) of pollutants will be granted the necessary permits to operate (air) or NPDES permits as applicable.

This permit is granted subject to the conditions attached hereto.

Ohio Environmental Protection Agency

Director

## Part I - GENERAL TERMS AND CONDITIONS

### A. State and Federally Enforceable Permit To Install General Terms and Conditions

#### 1. Monitoring and Related Recordkeeping and Reporting Requirements

a. Except as may otherwise be provided in the terms and conditions for a specific emissions unit, the permittee shall maintain records that include the following, where applicable, for any required monitoring under this permit:

i. The date, place (as defined in the permit), and time of sampling or measurements.

ii. The date(s) analyses were performed.

iii. The company or entity that performed the analyses.

iv. The analytical techniques or methods used.

v. The results of such analyses.

vi. The operating conditions existing at the time of sampling or measurement.

b. Each record of any monitoring data, testing data, and support information required pursuant to this permit shall be retained for a period of five years from the date the record was created. Support information shall include, but not be limited to, all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit. Such records may be maintained in computerized form.

c. Except as may otherwise be provided in the terms and conditions for a specific emissions unit, the permittee shall submit required reports in the following manner:

i. Reports of any required monitoring and/or recordkeeping of federally enforceable information shall be submitted to the appropriate Ohio EPA District Office or local air agency.

ii. Quarterly written reports of (i) any deviations from federally enforceable emission limitations, operational restrictions, and control device operating parameter limitations, excluding deviations resulting from malfunctions reported in accordance with OAC rule 3745-15-06, that have been detected by the testing, monitoring and recordkeeping requirements specified in this permit, (ii) the probable cause of such deviations, and (iii) any corrective actions or preventive measures taken, shall be made to the appropriate Ohio EPA District Office or local air agency. The written reports shall be submitted quarterly, i.e., by January 31, April 30, July 31, and

October 31 of each year and shall cover the previous calendar quarters. See B.10 below if no deviations occurred during the quarter.

iii. Written reports, which identify any deviations from the federally enforceable monitoring, recordkeeping, and reporting requirements contained in this permit shall be submitted to the appropriate Ohio EPA District Office or local air agency every six months, i.e., by January 31 and July 31 of each year for the previous six calendar months. If no deviations occurred during a six-month period, the permittee shall submit a semi-annual report, which states that no deviations occurred during that period.

iv. Each written report shall be signed by a responsible official certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

**2. Scheduled Maintenance/Malfunction Reporting**

Any scheduled maintenance of air pollution control equipment shall be performed in accordance with paragraph (A) of OAC rule 3745-15-06. The malfunction, i.e., upset, of any emissions units or any associated air pollution control system(s) shall be reported to the appropriate Ohio EPA District Office or local air agency in accordance with paragraph (B) of OAC rule 3745-15-06. (The definition of an upset condition shall be the same as that used in OAC rule 3745-15-06(B)(1) for a malfunction.) The verbal and written reports shall be submitted pursuant to OAC rule 3745-15-06. Except as provided in that rule, any scheduled maintenance or malfunction necessitating the shutdown or bypassing of any air pollution control system(s) shall be accompanied by the shutdown of the emission unit(s) that is (are) served by such control system(s).

**3. Risk Management Plans**

If the permittee is required to develop and register a risk management plan pursuant to section 112(r) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. ("Act"), the permittee shall comply with the requirement to register such a plan.

**4. Title IV Provisions**

If the permittee is subject to the requirements of 40 CFR Part 72 concerning acid rain, the permittee shall ensure that any affected emissions unit complies with those requirements. Emissions exceeding any allowances that are lawfully held under Title IV of the Act, or any regulations adopted thereunder, are prohibited.

**5. Severability Clause**

A determination that any term or condition of this permit is invalid shall not invalidate the force or effect of any other term or condition thereof, except to the extent that any other term or condition

depends in whole or in part for its operation or implementation upon the term or condition declared invalid.

**6. General Requirements**

a. The permittee must comply with all terms and conditions of this permit. Any noncompliance with the federally enforceable terms and conditions of this permit constitutes a violation of the Act, and is grounds for enforcement action or for permit revocation, revocation and reissuance, or modification, or for denial of a permit renewal application.

b. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the federally enforceable terms and conditions of this permit.

c. This permit may be modified, reopened, revoked, or revoked and reissued, for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or revocation, or of a notification of planned changes or anticipated noncompliance does not stay any term and condition of this permit.

d. This permit does not convey any property rights of any sort, or any exclusive privilege.

e. The permittee shall furnish to the Director of the Ohio EPA, or an authorized representative of the Director, upon receipt of a written request and within a reasonable time, any information that may be requested to determine whether cause exists for modifying, reopening or revoking this permit or to determine compliance with this permit. Upon request, the permittee shall also furnish to the Director or an authorized representative of the Director, copies of records required to be kept by this permit. For information claimed to be confidential in the submittal to the Director, if the Administrator of the U.S. EPA requests such information, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality.

**7. Fees**

The permittee shall pay fees to the Director of the Ohio EPA in accordance with ORC section 3745.11 and OAC Chapter 3745-78. The permittee shall pay all applicable Permit To Install fees within 30 days after the issuance of this Permit To Install.

**8. Federal and State Enforceability**

Only those terms and conditions designated in this permit as federally enforceable, that are required under the Act, or any of its applicable requirements, including relevant provisions designed to limit the potential to emit of a source, are enforceable by the Administrator of the U.S. EPA, the State, and citizens under the Act. All other terms and conditions of this permit shall not be federally enforceable and shall be enforceable under State law only.

**9. Compliance Requirements**

a. Any document (including reports) required to be submitted and required by a federally applicable requirement in this permit shall include a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements in the document are true, accurate, and complete.

b. Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Director of the Ohio EPA or an authorized representative of the Director to:

i. At reasonable times, enter upon the permittee's premises where a source is located or the emissions-related activity is conducted, or where records must be kept under the conditions of this permit.

ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit, subject to the protection from disclosure to the public of confidential information consistent with ORC section 3704.08.

iii. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit.

iv. As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit and applicable requirements.

c. The permittee shall submit progress reports to the appropriate Ohio EPA District Office or local air agency concerning any schedule of compliance for meeting an applicable requirement. Progress reports shall be submitted semiannually, or more frequently if specified in the applicable requirement or by the Director of the Ohio EPA. Progress reports shall contain the following:

Dates for achieving the activities, milestones, or compliance required in any schedule of compliance, and dates when such activities, milestones, or compliance were achieved.

ii. An explanation of why any dates in any schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

**10. Permit To Operate Application**

a. If the permittee is required to apply for a Title V permit pursuant to OAC Chapter 3745-77, the permittee shall submit a complete Title V permit application or a complete Title V permit modification application within twelve (12) months after commencing operation of the

emissions units covered by this permit. However, if the proposed new or modified source(s) would be prohibited by the terms and conditions of an existing Title V permit, a Title V permit modification must be obtained before the operation of such new or modified source(s) pursuant to OAC rule 3745-77-04(D) and OAC rule 3745-77-08(C)(3)(d).

b. If the permittee is required to apply for permit(s) pursuant to OAC Chapter 3745-35, the source(s) identified in this Permit To Install is (are) permitted to operate for a period of up to one year from the date the source(s) commenced operation. Permission to operate is granted only if the facility complies with all requirements contained in this permit and all applicable air pollution laws, regulations, and policies. Pursuant to OAC Chapter 3745-35, the permittee shall submit a complete operating permit application within thirty (30) days after commencing operation of the source(s) covered by this permit.

**11. Best Available Technology**

As specified in OAC Rule 3745-31-05, all new sources must employ Best Available Technology (BAT). Compliance with the terms and conditions of this permit will fulfill this requirement.

**12. Air Pollution Nuisance**

The air contaminants emitted by the emissions units covered by this permit shall not cause a public nuisance, in violation of OAC rule 3745-15-07.

## B. State Only Enforceable Permit To Install General Terms and Conditions

### 1. Compliance Requirements

The emissions unit(s) identified in this Permit to Install shall remain in full compliance with all applicable State laws and regulations and the terms and conditions of this permit.

### 2. Reporting Requirements Related to Monitoring and Recordkeeping Requirements

The permittee shall submit required reports in the following manner:

a. Reports of any required monitoring and/or recordkeeping of state-only enforceable information shall be submitted to the appropriate Ohio EPA District Office or local air agency.

b. Except as otherwise may be provided in the terms and conditions for a specific emissions unit, quarterly written reports of (a) any deviations (excursions) from state-only required emission limitations, operational restrictions, and control device operating parameter limitations that have been detected by the testing, monitoring, and recordkeeping requirements specified in this permit, (b) the probable cause of such deviations, and (c) any corrective actions or preventive measures which have been or will be taken, shall be submitted to the appropriate Ohio EPA District Office or local air agency. If no deviations occurred during a calendar quarter, the permittee shall submit a quarterly report, which states that no deviations occurred during that quarter. The reports shall be submitted quarterly, i.e., by January 31, April 30, July 31, and October 31 of each year and shall cover the previous calendar quarters. (These quarterly reports shall exclude deviations resulting from malfunctions reported in accordance with OAC rule 3745-15-06.)

### 3. Permit Transfers

Any transferee of this permit shall assume the responsibilities of the prior permit holder. The appropriate Ohio EPA District Office or local air agency must be notified in writing of any transfer of this permit.

### 4. Termination of Permit To Install

This permit to install shall terminate within eighteen months of the effective date of the permit to install if the owner or operator has not undertaken a continuing program of installation or modification or has not entered into a binding contractual obligation to undertake and complete within a reasonable time a continuing program of installation or modification. This deadline may be extended by up to 12 months if application is made to the Director within a reasonable time before the termination date and the party shows good cause for any such extension.

**5. Construction of New Sources(s)**

The proposed emissions unit(s) shall be constructed in strict accordance with the plans and application submitted for this permit to the Director of the Ohio Environmental Protection Agency. There may be no deviation from the approved plans without the express, written approval of the Agency. Any deviations from the approved plans or the above conditions may lead to such sanctions and penalties as provided under Ohio law. Approval of these plans does not constitute an assurance that the proposed facilities will operate in compliance with all Ohio laws and regulations. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed sources cannot meet the requirements of this permit or cannot meet applicable standards.

If the construction of the proposed emissions unit(s) has already begun or has been completed prior to the date the Director of the Environmental Protection Agency approves the permit application and plans, the approval does not constitute expressed or implied assurance that the proposed facility has been constructed in accordance with the approved plans. The action of beginning and/or completing construction prior to obtaining the Director's approval constitutes a violation of OAC rule 3745-31-02. Furthermore, issuance of the Permit to Install does not constitute an assurance that the proposed source will operate in compliance with all Ohio laws and regulations. Approval of the plans in any case is not to be construed as an approval of the facility as constructed and/or completed. Moreover, issuance of the Permit to Install is not to be construed as a waiver of any rights that the Ohio Environmental Protection Agency (or other persons) may have against the applicant for starting construction prior to the effective date of the permit. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed facilities cannot meet the requirements of this permit or cannot meet applicable standards.

**6. Public Disclosure**

The facility is hereby notified that this permit, and all agency records concerning the operation of this permitted source, are subject to public disclosure in accordance with OAC rule 3745-49-03.

**7. Applicability**

This Permit to Install is applicable only to the emissions unit(s) identified in the Permit To Install. Separate application must be made to the Director for the installation or modification of any other emissions unit(s).

**8. Construction Compliance Certification**

The applicant shall provide Ohio EPA with a written certification (see enclosed form) that the facility has been constructed in accordance with the Permit To Install application and the terms and conditions of the Permit to Install. The certification shall be provided to Ohio EPA upon completion of construction but prior to startup of the source.

**9. Additional Reporting Requirements When There Are No Deviations of Federally Enforceable Emission Limitations, Operational Restrictions, or Control Device Operating Parameter Limitations (See Section A of This Permit)**

If no deviations occurred during a calendar quarter, the permittee shall submit a quarterly report, which states that no deviations occurred during that quarter. The reports shall be submitted quarterly, i.e., by January 31, April 30, July 31, and October 31 of each year and shall cover the previous calendar quarters.

## C. Permit To Install Summary of Allowable Emissions

The following information summarizes the total allowable emissions, by pollutant, based on the individual allowable emissions of each air contaminant source identified in this permit.

OhioEPA

State of Ohio Environmental Protection Agency

Street Address:
Lazarus Gov. Center
122 S. Front Street
Columbus, OH 43215

TELE: (614) 644-3020 FAX: (614) 644-2329

Mailing Address:

**RE: FINAL PERMIT TO INSTALL**
**FIELD(10) COUNTY**
**Application No: FIELD(1)**

**CERTIFIED MAIL**

| | |
|---|---|
| FIELD(21) | TOXIC REVIEW |
| FIELD(13) | PSD |
| FIELD(16) | SYNTHETIC MINOR |
| FIELD(17) | CEMS |
| FIELD(19) | MACT |
| FIELD(22) | NSPS |
| FIELD(20) | NESHAPS |
| FIELD(14) | NETTING |
| | MAJOR NON-ATTAINMENT |
| FIELD(18) | MODELING SUBMITTED |
| FIELD(29) | GASOLINE DISPENSING FACILITY |

**DATE: FIELD(2)**

FIELD(5)
FIELD(30) FIELD(43)
FIELD(31) FIELD(32)
FIELD(33), FIELD(34) FIELD(35)

Enclosed please find an Ohio EPA Permit to Install which will allow you to install the described source(s) in a manner indicated in the permit. Because this permit contains several conditions and restrictions, I urge you to read it carefully.

The Ohio EPA is urging companies to investigate pollution prevention and energy conservation. Not only will this reduce pollution and energy consumption, but it can also save you money. If you would like to learn ways you can save money while protecting the environment, please contact our Office of Pollution Prevention at (614) 644-3469.

You are hereby notified that this action by the Director is final and may be appealed to the Ohio Environmental Review Appeals Commission pursuant to Chapter 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed within thirty (30) days after the notice of the Directors action. A copy of the appeal must be served on the Director of the Ohio Environmental Protection Agency within three (3) days of filing with the Commission. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
236 East Town Street, Room 300
Columbus, Ohio 43215

Very truly yours,

Thomas G. Rigo

Thomas G. Rigo, Manager
Field Operations and Permit Section
ivision of Air Pollution Control

cc: USEPA FIELD(38)
XXXX

STATE OF OHIO ENVIRONMENTAL PROTECTION AGENCY

Permit To Install
Terms and Conditions

Issue Date: FIELD(2)
Effective Date: FIELD(2)

## FINAL PERMIT TO INSTALL FIELD(1)

Application Number: FIELD(1)

APS Premise Number: FIELD(3)

Permit Fee: $FIELD(37)

Name of Facility: FIELD(5)

Person to Contact: FIELD(30) FIELD(43)
Address: FIELD(31) FIELD(32)
FIELD(33), FIELD(34) FIELD(35)

Location of proposed air contaminant source(s) [emissions unit(s)]:
FIELD(6)
FIELD(7), **Ohio**

Description of proposed emissions unit(s):
FIELD(11)

The above named entity is hereby granted a Permit to Install for the above described emissions unit(s) pursuant to Chapter 3745-31 of the Ohio Administrative Code. Issuance of this permit does not constitute expressed or implied approval or agreement that, if constructed or modified in accordance with the plans included in the application, the above described emissions unit(s) of environmental pollutants will operate in compliance with applicable State and Federal laws and regulations, and does not constitute expressed or implied assurance that if constructed or modified in accordance with those plans and specifications, the above described emissions unit(s) of pollutants will be granted the necessary permits to operate (air) or NPDES permits as applicable.

This permit is granted subject to the conditions attached hereto.

Ohio Environmental Protection Agency

Director

**Facility ID:** FIELD(3)

## Part I - GENERAL TERMS AND CONDITIONS

### A. Permit to Install General Terms and Conditions

#### 1. Compliance Requirements

The emissions unit(s) identified in this Permit to Install shall remain in full compliance with all applicable State laws and regulations and the terms and conditions of this permit.

#### 2. Reporting Requirements Related to Monitoring and Recordkeeping Requirements

The permittee shall submit required reports in the following manner:

a. Reports of any required monitoring and/or recordkeeping information shall be submitted to the appropriate Ohio EPA District Office or local air agency.

b. Except as otherwise may be provided in the terms and conditions for a specific emissions unit, quarterly written reports of (a) any deviations (excursions) from emission limitations, operational restrictions, and control device operating parameter limitations that have been detected by the testing, monitoring, and recordkeeping requirements specified in this permit, (b) the probable cause of such deviations, and (c) any corrective actions or preventive measures which have been or will be taken, shall be submitted to the appropriate Ohio EPA District Office or local air agency. If no deviations occurred during a calendar quarter, the permittee shall submit a quarterly report, which states that no deviations occurred during that quarter. The reports shall be submitted quarterly, i.e., by January 31, April 30, July 31, and October 31 of each year and shall cover the previous calendar quarters. (These quarterly reports shall exclude deviations resulting from malfunctions reported in accordance with OAC rule 3745-15-06.)

#### 3. Records Retention Requirements

Each record of any monitoring data, testing data, and support information required pursuant to this permit shall be retained for a period of five years from the date the record was created. Support information shall include, but not be limited to, all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit. Such records may be maintained in computerized form.

#### 4. Inspections and Information Requests

The Director of the Ohio EPA, or an authorized representative of the Director, may, subject to the safety requirements of the permittee and without undue delay, enter upon the premises of this source at any reasonable time for purposes of making inspections, conducting tests, examining records or reports pertaining to any emission of air contaminants, and determining compliance with any applicable State air pollution laws and regulations and the terms and conditions of this permit. The permittee shall furnish to the Director of the Ohio EPA, or an authorized representative of the

Director, upon receipt of a written request and within a reasonable time, any information that may be requested to determine whether cause exists for modifying, reopening or revoking this permit or to determine compliance with this permit. Upon verbal or written request, the permittee shall also furnish to the Director of the Ohio EPA, or an authorized representative of the Director, copies of records required to be kept by this permit.

**5. Scheduled Maintenance/Malfunction Reporting**

Any scheduled maintenance of air pollution control equipment shall be performed in accordance with paragraph (A) of OAC rule 3745-15-06. The malfunction of any emissions units or any associated air pollution control system(s) shall be reported to the appropriate Ohio EPA District Office or local air agency in accordance with paragraph (B) of OAC rule 3745-15-06. Except as provided in that rule, any scheduled maintenance or malfunction necessitating the shutdown or bypassing of any air pollution control system(s) shall be accompanied by the shutdown of the emissions unit(s) that is (are) served by such control system(s).

**6. Permit Transfers**

Any transferee of this permit shall assume the responsibilities of the prior permit holder. The appropriate Ohio EPA District Office or local air agency must be notified in writing of any transfer of this permit.

**7. Air Pollution Nuisance**

The air contaminants emitted by the emissions units covered by this permit shall not cause a public nuisance, in violation of OAC rule 3745-15-07.

**8. Termination of Permit to Install**

This Permit to Install shall terminate within eighteen months of the effective date of the Permit to Install if the owner or operator has not undertaken a continuing program of installation or modification or has not entered into a binding contractual obligation to undertake and complete within a reasonable time a continuing program of installation or modification. This deadline may be extended by up to 12 months if application is made to the Director within a reasonable time before the termination date and the party shows good cause for any such extension.

**9. Construction of New Sources(s)**

The proposed emissions unit(s) shall be constructed in strict accordance with the plans and application submitted for this permit to the Director of the Ohio Environmental Protection Agency. There may be no deviation from the approved plans without the express, written approval of the Agency. Any deviations from the approved plans or the above conditions may lead to such sanctions and penalties as provided under Ohio law. Approval of these plans does not constitute an assurance that the proposed facilities will operate in compliance with all Ohio laws and regulations. Additional

facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed sources cannot meet the requirements of this permit or cannot meet applicable standards.

If the construction of the proposed emissions unit(s) has already begun or has been completed prior to the date the Director of the Environmental Protection Agency approves the permit application and plans, the approval does not constitute expressed or implied assurance that the proposed facility has been constructed in accordance with the approved plans. The action of beginning and/or completing construction prior to obtaining the Director's approval constitutes a violation of OAC rule 3745-31-02. Furthermore, issuance of the Permit to Install does not constitute an assurance that the proposed source will operate in compliance with all Ohio laws and regulations. Approval of the plans in any case is not to be construed as an approval of the facility as constructed and/or completed. Moreover, issuance of the Permit to Install is not to be construed as a waiver of any rights that the Ohio Environmental Protection Agency (or other persons) may have against the applicant for starting construction prior to the effective date of the permit. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed facilities cannot meet the requirements of this permit or cannot meet applicable standards.

**10. Public Disclosure**

The facility is hereby notified that this permit, and all agency records concerning the operation of this permitted source, are subject to public disclosure in accordance with OAC rule 3745-49-03.

**11. Applicability**

This Permit to Install is applicable only to the emissions unit(s) identified in the Permit to Install. Separate application must be made to the Director for the installation or modification of any other emissions unit(s).

**12. Best Available Technology**

As specified in OAC Rule 3745-31-05, all new sources must employ Best Available Technology (BAT). Compliance with the terms and conditions of this permit will fulfill this requirement.

**13. Source Operation and Operating Permit Requirements After Completion of Construction**

This facility is permitted to operate each source described by this Permit to Install for a period of up to one year from the date the source commenced operation. This permission to operate is granted only if the facility complies with all requirements contained in this permit and all applicable air pollution laws, regulations, and policies. Pursuant to OAC Chapter 3745-35, the permittee shall submit a complete operating permit application within thirty (30) days after commencing operation of the emissions unit(s) covered by this permit.

**Facility ID:** FIELD(3)

**14. Construction Compliance Certification**

The applicant shall provide Ohio EPA with a written certification (see enclosed form) that the facility has been constructed in accordance with the Permit to Install application and the terms and conditions of the Permit to Install. The certification shall be provided to Ohio EPA upon completion of construction but prior to startup of the source.

**15. Fees**

The permittee shall pay fees to the Director of the Ohio EPA in accordance with ORC section 3745.11 and OAC Chapter 3745-78. The permittee shall pay all applicable Permit to Install fees within 30 days after the issuance of this Permit to Install.

## B. Permit to Install Summary of Allowable Emissions

The following information summarizes the total allowable emissions, by pollutant, based on the individual allowable emissions of each air contaminant source identified in this permit.

**SUMMARY (for informational purposes only)**
**TOTAL PERMIT TO INSTALL ALLOWABLE EMISSIONS**

| Pollutant | Tons Per Year |
|---|---|
| | |
| | |
| | |



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*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

**to:** Distribution via e-mail (DO/laa Supervisors)

**from:** Mike Hopkins and Mike Ahern, DAPC Central Office

**subject:** Changed/Expanded Guidance for Synthetic Minor Permits To Install using the new PTI Format

**date:** April 7, 1999

Questions were raised during the recent PTI training on how/what format Synthetic Minor Permits should be processed. At the time of the training we thought the Synthetic Minor PTIs should be in the Title V format. However, after hearing some of the questions, and considering the matter further, we have concluded that, the only time a Title V format PTI will be used is when either the current/future status of the facility will be/remain subject to Title V (even after the Synthetic Minor PTI is issued) or a new facility will be subject to Title V (even after the Synthetic Minor PTI is issued).

In deciding which format to use ask yourself the following two questions:

1) What will be the potential to emit status of the facility for each regulated pollutant once the PTI is issued?

2) Does the PTE exceed any of the major source thresholds pursuant to the Title V requirements (as identified in OAC Chapter 3745-77 and identified by example in Engineering Guide 61)?

If you answer yes to question 2, use the Title V format PTI template

NOTE FOR MODIFICATIONS: If you are processing a PTI modification (either administrative or pursuant to OAC Chapter 3745-31) for an emissions unit located at a Title V facility, you do not need to change the structure of the permit to fit the Title V format. You may choose to keep the structure in the "old" format if you wish or you may decide to change the format to the Title V structure.

We hope this change/expansion in guidance does not cause undue hardship. This guidance is being sent via e-mail in order to expedite dissemination of this information. Please pass this guidance on to anyone who you feel may benefit from it.

The following guidance should be considered when reviewing emissions units that have been permitted in the past, but since the time they were last permitted, exemptions have been added either to OAC Chapter 3745-35 or 3745-31:

1) **Addition of exemptions to OAC Chapter 3745-31 and existing permitted (PTI) emissions units**
Emissions units that are permitted under a PTI cannot be removed from the requirements of the PTI even if an exemption becomes available at some point after the permit is issued. However, if the permittee makes a change to the operation and submits a new PTI application for the emissions unit, the DO/LAA may then recognize the exemption associated with the operation and remove the emissions unit from the permitting system.

2) **Addition of exemptions to OAC Chapter 3745-35 and existing permitted (PTI and/or PTO) emissions units**
If the permittee has a valid operating permit and, during the effective period of the operating permit, an applicable exemption is added to OAC Chapter 3745-35, the permittee must submit a renewal application in order to be considered to have the emissions unit removed from the permitting system. The DO/LAA may then recognize the exemption and the emissions unit will drop out (i.e., be withdrawn as exempt) from the operating permit requirements. *However*, the PTI would continue to remain enforceable. *Note*: if there are other permitted emissions units at the facility, the permittee would continue to pay Non-Title V fees on the basis of the estimated actual emissions at the entire facility, including the emissions unit that is dropping out of the operating permit program (see Ohio Revised code 3745.11(D))

3) **Non-Concurrent Addition of exemptions to OAC Chapters 3745-31 or 3745-35, and existing permitted (PTI and/or PTO) emissions units**
Although on the surface OAC Chapter 3745-31 and OAC Chapter 3745-35 exemptions *should* mirror one another, there is usually some lag time between or reason(s) for the exemptions to not match up exactly. This is particularly the case where there is an exemption in OAC Chapter 3745-35, but no corresponding exemption in OAC Chapter 3745-31 In this case, the owner or operator would be required to apply for and obtain a PTI, but would not be required to apply for or obtain a PTO for a *new* emissions unit. In the case of a post 1974 constructed emissions unit with valid permits (PTI and PTO) at the time the applicable exemption is added to OAC Chapter 3745-35, the emissions unit could be withdrawn from the operating permit program upon timely receipt and review of the renewal application. *However*, the PTI would continue to remain enforceable unless an applicable exemption is added to OAC Chapter 3745-31 and a PTI modification is requested and processed. *Note:* if this were the only emissions unit at the facility, the facility would drop out of the Non-Title V emissions fee program, otherwise the permittee would continue to pay Non-Title V fees on the basis of the estimated actual emissions at the entire facility, including the emissions unit that is dropping out of the operating permit program (see Ohio Revised code 3745.11(D)).

Note: In general an application is required in order to provide the Agency the opportunity to

determine if an exemption is valid, or if the emissions unit should remain in the permitting system. There may be some instances where an exemption is added for a category of emissions activities, but the DO/LAA believes that the particular emissions unit should remain in the permitting program (e.g., an emissions unit that may cause a nuisance if the permits are no longer effective).

draft

PTI Tracking guidance:

The Following guidance provides the structure that shpould be used in developing the PTI in order to easily transfer terms to the PTO. Note, the margins are set up as 0.25 inches all the way around the page. The tabs are set in 1/2" increments. The following pages provide how the numbering system should look under subsections. Note: DO **NOT** USE THE AUTOMATIC NUMBERING SYSTEM PROVIDED BY WORDPERFECT.

Other items of interest:
REMINDER: **PLEASE USE THE F7 KEY WHEN INDENTIUNG**. Several folks continue to not use the F7 key. It is extremely important as it affects the format of the PTI as it moves from one computer system to another.

Reminder: The new format requires a seprate set of terms and conditions for each emissions unit. This applies even when several emissions units terms and conditions have identical terms within the same permit.

# *EXAMPLE OF STATE PTI PERMIT STRUCTURE*

## PART II - SPECIAL TERMS AND CONDITIONS FOR SPECIFIC EMISSIONS UNIT(S)

### A. Applicable Emissions Limitations and/or Control Requirements

1. The specific operations(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be specified in narrative form following the table.

| Operations, Property, and/or Equipment | Applicable Rules/Requirements | Applicable Emissions Limitations/Control Measures |
|---|---|---|
| DESCRIPTION | OAC rule 3745-31-05 | LIMIT(s) |

2. **Additional Terms and Conditions**

2.a None.
- i. None
  - (a) None.
    - (i) None.
    - (ii) None.
    - None.
    - (i) None.
    - (ii) None.
- ii. None.
  - (a) None.
    - (i) None.
    - (ii) None.
    - None.
    - (i) None.
    - (ii) None.

2.b None.
- None.
- ii None.
  - (a) None.
  - (b) None.
    - (i) None.
    - (ii) None.

### B. Operational Restrictions

None

None

None

(a) None.

(i) None.

(ii) None.

None

(i) None

(ii) None

None

(a) None.

(i) None.

(ii) None.

(b) None

(i) None

(ii) None

None.

None

(a) None

(i) None

(ii) None

(b) None

None

(ii) None

None

(a) None

(i) None

(ii) None

(b) None

(i) None

(ii) None

None

None

None

(a) None

(i) None

(ii) None

None

None

(ii) None

None

(a) None

(i) None

(ii) None

(i) None

(ii) None

b. None

None

(a) None

(i) None.
(ii) None.
(b) None.
(i) None.
(ii) None.
ii. None.
(a) None.
(i) None.
(ii) None.
(b) None.
(i) None.
(ii) None.

**C. Monitoring and/or Recordkeeping Requirements**

***Same as B***

**D. Reporting Requirements**

***Same as B***

**E. Testing Requirements**

***Same as B***

**F. Miscellaneous Requirements**

***Same as B***

# *EXAMPLE OF TITLE V PTI PERMIT STRUCTURE*

**Part II -Facility Specific Terms and Conditions**

**A. State and Federally Enforceable Permit To Install Facility Specific Terms and Conditions**

**1. None.**

**B. State Only Enforceable Permit To Install Facility Specific Terms and Conditions**

**1. None**

# *EXAMPLE OF TITLE V PTI PERMIT STRUCTURE*

**Part III - Special Terms and Conditions for Specific Emissions Unit(s)**

**A. State and Federally Enforceable Section**

**I. Applicable Emissions Limitations and/or Control Requirements**

1. The specific operations(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be specified in narrative form following the table.

| Operations, Property, and/or Equipment | Applicable Rules/Requirements | Applicable Emissions Limitations/Control Measures |
|---|---|---|
| **None.** | **None.** | **None.** |

2. **Additional Terms and Conditions**

**2.a** None.

None

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

ii None.

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

**2.b** None.

i None

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

ii None.

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

## II. Operational Restrictions

1. None.
   a. None.
      i. None.
         (a) None.
            (i) None.
            (ii) None.
         (b) None.
            (i) None.
            (ii) None.
      ii. None.
         (a) None.
            (i) None.
            (ii) None.
         (b) None.
            (i) None.
            (ii) None.

   b. None.
      None.
         (a) None.
            (i) None.
            (ii) None.
         (b) None.
            (i) None.
            (ii) None.
      ii. None.
         (a) None.
            (i) None.
            (ii) None.
         (b) None.
            (i) None.
            (ii) None.

2. None.
   a. None.
      i. None.
         (a) None.
            (i) None.
            (ii) None.
         (b) None.
            (i) None.
            (ii) None.
      ii. None.
         (a) None.
            (i) None.
            (ii) None.
         (b) None.
            (i) None.
            (ii) None.

b. None.

i. None.

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

ii. None.

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

## III. Monitoring and/or Recordkeeping Requirements

***Same as II above***

## IV. Reporting Requirements

***Same as II above***

## V. Testing Requirements

***Same as II above***

## VI. Miscellaneous Requirements

***Same as II above***

## B. State Only Enforceable Section

### I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operations(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be specified in narrative form following the table.

| Operations, Property, and/or Equipment | Applicable Rules/Requirements | Applicable Emissions Limitations/Control Measures |
|---|---|---|
| **None.** | **None.** | **None.** |

2. Additional Terms and Conditions

2.a None.

i. None

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

ii. None.

(a) None.

(i) None.

(ii) None.

(b) None.

(i) None.

(ii) None.

2.b None.

i. None.

ii. None.

(a) None.

(b) None.

(i) None.

(ii) None.

### II. Operational Restrictions

1. None.

a. None.

i. None.

(a) None.

(i) None.

(ii) None.

(b) None

None

(ii) None

None

(a) None

(i) None.

(ii) None

(b) None

None

(ii) None

b. None.

None

(a) None

(i) None.

(ii) None

None

(i) None

(ii) None

None

(a) None

None

None

None.

(i) None

(ii) None

None

None.

(a) None

(i) None

(ii) None

(b) None.

(i) None

(ii) None

None

(a) None

(i) None.

(ii) None.

(b) None

(i) None

(ii) None

None

None

(a) None.

None

(ii) None

(b) None

None

(ii) None

None

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(a) None.
  (i) None.
  (ii) None.
(b) None.
  (i) None.
  (ii) None.

## III. Monitoring and/or Recordkeeping Requirements

*Same as II above*

## IV. Reporting Requirements

***Same as II above***

## V. Testing Requirements

***Same as II above***

## VI. Miscellaneous Requirements

***Same as II above***

Mike H

CC: Mary
Alan
Safaa

**OhioEPA**
State of Ohio Environmental Protection Agency

STREET ADDRESS:
1800 WaterMark Drive
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:
P.O. Box 1049
Columbus, OH 43216-1049

Return Hopkins

January 24, 1997

Ms. Kelly R. Kinder
Director of Energy and Environment
Ohio Chamber of Commerce
P.O. Box 15159
230 East Town Street
Columbus, Ohio 43215-0159

Dear Ms. Kinder:

Thank you for your November 12, 1996 letter regarding your members' comments and concerns with Engineering Guide #65 and issues associated with implementation of this guidance and with the so-called "gap-filling" monitoring, recordkeeping, and reporting requirements.

First, let me apologize for the delay in my response to you. However, issues pertaining to the guidance are very important to many of your members. My staff, in both the Director's Office and the Division of Air Pollution Control required time for this response. To begin, let me assure your membership that Engineering Guide #65 is guidance and does not represent a mandatory approach to satisfying the required monitoring, recordkeeping and reporting requirements for each applicable requirement associated with significant emission units at a Title V facility. To the contrary, Ohio EPA fully realizes that there may be more than one acceptable way to meet these requirements. Therefore, our district office, local air agency, and central office permit review staff have been directed to give first consideration to the approach offered by the Title V applicant. If we find the applicant's approach to be acceptable, then that approach will be specified in the draft Title V permit. However, if we find the applicant's approach to be unacceptable because it fails to provide periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the applicable requirement, as required by U.S.EPA and OAC rule 3745-77-07(A)(3)(a)(ii), then we would use Engineering Guide #65.

We do not agree that gap-filling periodic monitoring, recordkeeping and reporting requirements that have been suggested in Engineering Guide #65 are new. Again, Engineering Guide #65 was developed based on 20 years of experience of both Agency staff and the managers in the regulated community whose responsibility it is to monitor emissions to comply with their air permits. Engineering Guide #65 is intended to save time for the regulated community by directing permittees quickly to guidance on acceptable programs that have evolved over time. This guidance evolved from Engineering Guide #43, issued in March 1983, which spelled out prototype special terms and conditions to be placed in permits. Engineering Guide #65 expanded upon the earlier guidance. It is our objective to be able to improve our current permitting programs (permit to install, permit to operate, and Title V permits) with predictable, practical, consistent, well-prepared terms and conditions for monitoring, recordkeeping and reporting

requirements.

We have received many positive comments from the Ohio regulated community for providing guidance on acceptable monitoring, recordkeeping and reporting programs that are required for each significant emissions unit in the Title V permit application.

Your letter also suggests that Engineering Guide #65 should not be finalized until U.S. EPA finalizes the Compliance Assurance Monitoring (CAM) rules that have already been subjected to a number of revisions. As your members may know, these enhanced monitoring rules were supposed to be finalized years ago. Due to the level of controversy these proposed rules have generated, it is impossible to predict when the CAM rules will become final. Ohio needs to start issuing the first round of Title V permits and cannot wait for the CAM rules to be finalized.

Ohio EPA believes that many members of the regulated community have misinterpreted the proposed new CAM rule. The proposed CAM rule focuses on only a small set of the largest emissions units. For them, the proposed rule has very detailed requirements if an emissions unit meets the prescribed cutoff for controlled emissions units (more detailed and restrictive requirements than are described in Engineering Guide #65). More importantly, the proposed CAM rule requires that periodic monitoring, recordkeeping and reporting requirements be worked out with the states for all other significant emissions units (including the smallest controlled emissions units) that fall below the prescribed cutoff for controlled emissions units. I agree with Bob Hodanbosi, Chief, Division of Air Pollution Control, that Engineering Guide #65 fulfills that requirement in Ohio.

Your letter also suggests that Ohio EPA is not taking advantage of the flexibility currently offered by U.S.EPA. We do not agree. U.S.EPA expects states to provide periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with all the applicable requirements for each significant emissions unit. Recent communications with Region V regarding Ohio's first five (5) Title V permits confirm these federal expectations. It is U.S.EPA's policy that states failing to provide acceptable gap-filling monitoring, recordkeeping and reporting requirements in their proposed Title V permits, can expect to receive comments form the Regional office and, if changes are not made, those Title V permits will be vetoed by the U.S.EPA. Ohio regulation OAC rule 3745-77-07(A)(3)(a)(ii) requires gap-filling periodic monitoring. U.S.EPA expects this provision of our law to be followed, and Guide #65 is our approach to comply with this rule. Enclosed is a copy of a January 10, 1997 letter from U.S.EPA that identifies their expectation for states to require gap-filling periodic monitoring in Title V permits.

Historically, all of the Agency's regulatory programs have been based on monitoring, recordkeeping, and reporting as fundamental to the permittee's role in assuring compliance, rather than relying on frequent on-site inspections by government personnel. I believe that monitoring, recordkeeping, and reporting are essential components of the State's environmental programs, and

I am not persuaded that it is wise to omit these because of anticipated federal decisions on ACE, CAM, or others. Rather, monitoring, recordkeeping, and reporting remain key ingredients to the State's programs. More to the point is how effectively and efficiently we can tailor these key ingredients to individual permits and to sectors of the regulated community.

I am always interested in improving the efficiency and effectiveness of Agency programs. And, to this end, you have suggested that a nontechnical group be formed to work on Engineering Guide #65 issues. I understand that a technical subcommittee or workgroup of the Permit Advisory Group has been meeting for about a year to resolve these issues. I am not satisfied that this process has managed to bring closure to all the technical and legal issues discussed. Accordingly, Bob Hodanbosi has directed his staff to bring more structure to the process of the workgroup, with the view of bringing closure to every issue discussed. All participants should contribute to a written agenda, prepared in advance of meetings. Minutes will be recorded and circulated among participants for comment and concurrence (electronically). If, after two meetings, participants cannot agree, the minutes must reflect "Issues in Dispute" and "Recommendations" which are to be forwarded to Bob Hodanbosi for his decision. Depending on the issue, Bob may consult with his staff, with the Ohio EPA Legal Staff, and/or me. I prefer to improve the existing workgroup with these procedures, rather than organize another nontechnical group.

I want to again thank the Ohio industrial representatives that serve on the PAG and the legal and technical committees of the PAG for their time and valuable input toward the development and implementation of the Ohio Title V permitting program. I appreciate the unique approach to Title V implementation in Ohio, thanks in large part to dialog maintained between the Agency and your members. For further assistance, please do not hesitate to contact me, Jennifer Tiell or Bob Hodanbosi.

Sincerely yours,

Donald R. Schregardus
Director

Enclosure

cc: Jennifer Tiell, Deputy Director
Bob Hodanbosi, DAPC
Jim Orlemann, DAPC
Tom Rigo, DAPC
Mike Hopkins, DAPC
Kate Bartter, Director's Office
Vaughn Laughlin, Director's Office
Mary Mertz, Governor's Office
Bruce Weinberg, DAPC
Jeanne Mallett, Legal

Cruce

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

(AR-18J)

JAN 10 1997

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
1800 Watermark Drive
P.O. Box 1049
Columbus, Ohio 43216

Dear Mr. Hodanbosi:

I am writing this letter to all Region 5 States to reaffirm the United States Environmental Protection Agency's (USEPA) commitment to ensure the integrity of the Clean Air Act's Title V program and the permits issued thereunder. It has come to our attention that there may still be some questions regarding the monitoring, record keeping, and reporting requirements of the Title V program.

Monitoring, record keeping, and reporting requirements are important elements of a technically sound and enforceable Title V permit. Section 70.6(a)(3) of the Title V regulations specifies the standard monitoring and related record keeping and reporting requirements that each Title V permit must contain. One important element of the monitoring, record keeping, and reporting requirements of Title V is that each permit must contain periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, if the underlying applicable requirements do not otherwise specify such monitoring. This provision is commonly referred to as the gap-filling provision. Therefore, if the underlying applicable requirements, such as construction permit conditions or State Implementation Plan requirements, do not contain adequate monitoring, record keeping, and reporting provisions sufficient to provide such reliable data, the State must add such provisions in the Title V permit, and these provisions must be located in the federally enforceable section of the permit. This periodic monitoring requirement is a Title V program element, and it exists independent of the USEPA's future actions with respect to the Compliance Assurance Monitoring regulations, which are currently under consideration.

The USEPA has not issued any guidance related to the content or sufficiency of Title V periodic monitoring scenarios, and State permitting authorities have significant discretion to tailor the application of the gap-filling requirement in ways that are effective and reasonable. Nonetheless, Title V does require that operating permits include gap-filling measures where needed. We have discussed this matter with USEPA Headquarters offices and can confirm that this is their position as well.



Oil Based Inks on 100% Recycled Paper (40% Postconsumer)

Enclosed are some excerpts from recent Wisconsin Title V permits which contain periodic monitoring elements that meet the intent of the Title V provisions. I am using examples from Wisconsin as this State is the furthest along in the actual issuance of Title V permits in Region 5, and Wisconsin's Title V permit format is designed to assure that compliance requirements are included. Please note that these examples are provided to show Wisconsin's approach of addressing the periodic monitoring requirements, and are not comprehensive of all the variations to gap-filling that are possible for any given situation. Also, note that many of the specific Wisconsin statutory and regulation citations in column B of these excerpts refer to the state's general authority for establishing gap filling or expand upon underlying general monitoring requirements. These permits are available for viewing on the Internet at the Wisconsin Department of Natural Resources Gopher site.

As Region 5 works with its States to implement Title V permitting, the presence of periodic monitoring requirements is one area which will receive Regional review. Any permit that does not contain the periodic monitoring provisions as required by 40 CFR 70.6 is subject to an USEPA veto in accordance with the objection provisions in 40 CFR 70.8(c).

I hope this letter and the examples I have provided clarify the Agency's position that periodic monitoring provisions must be contained in all Title V permits, regardless of the underlying regulations. If you or your staff have any questions regarding this information, please feel free to contact Kaushal Gupta, Ohio Permit Specialist, at (312) 886-6803.

Sincerely yours,

Stephen Rothblatt, Chief
Air Programs Branch

Enclosures

*(EPA Note: Excerpt from Zalk Josephs Fabricators Inc. - Issued April 29, 1996. [illegible] al testing and reporting requirements are included in Section C., Tes and Reporting Requirements Applicable to the Entire Facility, and Part II, General Permit Conditions.)*

## PART I
## APPLICABLE LIMITATIONS AND SPECIFIC CONDITIONS

**A. S98/P03/C03: Shotblast. Fabric Filter Control. Installed 1979.**

| POLLUTANT | a. LIMITATIONS | b. COMPLIANCE DEMONSTRATION | c. REFERENCE TEST METHODS, RECORDKEEPING AND MONITORING |
|---|---|---|---|
| 1. Particulate Matter Emissions | (1) The emissions may not exceed 6.12 lb/hr.[1] [§ NR 415.05(1)(o) and (2), Wis. Adm. Code] | (1) The baghouse must be controlling emissions and operating properly at all times shotblasting is being performed. [§ 144.394(3), Wis. Stat.]<br><br>(2) The pressure drop across the baghouse shall be maintained between 1 and 10 inches of water. [§ NR 439.055(1)(a), Wis. Adm. Code]<br><br>(3) The facility shall perform a weekly inspection of the baghouse to ensure there are no broken/torn bags which would allow excess emissions. [§ NR 407.09(1)(c)1.b., Wis. Adm. Code] | (1) Whenever compliance testing is required, USEPA Method 5, including the condensible backhalf, shall be used. When approved in writing an equivalent test method may be substituted for the required test method. [§ NR 439.06(1), Wis. Adm. Code]<br><br>(2) The facility shall install, operate, calibrate and maintain a pressure drop monitor at the baghouse. [§ NR 439.055(1), Wis. Adm. Code]<br><br>(3) The pressure drop across the baghouse shall be monitored continuously. [§ NR 439.055(1)(a), Wis. Adm. Code]<br><br>(4) The facility shall maintain the following records:<br>(a) A log of the name or initials of the operator performing each weekly baghouse inspection and the time each inspection took place.<br>(b) A description of any maintenance or repairs of the baghouse that resulted from the inspection.<br>(c) The daily pressure drop readings.<br>[§ NR 439.04(1)(d), Wis. Adm. Code] |

[1] This is the most restrictive allowable emission rate, based on the equation 0.40 lb/1000 lb gas x (Airflow) scfm x 0.075 lb/cf x 60 min/hr, based on a maximum airflow of 3400 acfm and at an exhaust gas temperature that is considered standard conditions. Operation of the baghouse is required in order to allow the facility to comply with this limit.

*(EPA note: Excerpt from Zalk Josephs Fabricators Inc. - Issued April 29, 1996. [illegible] al testing and reporting requirements are included in Section C., Tes and Reporting Requirements Applicable to the Entire Facility, and Part II, General Permit Conditions.)*

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[1] This is the most restrictive allowable emission rate, based on the equation 0.40 lb/1000 lb gas x (Airflow) scfm x 0.075 lb/cf x 60 min/hr, based on a maximum airflow of 3400 acfm and at an exhaust gas temperature that is considered standard conditions. Operation of the baghouse is required in order to allow the facility to comply with this limit.

*(EPA note: Excerpt from American Packaging Corporation - Issued December 1, [illegible] Testing and Reporting Requirements Applicable to the Entire Facility, and Part II, General Permit Conditions.)*

## PART I
## APPLICABLE EMISSION LIMITATIONS AND REQUIREMENTS

**A. S01/P01: Packaging Rotogravure Press "Roto #1" ; installed 1973. AND S01/P02: Packaging Rotogravure Press "Roto #2"; installed 1977.**

| POLLUTANTS | a. LIMITATIONS | b. COMPLIANCE DEMONSTRATION | c. REFERENCE TEST METHODS, RECORDKEEPING AND MONITORING |
|---|---|---|---|
| 1. Volatile Organic Compounds - Rotogravure Inks and Solvents | For each of these presses, the following apply:<br><br>(1) Incineration of volatile organic compounds such that 90%, by weight, of VOCs that enter the incinerator are oxidized to nonorganic compounds. [s. NR 422.14(2)(c)2., Wis. Adm. Code]<br><br>(2) The overall emissions reduction efficiency of capture and control systems shall be 65% where a packaging rotogravure process is employed. [s. NR 422.14(3)(b), Wis. Adm. Code] | (1) The incinerator shall be in operation and controlling the VOC emissions at all times the presses are in operation. [s. NR 144.394(4), Wis Stat.]<br><br>(2) The operation temperature of the primary chamber in the incinerator, meaured at three thermocouples and averaged, shall be a minimum of 1400 °F. [s. 144.394(4), Wis. Stat.]<br><br>(3) For each press, the pressure drop across the duct from the press to the oxidizer shall be within the range recorded during the most recent stack test which showed the capture efficiency was in compliance with the requirement in A.1.a.(2) for overall control efficiency. [s. NR 407.09(1)(c)1.b., Wis. Adm. Code]<br><br>(4) Initial compliance testing shall be performed within 90 days of issuance of this permit to establish measurement of the parameters in A.1.b.(2) and (3) and compliance with the requirements in A.1.a.(1) and (2). [s. NR 439.075(2)(a)4., Wis. Adm. Code]<br><br>(5) Periodic testing shall be performed to demonstrate compliance with the requirements in A.1.a.(1) and (2) every 24 months, within 90 days of the anniversary date of the initial compliance test. [s. NR 439.075(2)(a)4. and (3)(b), Wis. Adm. Code] | (1) Whenever compliance testing for the VOC destruction efficiencies is required, USEPA Method 25 or 25A, or any equivalent method approved by the Department in writing, shall be used. [s. NR 439.06(3)(a), Wis. Adm. Code]<br><br>(2) Whenever compliance testing is required for capture efficiencies, a test plan shall be submitted for department approval according to the requirements in F.4.b.(1)(b). [s. NR 439.06(8), Wis. Adm. Code]<br><br>(3) The facility shall install, operate, calibrate and maintain a pressure drop monitor at each press, which shall be located between the last fan on the dryers' combined exhaust and the damper prior to the main duct connected to the oxidizer. [s. 144.394(4), Wis. Stat.]<br><br>(4) For each press, the pressure drop across the duct from the press to the oxidizer shall be monitored and recorded at least every 15 minutes[1]. [ss. NR 407.09(1)(c)1.b. and NR 439.04(1)(d), Wis. Adm. Code]<br><br>(5) The operation temperature in the primary chamber of the incinerator shall be monitored and recorded at least every 15 minutes. [s. NR 439.055(2)(a), Wis. Adm. Code]<br><br>(6) For any printing line, records shall be kept on a monthly basis that include but are not limited to:<br>(a) A unique identification for each of the coatings, as applied, used during that month.<br>(b) The VOC content of each ink, as applied, in pounds per gallon. [s. NR 439.04(5)(d), Wis. Adm. Code] |

[1] This is a surrogate operation parameter established for periodic capture efficiency compliance demonstration

*(Ex... Excerpt from WIS DOA / Capitol Heat & Power - Issued August 29, ... ditional testing and reporting requirements are included in Section Testing and Reporting Requirements Applicable to the Entire Facility, and Part II, General Permit Conditions.)*

**C. S11, B23 - Industrial Water Tube Type Boiler rated at 104.5 mmBtu/hour - Installed 1971**

| POLLUTANT | a. LIMITATIONS | b. COMPLIANCE DEMONSTRATION METHODS | c. REFERENCE TEST METHODS, RECORDKEEPING, AND MONITORING REQUIREMENTS |
|---|---|---|---|
| 1. Particulate Matter Emissions | (1) 0.60 pounds per million Btu heat input to the stack. [s. NR 415.06(1)(a), Wis. Adm. Code] | (1) Natural gas and #2 fuel oil are the only fuels that may be fired in this boiler.[1] [ss. NR 407.09(1)(c)1.b., Wis. Adm. Code and 144.394(3) and 144.393(1)(a), Wis. Stats.] | (1) Reference Test Method for Particulate Matter Emissions: Whenever compliance emission testing is required, US EPA Method 5, including condensible backhalf emissions, shall be used to demonstrate compliance. [s. NR 439.06(1), Wis. Adm. Code]<br><br>(2) The permittee shall retain on site, plans and specifications of the boiler.[2] [s. NR 439.04(1)(d), Wis. Adm. Code] |
| 2. Sulfur Dioxide | (1) The sulfur content of the #2 fuel oil used may not exceed 0.5 percent by weight. [s. NR 418.03(1)(c)1., Wis. Adm. Code] | (1) For each shipment of #2 fuel oil received, the permittee shall require sampling and analysis for the sulfur content of the #2 fuel oil. [s. NR 407.09(1)(c)1.b., Wis. Adm. Code] | (1) Reference Test Method for Sulfur Dioxide Emissions: Whenever compliance emission testing is required, US EPA Method 6 shall be used to demonstrate compliance. [s. NR 439.06(2)(a), Wis. Adm. Code]<br><br>(2) Reference Test Method for Sulfur Content in Liquid Fossil Fuel: Whenever the sulfur content of a liquid fossil fuel sample is require, it shall be determined according to ASTM D129-91, Standard Test Method for Sulfur in Petroleum Products (General Bomb Method), ASTM D1552-90, Standard Test Method for Sulfur in Petroleum Products (High-Temperature Method), or ASTM D4294-90, Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectroscopy. [s. NR 439.08(2)(b), Wis. Adm. Code]<br><br>(3) The permittee shall keep records of the sulfur content in percent by weight of each batch of #2 fuel oil received. [s. NR 439.04(1)(d), Wis. Adm. Code] |

[1] Because the maximum theoretical emissions while firing these fuels are less than the allowable limit of 0.60 pounds per million Btu heat input, limiting the types of fuels used is adequate to demonstrate compliance with the particulate matter emission limit. Maximum theoretical particulate matter emissions were calculated using an emission factor of 2.0 pounds per thousand gallons of #2 fuel oil fired from AP-42.

[2] These plans and specifications are sufficient because the boilers are designed to only burn natural gas and #2 fuel oil

*(EPA note: Excerpt from American Packaging Corporation - Issued December 1, 1995. Additional testing and reporting requirements are included in Section F., Testing and Reporting Requirements Applicable to the Entire Facility, and Part II, General Permit Conditions.)*

**A: S01/P01: Packaging Rotogravure Press "Roto #1"; installed 1973. AND S01/P02: Packaging Rotogravure Press "Roto #2"; installed 1977. [continued]**

| POLLUTANTS | a. LIMITATIONS | b. COMPLIANCE DEMONSTRATION | c. REFERENCE TEST METHODS, RECORDKEEPING AND MONITORING |
|---|---|---|---|
| 2. Volatile Organic Compounds - Laminator | (1) No owner or operator of a paper coating line may cause, allow or permit the emissions of any VOCs in excess of 2.9 lb/gal, excluding water, delivered to each coating applicator. [s. NR 422.07(2), Wis. Adm. Code] | (1) The MSDS for each adhesive shall be maintained by the facility to demonstrate the VOC content. [s. NR 407.09(1)(c), Wis. Adm. Code]<br><br>(2) Where incineration is used to meet the requirements of A.2.a.(1), the capture system must be sufficient to meet the limitation following this equation:<br><br>$E = \left[ \sum AiBiCi \right] / Di$<br><br>where:<br>E = the total allowable daily emissions of VOCs in pounds from all coatings subject to the same numerical emission limitation and applied on the controlled line<br>i = the subscript denoting an individual coating<br>Ai = the allowable emission rate for the coatings, in A.2.a.(1), in pounds per gallon of coating, excluding water, as delivered to the applicator<br>Bi = the amount of coating material in gallons, delivered to the applicator during the actual production day<br>Ci = the volume fraction of solids in the coating delivered to the applicator during the actual production day<br>Di = the theoretical volume fraction of solids in the coating necessary to meet the allowable emission rate in A.2.a.(1), calculated from:<br>$Di = 1 - [ Ai/Pi ]$<br>where:<br>Pi = the density of the VOC used in the coating delivered to the applicator during the actual production day in pounds per gallon. If the coating does not contain any VOCs, or if the actual density cannot be demonstrated by the owner or operator, a value of 7.36 lb/gal shall be used for P. [s. NR 422.04(4), Wis. Adm. Code] | (1) Whenever VOC content testing is required, USEPA Method 24 shall be used. [s. NR 439.06(3)(b), Wis. Adm. Code]<br><br>(2) Whenever VOC based coatings are used at the laminator, records shall be kept on a daily basis that include:<br>(a) A unique identification for each of the coatings applied to paper.<br>(b) The allowable emission rate for the coatings, in A.2.a.(1), in pounds per gallon of coating, excluding water, as delivered to the applicator.<br>(c) The VOC content of each coating or solvent in units of pounds per gallon excluding water, when applied to paper.<br>(d) The amount of coating and solvent, in gallons, delivered to the applicator.<br>(e) The volume fraction of solids in the coating delivered to the applicator.<br>(f) The total allowable emissions as calculated under A.2.b.(2).<br>(g) The actual emissions for those coatings for which allowable emissions were calculated under A.2.b.(2). [s. NR 439.04(5)(e)1-6, Wis. Adm. Code] |

THE FOLLOWING TERMS & CONDITIONS WILL AUTOMATICALLY APPEAR IN EACH PERMIT TO INSTALL.

## GENERAL PERMIT CONDITIONS

### TERMINATION OF PERMIT TO INSTALL

Substantial construction for installation must take place within 18 months of the effective date of this permit. This deadline may be extended by up to 12 months, if application is made to the Director within a reasonable time before the termination date and the party shows good cause for any such extension.

### NOTICE OF INSPECTION

The Director of the Ohio Environmental Protection Agency, or his authorized representatives, may enter upon the premises of the above-named applicant during construction and operation at any reasonable time for the purpose of making inspections, conducting tests, or to examine records or reports pertaining to the construction, modification or installation of the source(s) of environmental pollutants identified within this permit.

### CONSTRUCTION OF NEW SOURCE(S)

The proposed source(s) shall be constructed in strict accordance with the plans and application submitted for this permit to the Director of the Ohio Environmental Protection Agency. There may be no deviation from the approved plans without the express, written approval of the Agency. Any deviations from the approved plans or the above conditions may lead to such sanctions and penalties as provided under Ohio law. Approval of these plans does not constitute an assurance that the proposed facilities will operate in compliance with all Ohio laws and regulations. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed sources are inadequate or cannot meet applicable standards.

If the construction of the proposed source(s) has already begun or has been completed prior to the date the Director of the Ohio Environmental Protection Agency approves the permit application and plans, the approval does not constitute expressed or implied assurance that the proposed facility has been constructed in accordance with the approved plans. The action of beginning and/or completing construction prior to obtaining the Director's approval constitutes a violation of Ohio Administrative Code (OAC) Rule 3745-31-02. Furthermore, issuance of the Permit to Install does not constitute an assurance that the proposed source will operate in compliance with all Ohio laws and regulations. Approval of the plans in any case is not to be construed as an approval of the facility as constructed and/or completed. Moreover, issuance of the Permit to Install is not to be construed as a waiver of any rights that the Ohio Environmental Protection Agency (or other persons) may have against the applicant for starting construction prior to the

effective date of the permit. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed facilities prove to be inadequate or cannot meet applicable standards.

PERMIT TO INSTALL FEE

In accordance with OAC Rule 3745-45-04, the specified Permit to Install fee must be remitted within 15 days of the effective date of this permit to install.

PUBLIC DISCLOSURE

The facility is hereby notified that this permit, and all agency records concerning the operation of this permitted source, are subject to public disclosure in accordance with OAC Rule 3745-49-03.

APPLICABILITY

This Permit to Install is applicable only to the contaminant sources identified. Separate application must be made to the Director for the installation or modification of any other contaminant sources.

BEST AVAILABLE TECHNOLOGY

As specified in OAC Rule 3745-31-05, all new sources must employ Best Available Technology (BAT). Compliance with the terms and conditions of this permit will fulfill this requirement.

TERMS AND CONDITIONS FOR AIR CONTAMINANT SOURCES

PERMIT TO OPERATE APPLICATION

A Permit to Operate application and a $15 application fee must be submitted to the appropriate field office for each air contaminant source in this Permit to Install. In accordance with OAC Rule 3745-35-02, the application shall be made at least 90 days prior to start-up of the source.

THE FOLLOWING TERM AND CONDITION MUST BE COMPLETED FOR EACH PTI. THIS CONDITION DOES NOT HAVE TO BE TYPED AS LONG AS THE HANDWRITING IS LEGIBLE. ILLEGIBLE HANDWRITTEN TERMS AND CONDITIONS WILL BE RETURNED FOR DETAILED INSTRUCTIONS ON COMPLETION OF THIS CONDITION, PLEASE SEE SEPARATE INSTRUCTION SHEET.

---

PLEASE US THE FOLLOWING ACRONYMS:

Carbon monoxide (CO)
Total Suspended Particulate (TSP)
Particulate Matter less than 10 microns $PM_{10}$
Particulate Matter (PM)
Volatile Organic Compounds (VOC)
Organic Compounds (OC)
Hydrocarbons (HC)
Nitrogen Oxides ($NO_x$)
Sulfur Dioxide ($SO_2$)
Lead (Pb)

YOU MUST DEFINE ANY OTHER ACRONYMS THAT YOU USE.

---

AIR EMISSION SUMMARY

The air contaminant sources listed below comprise the Permit to Install for _____ located in _____ _____ County. The sources listed below shall not exceed the emission limits/control requirements contained in the table. This condition in no way limits the applicability of any other state or federal regulations. Additionally, this condition does not limit the applicability of additional special terms and conditions of this permit.

| Ohio EPA Source No. | Source Identification/ Description | BAT Determination | Applicable Federal and OAC Rules | Permit Allowable Mass Emissions an Control & Usage Requirements |
|---|---|---|---|---|
| | | | 3745-31-05 | |

SUMMARY
TOTAL PERMIT TO INSTALL ALLOWABLE EMISSIONS

| Pollutant | Tons/Year |
|---|---|

FOR THE REMAINING STANDARDIZED TERMS AND CONDITIONS, PLEASE SELECT & CIRCLE THOSE WHICH ARE APPLICABLE OR THOSE YOU WISH TO INCLUDE. YOU DO NOT NEED TO USE CONDITION NO. 1 WITH CONDITIONS NO. 2 & NO. 3A OR 3B UNLESS MULTIPLE SCHEDULES ARE NEEDED.

1. CONSTRUCTION STATUS

The _____ shall be notified in writing as to (a) the construction starting date, (b) the construction completion date, and (c) the date the facilities were placed into operation for the following sources _____.

2. NSPS REQUIREMENTS

The following sources are subject to the applicable provisions of the New Source Performance Standards (NSPS) as promulgated by the United States Environmental Protection Agency, 40 CFR Part 60.

| Source No. | Source Description | NSPS Regulation (Subpart) |
|---|---|---|

The application and enforcement of these standards are delegated to the Ohio EPA. The requirements of 40 CFR Part 60 are also federally enforceable.

Pursuant to the NSPS, the source owner/operator is hereby advised of the requirement to report the following at the appropriate times:

1. Construction date (no later than 30 days after such date);
2. Anticipated start-up date (not more than 60 days or less than 30 days prior to such date);
3. Actual start-up date (within 15 days after such date); and
4. Date of performance testing (at least 30 days prior to testing).

Reports are to be sent to:

Ohio Environmental Protection Agency
Authorization and Compliance Unit
P.O. Box 1049
Columbus, Ohio 43266-0149

and (_____.
insert correct field office

## 3A. NESHAP REQUIREMENTS

The following source(s) are subject to the applicable provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) as promulgated by the United States Environmental Protection Agency under 40 CFR Part 61.

| Source No. | Source Description | NESHAP Regulation |
|---|---|---|

The application and enforcement of these standards are delegated to Ohio EPA. The requirements of 40 CFR Part 61 are also federally enforceable.

Pursuant to the NESHAP, the source owner/operator is required to report the following milestones;

1. Date of commencement of construction (no later than 30 days after such date);
2. Anticpated date of initial start-up (not more than 60 days or less than 30 days prior to such date);
3. Actual date of initial start-up (within 15 days after such date); and
4. Date of performance testing (at least 30 days prior to testing).

Reports are to be sent to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Authorization and Compliance Unit
P. O. Box 1049
Columbus, Ohio 43266-0149

and

_____
insert correct field office

## 3B. RADIONUCLIDES NESHAP REQUIREMENTS

The following source(s) are subject to the applicable provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) as promulgated by the United States Environmental Protection Agency under 40 CFR Part 61.

| Source No. | Source Description | NESHAP Regulation |
|---|---|---|
| | | Subpart H |

The application and enforcement of these standards are performed by the United States Environmental Protection Agency.

Pursuant to the NESHAP, the source owner/operator is required to report the following milestones;

1. Date of commencement of construction (no later than 30 days after such date);
2. Anticpated date of initial start-up (not more than 60 days or less than 30 days prior to such date);
3. Actual date of initial start-up (within 15 days after such date); and
4. Date of performance testing (at least 30 days prior to testing).

Reports are to be sent to:

United States Environmental Protection Agency
David Kee
Air & Radiation Branch (5AR-26)
230 S. Dearborn St.
Chicago, IL 60604

Ohio Environmental Protection Agency
Division of Air Pollution Control
Authorization and Compliance Unit
P. O. Box 1049
Columbus, Ohio 43266-0149

insert correct field office

FOR TERM & CONDITION NO. 4, ITEMS "C" & "D" ARE OPTIONAL AND SHOULD BE CIRCLED IF YOU WISH THEM INCLUDED.

4. PERFORMANCE TEST REQUIREMENTS

The permittee shall conduct, or have conducted, performance testing on the air contaminant source(s) in accordance with procedures approved by the Agency. Two copies of the written report shall be submitted and signed by the person responsible for the test, describing the test procedures followed and the results of such tests. The Director, or an Ohio EPA representative, shall be allowed to witness the tests, examine testing equipment, and require the acquisition or submission of data and information necessary to assure that the source operation and testing procedures provide a valid characterization of the emissions from the source and/or the performance of the control equipment.

A. A completed Intent to Test form shall be submitted to the appropriate Ohio EPA District Office or Local Air Pollution Control Agency where the original permit application was filed. This notice shall be made 30 days in advance and shall specify the source operating parameters, the proposed test procedures and the time, date, place and person(s) conducting such tests.

B. Two copies of the test results shall be submitted within 30 days after the completion of the performance test.

C. (Optional) Tests shall be performed for the following sources and pollutants:

| SOURCE | POLLUTANT(S) |
|---|---|

D. (Optional) The facility will be permitted to operate during a 90-day period in accordance with OAC Rule 3745-35-02(C)(4)(b). The purpose of this period of operation is to fulfill the performance tests conditions used in the determination of compliance with the provisions of this Permit to Install or other applicable Ohio EPA rules.

5. MONITORING REQUIREMENTS

A _____ monitor shall be installed on the _____. The monitoring equipment shall be installed and maintained in accordance with the applicable portions of 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

Within 30 days after the installation of the continuous monitoring and recording equipment, this facility shall conduct a performance specification test of such equipment pursuant to Section 3704.03(I) of the Ohio Revised Code and 40 CFR Part 60, Appendix B, Performance Specification Test 1. Personnel from the Ohio EPA field office shall be permitted to witness the performance specification test, and two copies of the test results shall be submitted to the Ohio EPA field office within 45 days after the test is completed.

Pursuant to 40 CFR Parts 60.7 and 60.13(h), this facility shall submit reports on a quarterly basis to the Ohio EPA field office documenting all instances of opacity values in excess of the limitations specified in OAC rule 3745-17-07 or any limitations specified in the terms and conditions of this permit. These quarterly excess emission reports shall be submitted by February 15, May 15, August 15 and November 15 of each year and shall cover the data obtained during the previous calendar quarters.

6. PSD REQUIREMENTS

The source described in this Permit to Install is subject to the applicable provisions of the Prevention of Significant Deterioration (PSD) regulations as promulgated by the United States Environmental Protection Agency 40 CFR 52.21. The authority to apply and enforce the PSD regulations has been delegated to the Ohio Environmental Protection Agency. The terms and conditions of this permit and the requirements of the PSD regulations are also enforceable by the United States

Environmental Protection Agency.

In accordance with 40 CFR 124.15, 124.19 and 124.20, the followi shall apply: (1) the effective date of this permit shall be 30 days after the service of notice to any public commentors of the final decision to issue, modify, or revoke and re-issue the permit unless the service of notice is by mail, in which case the effective date of the permit shall be 33 days after the service of notice; and (2) if an appeal is made to the Administrator of the United States Environmental Protection Agency, the effective date of the permit is suspended until such time as the appeal is resolved or denied.

7 APPENDIX S - EMISSION OFFSET INTERPRETATIVE RULING

The source described in this Permit to Install is subject to the applicable provisions of the Interpretative Ruling on Emission Offsets by United States Environmental Protection Agency, 40 CFR 51, Appendix S. The terms and conditions of this permit and the requirements of the Interpretative Ruling are also enforceable by the United States Environmental Protection Agency.

8. RECORD(S) RETENTION AND AVAILABILITY

All records required by this Permit to Install shall be retained on file for a period of not less than two years unless otherwise indicated by Ohio Environmental Protection Agency. All records shall be made available to the Director, or any authorized representative of the Director, for review during normal business hours.

9. REPORTING REQUIRMENTS

Unless otherwise specified, reports required by the Permit to Install need only be submitted to (_____).
insert field office

10. WASTE DISPOSAL

The owner/operator shall comply with any applicable state and federal requirements governing the storage, treatment, transport and disposal of any waste material generated by the operation of the sources.

11. MAINTENANCE OF EQUIPMENT

This source and its associated air pollution control system(s) shall be maintained regularly in accordance with good engineering practices and the recommendations of the respective manufacturers in order to minimize air contaminant emissions.

12. MALFUNCTION/ABATEMENT

In accordance with OAC Rule 3745-15-06, any malfunction of the source(s) or associated air pollution control system(s) shall be reported immediately to the (_____).
insert field office

Except as provided by OAC Rule 3745-15-06(A)(3), scheduled maintenance of air pollution control equipment that requires the shutdown or bypassing of air pollution control system(s) must be accompanied by the shutdown of the associated air pollution sources.

13. AIR POLLUTION NUISANCES PROHIBITED

The air contaminant source(s) identified in this permit may not cause a public nuisance in violation of OAC rule 3745-15-07.

## TERMS AND CONDITIONS FOR SPECIFIC SOURCE CATEGORIES

This part contains special terms and conditions for the following types of sources:

1) GASOLINE DISPENSING FACILITIES
2) DIESEL AND/OR KEROSENE DISPENSING FACILITIES
3) GASOLINE DISPENSING OPERATIONS
4) MISCELLANEOUS STORAGE TANKS
5) NEW SOURCE PERFORMACE STANDARD SUBPART Kb (A&B)
6) BAT FOR OPEN TOP VAPOR DEGREASERS
7) BAT FOR COLD CLEANERS
8) BAT FOR CONVEYORIZED DEGREASERS
9) NOTICE OF INTENT TO RELOCATE

## TERMS AND CONDITIONS FOR SPECIFIC SOURCE CATEGORIES

IN A FEW INSTANCES, AN APPLICATION FOR A NUMBER OF SOURCES WILL INCLUDE GASOLINE/DIESEL/KEROSENE DISPENSING. FOR THOSE CASES, CONDITIONS NO. 14 & NO. 15 MAY BE APPLICABLE.

### 14. GASOLINE DISPENSING FACILITIES

BAT for any gasoline dispensing operation identified within this permit consists of the use of Stage I vapor balance system. The vapor balance system shall be designed and operated to route at least 90% by weight of the organic compounds in the displaced vapors from the storage tanks to the delivery vessel and shall be equipped with a means to prevent the discharge into the atmosphere of displaced vapors from an unconnected vapor line. This shall be used at all times when filling the tanks.

The transfer of gasoline from a delivery vessel to a stationary storage tank shall be conducted by use of submerged fill into the storage tank. The submerged fill pipe(s) are to be installed so they are within six (6) inches of the bottom of the storage tank.

This facility shall be serviced by a bulk gasoline plant or terminal that is in compliance with OAC Rule 3745-21-09(P) or (Q), respectively.

There shall be no leaks in the vapor and liquid lines during the transfer of gasoline.

All fill caps shall be "in place" and clamped during normal storage conditions.

The gasoline dispensing facility shall repair within 15 days any leaks from the vapor balance system which is employed to meet the requirements of Paragraph (A)(3) of OAC Rule 3745-31-05 or Paragraph (R)(1) of OAC Rule 3745-21-09 when such leaks are equal to or greater than 100% of the lower explosive limit of propane, as determined under Paragraph (K) of OAC Rule 3745-21-10.

15. DIESEL AND/OR KEROSENE DISPENSING FACILITIES

BAT for any diesel and/or kerosene dispensing operation identified within this permit consists of the transfer of diesel and/or kerosene from a delivery vessel to a stationary storage tank through the use of submerged filling into the storage tank. The submerged fill pipe(s) are to be installed so they are within six (6) inches of the bottom of the storage tank.

IN RARE INSTANCES, BAT FOR A GDF MAY BE SUBMERGED FILLING ONLY. IN SUCH CASES, CONDITION NO. 16 SHOULD BE USED. DO NOT USE THIS CONDITION IN CONJUNCTION WITH CONDITION NO. 14.

16. GASOLINE DISPENSING OPERATIONS

BAT for the gasoline dispensing operation identified within this permit consists of the transfer of gasoline from a delivery vessel to a stationary storage tank through the use of submerged filling into the storage tank and the restriction of annual throughput to _____ gallons of gasoline per year. The submerged fill pipe(s) are to be installed so they are within six (6) inches of the bottom of the storage tank.

MISCELLANEOUS STORAGE TANKS

Unless otherwise indicated, BAT for any miscellaneous storage tanks identified within this permit consists of the use of submerged fill into the storage tanks. The submerged fill pipe(s) are to be installed within six (6) inches of the bottom of the storage tank.

THE FOLLOWING TERM AND CONDITION IS APPLICABLE TO THOSE SOURCES SUBJECT TO THE NSPS SUBPART Kb RECORD REQUIREMENTS ONLY. CHOOSE ONLY ONE FOR EACH TANK. CONDITION NO. 2 IS NOT REQUIRED FOR THESE SOURCES.

NEW SOURCE PERFORMANCE STANDARD SUBPART Kb

The application and enforcement of the provisions of the New Source Performance Standards (NSPS), as promulgated by the United States Environmental Protection Agency, 40 CFR Part 60, are delegated to the Ohio Environmental Protection Agency. The requirements of 40 CFR Part 60 are also federally enforceable.

In accordance with 40 CFR 60.116b(a) and (b), the owner and operator of storage vessel(s) _____ [insert source number(s)] shall keep readily accessible records showing the dimension of each storage vessel and an analysis showing the capacity of each storage vessel for the life of each source.

NEW SOURCE PERFORMANCE STANDARD SUBPART Kb

The application and enforcement of the provisions of the New Source Performance Standards (NSPS), as promulgated by the United States Environmental Protection Agency, 40 CFR Part 60, are delegated to the Ohio Environmental Protection Agency. The requirements of 40 CFR Part 60 are also federally enforceable.

In accordance with 40 CFR 60.116b(a) and (b), the owner and operator of storage vessel(s) _____ [insert source number(s)] shall:

a. Keep readily accessible records showing the dimension of each storage vessel and an analysis showing the capacity of each storage vessel for the life of each source; and

b. Maintain a record of the volatile organic liquid (VOL) stored, the period of storage, and the maximum true vapor pressure of that VOL during the respective storage period. Records shall be retained for a minimum of two years.

19. BAT FOR OPEN TOP VAPOR DEGREASERS

In accordance with OAC Rule 3745-21-09(O)(3), each owner or operator of an open top vapor degreaser shall:

(a Equip the open top vapor degreaser with a cover that can be opened and closed easily without disturbing the vapor zone;

(b) Install the following safety switches:

(i a condenser flow switch and thermostat or any other device which shuts off the sump heat if the condenser is either not circulating or too warm;

(ii a spray safety switch which shuts off the spray pump if the vapor level drops below any fixed spray nozzle;

iii) a vapor level control thermostat or any other device which shuts off the sump heat when the vapor level rises too high; and

(iv a water flow switch, water pressure switch or any other device which shuts off the sump heat if the water in a water-cooled condenser has no flow or no pressure, whichever is being monitored.

Install one of the following devices:

(i a freeboard with a freeboard ratio greater than or equal to 0.75, and if the open top vapor degreaser opening is greater than 10 square feet, the cover must be powered or equipped with mechanical features whereby it can be readily closed when the degreaser is not in use;

ii refrigerated chiller;

iii) enclosed design (cover or door opens only when the dry part is actually entering or exiting the open top vapor degreaser);

iv carbon adsorption system, with ventilation greater than or equal to 50 cubic feet per minute per square foot of air/solvent interface (when cover is open), and exhausting less than 25 parts per million (ppm) of solvent averaged over one complete adsorption cycle; or

(v) a control system, demonstrated to have control efficiency equivalent to or greater than any of the above, and approved by the Director; and

Operate and maintain the open top vapor degreaser in a manner which is consistent with good engineering practice and which minimizes solvent evaporation from the unit.

20. <u>BAT FOR COLD CLEANERS</u>

In accordance with OAC Rule 3745-21-09(O)(2), each owner or operator of a cold cleaner shall:

a) Equip the cold cleaner with either

(i a cover, and if the solvent has a vapor pressure greater than 0.3 pound per square inch absolute measured at 100°F or the solvent is heated or agitated, the cover shall be signed and constructed so that it can be easily operated with one hand; or

(ii a remote solvent reservoir from which solvent is pumped through a nozzle suspended over a sink-like work area which drains back to the reservoir, provided a sink-like area has an open drain area of less than 16 square inches and provided the solvent neither is heated above 120°F nor has a vapor pressure greater than 0.6 pound per square inch absolute, measured at 100°F;

b) Equip the cold cleaner with a device for draining the clean parts; and if the solvent has a vapor pressure greater than 0.6 pound per square inch absolute, measured at 100°F the drainage facility shall be constructed internally so that parts are enclosed under the cover during draining unless an internal type drainage device cannot fit into the cleaning system;

Install one of the following devices if the solvent vapor pressure is greater than 0.6 pound per square inch absolute measured at 100°F, or if the solvent is heated above 120°F;

(i) freeboard that give a freeboard ratio greater than or equal to 0.7;

ii) water cover (solvent must be insoluble in and heavier than water); or

iii) other systems of equivalent control, such as refrigerated chiller or carbon adsorption, approved by the Director; and

Operate and maintain the cold cleaner in a manner which is consistent with good engineering practice and which minimizes solvent evaporation from the unit.

21. <u>BAT FOR CONVERYORIZED DEGREASERS</u>

In accordance with OAC Rule 3745-21-09(O)(4 , each owner or operator of a conveyorized degreaser:

(a) Install one of the following devices on all conveyorized degreasers having an air/solvent interface greater than 22 square feet:

i refrigerated chiller;

ii carbon adsorption system, with ventilation greater than or equal to 50 cubic feet per minute per square foot of air/solvent interface (when downtime covers are open), and exhausting less than 25 parts per million (ppm) of solvent by volume averaged over a complete adsorption cycle; or

(iii a system, demonstrated to have a control efficiency equivalent to or greater than Paragraph (O)(4)(a)(i) or (O)(4)(a)(ii) of this Rule, and approved by the Director;

Equip the conveyorized degreaser with equipment, such as a drying tunnel or rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent liquid or vapor;

Install one of the following safety switches, if the solvent is heated to its boiling point:

(i a condensor flow switch and thermostat or any other device which shuts off the sump heat if the condensor coolant is either not circulating or too warm;

ii) a spray safety switch which shuts off the spray pump if the vapor level drops below any fixed spray nozzle; and

iii a vapor level control thermostat or any other device which shuts off the sump heat when the vapor level rises too high;

Equip the conveyorized degreaser with covers for closing off the entrance and exit when not in use; and

Operate and maintain the conveyorized degreaser in a manner which is consistent with good engineering practice and which minimizes solvent evaporation from the unit.

22. NOTICE OF INTENT TO RELOCATE

Pursuant to OAC Rule 3745-31-05(A)(6), the owner or operator of the portable or mobile source identified within this Permit to Install may relocate within the state of Ohio without first obtaining a Permit to Install providing the following criteria are met:

a. The source is equipped with the Best Available Control Technology for such source; and

b. The source is operating pursuant to a currently effective Permit to Operate; and

c. The applicant has provided proper notice of intent to relocate the source to the Director within a minimum of 30 days prior to the scheduled relocation; and

d. In the Director's judgement, the proposed site is acceptable under Rule 3745-15-07 of the Administrative Code.

In order for the Director to determine compliance with all of th above criteria, the owner or operator of the portable or mobile source must file a "Notice of Intent to Relocate" at least 30 days prior to relocation of the source with the [Insert field office]. Upon receipt of the notice, the Director, or the Director's authorized representative, will evaluate the request in accordance with the above criteria.

Failure to submit said notification and to receive Ohio Environmental Protection Agency approval prior to relocation of the source may result in fines and civil penalties.

# OEPA inter-office communication

to: DISTRIBUTION date: 12/18/95

from: Mike Hopkins, AQM&P

subject: PTI for sources that will become "permit-by-rule" exemptions

As you may know, Ohio EPA will be proposing new revisions to OAC Chapter 3745-31 in the near future. These changes will be far reaching, as they will include essentially the PSD and new source nonattainment area federal requirements.

In addition, they will include a few new exemptions and a permit-by-rule procedure for certain groups of sources. Attached to this IOC is the current language proposed to JCARR with the rules package.

We have decided that it would be beneficial to hold off on processing any PTIs for sources that will meet the criterial of the exemption or permit-by-rule exemption (see below). Therefore, if you have or receive any applications for sources that will qualify (presuming this rule goes through unchanged), we are asking that you not process them any further, and just keep them at your office until further notice (or until the rule is final).

You should contact the applicant to let them know what is going on. A letter to let them know would be appropriate. Attached is a sample letter that can be used. If they are in urgent need of a PTI, and cannot wait five months or so, then please proceed with the permitting.

As an example, we know that many Ameritech generator PTI applications have arrived at the Districts and Locals. We believe that these can be held until the rule is final.

If you have any questions about this, please contact me. Thank you.

DISTRIBUTION

Gerry Rich, NWDO
Don Waltermeyer, NWDO
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Robert Kossow, TDOES
Curt Marshall, RAPCA
Tim Wilson, RAPCA

cc: Clara Dailey, PMU
Sara Geary, PMU
Alan Lloyd, AQM&P
Jim Orlemann, Engineering
Misty Parsons, AQM&P
Tom Rigo, FO

MH/MP

Permit-By-Rule draft language

(A) A permit to install as required by rule 3745-31-02 of the Administrative Code must be obtained for the installation or modification of a new air contaminant source unless exempted from the requirements AS FOLLOWS:

(1 Permanent exemptions:

THE FOLLOWING EXEMPTIONS DO NOT APPLY TO A COMBINATION OF COMMON EMISSIONS UNITS THAT ARE A MAJOR STATIONARY SOURCE OR MAJOR MODIFICATION, OR TO EMISSIONS UNITS THAT THE NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS APPLIES (EXCEPT FOR SUBPART M, ASBESTOS REMOVAL ACTIVITIES), OR TO EMISSIONS UNITS THAT THE NEW SOURCE PERFORMANCE STANDARDS APPLIES (EXCEPT FOR SUBPART AAA, RESIDENTIAL WOOD HEATERS).

(a) Fossil fuel-fired boilers, preheaters, air heaters, water heaters, or heaters used for other heat exchange media less than ~~one~~ TEN million British thermal units per hour burning only natural gas, distillate oil (with less than or equal to 0.5 per cent by weight sulfur), or liquid petroleum gas.

~~Notwithstanding the above exemptions, any emissions unit regulated under the National Emissions Standards for Hazardous Pollutants and/or the New Source Performance Standards shall apply for and obtain a permit to install prior to construction of the new source.~~NATURAL GAS COMPRESSOR ENGINES USED FOR MAINTENANCE ACTIVITIES WITH A HEAT INPUT RATE OF NO GREATER THAN 10 MILLION BRITISH THERMAL UNITS PER HOUR FIRED BY NATURAL GAS, GASOLINE OR DISTILLATE OIL (WITH LESS THAN OR EQUAL TO 0.5 PERCENT BY WEIGHT SULFUR).

EMERGENCY ELECTRICAL GENERATORS OR EMERGENCY FIREFIGHTING WATER PUMPS LESS THAN OR EQUAL TO 20 HORSEPOWER THAT BURN GASOLINE, NATURAL GAS, DISTILLATE OIL (WITH LESS THAN OR EQUAL TO 0.5 PER CENT BY WEIGHT SULFUR), OR LIQUID PETROLEUM GAS.

2-STROKE OR 4-STROKE, AIR-COOLED, GASOLINE-POWERED ENGINES NO MORE THAN 20 HORSEPOWER USED FOR LAWNMOWERS, SMALL ELECTRIC GENERATORS, COMPRESSORS, PUMPS, MINIBIKES, SNOWTHROWERS, GARDEN TRACTORS OR OTHER SIMILAR USES.

:2 FEDERAL BASED EXEMPTIONS

THE FOLLOWING EXEMPTION APPLIES REGARDLESS OF THE APPLICABILITY OF THE NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS AND/OR THE NEW SOURCE PERFORMANCE

STANDARDS.

~~(nn)~~ (A) Cleanup activities associated with the removal or remedial action conducted entirely on site, ~~whre~~ WHERE such remedial action is selected and carried out in compliance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 121 (e) and where such action meets all applicable air pollution emission limits and policies.

~~(2)~~ (3 Discretionary exemptions

The director may, at his discretion, exempt the installation of an air contaminant source or any other source associated with the clean-up of a spill or A leaking underground storage tank from the requirements to obtain a permit to install.

The director ~~may~~, at his discretion, MAY exempt the installation of an air contaminant source from the requirements to obtain a permit to install to deal with an emergency situation involving immediate threats to human health, property or the environment.

(c The director ~~may~~, at his discretion, MAY exempt the installation of an air contaminant source from the requirements to obtain a permit to install for the emergency replacement of storage tanks associated with A leaking underground storage tank for a period not to exceed six months.

(d) The director ~~may~~, at his discretion and in writing, MAY exempt the installation or modification of an air contaminant source from the ~~requirements~~ REQUIREMENT to obtain a permit to install ~~fro~~ FOR a period of up to six months for purposes of research and development of more effective prevention or control of air pollutant emissions or of more efficient combustion of coal.

(e) A temporary source ~~which~~ THAT, as so ordered by the director at his discretion, is to be operated for the purpose of testing air contaminant pollution emissions so that a suitable control technology can be ascertained and will not operate for more than two calendar years.

(f The director ~~may~~, at his discretion and in writing, MAY exempt the temporary modification of an air contaminant source from the requirements to obtain a permit to install for a period of up to sixty days for the purpose of evaluating new production feasibility and/or air quality impacts from the temporary modification. ~~Such requests~~ A REQUEST for this exemption shall be made in writing and shall provide a detailed description of the proposed temporary modification to the AIR CONTAMINANT source, the time period over which the modification will occur, any changes in air

emissions from the AIR CONTAMINANT source as a result of the temporary modification, and the ambient impact of the emissions from the AIR CONTAMINANT source as a result of the temporary modification. The director may require that performance tests be conducted during the period of the temporary modification.

The director ~~may~~, at his discretion and in writing, MAY exempt any treatability studies or on-site ~~resopnse~~ RESPONSE actions (cleanup operations) that meet all applicable air emission limits and policies from the requirement to obtain a permit to install. Anyone requesting this exemption must provide the director with sufficient information to make this decision.

(4) PERMIT-BY-RULE EXEMPTIONS

THE FOLLOWING AIR CONTAMINANT SOURCES ARE EXEMPT FROM THE REQUIREMENT TO OBTAIN A PERMIT TO INSTALL. THESE EXEMPTIONS ARE VALID ONLY AS LONG AS THE OWNER OR OPERATOR COLLECTS AND MAINTAINS THE RECORDS DESCRIBED FOR EACH AIR CONTAMINANT SOURCE EXEMPTED UNDER THIS RULE AND THESE MONTHLY RECORDS ARE RETAINED IN THE OWNER OR OPERATOR'S FILES FOR A PERIOD OF NOT LESS THAN FIVE YEARS AND ARE MADE AVAILABLE TO THE DIRECTOR OR ANY AUTHORIZED REPRESENTATIVE OF THE DIRECTOR FOR REVIEW DURING NORMAL BUSINESS HOURS:

EMERGENCY ELECTRICAL GENERATORS OR EMERGENCY FIREFIGHTING WATER PUMPS GREATER THAN 20 HORSEPOWER THAT OPERATE FOR NO MORE THAN 500 HOURS PER ROLLING 12 MONTH PERIOD AND THAT BURN GASOLINE, NATURAL GAS, DISTILLATE OIL (WITH LESS THAN OR EQUAL TO 0.5 PER CENT BY WEIGHT SULFUR), OR LIQUID PETROLEUM GAS AND THAT MAINTAIN THE FOLLOWING RECORDS:

(I) MONTHLY RECORDS THAT CONTAIN THE ROLLING TWELVE MONTH HOURS OF OPERATION; AND

(II) RECORDS THAT SHOW THE TYPE OF FUEL USED AND THE SULFUR CONTENT (IN PER CENT BY WEIGHT) OF ANY DISTILLATE OIL USED.

SAMPLE EMERGENCY GENERATOR PERMIT LETTER
(To use when holding permit applications
for future exemption by rule)

Dear applicant:

We have received your permit to install (PTI) application for an _____. Ohio EPA has proposed rule changes to the state legislature in November 1995. Among these changes to the permit rules will be the addition of new permanent exemptions and a permit-by-rule exemption for small generators. The proposed exemptions are as follows:

Natural gas compressor engines for maintenance with a heat input no greater than 10 mmbtu/hr fueled by natural gas, gasoline or distillate oil (0.5 % sulfur).

Emergency generators (electrical or firefighting) no greater than 20 HP burning gasoline, natural gas, or distillate oil (0.5 % sulfur), or LPG

Two or four stroke air-cooled gasoline-powered engines no more than 20 HP used for small generators, compressors or pumps.

The proposed permit-by-rule exemptions are as follows, as long as the owner/operator collects and maintains certain records for 5 years for each source:

Emergency electrical generators or firefighting water pumps greater than 20 HP that operate no more than 500 hours/rolling 12 month period, that burn gasoline, natural gas, distillate oil (0.5 % sulfur by weight), or LPG. Records of total hours and fuel used must be kept.

Since it is anticipated that the source(s) will be exempt in the future, we plan to hold the permit application that you submitted until the rule is finalized. Then you will either no longer need to obtain a permit, due to the exemption, or, if a permit is needed, we will process your application.

If it is important to you to obtain a permit, please contact your District Office or Local Air Agency representative and ask them to process your permit.

If you have any questions, please contact us at

Sincerely:

_____

_____

# OEPA inter-office communication

to: Jeanne Mallett, Legal date: 12/1/95

from: Mike Hopkins and Misty Parsons, MP AQM&P

subject: Holding PTI applications for sources that will exempt soon

We are preparing to advise the Field Offices to begin holding any applications that they receive for small sources that will be exempt with the rule changes. What originally prompted this was the receipt of 100 or so small emergency generator applications from Ameritech. They have no problem with waiting for the rule change.

However, we discussed this with Bob in the general sense, and he thinks we should hold off on processing all sources that should become exempt, unless the applicant desires a PTI now. We anticipate that the rule change would occur within six months or so.

We have prepared the attached IOC and sample letter for the Districts/Locals, but thought we should run this by you for your opinion as to whether or not we can legally, safely do this.

Please respond to us with your opinion in the near future, so that we can proceed. Thanks.

cc: Bob Hodanbosi, Chief

~~Attach~~

Please [illegible]

Jeanne said OK by P

Misty,
I would like to do
1 more thing before we
do this - check w/ Legal.
Then send a draft to Jeanne
and ask her if it is OK MH

# *Division of Air* ***Pollution Control***
# Inter-office **Communication**

***TO:*** DO/LAA Supervisors ***DATE:*** May 23, 1994

***FROM:*** Mike Hopkins, Manager-AQM&P

***SUBJECT:*** Waste Oil Space Heaters - "De Minimus" exemption

Central Office has reviewed the emissions generated by waste oil space heaters (not greater than 500,000 Btu/hr maximum capacity) based on the emission factors published in U.S. EPA's AP-42 (Table 1.11-2 - please note that there were recent changes to this table included in the supplement F). Using the AP-42 emission factors our calculations show that uncontrolled emissions are less than ten lbs/day (for each of the pollutants generated) and the uncontrolled emission of hazardous air pollutants will be less than one ton per year.

Consequently, Central Office has determined that waste oil heaters (not greater than 500,000 Btu/hr) apparently qualify for the "De Minimus" exemption provided for under OAC Rule 3745-15-05.

Chapter 1.11 Waste oil combustion in AP-42 delineates waste oil according to the following: Waste oil includes used crankcase oils from automobiles and trucks, used industrial lubricating oils (such as metal working oils), and other used industrial oils (such as heat transfer fluids). Central Office would add to that list the following: 90 W. gear oil, automatic transmission fluid, and hydraulic oil generated by the maintenance of vehicles.

Central Office has determined that if the oil burned in the space heater falls under one of the categories listed above then the unit qualifies for the "De Minimus" exemption. At this point, there is no reason to believe that the burning of other types of fuel in these space heaters will generate emissions which exceed ten lbs/day. However, the burning of some waste oils (which do not fall under the categories listed above) may warrant a review of the emissions generated.

It appears that waste oil heaters not greater than 500,000 Btu/hr do not need permits. Before we issue this as a policy, we want your reaction, suggestions, or comments. Do you feel that there will be any problems with exempting these space heaters? Please submit your comments by no later than June 23, 1994.

If you have any questions please contact Jim Braun (DAPC, AQM&P) at (614)644-3617. Thank you for your cooperation in this matter

MH/JB

cc: Bob Hodanbosi, DAPC
Jim Orlemann, DAPC

# OEPA inter-office communication

to: Bob Hodanbosi - Chief, DAPC date: 3/18/94

from: Jim LB Braun - AQM&P, NSR

subject: "De Minimus" exemption

Due to the recent inclusion of the "De Minimus" exemption in the Ohio Revised Code Section 3704.011, I have investigated the possibility that waste oil heaters fall under this exemption. I am only concerned with units which are not greater than 500,000 Btu/hr maximum capacity. I have contacted Mike Hamlin who is the U.S. EPA expert on AP 42 emission factors for waste oil combustion. Mr. Hamlin informed me that there was an error in the listing of emission factors in Table 1.11-2 of AP 42 for waste oil combustion. The units for NOx, SOx, and CO needed to be switched. After making this correction, my calculations indicate that these waste oil heaters do qualify for the exemption.

From the information submitted to me by the sales representatives for the waste oil heaters, waste oil units which are 500,000 Btu/hr capacity will burn approximately 3.6 gal/hr of waste oil. For the purposes of my calculations, I have chosen to use 5 gal/hr to allow for a margin of safety. I have also obtained data from the waste oil analysis which were submitted to establish ash, lead, and sulfur contents for a typical waste oil sample. Below I have provided my calculations for your review:

$$5\ \frac{gal}{hr} \times 64(\%P)\frac{lbs}{1000\ gal} = 0.32\ \frac{lb}{hr} \times 24\ \frac{hrs}{day} = 7.68\ \frac{lbs}{day} \quad @P = 1\%$$

The waste oil analysis provided the following values for P: 0.27%; 0.36%; 0.77%; 0.9%; 0.92%; 1.0%; and 2.45%. Using the 2.45% my calculations showed emissions of 18.8 lbs/day. However, I felt that the 2.45% was extreme as compared to the other analysis.

LEAD:

$$5\ \frac{gal}{hr} \times 50(\%L)\frac{lbs}{1000\ gal} = 0.25\ \frac{lb}{hr} \times 24\ \frac{hrs}{day} = 6\ \frac{lbs}{day} \quad @L = 1\%$$

The waste oil analysis provided the following values for L: 0.95 ppm; 2.01 ppm; 12.3 ppm; 15 ppm; 27 ppm; 27.2 ppm; 64 ppm; 66.6 ppm; and 98.1 ppm. Converting to percentages - 98.1 ppm becomes 0.0098%. The use of 1% provides a sufficient cushion.

NOx:

$$5\ \frac{gal}{hr} \times 1.9\ \frac{lbs}{1000\ gal} = 0.0095\ \frac{lb}{hr} \times 24\ \frac{hrs}{day} = 0.23\ \frac{lb}{day}$$

$$5\ \frac{gal}{hr} \times 12.8(\%S)\frac{lbs}{1000\ gal} = 0.26\ \frac{lb}{hr} \times 24\ \frac{hrs}{day} = 6.1\ \frac{lbs}{day} \quad @S = 4\%$$

U.S. EPA indicated that there is the possibility that waste oil could have a sulfur content similar to that of No. 6 fuel oil, and that is

Phenanthrene: $5 \times \frac{9.9\ E\text{-}05\ lb}{1000\ gal} = 5\ E\text{-}07\ \frac{lb}{hr} \times 4.38 = 2\ E\text{-}06$ tpy
anthracene

Dibutylphthalate: $5 \times \frac{3.4\ E\text{-}05\ lb}{1000\ gal} = 1.7\ E\text{-}07\ \frac{lb}{hr} \times 4.38 = 7.4\ E\text{-}07$ tpy

Pyrene: $5 \times \frac{5.1\ E\text{-}05\ lb}{1000\ gal} = 2.6\ E\text{-}07\ \frac{lb}{hr} \times 4.38 = 1.1\ E\text{-}06$ tpy

Based on the above calculations - utilizing AP 42 emission factors - it appears that waste oil heaters which are not greater than 500,000 Btu/hr maximum capacity qualify for the "De Minimus" exemption pursuant to ORC Section 3704.011. Please let me know if you agree with the above determination. I would like to know if I should continue to process applications for these units. It is my understanding that if a source qualifies, we are to stop processing permits for units which qualify. Please let me know what I should do. Thank you very much for your cooperation in this matter.

cc: Mike Hopkins - Section Manager, AQM&P

OhioEPA
State of Ohio Environmental Protection Agency

P.O. Box 1049, 1800 WaterMark Dr.
Columbus, Ohio 43266-0149
(614) 644-3020
FAX (614) 644-2329

George V. Voinovich
Governor

# MEMORANDUM

TO: Jim Braun, DAPC

FROM: Jeanne M. Mallett, Supervising Attorney

DATE: April 28, 1994

SUBJECT: Memorandum re: New PTI Exemptions

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

In response to your inquiry asking me to review your memorandum (attached) as above referenced, there are several issues. First, it seems to me that any memorandum regarding this issue should also address the new insignificant source exemption of 3704.011 and should be developed as a formal policy signed by Bob rather than an informal memorandum to one district even if you copy other districts. It is an important enough issue that the Director's Office (including Bartter, French-Berry, and Tiell) should be fully aware of the proposed policy before it is made public. That does not mean that the policy need be long or complicated nor that it should take months to develop, simply that it be formalized in a different manner and that more consideration be given to the language chosen.

As to the memorandum itself, I am not certain to what Jim refers to as not being legal or what you now intend to put in the memorandum since on my copy the last line of the first paragraph and the last line of the third paragraph are deleted. However, I will try to address what I see as the legal issues with regard to ORC 3745-31-03, the exemptions section that became effective on October 8, 1993.

The language of OAC 3745-31-03(A) merely states that a permit to install "must be obtained for the installation or modification of a new air contaminant source unless exempted from the requirements." There follows a list of permanent exemptions. Buried in that list is section (mm), which exempts from the exemption sources regulated under NESHAPS and/or NSPS. Section OAC 3745-31-03(A) is not retroactive in that it will not undo any actions we have already taken with regard to the issuance of PTI's for the now permanently exempted sources. However, it does act, as of its effective date, to wipe out any requirement that the permanently exempted sources have a PTI. This means that, if a source modified or constructed a new source prior to the effective date of the rule but did not obtain a PTI, the source is no longer required to get one. Thus, if we did not move to get them to apply earlier, I believe we no longer can. They no longer must fulfill

that requirement even though, before October 8, 1993, they would have been required to obtain a PTI. By the way, if a source falls into the categories covered by the permanent exemptions of OAC 3745-31-03(A) it is now also exempt from having to obtain a PTO pursuant to recently amended OAC 3745-35-02(A)(2), effective April 20, 1994. In addition, sources exempt pursuant to the statutory section, ORC 3704.011, are now exempt from our statute and all our rules.

Given this situation, the return of PTI applications pending for such sources as well as the exercise of enforcement discretion if no enforcement action has already been started is appropriate. Enforcement discretion may include a reasonable differentiation between sources. For example, sources that have BAT but did not file an application, would not be subjects of enforcement action. However, sources that are not now completely exempted pursuant to the statute and that do not have BAT and did not file an application might be considered for enforcement. That decision is a policy matter based on considerations of environmental harm and our resources. You may or may not want to mention enforcement discretion specifically in the policy, but I think it would be helpful to do so. This has been a matter of concern to the Director's Office although I believe it is appropriate to deal specifically with the issue.

I have tried to deal with the implied questions in your memorandum. If you have further questions, please do not hesitate to contact me.

Attachment

cc: Judith French-Berry, Deputy Director
Jennifer Tiell, Deputy Director
Bob Hodanbosi, Chief, DAPC
Mike Hopkins, DAPC
Jim Orlemann, DAPC

ROUTE SLIP Date 4/11/94

TO: JEANNE MALLETT - LEGAL
JIM BRAUN - DAPC

SUBJECT: PTI EXEMPTIONS

| PURPOSE | Circulate To | Initial | Date |
|---|---|---|---|
| Action | | | |
| ☒ Approval | | | |
| As Requested | | | |
| Comment | | | |
| Information | | | |
| File | | | |
| For Follow up on | | | |
| Reply ☐ Direct ☐ From me | | | |
| Return to | | | |
| See me | | | |
| Signature | | | |
| Other — See Remarks | | | |

REMARKS: PLEASE PROVIDE LEGAL GUIDANCE IN THIS MATTER. THANK YOU.

EPA 008 (12/81) OVER ☐

e communication

date: 4/11/94

CO

v PTI exemptions

AFT

dated December 27, 1993 regarding the
ere installed prior to the effective
per 8, 1993) and had not been properly
ion is that "technically" a PTI would
tions are intended for insignificant
ot adversely affect air quality.
r request PTI applications for sources
r PTI rules. ~~Furthermore, we will not~~
~~se sources.~~

erating Permit program, and our
and PTO's) in a more efficient manner,
dered by processing PTI's for sources
nificant. With limited personnel, we
on those projects which will
r air quality.

Please note, that if an application has been received for a PTI prior to October 8, 1993 for a source which had not been constructed before this time, then the application can be returned to the company with a short note informing them of the new exemptions. ~~noting that the Permit to Operate requirement is still in effect.~~

If you have any additional questions regarding this issue, please contact me at (614)644-3617. Thank you.

JB/MH

cc: Air Lines
Bob Hodanbosi, DAPC
Jim Orlemann, DAPC
Misty Parsons, DAPC
Tom Rigo, DAPC
Alan Lloyd, DAPC
LAA/DO Air Supervisors

Jim B.

This should be cleared w/ the Legal Section. It does not appear to me.

BOB / ~~Tom~~

MIKE H WANTED TO GET YOUR APPROVAL

PLEASE REVIEW

THANKS

JB

# OEPA inter-office communication

to: Craig Osborne - SWDO date: 4/11/94

from: Jim Braun through Mike Hopkins - CO

subject: "Grandfather" under the new PTI exemptions

DRAFT

This memo is in response to your IOC dated December 27, 1993 regarding the requirements for new sources which were installed prior to the effective date of the new PTI exemptions (October 8, 1993) and had not been properly permitted. The answer to your question is that "technically" a PTI would be required. However, the PTI exemptions are intended for insignificant air contaminant sources which will not adversely affect air quality. Consequently, we should not pursue or request PTI applications for sources which are currently exempted from our PTI rules. ~~Furthermore, we will not pursue an enforcement action for these sources.~~

With the inclusion of the Title V Operating Permit program, and our commitment to process permits (PTI's and PTO's) in a more efficient manner, our workload does not need to be hindered by processing PTI's for sources which we have determined to be insignificant. With limited personnel, we need to focus our time and resources on those projects which will substantially improve and protect our air quality.

Please note, that if an application has been received for a PTI prior to October 8, 1993 for a source which had not been constructed before this time, then the application can be returned to the company with a short note informing them of the new exemptions. ~~noting that the Permit to Operate requirement is still in effect.~~

If you have any additional questions regarding this issue, please contact me at (614)644-3617. Thank you.

JB/MH

cc: Air Lines
Bob Hodanbosi, DAPC
Jim Orlemann, DAPC
Misty Parsons, DAPC Tom Rigo, DAPC
Alan Lloyd, DAPC
LAA/DO Air Supervisors

Jim B. This should be cleared w/ the Legal Section. It does not appear to me.

BOB ~~Fm D~~

MIKE H. WANTED TO GET YOUR APPROVAL PLEASE REVIEW THANKS JB

OhioEPA
State of Ohio Environmental Protection Agency

ADDRESS:
1800 WaterMark Drive
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:
P.O. Box 1049
Columbus, OH 43216-1049

# INTER OFFICE COMMUNICATION

DATE: April 17, 1996

TO: District Offices and Local Air Agencies

FROM: Mike Hopkins - Manager, Air Quality Modeling and Planning Section

SUBJECT: Discretionary exemptions requests

As you know, under Ohio Administrative Code (OAC) 3745-31-03(A)(2) there are several sections that allow the Director to exempt the installation of an air contaminant source from the requirements to apply for and obtain a permit to install. In the past, field offices have interpreted (as well as central office personnel) that as the Director's representative this allows them to issue approval letters having all the legal status as if the Director had actually signed the letter per (OAC) 3745-31-03(A)(2).

Recently, our legal department has informed us that these discretionary exemptions requests under (OAC) 3745-31-03(A)(2) should be formally signed by the Director.

Therefore, I am requesting that any further discretionary exemptions requests per (OAC) 3745-31-03(A)(2) should be formally signed by the Director and to implement the following procedure.

The field offices will review the discretionary exemptions requests and generate a draft approval letter to be signed by the Director and submit the draft letter and the request along with the supporting documentation for the request to Central Office in order to secure the Director's signature. This draft should be sent to your New Source Contact. They will coordinate the securing of the Director's signature.

If you have any questions on this procedure, please call Misty, Safaa, Alan or myself.

MH/all

cc: Bob Hodanbosi, DAPC

C:\save\district\dis.4me

To: Bob Hodanbosi, Chief, DAPC
From: Jeanne M. Mallett, Supervising Attorney
Subj.: Rules requiring Director's Actions
Date: January25, 1996

CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

It has come to my attention that, with regard to the OAC 3745-31-03 Discretionary Exemptions, DAPC personnel are signing letters purporting to give the exemption. All sections of the rule clearly put that decision in the director's hands; therefore any written exemption needs to be signed by the director. We can, of course, and probably should expand the director's delegation to us to utilize his signature stamp on these if they are numerous, but it needs to be a director's action and as such needs to be public noticed.

Some of the confusion may lie in the different wording of some of the exemptions. Exemptions (a), (b) and (c) do not specify that the director's discretionary action must be in writing. I interpret that as allowing the director to give the "go-ahead" verbally because of the emergency nature of the action; but it still must be followed up with a written action that can be journalized and public noticed. The reason for that is both the requirement that we have in our general procedural rules to notice actions of the director and the practical reason that there should be a record of the director's taking any action that exempts one from other rules.

Finally, in a general reminder, any time a rule specifies that the director must take an action for the section to apply, whether it is a required action or a discretionary one, the action must be treated as an action of the director and journalized and public noticed. Where a rule does not so specify, e.g., the Permanent Exemptions in OAC3745-31-03, then a DAPC staffer may write a letter stating that on the basis of the information submitted, the source falls within the exemption of the rule. In that case nothing is being granted; there is merely an interpretation of the rule applied to a source.

If any one has any questions on this matter or needs my assistance in structuring documents related to it I would be happy to help.

c: Mike Hopkins

*DRAFT FOR COMMENT May 7, 1999*

Instructions on processing **Directors Discretionary Exemptions**

Background:
Directors discretionary exemptions allow the Director to delay the requirement to obtain a permit to install prior to installation by up to six months after installation of an air contaminant source or to exempt an air contaminant source from permit to install requirements due to the nature or duration of the activity. The Director is given this discretion in Ohio Administrative Code (OAC) rule 3745-31-03.

Process review of discretionary exemption requests:
Requests for Directors discretionary exemptions are usually sent to the Directors office where they are routed to the appropriate District Office or local air agency (DO/laa) for review and consideration. The DO/laa personnel review the request and make a determination in accordance with the criteria identified in OAC rule 3745-31-03. The DO/laa personnel then submit a recommendation to the DAPC Central Office (CO) Air Quality Modeling and Planning (AQM&P) section. AQM&P staff review the recommendation and develop a letter for signature by the Director identifying approval or denial of the discretionary exemption request. Upon completion, the letter is sent to the Directors office for signature after being signed-off by the DAPC Section Manager, DAPC Chief, and OEPA Legal. The letter is signed and dated by the Director and returned to DAPC for mailing, copying and journalization.

**AQM&P review staff directions:**
The sign-off sheet, public notice request, letter, and PTI log for the Directors discretionary exemption is available as a template under the AQMPS option when you choose *New* in WordPerfect. Although the requests are 'request specific', the Directors office requires the letter to be consistent from a formatting perspective. Thus, please do not change the settings of the template. Please use the template to develop all future discretionary letters.

Important items to note on the template:

1. Fill in all prompted items
2. Enter the reason/basis for the exemption on the second notification page. Please note to finish this section off with a period. Also, note that each line is limited to 60 characters. Delete the text '**ENTER THE REASON/BASIS FOR THE EXEMPTION HERE**' for any line that does not contain text.
3. Go to the letter page and type the body of the letter.
4. Save the file (into the *j:\aqmps\pti\dirdisc* subdirectory)
5. Print the entire document.
6. Place the entire document in Mike Hopkins in basket for review and sign-off.

The request and all associated paperwork will make its way through the signatory chain. The Director will sign and date the letter and send it to the AQM&P Section secretary for copying, journalization, and mailing.

AQM&P Section secretary directions:

1 Upon receipt o the signed letter, make one copy for each cc (identified on the letter ) and each BC (identified on the sign-off sheet).
2. Hand-write or type the date the Director signed the letter onto the DATE OF ACTION field (Line 10A) on the 'Notifications and Central Register Form'
3. Hand-write or type the date you complete the form onto the DATE COMPLETED section on the 'Notifications and Central Register Form'.
4. Check page 2 of the 'Notifications and Central Register Form' to ensure the template language **'ENTER THE REASON/BASIS FOR THE EXEMPTION HERE'** does not appear on the form and that the reason is completed with a period.
5. Enter the date the director signed the letter onto the 'PTI DIRECTORS DISCRETIONARY EXEMPTION LOG' as the 'Date of Action'

NOTE: if any corrections need to be made to the public notice request, the file can be accessed by checking the file reference on the bottom of the PTI log.

6. Mail the original of the letter to the person identified in the letter via certified mail.
7. Highlight each cc and mail via regular or inter-office mail to each cc at the address identified on the PTI log
8. Provide the BC copies to all persons identified on the BC list
9. Open the j:\aqmps\pti\dirdisc\dirlog.wpd file
10. Add the requestor (facility) name and date of the signed Directors letter.
11. Save and close the file.
12. Inter-office the 'Notifications and Central Register Form' to 'Grace Clapper, Office of Data and Systems' for processing.
13. Staple the file copy (on top) to the sign-off sheet and all other associated documents (e.g., the original request letter, internal correspondence, etc) and place in the AQM&P Directors Discretionary Exemption file in date order.

State of Ohio Environmental Protection Agency

STREET ADDRESS: MAILING ADDRESS:

1800 WaterMark Drive
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

# INTER OFFICE COMMUNICATION

**DATE:** November 20, 1994

**TO:** District Offices and Local Air Agencies

**FROM:** Mike Hopkins - Manager, Air Quality Modeling and Planning Section

**SUBJECT:** Revised Procedure for start construction exemption requests

**This guidance replaces the guidance issued September 16, 1994.**

When the Ohio Revised Code (ORC) was amended to incorporate language from House Bill 153, there were numerous and substantive changes made to section 3704. One change allowed the Director to have the discretion to allow the construction of an air contaminant source before obtaining a permit to install. This is allowed only if the applicant demonstrates that the source will be installed in compliance with all applicable emission limits, will not adversely affect public health or safety or the environment, and if the Director determines that such an action will avoid an unreasonable hardship on the owner or operator of the source. Any such determination shall be consistent with the federal Clean Air Act.

This start construction exemption **cannot be used for synthetic minors, major stationary sources or major modifications either under the Prevention of Significant Deterioration rules or under the federal New Source Review Nonattainment rules.** This is because it would be a violation of current federal rules to start construction of a major stationary source or major modification without first obtaining a <u>federally</u> <u>enforceable</u> permit.

For those requests that can be approved we need to decide if the above criteria have been met. This determination can be made if the following steps have been accomplished:

1 the applicant must have submitted a complete application;

2 we must have reviewed the application and recommended approval;

3) we must have or will, at the same time that we are approving their request, issue a draft permit of the proposed air contaminant source(s) to be installed.

In addition, the applicant will need to submit the following information to either Misty Parsons, or Alan Lloyd of my staff, depending on which one of them is reviewing the worksheet for the proposed installation, or, myself, if we have not issued a draft permit for the proposed installation:

1) a statement that the proposed installation of the source(s) will comply with all applicable emission limits;

2) a statement that the proposed installation of the source(s will not adversely affect public health or safety or the environment;

3 a description of the unreasonable hardship to the owner or operator if the source cannot be installed before the issuance of a final permit. This description would include general estimates of the additional costs associated with waiting for the final permit (detailed cost data is not required) and a description of any other costs or hardships (loss of work, jobs, etc.);

4) a statement that they will comply with and be consistent with the Clean Air Act.

Once we receive the request, we will review it and prepare a Director's approval or denial letter.

To expedite these requests, the field offices are welcome to prepare the Director's letter. An example of one is attached

You will need to advise the applicant that the issuance of this exemption letter from temporarily obtaining a final permit to install does not waive the requirement to obtain a final permit and does not grant them any assurance that a final permit to install will be issued.

In addition, you will need to advise the applicant that the possibility exists that they may not receive a final permit to install and the installation and operation of the proposed source before obtaining a final permit are entirely at their own risk. This **permission does not authorize the operation of the source** and we reserve the right to revoke this permission at any time.

If you have any questions on this procedure, please call Misty Alan or myself.

MH/all
policy\construct.wpd

Attachment

cc: Bob Hodanbosi, DAPC
Alan Franks, Dir. Office
Vaughn Laughlin, Dir. Office
Jenny Tiell, Dir. Office
Jeanne Mallett, Legal
Misty Parsons, DAPC
Alan Lloyd, DAPC
Clara Dailey, DAPC
Sara Geary, DAPC

Sample Letter

**Name and address of facility seeking exemption**

Dear (**person letter directed to**):

This letter is in response to your (**date**) request to install (**description of equipment to be installed**) before obtaining a final air pollution permit to install. You requested this allowance under Amended Senate Bill 153 which revised Ohio Revised (ORC) Section 3704.03(W).

It is my understanding that on (**date facility submitted permit application**)(**name of facility**) submitted an air pollution permit to install application to the (**name of field office**) for (**description of equipment to be installed**).(**??-????**). (**name of field office**) reviewed the applications and recommended the issuance of a draft permit. It is anticipated that the 30-day public comment period on the draft permits will expire sometime after (**date**). The Ohio EPA cannot issue a final permit to install until the public comment period expires and all comments are reviewed (assuming it can be approved).

Under ORC section 3704.03(W), the Director has the authority to allow the installation of an air pollution source prior to the issuance of a final permit to install if certain conditions are met. First, the applicant must "...demonstrate that the source will be installed to comply with all applicable emissions limits and will not adversely affect public health or safety or the environment...". In order to meet this requirement, (**name of facility**) must comply with all terms and conditions contained in the draft permit. In addition, (**name of facility**) must comply with all applicable air pollution rules and policies.

[Revise this next paragraph as appropriate.

Second, the Director must determine that allowing the installation will avoid an unreasonable hardship on the owner or operator of the source(s). (**name of facility**) has submitted data indicating that without installation of these source(s), (**name of facility**) will have to shut down during scheduled production in order to install these source which would result not only in layoffs at their facility, but also layoffs at other (**name of facility**) which depend on (**name of facility**) products produced for them.

Finally, this determination must be consistent with the federal Clean Air Act. I believe that you meet this requirement by complying with the draft permit to install terms and conditions

by complying with all applicable air pollution rules and policies, and by our review of the calculations and procedures employed in the draft permit.

Based on our review of the data submitted by you, I believe it is appropriate to allow you to install the (**description of equipment to be installed**) prior to obtaining a final permit. This permission is granted only if you comply with the terms and conditions contained in the draft permit and with all applicable air pollution rules and policies. This permission does not waive the requirement to obtain a final permit to install before commencement of operation of the source and does not grant you any assurance that the final permit to install will be issued (U.S. EPA could ask us to deny the issuance of the permit). This letter does not authorize operation of the source(s) and we reserve the right to revoke this permission. The possibility that you will not receive final a permit to install is entirely at your own risk.

If you have any questions, please contact (**name of permit reviewer at Central Office of Ohio EPA**) of the Division of Air Pollution Control at (614) 644-2270.

Sincerely

Donald R. Schregardus
Director

DS/all

cc: **field office personnel**

State of Ohio Environmental Protection Agency

P.O. Box 1049, 1800 WaterMark Dr.
Columbus, Ohio 43266-0149
(614) 644-3020
FAX (614) 644-2329

George V. Voinovich
Governor

# INTER OFFICE COMMUNICATION

DATE: September 16, 1994

TO: District Offices and Local Air Agencies

FROM: Mike Hopkins - Manager, Air Quality Modeling and Planning Section

SUBJECT: Procedure for start construction exemption requests

When the Ohio Revised Code (ORC) was amended to incorporate language from House Bill 153, there were numerous and substantive changes made to section 3704. One of the changes allowed for the Director to have the discretion to allow the construction of an air contaminant source prior to obtaining a permit to install. This is allowed only if the applicant demonstrates that the source will be installed in compliance with all applicable emission limits, will not adversely affect public health or safety or the environment, and if the Director determines that such an action will avoid an unreasonable hardship on the owner or operator of the source. Any such determination shall be consistent with the federal Clean Air Act.

In order for us to determine if the above criteria has been met, the following steps must have been accomplished:

1 the applicant must have submitted a complete application;

2) we must have reviewed the application and recommended approval;

3) we must have or will, at the same time that we are approving their request, issue a draft permit of the proposed air contaminant source(s) to be installed.

In addition, the applicant will need to submit the following information to either Misty Parsons, Jim Braun or Alan Lloyd of my staff, depending on which one of them is reviewing the worksheet for the proposed installation, or, myself, if we have not issued a draft permit for the proposed installation:

1 a statement that the proposed installation of the source(s) will comply with all applicable emission limits;

2) a statement that the proposed installation of the source(s) will not adversely affect public health or safety or the environment;

3 a description of the unreasonable hardship to the owner or operator if the proposed installation of the source can not be installed before the issuance of a final permit. This description would include general estimates of the additional costs associated with waiting for the final permit (no detailed cost data is required) and a description of any other costs or hardships (loss of work, jobs, etc.);

4) a statement that they will comply with and be consistent with the Clean Air Act.

Once we receive the request, we will review it and prepare a Director's approval or denial letter.

In order to expedite these requests, the field offices are welcome to prepare the Director's letter. An example of one is attached.

You will need to advise the applicant that the issuance of this exemption letter from temporarily obtaining a final permit to install does not waive the requirement to obtain a final permit and does not grant them any assurance that a final permit to install will be issued, especially in the case where the proposed installation of the source is subject to federal new source review (**USEPA may have some concerns about the issuance of a final permit**).

In addition, you will need to advise the applicant that the possibility exists that they may not receive a final permit to install and the installation and operation of the proposed source prior to obtaining a final permit is entirely at their own risk. This **permission does not authorize the operation of the source** and we reserve the right to revoke this permission at any time.

If you have any questions on this procedure, please call Misty Jim, Alan or myself.

MH/all

cc: Bob Hodanbosi
Jim Orlemann
Misty Parsons
Alan Lloyd
Jim Braun
Tom Rigo

Attachment

OhioEPA
State of Ohio Environmental Protection Agency

P.O. Box 1049, 1800 WaterMark Dr.
Columbus, Ohio 43266-0149
(614) 644-3020
FAX (614) 644-2329

George V. Voinovich
Governor

**Name and address of facility seeking exemption**

Dear (person letter directed to):

This letter is in response to your (**date**) request to install (**description of equipment to be installed**) prior to obtaining final air pollution permits to install. You requested this allowance under Amended Senate Bill 153 which revised Ohio Revised (ORC) Section 3704.03(W).

It is my understanding that (**name of facility**) submitted air pollution permit applications for (**description of equipment to be installed**) to the (**name of field office**) on (**date facility submitted permit application**) for permit to install no. (**??-????**). (**name of field office**) reviewed the applications and submitted recommendations to issue draft permits to the Ohio EPA. The draft permits were issued (as opposed to final permits) because the proposed sources are considered a major modification at a major facility under federal law. It is anticipated that the 30-day public comment period on the draft permits will expire sometime after (**date**). The Ohio EPA cannot issue final permits to install until the public comment period expires and all comments are reviewed (assuming it can be approved).

**for a netting permit, the following is an example of the type of language that maybe employed:**

In order to avoid federal new source review requirements, the draft permits were issued so that federal review of the shut down of other sources at the facility that would be used as credit against the emissions generated by the proposed installation of the (**description of equipment to be installed**) could be accomplished. The purpose of the shut down of other sources at the facility was to use the actual emissions over the last two years of these sources as credit against the potential emissions of the proposed installation of the (**description of equipment to be installed**) and along with the contemporaneous increases and decreases in facility-wide emissions over the last five years such that the result would be below new source review threshold limits, thereby avoiding federal new source review requirements.

**for a synthetic minor permit the following is an example of the type of language maybe employed:**

In order to avoid federal new source review requirements, the draft permits were issued with restrictions on the use of coatings. The purpose of these restrictions was to synthetically restrict the potential emissions to below new source review threshold limits, thereby avoiding federal new source review permitting requirements. Currently, the issuance of final permits to install is the only mechanism we have to create federally enforceable restrictions.

Under ORC section 3704.03(W), the director has the authority to allow the installation of an air pollution source(s) prior to the issuance of a final permit(s) to install if certain conditions are met. First, the applicant must "...demonstrate that the source will be installed to comply with all applicable emissions limits and will not adversely affect public health or safety or the environment...". In order to meet this requirement, (**name of facility**) must comply with all terms and conditions contained in the draft permits. In addition, (**name of facility**) must comply with all applicable air pollution rules and policies.

Second, the director must determine that allowing the installation will avoid an unreasonable hardship on the owner or operator of the source(s). (**name of facility**) has submitted data indicating that without installation of these source(s) during the plant shut down, (**name of facility**) will have to shut down during scheduled production in order to install these source which would result not only in layoffs at their facility, but also layoffs at other (**name of facility**) which depend on (**name of facility**) products produced for them.

Finally, this determination must be consistent with the federal Clean Air Act. We believe that you meet this requirement by complying with the draft permits to install terms and conditions, by complying with all applicable air pollution rules and policies, and by our review of the calculations and procedures employed in the draft permit.

Based on our review of the data submitted by you and our review of the netting review performed for the draft permits, I believe it is appropriate to allow you to install the (**description of equipment to be installed**) prior to obtaining final permits. This permission is granted only if you comply with the terms and conditions contained in the draft permit and with all applicable air pollution rules and policies. This permission does not waive the requirement to obtain a final permit to install before commencement of operation of the source(s) and does not grant you any assurance that the final permit to install will be insured (U.S. EPA after their review could ask us to deny the issuance of these permits). This letter does not authorize operation of the source(s) and we reserve the right to revoke this permission. The possibility that you will not receive final permits to

install is entirely at your own risk

If you have any questions, please contact (**name of permit reviewer at Central Office of Ohio EPA**) of the Division of Air Pollution Control at (614) 644-2270.

Sincerely,

Donald R. Schregardus
Director

DS/all

cc: **field office personnel**

OhioEPA
State of Ohio Environmental Protection Agency

P.O. Box 1049, 1800 WaterMark Dr
Columbus, Ohio 43266-0149
(614) 644-3020
FAX (614) 644-2329

GIISTY
ANN
FM B
MAR 15 1993
BOB

George V. Voinovich
Governor
Donald R. Schregardus
Director

DCR GWIDEBOOK

# MEMORANDUM

**TO:** Mike Hopkins, DAPC/CDO

**FROM:** Jeanne M. Mallett, Supervising Attorney

**SUBJECT:** Conditional Permits to Operate

**DATE:** March 12, 1993

## ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

I am sorry to be so long in responding to questions relating to the above issue in your December 7, 1992, memorandum. In the fact scenario you describe the source would be legally allowed to operate only for the purpose of testing, not production except as it is necessary to the testing. OAC 3745-35-02(H) states:

> "If a new source that has been constructed, installed, located or modified in accordance with the provisions of a permit to install, and otherwise in accordance with applicable air pollution control law, is unable to comply with the requirements of paragraph (C)(4)(b) [performance testing] as of the date of start-up of operations, the director may grant a conditional permit to operate such source for a period not to exceed six months from start-up of operations provided the period is used to remedy any defect which prevents such compliance and the applicant demonstrates that compliance with emission standards prescribed by applicable air pollution control law will be achieved as expeditiously as practicable, any reasonably available alternative operating procedures and interim control measures have been used or will be used to reduce excess emissions, and the continued operation of the source pursuant to the conditional permit to operate will not endanger or threaten to endanger human health. Conditional permits to operate may not be renewed, and shall contain such terms and conditions as the Ohio environmental protection agency determines necessary and appropriate." [Emphasis added]

OhioEPA
State of Ohio Environmental Protection Agency
P.O. Box 1049, 361 E. Broad Street
Columbus, Ohio 43266-1049
(614) 466-8565

Richard F. Celeste
Governor

Mike

RECEIVED
FEB 10 1987
Ohio Environmental Protection Agency
CENTRAL DISTRICT OFFICE

# M E M O R A N D U M

| | |
|---|---|
| DATE | February 6, 1987 |
| TO | Engineering Committee |
| FROM | Engineering Steering Committee Bob H. |
| RE | Enforcement Recommendations for New Source Violations |

There are numerous sources being installed throughout the State without benefit of the Permit to Install (PTI) process. Not only is this a violation of the Ohio Administrative Code (OAC), but "after the fact" PTI's can influence best available technology (BAT) determinations. It has been suggested that the New Source Review (NSR) Subcommittee outline a minimum enforcement strategy for these administrative violations to be distributed to the field offices to provide for more uniform application of the PTI rules and subsequent enforcement.

First, we believe enforcement action for violations of only permitting requirements should be left to the discretion of field office and be determined on a case-by-case basis. A major automobile manufacturing facility installing a new source without the required permit should receive a stronger enforcement effort than some "mom and pop" shop because the larger companies are (or should be) more familiar with the rules. However, some "mom and pop" shops should be made aware of the error of their ways. To this end, we offer the following solution:

A letter similar to Attachment I should be sent to all permitted facilities. This lays the groundwork for future enforcement, i.e., the facility received a written notice explaining the rules. If, after the letter is received, a source is installed without a PTI, enforcement action could be initiated immediately.

If a field office does not have the time or resources to issue this general notification, we recommend at a minimum that a letter similar to Attachment II be sent to any owner of a source that has been constructed without a PTI. This serves as a notice of violation to the facility. Additionally, if a company not only installed equipment without a PTI, but is also operating the source, the letter should include reference to violations of OAC 3745-35-02.

Copies of any warning letters should be sent to the Ohio EPA District Chief and to the Enforcement Committee contact. The District Chiefs can coordinate with the Water Pollution Control and Solid & Hazardous Waste Divisions. In addition, the field office may want to copy the entity's corporate office.

We recommend stronger action against second offenders. If the above notice has been sent, and a facility does not take it seriously, an enforcement action request (EAR) should be drafted and sent to the Enforcement Committee upon discovery of the second violation. In most cases, a Director's warning letter (Attachment III) should be used for the second offenders. If, after a Director's warning letter another violation occurs, another EAR should be prepared and Findings and Orders with penalties or a referral to the Attorney General's office should be used to resolve the violation.

In all cases, any violations of State Implementation Plan (SIP) emission limitations, BAT limits, or control requirements should be referred to the Enforcement Committee, by means of an EAR, for legal action.

This outlines what we feel should be the minimum action taken with facilities installing sources without the proper permit. Although this process may appear lenient, currently approximately one-half of the PTI's are issued to sources that have already been constructed. We tried to develop a system that would allow for uniform enforcement throughout the State, yet would not overload the enforcement process. We believe that the suggested approach strikes this necessary balance. Stronger actions can be initiated at the discretion of the field office if the situation warrants.

This material has also been reviewed by the Ohio EPA Enforcement Committee. Please implement these recommendations as soon as possible.

BH/jlc

Attachments

Distribution

Lynn Malcolm, Akron
Ray Silbernagel, SWOAPCA
Curt Marshall, RAPCA
Harold Strohmeyer, NOVAA
Bob Miles, CDO
Gerry Rich, NWDO
Jim Sumner, SWDO
Bruce Blankenship, Canton
Doug Seaman, Cleveland
Don Cavote, Portsmouth
Paul Munn, Toledo
Dennis Bush, NEDO
Fred Klingelhafer, SEDO
Jim Orlemann, DAPC

<date>

<company/address>

The purpose of this letter is to discuss the requirements involved in obtaining an Ohio Environmental Protection Agency (EPA) permit to install (PTI) for a new air contaminant source. If you have obtained a PTI in the past, you may be somewhat familiar with this process. However, there are a few points which, if emphasized, should improve the application process.

The first important point is that, according to Ohio Administrative Code (OAC) Rule 3745-31-02(A), ". . .(n)o person shall cause, permit or allow the installation of a new source of air pollutants . . . without first obtaining a permit to install from the director." Thus, permit applications should be completed and submitted to this Agency with sufficient lead time to enable our review to be completed and a permit issued (by the Ohio EPA) before the source is installed. In this way, you can be assured that the installation is approved prior to the commitment of company expenditures. Failure to obtain the PTI before installation risks nonapprovability of the permit and subjects the company to possible enforcement action by the Ohio EPA and/or U.S. EPA.

The second point is to make sure all questions on the PTI application are completed. Our ability to review permit applications is directly related to the thoroughness of the information presented. It is essential that the company provide the name and quantity of all materials and chemicals which are either inputs or products of the new source. Given this data, and the other information requested on the application form, we are able to calculate expected emissions and determine their acceptability with respect to allowable limits under state rules.

The third point is one which, when neglected, can cause a considerable delay in review time. This point concerns the requirement of OAC Rule 3745-31-05(A)(3) which states that each new source must employ best

available technology (BAT). BAT is a case-by-case determination of an emission limit and/or control technique which, taking into account environmental, energy and economic considerations, represents the maximum emission control achievable by the source. When the company submits its application, the demonstration of BAT must be included. The applicant must show a thorough investigation of control techniques has been pursued, with the final emission level determined as representative of BAT. The documented BAT determination is the focal point of this Agency's review.

Enclosed are several items which should aid you in the PTI process. Please find one PTI application form (with a listing of possible appendices), along with a copy of OAC Rule 3745-31-05 which lists the "Criteria for decision by the director." If at some time in the future your company plans to install any new source, please contact this Agency to obtain the appropriate appendix and to discuss the planned installation. Given proper advance notice and completeness of the permit application, this Agency will endeavor to process the permit application in an expeditious manner.

If you have any questions, please do not hesitate to contact <contact person> at <telephone number>.

Sincerely,
LAA Director/DO Unit Supervisor

ATTACHMENT II

## 1st OFFENDERS

Modify to say accept PTI but first warning.

The <LAA/DO> has learned that <company> began the installation/modification of <source description> prior to applying for and obtaining a Permit to Install (PTI) from the Ohio Environmental Protection Agency (EPA). This constitutes a violation of Ohio air pollution laws and rules, specifically Ohio Administrative Code (OAC) Rule 3745-31-02 (copy enclosed).

The following list identifies the new sources at the facility that constructed without a PTI:

| PTI No. | Date | Source | Installation Status |
|---|---|---|---|

This letter serves as a notification of the requirements of the PTI process in accordance with OAC Section 3745-31. Should future violations of this rule occur, this Agency will recommend that the Ohio EPA institute enforcement action be taken against <company> for violations of the PTI rules.

If at this time, <company> has not applied for a PTI for <source description above>, or some time in the future the company plans to install/modify a source of air contaminants, please contact <LAA/DO> at <telephone no.> to obtain the appropriate forms and discuss the planned installation. This Agency will endeavor to process all applications in an expeditious manner.

If you have any questions, please do not hesitate to contact <contact person> at <telephone no.>.

Sincerely,
LAA Director/DO Unit Supervisor

ATTACHMENT III

## 2nd OFFENDERS

The Ohio Environmental Protection Agency (EPA) has been notified that <company> began the installation/modification of a new source prior to applying for and obtaining a Permit to Install (PTI) from the Ohio EPA. This constitutes a violation of the Ohio Administrative Code (OAC) Rule 3745-31-02(A).

Specifically, <company> commenced construction on a <source description> at the <facility name and address>. The company has been previously warned of the PTI requirements by <LAA/DO> on <date>. Any future violations of OAC Rule 3745-31-02 will result in further enforcement action, including the possible imposition of monetary penalties, referral to the Attorney General for prosecution, or both.

Please contact <LAA/DO> at <telephone no.> to obtain the appropriate forms and discussion of the installed/modified <source description>. The Ohio EPA will process the PTI application in a prompt manner upon receipt of your completed application.

Warren W. Tyler, Director

ATTACHMENT 4

OhioEPA
State of Ohio Environmental Protection Agency

Box 1049, 361 E. Broad Street
Columbus, Ohio 43266-1049
(614) 466-8565

Richard F. Celeste
Governor

# MEMORANDUM

January 9, 1987

TO Engineering Steering Committee

New Source Review (NSR) Subcommittee

RE Enforcement Recommendations for New Source Violations

There are numerous sources being installed throughout the State without benefit of the Permit to Install (PTI) process. Not only is this a violation of the Ohio Administrative Code (OAC), but "after the fact" PTI's can influence best available technology (BAT) determinations. It has been suggested that the NSR Subcommittee outline a minimum enforcement strategy for these administrative violations to be distributed to the field offices to provide for more uniform application of the PTI rules and subsequent enforcement.

First, we believe enforcement action for violations of only permitting requirements should be left to the discretion of field office and be determined on a case-by-case basis. A major automobile manufacturing facility installing a new source without the required permit should receive a stronger enforcement effort than some "mom and pop" shop because the larger companies are (or should be) more familiar with the rules. However, some "mom and pop" shops should be made aware of the error of their ways. To this end, we offer the following solution:

A letter similar to Attachment I should be sent to all permitted facilities. This lays the groundwork for future enforcement, i.e., the facility received a written notice explaining the rules. If, after the letter is received, a source is installed without a PTI, enforcement action could be initiated immediately.

If a field office does not have the time or resources to issue this general notification, we recommend at a minimum that a letter similar to Attachment II be sent to any owner of a source that has been constructed without a PTI. This serves as a notice of violation to the facility. Additionally, if a company not only installed equipment without a PTI, but is also operating the source, the letter should include reference to violations of OAC 3745-35-02.

Copies of any warning letters should be sent to the Ohio EPA District Chief and to the Enforcement Committee contact. The District Chiefs can coordinate with the Water Pollution Control and Solid & Hazardous Waste Divisions. In addition, the field office may want to copy the entity's corporate office.

le recommend stronger action against second offenders. If the above notice has been ;ent, and a facility does not take it seriously, an enforcement action request (EAR) ;hould be drafted and sent to the Enforcement Committee upon discovery of the second 'iolation. In most cases, a Director's warning letter (Attachment III) should be used 'or the second offenders. If, after a Director's warning letter another violation )ccurs, another EAR should be prepared and Findings and Orders with penalties or a 'eferral to the Attorney General's office should be used to resolve the violation.

:n all cases, any violations of State Implementation Plan (SIP) emission limitations, BAT limits, or control requirements should be referred to the Enforcement Committee, by means )f an EAR, for legal action.

'his outlines what we feel should be the minimum action taken with facilities installing ;ources without the proper permit. Although this process may appear lenient, currently ;pproximately one-half of the PTI's are issued to sources that have already been :onstructed. We tried to develop a system that would allow for uniform enforcement :hroughout the State, yet would not overload the enforcement process. We believe that :he suggested approach strikes this necessary balance. Stronger actions can be initiated ;t the discretion of the field office if the situation warrants.

Ve are requesting that the Engineering Steering Committee review this procedure and, f acceptable, distribute it to the field offices for implementation.

3H/jlc

;chments

Distribution

Jim Orlemann, DAPC
Lynn Malcolm, Akron
Paul Munn, Toledo

:c: Tom Tucker, SWOAPCA
Vicki Sarver, RAPCA
Fred Klingelhafer, SEDO
Jim Sumner, SWDO
Kathleen Shannon, DAPC

REGIONAL AIR POLLUTION CONTROL AGENCY
Serving Clark, Darke, Greene, Miami, Montgomery & Preble Counties
451 W. Third Street, P.O. Box 972, Dayton, Ohio 45422, (513) 225-4435

April 27, 984

Mr. Paul Fraley
Specialty Papers Company
P.O. Box 1031
Dayton, OH 45401

Dear Mr. Fraley:

The purpose of this letter is to discuss the requirements involved in obtaining an Ohio EPA permit to install (PTI) for a new air contaminant source. If you have obtained a PTI in the past, you may be somewhat familiar with this process. However, there are a few points which, if emphasized, should improve the application process.

The first important point is that according to Rule 5-31-02(A) of the Ohio Administrative Code (OAC), "....(n)o person shall cause, permit, or allow the installation of a new source of air pollutants.....without first obtaining a permit to install from the director." Thus, permit applications should be completed and submitted to this agency with sufficient lead time to enable our review to be completed and a permit issued (by Ohio EPA) before the source is installed. In this way, you can be assured that the installation is approved prior to the commitment of company expenditures. Failure to obtain the PTI before installation risks nonapprovability of the permit and subjects the company to possible enforcement action by Ohio EPA and/or U.S. EPA.

The second point is to make sure all questions on the PTI application are completed. Our ability to review permit applications is directly related to the thoroughness of the information presented. It is essential the company provide the name and quantity of all materials and chemicals which are either inputs or products of the new source. Given this data and the other information requested on the application form, we are able to calculate expected emissions and determine their acceptability with respect to allowable limits under state rules.

The third point is one which, when neglected, can cause a considerable delay in review time. This point concerns the requirement of Rule 3745-31-05(A)(3) of the OAC which states that each new source must employ the best available technology (BAT).

BAT is a case-by-case determination of an emission limit and/or control technique which, taking into account environmental, energy, and economic considerations, represents the maximum emission control achievable by the source. When the company submits its application, the demonstration of BAT must be included. The applicant must show a thorough investigation of control techniques has been pursued, with the final emission level determined as representative of BAT. The documented BAT determination is the focal point of this agency's review.

Enclosed are several items which should aid you in the PTI process. Please find one PTI application form (with a listing of possible appendices), along with a copy of Rule 3745-31-05 which lists the "Criteria for decision by the director." If at some time in the future your company plans to install any new source please contact this agency to obtain the appropriate appendix and to discuss the planned installation. Given proper advance notice and completeness of the permit application, this agency will endeavor to process the permit application in an expeditious manner. Please call Donna Lee of this agency if you have any questions.

Sincerely,

D. C. Marshall

D. Curtis Marshall
Supervisor
Abatement Unit

DCM/vmt

Enclosure

ATTACHMENT III

## 2nd OFFENDERS

The Ohio Environmental Protection Agency (EPA) has been notified that <company> began the installation/modification of a new source prior to applying for and obtaining a Permit to Install (PTI) from the Ohio EPA. This constitutes a violation of the Ohio Administrative Code (OAC) Rule 3745-31-02(A).

Specifically, <company> commenced construction on a <source description> at the <facility name and address>. The company has been previously warned of the PTI requirements by <LAA/DO> on <date>. Any future violations of OAC Rule 3745-31-02 will result in further enforcement action, including the possible imposition of monetary penalties, referral to the Attorney General for prosecution, or both.

Please contact <LAA/DO> at <telephone no.> to obtain the appropriate forms and discussion of the installed/modified <source description>. The Ohio EPA will process the PTI application in a prompt manner upon receipt of your completed application.

Warren W. Tyler, Director

ATTACHMENT II

## 1st OFFENDERS

The <LAA/DO> has learned that <company> began the installation/modification of <source description> prior to applying for and obtaining a Permit to Install (PTI) from the Ohio Environmental Protection Agency (EPA). This constitutes a violation of Ohio air pollution laws and rules, specifically Ohio Administrative Code (OAC) Rule 3745-31-02 (copy enclosed).

The following ist identifies the new sources at the facility that constructed without a PTI:

| PTI No. | Date | Source | Installation Status |
|---|---|---|---|

This letter serves as a notification of the requirements of the PTI process in accordance with OAC Section 3745-31. Should future violations of this rule occur, this Agency will recommend that the Ohio EPA institute enforcement action be taken against <company> for violations of the PTI rules.

If at this time, <company> has not applied for a PTI for <source description above>, or some time in the future the company plans to install/modify a source of air contaminants, please contact <LAA/DO> at <telephone no.> to obtain the appropriate forms and discuss the planned installation. This Agency will endeavor to process all applications in an expeditious manner.

If you have any questions, please do not hesitate to contact <contact person> at <telephone no.>.

Sincerely,
LAA Director/DO Unit Supervisor

# FACSIMILE REQUEST COVER SHEET

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
AIR AND RADIATION DIVISION
77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604

Mike H.

Misty
Alan
Sarah
Kevin

TO:

| | | |
|---|---|---|
| | IDEM - D. VALINETZ | (317) 233-5968 |
| | IEPA - D. KOLAZ | (217) 524-4718 |
| | MDNR - B. ROSENBAUM | (517) 373-1265 |
| | WDNR - D. PACKARD | (608) 267-0560 |
| | MPCA - M. SANDUSKY | (612) 297-7709 |
| ✓ | OEPA - J. ORLEMANN/T. RIGO | (614) 644-3681 |

FROM: GEORGE CZERNIAK

ORGANIZATION: Air Enforcement & Compliance Assurance Branch

PHONE # (312) 886-6789 MACHINE # (312) 353-8289

DATE: 02/15/96 NUMBER OF PAGES INCLUDING THIS COVER SHEET 5

COMMENTS: _____

INFORMATION FOR SENDING FACSIMILE MESSAGES TO AIR ENFORCEMENT AND COMPLIANCE ASSURANCE BRANCH:

| EQUIPMENT | FACSIMILE NUMBER | VERIFICATION NUMBER |
|---|---|---|
| Xerox 7024 | FTS: 8 (312) 353-8289<br>Comm: (312) 353-8289 | Send Confirm |

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FEB 06 1996
AIR ENFORCEMENT BRANCH,
U.S. EPA, REGION 5

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

FEB 1 1996

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Liquid Petroleum Pitch As a Fossil Fuel - Applicability Determination for Shell Oil Company, Roxana, Il

FROM: Janet L. Bearden, Acting Director
Air Enforcement Division
Office of Regulatory Enforcement

TO: George Czerniak, Chief (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division, Region V

Ken Garing, Environmental Engineer
National Enforcement Investigation Center

We reviewed Stephen Rothblatt's and Ken Garing's request, dated June 6, 1995, for written concurrence with your New Source Performance Standards (NSPS) applicability determination. Our analysis of the relevant facts, applicable regulations, and policies leads us to the conclusion that, since the liquid petroleum pitch produced at the Shell Wood River refinery (Wood River) is derived for the purpose of creating useful heat, it meets the definition of fossil fuel provided in 40 C.F.R. Part 60, Subpart D. This site-specific decision for Wood River does not contradict or rescind the April 11, 1975 U.S EPA case-specific applicability determination for the Shell refinery in Deer Park in which we concluded that, at the Deer Park facility, the pitch from the olefin process was a by-product not derived for the purpose of generating useful heat.

Our determination is based on: (1) Shell's response to the December 7, 1994 Section 114 information request issued by Region 5; (2) the Illinois State Implementation Plan; and (3) the Illinois Operating Permit for the Wood River refinery. In its Section 114 response, Shell states that the refinery's vacuum flashing unit produces, among other products, petroleum pitch for refinery fuel combustion. This petroleum pitch must contain less than three percent sulfur by weight to comply with the Illinois SIP, Sec 214.382 (c)(1) and the facility's Operating Permit, issued November 11, 1993. This permit also requires a three percent sulfur limit in the flasher pitch burned in the refinery's heaters and boilers. Shell's response to the U.S.EPA

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Section 114 request for information clearly indicates that to obtain a pitch with the sulfur content of less than three percent, the refinery must apply particular vacuum distillation process conditions, and that this pitch is intentionally derived from petroleum for the purpose of generating useful heat.

Accordingly, we concur with the following determinations:

1. The April 11, 1975 memorandum from Richard Wilson, Director of the Stationary Source Enforcement Division does not establish a nationwide policy determination on petroleum pitch. That memorandum provided a site-specific determination, based on specific information regarding the olefins process at the Deer Park facility which produced pitch as a by-product, that the thermal pitch produced at the Shell Chemical Company Deer Park Texas facility does not meet the definition of fossil fuel provided in 40 C.F.R Part 60, Subpart D.

2. Petroleum pitch produced from petroleum crude to meet some fuel quality specifications and combusted in boilers that are subject to NSPS Subpart D meets the definition of fossil fuel provided at 40 C.F.R §60.41(b).

3. The liquid petroleum pitch produced at the Shell Wood River refinery, Roxana, Illinois, and combusted in Boiler 17 meets the definition of fossil fuel as provided at 40 C.F.R § 60.41(b).

4. A boiler subject to NSPS Subpart D that combusts liquid petroleum pitch meeting the definition of fossil fuel must comply with all of the applicable provisions of NSPS Subpart D.

If you have any questions, call Zofia Kosim, P.E., of my staff at 202-564-8733.

cc: Fred Porter, OAQPS
Leslye Fraser, OGC
Stephen Rothblatt, Region 5

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

FEB 6 1996

Orig - Carrie Rothblatt

REGULATION DEVELOPMENT BRANCH
U.S. EPA, REGION V

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

**MEMORANDUM**

SUBJECT: Alternative Standards for Valves Regulated by NSPS Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry and NESHAP Standards for Equipment Leaks - Applicability Determination

FROM: Bruce C. Buckheit for Janet L. Berrden, Acting Director
Air Enforcement Division (2242A)
Office of Regulatory Enforcement

TO: Stephen Rothblatt, Chief
Regulation Development Branch (AR-18J)
Air and Radiation Division
Region V

The Air Enforcement Division agrees with Region V that the results of leak detection inspections conducted by U.S. EPA and/or State personnel as well as by the source should be determinative of compliance with the Alternative Standards for Valves contained in the New Source Performance Standards (NSPS) for Equipment Leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemicals Manufacturing industry, 40 C.F.R. Part 60, Subpart VV, Section 60.483-2, the National Emission Standard for Hazardous Air Pollutants (NESHAP) Standard for Equipment Leaks, 40 C.F.R. Part 61, Subpart V, Subsection 61.243-2 and other regulations that may reference these standards. Compliance with the alternative standards can be determined by the source or an authorized state or EPA inspector. If either compliance determination reveals that the alternative standard is not being met, that is, that greater than 2 percent of the valves in the process unit are leaking, then the source must revert back to the monthly leak detection inspection system for that process unit as specified in both the NSPS Subpart VV and NESHAP Subpart V, Sections 60.482-7 and 61.242-7.

The conventional method of monitoring leaks at NSPS Subpart VV and NESHAP Subpart V facilities is to begin by monitoring subject valves on a monthly basis (NSPS 40 C.F.R.§60.482-7 and NESHAP 40 C.F.R. §61.242-7), until two consecutive months of monitoring show that a valve is not leaking, at which time the

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owner or operator may monitor that valve on a quarterly basis instead of a monthly basis. 40 C.F.R. §60.482-7(c) and 40 C.F.R.§61.242-7(c). EPA assumed that most valves would quickly move into the quarterly monitoring category.

If two percent or fewer of the valves at a process unit are found to be leaking for at least two consecutive quarters or longer, then the owner/operator may elect to monitor less frequently (semi-annually or annually). 40 C.F.R. §61.243-2(b) and 40 C.F.R. §60.483-2(b). Note that the affected facility for the NSPS provision is a process unit, just like the NESHAP, not the entire plant site. 40 C.F.R.§60.480(a)(2). If the leak detection rate for valves at a process unit exceeds 2 percent, then the owner/operator must revert to monthly monitoring of the valves for that process unit. 40 C.F.R.§60.483-2(b)(4) and 40 C.F.R.§61.243-2(b)(4). The method of calculating the percent of leaking valves is to compare the number of leaking valves to the total number of valves in the process unit. 40 C.F.R.§60.483-2(b)(5) and 40 C.F.R. §61.243-1(c)(3). Notice and other requirements must also be met.

These regulations intend that compliance with all provisions should be determinable by inspections and review of records and other methods. 40 C.F.R. §60.482-1(b) and 40 C.F.R. §61.242-1(b). Therefore, if leak detection rates in excess of 2 percent at a process unit are discovered by state or EPA inspectors, and the source is informed of this finding, then the source must return to monthly leak detection inspections. Any suggestion by the source, or others, that the only leak detection analysis that is valid is the analysis conducted by the source is wrong. That would render the inspector's findings of no value. Such a conclusion is contrary to the intention of these regulations.

If you have any questions about this applicability determination, please contact Charles Garlow of my staff at 202-564-1088.

cc: Kathy Keith
Region V

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
603-271-3503 FAX 603-271-2867
TDD Access: Relay NH 1-800-735-2964

NHDES

November 17, 1995

Mr. Steve Gerritson, Exec. Director
LADCO
2350 E. Devon Ave., Suite 242
Des Plaines, IL 60018

Re: Recent Draft Information on NOx Control Costs for Utility Boilers for OTAG from the Control Technologies and Options Workgroup; Section 8 - Summary Matrix of Cost and Performance

Dear Mr. Gerritson:

I recently have had the opportunity to review a copy of the draft of Section 8 - Summary Matrix of Cost and Performance from the Control Technologies and Options Workgroup. It contains several inaccuracies and misrepresentations. Thus, I offer the following comments on both the matrices and the narrative information contained in the draft.

Layout of the Tables

The layout of the data tables is misleading and probably will be confusing to the uneducated since the tables include cost effectiveness and performance data for single control strategies and for multiple control strategies applied sequentially. I think that the matrices would be clearer if the pre-RACT information was presented prior to the post-RACT information or the pre-RACT and post-RACT information was presented on separate matrices. The use of NOx% and delta NOx% in the same matrix in conjunction with pre-RACT and post-RACT data is also confusing. For example, for a baseloaded, 65% capacity factor, wall-fired boiler burning coal, post-RACT SCR NOx% is listed as 60-80% with $/ton of 2400-3500 and $/kW of 65-100, and pre-RACT SCR NOx% is listed as 60-80% with $/ton of 1300-2800 and $/kw of 65-100. Unless one assumes that the costs of the SCR are higher in the post-RACT case since less tons of NOx are left for the SCR to remove, it is difficult to rationalize these costs.

Furthermore the built in assumption that pre-RACT is no controls and post-RACT is low NOx burners and/or low NOx burners with overfire air presents all cost data for other technologies in an unfavorable light since it implies that RACT is limited to low NOx burners and/or low NOx burners with overfire air. For PSNH's Unit #2 at Merrimack Station (MK2), RACT was determined to be SCR, because costs per ton removed were well below the presumptive norm of $2,500.

AIR RESOURCES DIV.
64 No. Main Street
Caller Box 2033
Concord, N.H. 03302-2033
Tel. 603-271-1370
Fax 603-271-1381

WASTE MANAGEMENT DIV.
6 Hazen Drive
Concord, N.H. 03301
Tel. 603-271-2900
Fax 603-271-2456

WATER RESOURCES DIV.
64 No. Main Street
P.O. Box 2008
Concord, N.H. 03302-2008
Tel. 603-271-3406
Fax 603-271-6588

WATER SUPPLY & POLLUTION CONTROL DIV.
P.O. Box 95
Concord, N.H. 03302-0095
Tel. 603-271-3503
Fax 603-271-2867

Footnote #18

Footnote #18 on the bottom of Page 35 implies that process conditions anticipated for the majority of cyclone units will pose greater difficulties for the use of SCR than they did for PSNH's MK2. If your Workgroup was more familiar with the design and process conditions at MK2, they would quickly realize that the exact opposite is more the case. The choices of NOx control technology available for retrofit on MK2 were limited by the unique internal design of the unit. Many, if not most, other cyclone boilers will not face the daunting constraints that MK2 faced, and therefore will pose less of a challenge and will be less costly to retrofit. MK2 also faced difficluties in retrofit due to the limited physical space available for installation of the SCR system. In addition, overall installation costs for the SCR system were increased due to the incredibly short time schedule (only 12 total months from design to operation, divided almost equally between design and installation) for installing the SCR prior to New Hampshire's May, 1995 NOx RACT deadline.

Furthermore, it is critical to note that the SCR system installed at MK2 was sized large enough so that only additional catalyst need be added to meet Phase II NOx control requirements. Therefore, the reported capital costs include most of the fixed costs for Phase II compliance. While the overall reactor layout might be classified by some as presenting a moderate degree of difficulty, I would suggest that the opinions of the engineers responsible for the design and installation of this SCR and a review of its footprint drawings would lead one to the conclusion that the degree of difficulty was substantially understated. It should also be noted that the distances between MK2's boiler and its electrostatic precipitator (ESP), and between the ESP and MK2's stack, are severely limited.

In addition, New Hampshire objects to the use of the words "artificially low" in reference to the calculated removal cost per ton. While the initial baseline may have been as high as 2.6 lbs/MMBTU, PSNH was able, through the application of operational changes, to reduce the uncontrolled emission rate to 2.0 lbs/MMBTU prior to SCR, and it still was determined that the installation of SCR was economically feasible and therefore RACT.

Overall

My overall impression of the information presented is that:

1. It is biased and inaccurate in its implication that NOx RACT is limited to low NOx burners and/or low NOx burners with overfire air;

2. It overstates the costs for fuel switching; and

3. It overstates the costs for the installation of SCR on MK2; and

4. It implies that other facilities using cyclone boilers would encounter greater difficulties with SCR than MK2.

I suggest that the authors revisit the database, review the recently released joint EPA/MARAMA/NESCAUM report "Phase II NOx Controls for the MARAMA and NESCAUM Regions", and collect additional information from sources located not only in the U.S., but overseas in Germany and Japan where SCR has been used successfully, and economically, for many years. It is now clear that SCR can be easily implemented on U.S. coal burning units at costs well under $2,500/ton.

In short, New Hampshire has debunked the myth that SCR cannot work on U.S. coal. New Hampshire has also has debunked the myth that SCR cannot work on wet-bottomed, coal-fired, cyclone boilers. How many more myths have to be debunked before adequate NOx controls will be installed on utility boilers upwind of New Hampshire?

Please feel free to contact my staff if you need any help in securing the NOx emissions data recommended above, or if you have any questions about these comments.

Sincerely,

Kenneth A. Colburn

Kenneth A. Colburn
Director
Air Resources Division

KAC/AMB/jtf

cc: Gov. Stephen Merrill
Rep. Jeff MacGillivray, NH Legislature
Bob Varney, NH Commissioner
Mary Gade, IL Commissioner
Don Schregardus, OH Commissioner
Bob Shinn, NJ Commissioner
Jason Grumet, NESCAUM
Bruce Carhart, OTC
Mary Nichols, US EPA
John Seitz, US EPA
John DeVillars, EPA-New England
Susan Studlien, EPA-New England
Carl DeLoi, EPA-New England
Marilyn Eckert or Lynne Dayton, Walcoff & Associates (for distribution to Workgroup Members)

OhioEPA
State of Ohio Environmental Protection Agency

P. Box 1049, 1800 WaterMark Dr
Columbus, Ohio 43266-0149
(614) 644-3020
FAX (614) 644-2329

George V. Voinovich
Governor

Donald R. Schregardus
Director

September 23, 1994

Mr. David G. Ellison
Manager Environmental Engineering
American National Can
2301 Industrial Drive
P.O. Box 702
Neenah, Wisconsin 54957-0702

Dear Mr. Ellison:

I am responding to your August 1, 1994 letter regarding the regulatory requirements for the generation of ozone emissions from corona treaters. The corona treaters are used to impact an electrostatic charge to film substrates.

Your August 1 letter posed the following questions:

1. Are ozone emissions from corona treaters regulated under the Clean Air Act?

2. If the emissions are regulated is a permit required?

3. If the emissions are regulated are controls required?

Under the Clean Air Act, the U.S. EPA has developed a National Ambient Air Quality Standard (NAAQS) for ozone, and consequently is considered to be a regulated pollutant. Due to the fact that other pollutants contribute to the development of ozone, it was necessary to develop regulations for these pollutants in order to control ozone formation. The regulated pollutant for ozone is the volatile organic compound (VOC). As your letter acknowledges, there are different ways in which ozone can be formed (e.g. photochemically generated ozone, and ozone generated naturally by lightning). It is important to note, however, that once formed, photochemical ozone and natural ozone are indistinguishable. In other words, once ozone is in the air neither a person's lungs nor an ambient air monitor would be able to distinguish the origin of the ozone.

It is a separate issue whether a permit is required for ozone generators. The Ohio EPA has previously issued permits for sources of ozone. While we do not have specific State regulations which address ozone emissions, our Permit to Install (PTI) rules (Ohio Administrative Code (OAC) Chapter 3745-31) define "air contaminant" to mean particulate matter, dust, fumes gas, mist, smoke, vapor, or odorous substances, or any combination thereof. Clearly, ozone falls under this definition

and hence new sources of ozone are required to obtain a PTI (unless the source is specifically exempted under the new "De Minimus" exemption - OAC 3745-15-05). Consequently, ozone generators (regardless of the method in which ozone is formed) are not excluded from complying with any pertinent regulatory requirements.

One of the requirements for obtaining a PTI in the State of Ohio is that the company must utilize the Best Available Technology (BAT) in order to insure that air contaminant emissions will be controlled to the maximum extent possible. It is true that the Ohio EPA does not currently have any State regulations which require ozone generators to meet certain standards. However, the primary goal of our agency is to ensure that there will not be a violation of the NAAQS. Clearly, it would not be acceptable to allow an ozone emission source to cause a violation of the ozone standard. Consequently, depending on the amount of ozone generated, add-on pollution controls may be required to satisfy both the BAT requirement as well as to insure that there will not be a violation of the NAAQS.

Based on the above analysis, it is the determination of this agency that the corona treaters employed at your facility do in fact constitute an "air contaminant source" as defined in OAC Rule 3745-31-01(D), and consequently American National Can is required to obtain the appropriate air permits (i.e. PTI and Permit to Operate) in order to legally operate these units.

If you have any questions in regards to this determination, please contact Mr. Michael Hopkins who is the Section Manager of the Air Quality Modeling & Planning Section within the Division of Air Pollution Control at (614)644-2270.

Sincerely,

Robert Hodanbosi

Robert F. Hodanbosi, P.E.
Chief,
Division of Air Pollution Control

RFH/MH/JB

cc: Michael Hopkins, AQM&P
Don Cavote, CDO

OhioEPA INTER-OFFICE COMMUNICATION

Ohio Environmental Protection Agency
Central Office, Division of Air Pollution Control

LAA Directors and District Air Unit Supervisors

FROM: Michael Hopkins, P.E.
Manager, Air Quality Modeling and Planning Section

DATE: February 22, 1996

Source Compliance with $SO_2$ FIP Emission Limits

---

This is a reminder that sources in several areas of Ohio may have two sulfur dioxide emission rates, one from OAC 3745-18 and another in the federally developed implementation plan WHERE USEPA HAS NOT APPROVED THE STATE LIMITS. In cases where these limits are different sources must comply with BOTH limits (See Engineering Guide #2, attached).

A list of counties or individual facilities having unapproved State limits is also attached. Please review this list and confirm that current operating permits for the affected sources require compliance with all $SO_2$ emission limits.

As an example: The Butler County $SO_2$ State Plan (OAC 3745-18-15) was not approved by USEPA. Thus, sources in Butler County must currently comply with the emission limits in the State Plan AND any applicable federal limits in 40 CFR 52.1881(b)(17). [Note: While new emission limits for Butler County are being developed for eventual federal approval, the existing federal limits remain effective until final approval of the revised State Plan by USEPA.]

If you have any questions regarding $SO_2$ requirements, please contact either Tom Tucker, at (614)644-3699, or myself, at (614)644-3611. Thank you.

cc: Bob Hodanbosi, DAPC
Jim Orlemann, DAPC
Safaa El-Oraby, DAPC
Alan Lloyd, DAPC
Misty Parsons, DAPC

Ohio EPA

Division of Air Pollution Control

Engineering Section

Engineering Guide #2

Question:

Can a permit to operate be issued to a source which is currently in compliance with Ohio EPA sulfur dioxide regulations but which is not in compliance with applicable U.S. EPA sulfur dioxide regulations? (This question was submitted by Don Moline, of the Toledo Environmental Services Agency, on October 19, 1979.)

Answer:

No.

A permit to operate is required in order to operate an air contaminant source, unless that source is granted a variance under OAC rule 3745-35-03 or exempted under rule 3745-35-05. A permit to operate may be issued only if it has been determined that the source is in "compliance with applicable air pollution control law." The issue presented here is whether or not "applicable air pollution control law," as used in OAC rule 3745-35-02(C)(1), also encompasses the applicable U.S. EPA rules and regulations.

The term "applicable air pollution control law" is defined in OAC rule 3745-35-01(B)(2) to include "Chapter 3704. and 3745. of the Ohio Revised Code, as amended; rules and orders of the Ohio environmental protection agency; the Clean Air Act, as amended; and rules and regulations of the administrator of the United States environmental protection agency." Therefore, a permit to operate cannot be granted to a source unless that source is in compliance with both the currently effective Ohio EPA and U.S. EPA sulfur dioxide limitations.

EL/JO/vs

December 13, 1979

(reviewed & revised March 19, 1986)

## USEPA SO2 SIP APPROVAL STATUS (FIP AREAS)

Counties where USEPA has taken "No Action" or has "Disapproved" the Ohio SO2 SIP for the entire county.

Butler County
**** Cuyahoga County
Franklin County
Mahoning County
Stark County
**** Summit County

Counties where USEPA has taken "No Action" or has "Disapproved" the Ohio SO2 SIP for specified facilities.

Adams County: DPL Stuart Plant
Allen County: Cairo Chemical
Clermont County: CGE Beckjord Plant
**** Coshocton County: CSPC Conesville Plant
**** Gallia County: OVEC Kyger Creek Plant
OP Gavin Plant
**** Lake County: Ohio Rubber
CEI Eastlake Plant
Painesville Municipal, Boiler #5
Lawrence County: Allied South Point Plant
**** Lorain County: OE Edgewater Plant
CEI Avon Lake Plant
US Steel, Lorain Plant
BF Goodrich
Lucas County: Gulf Oil
Coulton Chemical
Phillips Chemical
Sun Oil
Montgomery County: Miami Paper
Bergstrom Paper
Pike County: Portsmouth Gaseous Diffusion Plant
(??? Ross County: Mead Corporation )
(??? Sandusky County: Martin Marietta )
Washington County: Shell Chemical
Wood County: Libby-Owens-Ford Plant Numbers 4,6, and 8

(???) These facilities are excepted from the Approval list, but are on neither the "No Action" nor the "Disapproval" lists
**** Nonattainment Area

[JTT:SO2FIP-4/5/94]

OhioEPA
State of Ohio Environmental Protection Agency

P.O. Box 163669, 1800 WaterMark Dr.
Columbus, Ohio 43216-3669
(614) 644-3020
FAX (614) 644-2329

George V. Voinovich
Governor

JAN 2 3 1996

# INTER OFFICE COMMUNICATION

DATE: ~~April 25~~ May 3, 1995

TO: District Offices and Local Air Agencies

FROM: Mike Hopkins - Manager, Air Quality Modeling and Planning Section

SUBJECT: Procedure to permit portable air pollution emissions units (sources) that request pre-approvals from Ohio EPA

On October 8th, 1993, the Director of the Ohio EPA signed the latest version of OAC rule 3745-31-05(F) which incorporated additional flexibility for the permitting of portable emissions units (sources). This flexibility allows owners or operators of portable emissions units to obtain pre-approvals from the Ohio EPA for new sites/locations other than their current or initial site. These pre-approvals would allow them to move quickly from one site to another without having to wait to obtain a new permit for and/or permission to locate and operate at each new site. This procedure is not applicable to portable thermal soil remediation emissions units.

DAPC has now developed the procedures necessary to implement this program. This memo is intended to provide the Local and District offices with the information they need to process site pre-approvals.

Attached are two documents. First, is a copy of a handout which field offices can distribute to companies who might want to relocate a portable source (Procedures for Obtaining Pre-approved Sites for Portable Air Pollution Emission Units (Sources)). This document explains the procedures which must be followed in order to get sites pre-approved. All field office staff should review this document carefully and fully understand the procedures.

Second, is a copy of the form field offices should use to process site approval requests (Recommendation for Obtaining Pre-approved Sites for Portable Air Pollution Emissions Units (Sources)). This form should be filled out completely and submitted to Clara Dailey, PMU for each site approval request. Clara's group will process it and issue either an approval or denial letter.

In deciding whether to recommend approval or denial, please review the requirements under OAC rule 3745-31-05(F) carefully. Make sure all of the requirements are met before recommending approval.

If you have any questions concerning this handout, please call Alan Lloyd at (614) 644-3613.

MH/all

Attachments

cc: Bob Hodanbosi, DAPC
Jeanne Mallett, DAPC
Clara Dailey, DAPC
Misty Parsons, DAPC
Jim Braun, DAPC
Tom Rigo, DAPC
Jim Orlemann, DAPC

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George V. Voinovich
Governor

# PROCEDURES FOR OBTAINING PRE-APPROVED SITES FOR PORTABLE AIR POLLUTION EMISSIONS UNITS (SOURCES)

On October 8th, 1993, the Director of the Ohio EPA signed the latest version of OAC rule 3745-31-05(F) which incorporated additional flexibility for the permitting of portable emissions units (sources). This flexibility allows owners or operators of portable emissions units to obtain pre-approvals from the Ohio EPA for new sites/locations other than their current or initial site. These pre-approvals would allow them to move quickly from one site to another without having to wait to obtain a new permit for and/or permission to locate and operate at each new site.

The purpose of this handout is to provide clarification and guidance for the owners or operators of these types of emissions units when applying for pre-approved site approval. This procedure is not applicable to portable thermal soil remediation emissions units.

To obtain the necessary site approval from Local Air Agencies and Ohio EPA's District Offices, the owners or operators of these types of emissions units must employ the following procedure (See **Attachment A** for a flow diagram of the procedure):

Step 1:

If you (the owner or operators) do not have current Ohio EPA air permit(s) to install and operate, then you must first obtain these permits. To do this contact the field office that has jurisdiction over your facility (your home office location defines the field office jurisdiction). They will guide you in this process. See **Attachment B** for a map of the field office jurisdictions. (Note: The electronic version of this guidance will not have the map. Instead, you can use **Attachment E** to determine which field office is responsible for your facility.) If your home office is located out of state, then use the home office address submitted to the Secretary of State for registering your operations in the State of Ohio.

Step 2:

Select the sites that you want to get pre-approved.

Step 3:

Obtain permission and approval from the owner of the property of the new site(s) where you plan on locating your emission unit(s). This documentation can be obtained by filling out the attached "Portable Emissions Units New Site Owner Approval Form" (**Attachment C**). Instead of



Printed on recycled paper
EPA 1613 (rev. 5/94)

using this specific form a letter containing the same information as is required by the form is acceptable.

Step 4:

Publish a notice in each local paper that publishes in the county where you plan to relocate. This notice alerts all interested parties that you desire to obtain a site pre-approval. An example of the required notice is attached as **Attachment D**. This notice must be published in a specific newspaper. To determine which newspaper first determine the county number from **Attachment E**. (The county number is in parenthesis under "Political Jurisdiction".) Then determine the newspaper using **Attachment F**. (Note, the electronic version of these instructions will not have Attachement F. You must contact Sara Geary at (614) 644-3627 to obtain a copy or to ask which newspaper to use.)

Step 5:

Submit to the Ohio EPA field office (Local Air Agencies and Ohio EPA's District Office) a request for permission to pre-approve the new site(s). This submission must include the following documentation:

1. A copy of the permit application for all air contaminant emissions units that will be operated at the current and or initial site and a list of proposed sites and equipment to be operated at the proposed sites

2. A copy of any current Ohio EPA air permit(s) to install and operate.

3. A demonstration that the emissions units to be operated at the proposed site(s) are equipped with Best Available Technology (BAT). BAT is a requirement under Ohio Administrative Code rule 3745-31-05 for all new emissions units. Most permits to install define BAT. For the purposes of this demonstration, an explanation that the emissions units will continue to employ BAT as defined in the permit to install is sufficient. If you do not understand what BAT is for your emissions units, then discuss this issue with your Ohio EPA field office (Local Air Agencies and Ohio EPA's District Offices) representative.

4. A demonstration that the owner of each proposed site has provided the emissions unit owner with approval or equivalent declaration that it is acceptable to the site owner to move the emissions unit to this proposed site(s). (The attached Portable Emissions Unit New Site Owner Approval Form or equivalent signed letter is acceptable.)

5. The proof of publication of the public notice(s) for each new site. (This documentation is usually sent by the newspaper after the notice is published to the person who request a public notice be inserted into the newspaper. If documentation is not sent by the newspaper,

then the owner or operator can obtained this documentation from the newspaper.)

Step 6:

Wait for the Ohio EPA to issue an approval letter for the site. Each approval notice will be issued with a bill for a $100.00 dollar processing fee. Site approval letter(s) are valid for three years and must be renewed.

Step 7: *(This step can only be done after you have received an approval letter from the Ohio EPA.)*

Notify the Ohio EPA field office (Local Air Agencies and Ohio EPA's District Office) which has jurisdiction (see Attachment B) over the new site(s) at least 15 days before you desire to move the emissions unit(s) to the new site(s). If after the fifteen (15) day notification period, no response to the request is received, the emissions unit may be moved to the new location and operation may commence (i.e., you do not have to wait on "permission" from the District Office or Local Air Agency once the fifteen day notification period expires).

Common Questions and Answers

Question: *What happens if a site approval request is not approved?*

Answer: *Any denial of a site approval request will be a proposed action and will include an explanation of the reason for the denial. You may contact the field office (Local Air Agencies and Ohio EPA's District Office) for additional clarification on the reasons for the denial. If you still believe the site should be approved, then you should appeal the decision. The appeal must be done within 30 days of the proposed denial letter and should be submitted to the Environmental Board of Review.*

Question: *If 5 contractors apply to get approval for one site (only one would get the job), can they go together and put one notice in the paper?*

Answer: *Yes, it would be the responsibility of all of the owners to go together to do the combined notice. (This would save on the cost of the public notice.)*

Question: *Could the 5 contractor's share the cost of the $100.00 fee associated with the approved sites?*

Answer: *No. Each would have to pay the $100 fee.*

Question: *Can I move my portable emissions unit 15 days after I first apply to get a site pre-approved?*

nswer: *No. You must first get the sites approved before you move. The 15 day notice is only after you have obtained the site pre-approval.*

Question: *If I move my portable emissions unit before obtaining approval what will happen?*

Answer: *This is a violation of air pollution rules and regulations. You are subject to possible fines and penalties.*

If you have any questions concerning this procedure, please contact one of the field offices listed in **Attachment B** or **Attachment E**.

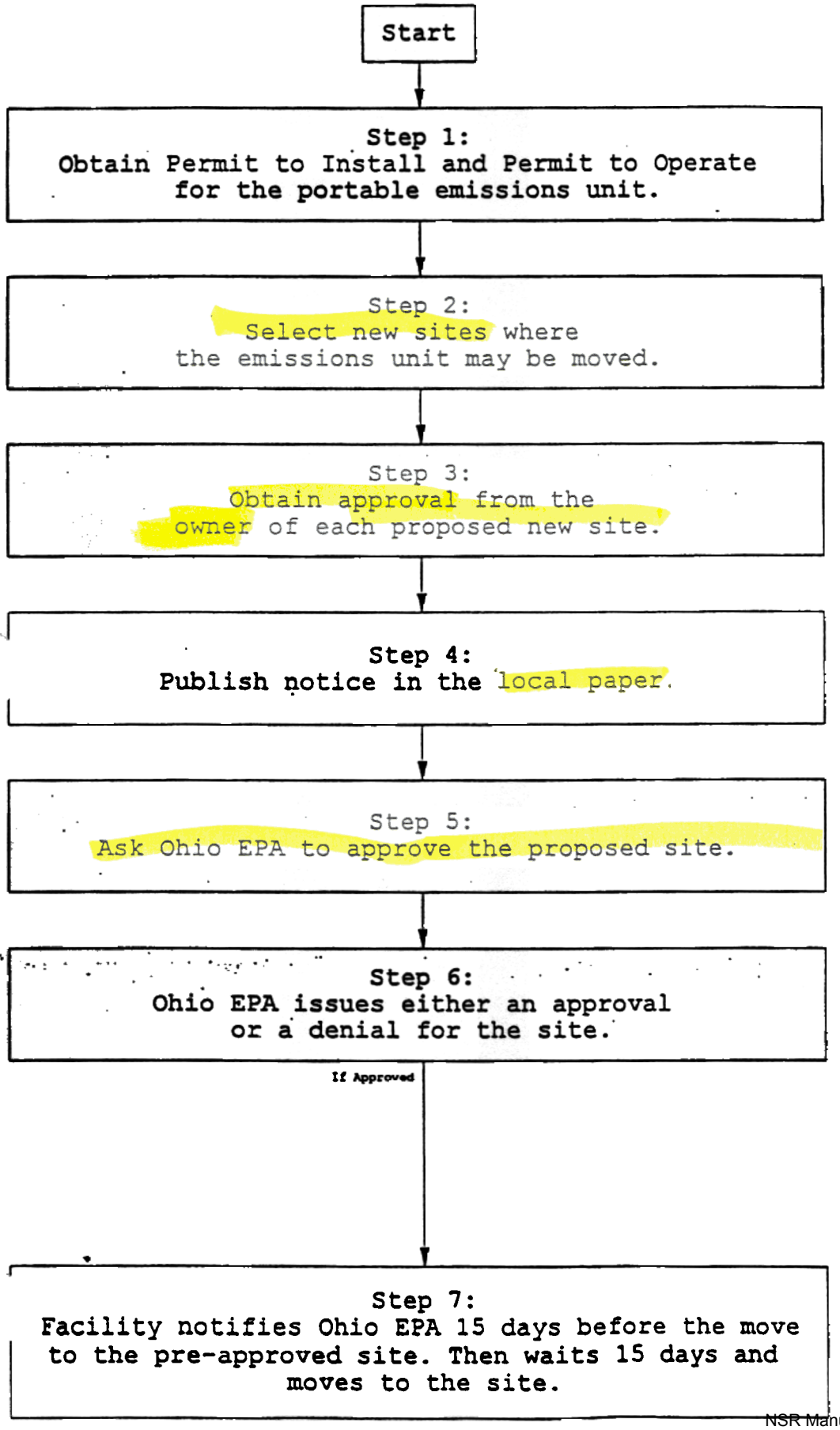
MEH/ALL/

Attachments

**04/25/95**
**\portable\portable.ins**

# Portable Emissions Unit (Source) Site Authorization Preceedure

Attachment A




MEM/
portable.cht

# AIR PERMIT REVIEW AGENCIES

This map shows jurisdictional boundaries. Shaded areas represent local agencies within Ohio EPA districts.

## Local Air Pollution Control Agencies

**Lynn Malcolm, Administrator**
Akron Regional Air Quality Management District
177 South Broadway
Akron, Ohio 44308
(216) 375-2480 FAX#(216) 375-2402

**Bruce Blankenship, Administrator**
Air Pollution Control Division
Canton City Health Dept.-City Hall
420 Market Ave. North
Canton, Ohio 44702-1544
(216) 489-3385 or 489-3231
FAX#(216) 489-3335

**Cory Chadwick, Program Manager**
Dept. of Environmental Services
Air Quality Programs
1632 Central Parkway
Cincinnati, Ohio 45210
(513) 651-9437 FAX#(513) 651-9528

**Robert Stalb, Deputy Commissioner**
Division of the Environment
Dept. of Public Health & Welfare
1925 St. Clair
Cleveland, Ohio 44114
(216) 664-2324 FAX#(216) 664-2197

**John Paul, Director**
Regional Air Pollution Control Agency
Montgomery County Health Dept.
451 West Third Street
P.O. Box 972
Dayton, Ohio 45422
(513) 225-4435 FAX#(513) 225-3486

**Don Walden, Director**
Air Pollution Unit
Portsmouth City Health Dept.
740 Second St.
Portsmouth, Ohio 45662
(614) 353-5156 FAX#(614) 353-3638

**Pat DeLuca, Director**
North Ohio Valley Air Authority
814 Adams St.
Steubenville, Ohio 43952
(614) 282-3908
Ask to FAX a document

**Lee Pfouts, Acting Commissioner**
City of Toledo Division of Pollution Control
25 Main St.
Toledo, Ohio 43605
(419) 936-3015 FAX#(419)936-3016

## OhioEPA District Offices

**CDO** — **Don Cavote, APC Supervisor**
Central District Office
3232 Alum Creek Drive
Columbus, Ohio 43207-3417
(614) 728-3778 FAX#(614) 728-3898

**SEDO** — **Fred Klingelhafer, APC Supervisor**
Southeast District Office
2195 Front St.
Logan, Ohio 43138
(614) 385-8501 FAX#(614) 385-6490

**NEDO** — **Dennis Bush, APC Supervisor**
Northeast District Office
2110 E. Aurora Rd.
Twinsburg, Ohio 44087
(216) 425-9171 FAX#(216) 487-0769

**NWDO** — **Gerald Rich, APC Supervisor**
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
(419) 352-8461 FAX#(419) 352-8468

**SWDO** — **Phil Hinrichs, APC Supervisor**
Southwest District Office
401 E. Fifth St.
Dayton, Ohio 45402-2911
(513) 285-6357 FAX#(513) 285-6249

Attachment C

# Portable Emissions Unit (Source) New Site Owner Approval Form

***Background/Instructions***

***Under Ohio Administrative Code 3745-31-05(F), facilities that operate portable air pollution emissions units (sources) can get new sites pre-approved. This pre-approval allows companies to move the portable emissions unit to the new site in as little as 15 days. This process eliminates the sometimes lengthy approval time normally needed to get sites approved.***

*One of the requirements for site pre-approval is for the proposed site owner to give his/her permission to move the portable emissions unit to the site. This form is an approved method to document the site owner's granting of this permission.*

***This form can be filled out** by **the** portable emissions unit **owner but must** be signed and dated by the proposed site owner.*

---

I, _____(Site Owner), owner of the

site located at _____ (Street),

_____ (City) do hereby give

_____ (Portable Emissions Unit Owner)

permission to locate the following air pollution emissions unit

on the above property:

Emissions Unit Description: _____

_____

Ohio EPA Facility ID Number: _____

Signed: _____ Date:

MEH/
portable/siteaprv

*SAMPLE PUBLIC NOTICE LETTER FOR PORTABLE EMISSIONS UNIT ADVERTISEMENTS - TO BE SENT TO THE NEWSPAPER LOCATED IN THE COUNTY OF THE PROPOSED SITE (S).*

<date>

<newspaper>
Legal Notice Department
<street>
<city>, <state> <zip>

Dear Sir:

Please print the attached public notice of the Ohio Environmental Protection Agency one time in the Legal Section of your newspaper the week of receipt, or as soon as possible, using the minimum space necessary in the Legal Section.

The bill for the advertisement cost should be submitted to:

<facility contact>
<facility name>
<facility address>

Please send TWO notarized copies of "Proof of Publication" to the address below.

Hearing Clerk
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

Please send one (1) notarized copy of "Proof of Publication" to myself at the above address.

Please telephone at <facility phone> if you have any questions concerning this matter.

Sincerely,

<facility contact>
<facility Name>

Attachment

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*SAMPLE PUBLIC NOTICE FOR PORTABLE EMISSIONS UNIT ADVERTISEMENTS - TO BE SENT TO THE NEWSPAPER LOCATED IN THE COUNTY OF THE PROPOSED SITE.*

<county> COUNTY
PUBLIC NOTICE

The following were received/prepared by the Ohio Environmental Protection Agency (OEPA) last week. Effective dates of final actions and issuance dates of proposed actions are stated. Final actions may be appealed in writing within 30 days of the date of this notice to the Environmental Board of Review, Room 300, 236 East Town Street, Columbus, OH 43215. Notice of any appeal shall be filed with the Director within 3 days after the appeal to EBR. Proposed actions will become final unless a written adjudication hearing request is submitted within 30 days of the issuance date, or the Director revises/withdraws the proposed action. Any person may submit comments and/or request a meeting regarding any non-final action within 30 days of the date indicated. "Action", as used above, does not include receipt of a verified complaint. If significant public interest exists, a public meeting may be held. As to any action, including receipt of verified complaints, any person may obtain notice of further actions and additional information. Unless otherwise provided in notices of particular actions, all communications shall be sent to: Hearing Clerk, OEPA, P.O. Box 1049, Columbus, OH 43216-1049, phone number (614) 644-2129. Consult ORC Chapter 3745 and OAC Chapters 3745-47-12 and 3746-5 for requirements.

NOTICE OF INTENT TO RELOCATE A PORTABLE EMISSIONS UNIT
<COMPANY NAME>
<STREET>
<CITY>, OH <ZIP>
FACILITY DESCRIPTION: AIR
EQUIPMENT DESCRIPTION: <DESCRIPTION>
APPLICATION NO. 00-0000
DATE OF INTENT TO RELOCATE: <DATE>
COMMENTS TO: OHIO EPA, <DISTRICT OFFICE>, AIR POLLUTION GROUP, <DISTRICT ADDRESS>

# OHIO EPA DISTRICT OFFICES & :AL AIR POLLUTION CONTROL AGENCIES

**AGENCY NUMBER**

01. *Ohio EPA, CDO*
Air Pollution Group
3232 Alum Creek Drive
PO Box 163669
Columbus, Ohio 43216-3669
(614) 728-3778

02. Ohio EPA, NEDO
Air Pollution Group
2110 East Aurora Road
Twinsburg, Ohio 44087
(216) 425-9171

03. Ohio EPA, NWDO
Air Pollution Group
347 North Dunbridge Road
PO Box 466
Bowling Green, Ohio 43402
(419) 352-8461

04. Toledo Environmental Control
26 Main Street
Toledo, Ohio 43605
(419) 936-3015

05. Ohio EPA, SWDO
Air Pollution Group
401 East Fifth Street
Dayton, Ohio 45402-2911
(513) 285-6357

06. Ohio EPA, SEDO
Air Pollution Group
2195 Front Street
Logan, Ohio 43138
(614) 385-8501

**AGENCY NUMBER**

07. *Air Pollution Group*
Portsmouth City Health Dept.
740 Second Street
Portsmouth, Ohio 45662
(614) 353-5156

08. RAPCA
451 West Third Street
PO Box 972
Dayton, Ohio 45422
(513) 225-4435

13. Bureau of Engineering Services
Div. of Air Pollution Control
1925 St. Clair
Cleveland, Ohio 44114
(216) 664-2324

14. Dept. of Environmental Services
Air Quality Program
1632 Central Parkway
Cincinnati, Ohio 45210
(513) 651-9437

15. Div. of Air Pollution Control
Canton City Health Dept.
420 Market Avenue, N.
Canton, Ohio 44702-1544
(216) 489-3385 or 489-3231

16. Air Pollution Control
177 South Broadway
Akron, Ohio 44308
(216) 375-2480

17. North Ohio Valley Air Authority - NOVAA
814 Adams
Steubenville, Ohio 43952
(614) 282-3908 or 282-3303

**Ohio EPA**

following list indicates which local agency or district office uld be contacted regarding filing for, modification to, or questi about air ...mits to Install, Permits to Operate and Variances.

| POLITICAL JURISDICTION | AGENCY NUMBER | POLITICAL JURISDICTION | AGENCY NUMBER |
|---|---|---|---|
| Adams County (01) | 7 | Licking County (45) | 1 |
| Allen County (02) | 3 | Logan County (46) | 5 |
| Ashland County (03) | 3 | Lorain County (47) | 2 |
| Ashtabula County (04) | 2 | Lucas County (48) | 4 |
| Athens County (05) | 6 | Madison County (49) | 1 |
| Auglaize County (06) | 3 | Mahoning County (50) | 2 |
| Belmont County (07) | 17 | Marion County (51) | 3 |
| Brown County (08) | 7 | Medina County (52) | 16 |
| Butler County (09) | 14 | Meigs County (53) | 6 |
| Carroll County (10) | 17 | Mercer County (54) | 3 |
| Champaign County (11) | 5 | Miami County (55) | 8 |
| Clark County (12) | 8 | Monroe County (56) | 17 |
| Clermont County (13) | 14 | Montgomery County (57) | 8 |
| Clinton County (14) | 5 | Morgan County (58) | 6 |
| Columbiana County (15) | 17 | Morrow County (59) | |
| Coshocton County (16) | 6 | Muskingum County (60) | 6 |
| Crawford County (17) | 3 | Noble County (61) | 6 |
| Cuyahoga County (18) | 13 | Ottawa County (62) | 3 |
| Darke County (19) | 8 | Paulding County (63) | 3 |
| Defiance County (20) | 3 | Perry County (64) | 6 |
| Delaware County (21) | 1 | Pickaway County (65) | 1 |
| Erie County (22) | 3 | Pike County (66) | 6 |
| Fairfield County (23) | | Portage County (67) | 16 |
| Fayette County (24) | | Preble County (68) | 8 |
| Franklin County (25) | | Putnam County (69) | 3 |
| Fulton County (26) | 3 | Richland County (70) | 3 |
| Gallia County (27) | 6 | Ross County (71) | 6 |
| Geauga County (28) | 2 | Sandusky County (72) | 3 |
| Greene County (29) | 8 | Scioto County (73) | 7 |
| Guernsey County (30) | 6 | Seneca County (74) | 3 |
| Hamilton County (31) | 14 | Shelby County (75) | 5 |
| Hancock County (32) | 3 | Stark County (76) | 15 |
| Hardin County (33) | 3 | Summit County (77) | 16 |
| Harrison County (34) | 17 | Trumbull County (78) | 2 |
| Henry County (35) | 3 | Tuscarawas County (79) | 6 |
| Highland County (36) | 5 | Union County (80) | |
| Hocking County (37) | 6 | Van Wert County (81) | 3 |
| Holmes County (38) | 2 | Vinton County (82) | 6 |
| Huron County (39) | 3 | Warren County (83) | 14 |
| Jackson County (40) | 6 | Washington County (84) | 6 |
| Jefferson County (41) | 17 | Wayne County (85) | 2 |
| Knox County (42) | 1 | Williams County (86) | 3 |
| Lake County (43) | 2 | Wood County (87) | 3 |
| Lawrence County (44) | 7 | Wyandot County (88) | 3 |

Attachment E

County # in ( )

# NEWSPAPERS

(01) **ADAMS**

The Peoples Defender
Legal Notice Dept.
P.O. Box 308
West Union, OH 45693
(513) 544-2391 #31-4278390
FAX (513) 544-2298

(02) **ALLEN**

The Lima News
Legal Notice Dept.
121 E. High St.
Lima, OH 45802
(419) 223-1010 #34-4466918
FAX (419) ~~229-0436~~ 222-6696

(03) **ASHLAND**

Ashland Times-Gazette
Legal Notice Dept.
40 E. Second St.
Ashland, OH 44805
(419) 281-0581 #34-0970410
FAX (419) 281-5591

(04) **ASHTABULA**

The Star Beacon
Legal Notice Dept.
4626 Park Ave.
Ashtabula, OH 44004
(216) 998-2323 #36-3619423
FAX (216) 992-9655

05) **ATHENS**

The Athens Messenger
Legal Notice Dept.
Route 33 N. & Johnson Rd.
Athens, OH 45701
(614) ~~592-4647~~ #31-4119320
592-6612 FAX (614) 592-4647

(06) **AUGLAIZE**

Wapakoneta Daily News
Legal Notice Dept.
P.O. Box 389
Wapakoneta, OH 45895
(419) 738-2128 #34-1602755
FAX (419) 738-5352

(07) **BELMONT**

The Times-Leader
Legal Notice Dept.
200 S. 4th St.
Martins Ferry, OH 43935
(614) 633-1131 #31-1006388
FAX (614) 633-1122

(08) **BROWN**

The News Democrat
Legal Notice Dept.
P.O. Box 149
Georgetown, OH 45121
(513) 378-6161 #31-0226040
FAX (513) 378-2004

(09) **BUTLER**

Hamilton Journal News
Legal Notice Dept.
228 Court St. ~~& Journal Sq./POB 298~~
Hamilton, OH ~~45012~~ 45011
(513) 863-8200
FAX (513) 863-7988

(10) **CARROLL**

Free Press Standard
Legal Notice Dept.
P.O. Box 37
Carrollton, OH 44615
(216) 627-5591 #34-1175334
FAX (216) 627-3195

Attachment F



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# NEWSPAPERS

(11) CHAMPAIGN

Urbana Daily Citizen
Legal Notice Dept.
220 E. Court St.
Urbana, OH 43078
(513) 652-1331 #31-0226480
FAX (513) 652-2448

(12) CLARK

Springfield Daily News
Legal Notice Dept.
202 N. Limestone St.
Springfield, OH 45503
(513) 323-3731 #31-0744851

(13) CLERMONT

The Clermont Sun WEEKLY on Thursday
Legal Notice Dept.
465 E. Main St.
Batavia, OH 45103 Cut-off 10AM Tuesday
(513) 732-2511 #31-0797356
FAX (513) 732-6344

(14) CLINTON

The News-Journal
Legal Notice Dept.
47 S. South St.
Wilmington, OH 45177
(513) 382-2574 #31-0226480
FAX (513) 382-4292

(15) COLUMBIANA

The Morning Journal
Legal Notice Dept.
308 W. Maple St.
Lisbon, OH 44432
(216) 424-9541 #34-012910
FAX " 0048" ~~Ext.~~ ~~245~~

(16) COSHOCTON

The Tribune
Legal Notice Dept.
550 Main St.
Coshocton, OH 43812
(614) 622-1122 #36-3514066
FAX (614) 622-7341

(17) CRAWFORD

Bucyrus Telegraph-Forum
Legal Notice Dept.
119 W. Rensselaer St., POB 471
Bucyrus, OH 44820
(419) 562-3333 #95-1140750
FAX (419) 562-9162

(18) CUYAHOGA

The Plain Dealer
Legal Notice Dept.
1801 Superior Ave.
Cleveland, OH 44114
(216) ~~344-4561~~ #34-0228575 216-999 4360
FAX (216) ~~694-6356~~ 999-6350

(19) DARKE

Greenville Daily Advocate
Legal Notice Dept.
309-11 S. Broadway, POB 220
Greenville, OH 45331
(513) 548-3151 #36-3514066
FAX (513) 548-3913

(20) DEFIANCE

Defiance Crescent-News
Legal Notice Dept.
624 W. 2nd St.
Defiance, OH 43512
(419) 784-5441 #34-4437590
FAX (419) 784-1492

# N E W S P A P E R S

(21) **DELAWARE**

The Delaware Gazette
Legal Notice Dept.
18 E. William St.
Delaware, OH 43015
(614) 363-1161 #31-4379756
FAX (614) 363-6262

(22) **ERIE**

Sandusky Register
Legal Notice Dept.
314 W. Market St.
Sandusky, OH 44870
(419) 625-5500 #34-4346500
FAX (419) 625-1137

(23) **FAIRFIELD**

Lancaster Eagle Gazette
Legal Notice Dept.
P.O. Box 848
Lancaster, OH 43130
(614) 654-1321 #36-3514066
FAX (614) 654-8271

(24) **FAYETTE**

The Record-Herald
Legal Notice Dept.
138 S. Fayette St.
Washington C.H., OH 43160
(614) 335-3611 #31-0226480
FAX (614) 335-~~5328~~ 5728

(25) **FRANKLIN**

Columbus Dispatch
Legal Notice Dept.
34 S. Third St.
Columbus, OH 43215
(614) 461-5019 #31-4166990
FAX (614) ~~870-1947~~
461-7583

(26) **FULTON**

Fulton County Expositor
Legal Notice Dept.
201 N. Fulton St.
Wauseon, OH 43567
(419) 335-2010 #34-4241340
FAX - ~~NO~~ 419 335-2030

(27) **GALLIA**

Gallipolis Daily Tribune
Legal Notice Dept.
825 Third Ave.
Gallipolis, OH 45631
(614) 446-2342 #31-4384817
FAX (614) 446-3008

(28) **GEAUGA**

Geauga Times Leader
Legal Notice Dept.
111 Water St.
Chardon, OH 44024
(216) 286-6101 #36-3436513
FAX (216) 286-7521

(29) **GREENE**

Xenia Daily Gazette
Legal Notice Dept.
37 S. Detroit St., POB 400
Xenia, OH 45385
(513) 372-4444 #36-3514066
FAX (513) 372-3385

(30) **GUERNSEY**

The Daily Jeffersonian
Legal Notice Dept.
P.O. Box 10
Cambridge, OH 43725
(614) 439-3531 #31-4218030
FAX (614) 432-6219

# NEWSPAPERS

(31) HAMILTON

The Cincinnati Enquirer
Legal Notice Dept.
617 Vine St.
Cincinnati, OH ~~45238~~ 45202
768-8184
(513) ~~721-2700~~ #06-1032273
FAX (513) ~~369-1841~~ 768-8350 8351

(32) HANCOCK

The Courier
Legal Notice Dept.
701 W. Sandusky St.
Findlay, OH 45840
(419) 422-5151 #34-4232610
FAX (419) 422-2937

(33) HARDIN

The Kenton Times
Legal Notice Dept.
P.O. Box 230
Kenton, OH 43326
(419) 674-4066 #34-4454724
FAX (419) 673-1125

(34) HARRISON

Harrison News Herald
Legal Notice Dept.
136 S. Main St.
Cadiz, OH 43907
(614) 942-2118 #34-1024392
FAX (614) 942-4667

(35) HENRY

Northwest-Signal
Legal Notice Dept.
P.O. Box 567
Napoleon, OH 43545
(419) 592-5055 #34-0972913
FAX (419) 592-9778

(36) HIGHLAND

Greenfield Times
Legal Notice Dept.
345 W. Jefferson St.
Greenfield, OH 45123
(513) 981-2141 #31-1120232
FAX (513) 981-2107

(37) HOCKING

Logan Daily News
Legal Notice Dept.
P.O. Box 758
Logan, OH 43138
(614) 385-2109 #31-0226480
FAX (614) 385-4514

(38) HOLMES

Holmes County Hub
Legal Notice Dept.
P.O. Box 151
Millersburg, OH 44654
(216) 674-1811 #34-0628530
FAX (216) 674-3780

(39) HURON

Norwalk-Reflector
Legal Notice Dept.
P.O. Box 71
Norwalk, OH 44857
(419) 668-3771 #34-4462401
FAX (419) 668-2424

(40) JACKSON

The Journal Herald
Legal Notice Dept.
295 Broadway St.
Jackson, OH 45640
(614) 286-2187 #31-4217070
FAX (614) 286-5854

# N E W S  P E R S

(41) JEFFERSON

The Herald Star
Legal Notice Dept.
401 Herald Sq.
Steubenville, OH 43952
(614) 283-4711 #36-3514066
FAX (614) 282-4261

(42) KNOX

Mt. Vernon News
Legal Notice Dept.
18 E. Vine St., POB 791
Mt. Vernon, OH 43050
(614) 397-5333 #31-4290300
FAX (614) 397-1321

(43) LAKE

Lake County News-Herald
Legal Notice Dept.
38879 Mentor Ave.
Willoughby, OH 44094
(216) 951-7653 #34-0365410
FAX (216) 951-0917

(44) LAWRENCE

The Ironton Tribune
Legal Notice Dept.
P.O. Box 647
Ironton, OH 45638
(614) 532-1441 #31-0969755
FAX (614) 532-1506

(45) LICKING

The Advocate
Legal Notice Dept.
22 N. 1st
Newark, OH 43055
(614) 345-4053 #36-3514066
FAX (614) 345-1634

(46) LOGAN

Bellefontaine Examiner
Legal Notice Dept.
P.O. Box 40
Bellefontaine, OH 43311
(513) 592-3060 #34-4491530
FAX (513) 592-4463

(47) LORAIN

The Chronicle Telegram
Legal Notice Dept.
225 East Ave.
Elyria, OH 44036
(216) 329-7000 #34-0365210
FAX (216) 329-7272

(48) LUCAS

Toledo Blade
Legal Notice Dept.
541 Superior St.
Toledo, OH 43660
(419) 245-6260 #34-4374555
FAX (419) 245-6438

(49) MADISON

The Madison Press
Legal Notice Dept.
305 Oak St.
London, OH 43140
(614) 852-1616 #31-0836703
FAX (614) 852-1620

(50) MAHONING

Youngstown-Vindicator
Legal Notice Dept.
P.O. Box 780
Youngstown, OH 44501-0780
(216) 747-1471 #34-0596870
FAX (216) 747-~~0399~~ 6712

# N E W S . A P E R S

(51) **MARION**

The Marion Star
Legal Notice Dept.
150 Court St.
Marion, OH 43302
(614) 387-0400 #36-3514066
FAX (614) 382-2210

(52) **MEDINA**

Medina County Gazette
Legal Notice Dept.
P.O. Box 407
Medina, OH 44258
(216) 725-4166 #34-0840712
FAX (216) 725-4299

(53) **MEIGS**

The Daily Sentinel
Legal Notice Dept.
111 Court St., POB 729
Pomeroy, OH 45769
(614) 992-2157 #31-4384817
FAX (614) 446-3008

(54) **MERCER**

The Daily Standard
Legal Notice Dept.
P.O. Box 140
Celina, OH 45822
(419) 586-2371 #34-4363370
FAX (419) 586-6271

(55) **MIAMI**

Troy Daily News
Legal Notice Dept.
224 S. Market St.
Troy, OH 45373
(513) 335-5634 #31-0579918
FAX (513) 335-3552

(56) **MONROE**

Monroe County Beacon
Legal Notice Dept.
P.O. Box 70
Woodsfield, OH 43793
(614) 472-0734 #34-1205746
FAX (614) 472-0745

(57) **MONTGOMERY**

Dayton Daily News
Legal Notie Dept.
455 Ludlow St.
Dayton, OH 45402
(513) 225-2105 #31-0744948
FAX (513) 225-~~3048~~ 7316

Must call to ensure receipt of fax (fax machine is across the street)

(58) **MORGAN**

Morgan County Herald
Legal Notice Dept.
P.O. Box 268
McConnelsville, OH 43756
(614) 962-3377 #31-0675699
FAX (614) 962-6861

(59) **MORROW**

Morrow County Sentinel
Legal Notice Dept.
P.O. Box 149
Mt. Gilead, OH 43338
(419) 946-3010 #34-1407588
FAX (419) 947-7241

(60) **MUSKINGUM**

The Times Recorder
Legal Notice Dept.
34 S. Fourth St.
Zanesville, OH 43701
(614) 452-4561 #36-2708765
FAX (614) 452-0750

# N E W S P A P E R S

(61) **NOBLE**

The Journal Leader
Legal Notice Dept.
P.O. Box 390
Caldwell, OH 43724
(614) 732-2341 #31-0954103
FAX - No

(62) **OTTAWA**

News Herald
Legal Notice Dept.
P.O. Box 550
Port Clinton, OH 43452
(419) 734-3141 #06-1032273

(63) **PAULDING**

Paulding Progress
Legal Notice Dept.
P.O. Box 180
Paulding, OH 45879
(419) 399-4015 #34-1503008
FAX - No

(64) **PERRY**

Perry County Tribune
Legal Notice Dept.
P.O. Box 312
New Lexington, OH 43764
(614) 432-4121 #34-1634***
FAX (614) 342-4204

(65) **PICKAWAY**

Circleville Herald
Legal Notice Dept.
P.O. Box 498
Circleville, OH 43113
(614) 474-3131 #31-0226480
FAX (614) 474-9525

(66) **PIKE**

The News Watchman
Legal Notice Dept.
P.O. Box 151 1-800-933-6502
Waverly, OH 45690
(614) 947-2149 #31-4217070
FAX (947-2140

(67) **PORTAGE**

The Record Courier
Legal Notice Dept.
P.O. Box 1201
Ravenna, OH 44266
(216) 296-9657 #34-1090825
FAX (216) 296-2698

(68) **PREBLE**

The Register Herald
Legal Notice Dept.
P.O. Box 120
Eaton, OH 45320
(513) 456-5555 #31-0226480
FAX (513) 456-3558

(69) **PUTNAM**

Putnam County Sentinel
Legal Notice Dept.
P.O. Box 149
Ottawa, OH 45875
(419) 523-5709 #34-16347***
FAX - No

(70) **RICHLAND**

Mansfield News-Journal
Legal Notice Dept.
70 W. 4th St.
Mansfield, OH 44901
(419) 522-3311 #34-0376030
FAX (419) 522-~~2673~~ 2672

# NEWS PERS

71) ROSS
Chillicothe Gazette
Legal Notice Dept.
50 W. Main St.
Chillicothe, OH 45601
(614) 773-2111 #06-1032273
FAX (614) 773-2160

(72) SANDUSKY
Fremont News Messenger
Legal Notice Dept.
1700 Cedar St.
Fremont, OH 43420
(419) 443-5511 #06-1032273
FAX (4199) 332-9750

(73) SCIOTO
The Portsmouth Times
Legal Notice Dept.
P.O. Box 581
Portsmouth, OH 45662
(614) 353-3101
FAX (614) 353-7280

(74) SENECA
The Advertiser Tribune
Legal Notice Dept.
320 Nelson St., POB 778
Tiffin, OH 44883
448-3200. (419) ~~447-4455~~ #91-0899968
FAX (419) 447-3274

(75) SHELBY
Sidney Daily News
Legal Notice Dept.
911 Vande Mark Rd.
Sidney, OH 45365
(513) 498-2111 #34-4355690
FAX (513) 498-2006

(76) STARK
The Canton Repository
Legal Notice Dept.
500 Market St.
Canton, OH 44702
(216) 454-5611 #36-3514066
FAX (216) 454-5753

(77) SUMMIT
Akron Beacon Journal
Legal Notice Dept.
44 E. Exchange St.
Akron, OH 44309-0640
(216) 996-3000 #34-1095666
FAX (216) 996-3070

(78) TRUMBULL
Warren Tribune Chronicle
Legal Notice Dept.
P.O. Box 431
Warren, OH 44482-1431
(216) 841-1600 #22-2684993
FAX (216) 841-~~1831~~ 1639

(79) TUSCARAWAS
The Times-Reporter
Legal Notice Dept.
P.O. Box 667
New Philadelphia, OH 44663
(216) 364-5577 #34-0376030
FAX (216) 364-8449

(80) UNION
The Journal Tribune
Legal Notice Dept.
P.O. Box 226
Marysville, OH 43040
(513) 644-9111 (31-4378422
FAX (513) 644-9211

# NEWSPAPERS

(81) VAN WERT

The Times-Bulletin
Legal Notice Dept.
700 Fox Rd., POB 271
Van Wert, OH 45891
(419) 238-6397 #31-0226480
FAX (419) 238-0447

(82) VINTON

Vinton County Courier
Legal Notice Dept.
N. Market St.
McArthur, OH 45651
(614) 596-5393 #31-4217070
FAX - ~~Same~~ 614-286-5854

(83) WARREN

The Western Star
Legal Notice Dept.
200 Harmon Ave.
Lebanon, OH 45036
(513) 932-3010 #31-0226480
FAX (513) 932-6056

(84) WASHINGTON

The Marietta Times
Legal Notice Dept.
700 Channel Lane
Marietta, OH 45750
(614) 373-2121 #06-1032273
FAX (614) 373-6251

(85) WAYNE

The Daily Record
Legal Notice Dept.
P.O. Drawer D
Wooster, OH 44691
(216) 264-1125 #34-1227535
FAX (216) 264-3756

(86) WILLIAMS

The Bryan Times
Legal Notice Dept.
Box 471
Bryan, OH 43506
(419) 636-1111 #34-4420719
FAX (419) 294-5608

(87) WOOD

The Daily Sentinel
Legal Notice Dept.
P.O. Box 88
Bowling Green, OH 43402
(419) 352-4611 #34-4351810
FAX - Same

(88) WYANDOT

The Daily Chief-Union
Legal Notice Dept.
P.O. Box 180
Upper Sandusky, OH 43351
(419) 294-2331 #34-4214940
FAX (419) 294-5608

# RECOMMENDATION FOR OBTAINING PRE-APPROVED SITES FOR PORTABLE AIR POLLUTION EMISSIONS UNITS (SOURCES)

FACILITY I.D. _____

FACILITY NAME _____

FACILITY ADDRESS _____

_____

_____

PERSON TO CONTACT _____
ADDRESS

_____

_____

_____

EQUIPMENT DESCRIPTION _____

_____

_____

COMPANY I.D. _____

☐ APPROVE SITE ☐ DENIAL OF SITE

☞ if denied, state statue in violation _____

specific reason: _____

_____

_____

_____

LOCATION OF SITE: _____

_____

_____

_____

_____

☐ ADDITIONAL TERMS AND CONDITIONS FEE $100.00 (if approved)

1approv.sit

March 5, 1997
(AR-18J)

Peter J. Rasor
City of Indianapolis
Department of Public Works
Environmental Resources Management Division
Air Pollution Control Section
2700 South Belmont Avenue
Indianapolis, Indiana 46221-2097

Dear Mr. Rasor:

This is in response to your request for a determination on whether the principles of the September 6, 1995, United States Environmental Protection Agency (USEPA) memorandum titled "Calculating Potential to Emit (PTE) for Emergency Generators" can be applied to the new source review (NSR) program. The memorandum (enclosed) was developed to address issues related to the determination of a source's PTE under section 112 and title V of the Clean Air Act. The memorandum did not address NSR because a mechanism, minor construction permits, already exists for creating PTE limits for that program.

It seems reasonable to assume that the principles of this memorandum can also be applied to the NSR program since the definition of a source, in all cases, is derived from the same section (302(j)) of the Clean Air Act. The memorandum, however, cautions that "this guidance is ... not intended to discourage permitting authorities from establishing operational limitations in construction permits when such limitations are deemed appropriate or necessary."

Therefore, even though the basic principles of this memorandum can be applied to NSR, USEPA recommends that, where a mechanism such as minor construction permitting exists to clearly define a PTE limit, it should be the vehicle for creating such limits rather than the September 6, 1995, policy statement. In addition, the source still must comply with any minor construction permit requirements to which a 500 hour emergency generator may be subject. Keep in mind that the September 6, 1995, policy statement was developed to relieve the permit review authority from the extra burden of issuing a permit for synthetic minor purposes. But, in a case where a construction permit will be issued anyway, it is best to include the synthetic minor limitations in the permit. The source must also assure that operating the emergency generator would not cause a short term violation of the national ambient air quality standards.

If a source is subject to construction permit requirements despite the emergency generator, USEPA encourages including the limit on an emergency generator's hours of operation in the permit. The addition of this limit would not cause any unnecessary burdens on the source and would provide clarity and completeness to a construction permit.

I hope this information is useful. If you have any questions concerning this issue, please call Sam Portanova, of my staff, at (312) 886-3189.

Sincerely yours,

/s/

Cheryl L. Newton, Chief
Permits and Grants Section

Enclosure

cc: Boris Sonkin
City of Indianapolis
Department of Public Works
Environmental Resources Management Division
Air Pollution Control Section

Paul Dubenetzky, Chief
Air Permits Branch
Office of Air Management
Indiana Department of Environmental Management

Image Not Available

Image Not Available

cc: Misty Ryan SARA Mike H

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

1996

FEB 28 1996

AIR ENFORCEMENT BRANCH,
U. S. EPA, REGION 5
ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Director, Office of Ecosystem Protection, Region I
Director, Air and Waste Management Division, Region II
Director, Air, Radiation, and Toxics Division, Region III
Director, Air, Pesticides, and Toxics Management Division, Region IV
Director, Air and Radiation Division, Region V
Director, Multimedia Planning and Permitting Division, Region VI
Director, Air, RCRA, and TSCA Division, Region VII
Assistant Regional Administrator, Office of Pollution Prevention, State and Tribal Assistance, Region VIII
Director, Air and Toxics Division, Region IX
Director, Office of Air, Region X

FROM: Julie Domike
Air Enforcement Division
Office of Regulatory Enforcement

SUBJECT: Discussion Paper on Potential to Emit

As mentioned on the Air Division Directors' conference call last week, attached please find a copy of the discussion paper on potential to emit that was distributed to members of the CAA Subcommittee on Permits, New Source Review and Toxics Integration earlier this month. Your questions and comments on this concept paper should be directed to Tim Smith of OAQPS at (919)541-4718, Jim Ketcham-Colwill of OPAR at (202)260-8950, Adan Schwartz of OGC at (202)260-7632, or me at (202)564-6577.

Attachment

cc: Tim Smith
Jim Ketcham-Colwill
Adan Schwartz

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January 31, 1996

Dear Members of the Subcommittee on Permits, New Source Review and Toxics Integration:

As many of you know, EPA has been carefully considering how to respond to recent court decisions regarding federal enforceability of potential to emit limits. These decisions have created a need for the Agency to clarify through rulemaking what constitutes an "effective" limit on a source's potential to emit air pollutants. We wish to enlist your help in this process. The Agency recognizes the need to move expeditiously to resolve any uncertainties that may have been created regarding the applicability of many CAA requirements.

At this stage, before drafting the rulemaking proposal package, we believe it is important to solicit the views of subcommittee members on the issues and options that should be considered. Staff have drafted the attached discussion paper to aid in this process.

The paper is intended to lay out the legal and policy issues that EPA will address in response to the court decisions. The paper discusses components that may be needed for a limit to be "effective" in ensuring that a source does not emit major amounts. The Agency believes that defining what makes a limit "effective" is our central task in the wake of the National Mining Association decision. In addition, the paper describes options for addressing the issues raised.

As part of EPA's response to the National Mining Association and Chemical Manufacturers' Association decisions, and as part of its continuing effort to reconsider its regulations and streamline them where possible, the Agency now is re-examining all aspects of EPA's historical policy on potential to emit limits. Accordingly, EPA is setting forth for serious discussion and consideration an option that would recognize "effective" state-enforceable requirements as limiting a source's potential to emit. The Agency also is presenting an option that would retain federal enforceability as a necessary condition of effective limits, but streamline administrative requirements for

creating such limits to address concerns raised in the past.

The Agency plans to issue a proposed rule that includes both these options, as well as proposing ways to address other issues that influence whether limits are effective. Taking comment on these options will ensure that all stakeholders have an opportunity to express their views on implications of different options for the regulated community, states and the public. The Agency's overarching goal is to establish a system that avoids unreasonable burdens on industry or states, and ensures that major sources of air pollution comply with Clean Air Act requirements that protect public health.

Discussion of these issues is planned for the next meeting of the subcommittee, which we anticipate will be scheduled for March. We look forward to hearing your thoughts and recommendations at the meeting. If any members wish to make comments in writing, we of course will be happy to review them.

Sincerely yours,

Steven A. Herman
Assistant Administrator
for Enforcement and
Compliance Assurance

Sincerely yours,

Mary D. Nichols
Assistant Administrator
for Air and Radiation

Attachment

# "Effective" Limits on Potential to Emit: Issues and Options

January 31, 1996

Note to reviewers

This paper presents a discussion of the issues that EPA intends to address in response to recent court decisions by the D.C. Circuit on the subject of potential to emit limitations. This paper is intended as the first step in the development of a formal rulemaking proposal, and is intended to list and discuss various options for regulatory amendments that are available to the EPA as a result of these court decisions.

To aid the stakeholder discussion process, the paper presents options for addressing the issues raised in the court decisions. On the issue of federal enforceability, two distinct approaches are presented with specifics on how these two approaches could be implemented.

It is hoped that the critical review of the options will help identify the most important issues to be resolved in promulgating rulemaking amendments on this issue. Additionally, EPA hopes that the review will serve to identify areas of consensus among stakeholders on the importance of issues and the feasibility of solutions, particularly the ones EPA is offering in this document. The EPA would appreciate comments from stakeholders on whether there are any additional options and approaches, beyond those addressed in this paper, that should be discussed in the rulemaking process.

Because the primary purpose of the paper is to identify options, the paper presents only a minimal discussion of the rationale for each option. A more detailed rationale will be set forth in the preamble to the proposed rule.

## I. Framing the issues: The NMA and CMA decisions and their implications

Several provisions of the Clean Air Act (CAA) require that "major" sources be regulated more stringently than sources that are non-major. A "major" source is defined for purposes of section 112, title V, and the title I new source review (NSR) and prevention of significant deterioration (PSD) programs as one that either "emits or has the potential to emit" above a specified amount. Because sources that are major are generally

subject to more stringent controls, the Act creates an economic incentive for many sources to limit their potential to emit so as to avoid those requirements.[1] The integrity of these limits is important to ensure that major sources comply with Clean Air Act emission control requirements, and that the reductions in air pollution expected from these requirements are actually achieved.

EPA regulations governing NSR and PSD programs have, since the 1970s, required that limitations[2] on potential to emit (PTE) be federally enforceable before they can be recognized under the Clean Air Act. Following the 1990 amendments to the Act, EPA promulgated regulations implementing section 112 and title V of the Act, both of which mirrored the NSR/PSD regulations in this respect. On July 21, 1995, the D.C. Circuit Court of Appeals issued a decision in National Mining Association v. EPA, in which it held that EPA had not adequately justified the requirement in the section 112 regulations that limits on PTE must be federally enforceable. The Court noted that, while EPA was correct in requiring PTE limits to be "effective," it had not adequately explained how federal enforceability furthered effectiveness. On September 15, 1995, the D.C. Circuit issued a summary decision in Chemical Manufacturers Association v. EPA, vacating and remanding relevant portions of the NSR/PSD rules in light of the NMA decision.

The NMA case makes clear that EPA has the authority and the obligation to ensure that only those limits that are "effective" in limiting emissions are considered in determining PTE. However, the meaning of the term "effective," as the Court used it, is not self-evident. EPA believes that the primary purpose of this rulemaking should be to incorporate the notion of "effectiveness" into the regulatory scheme in a manner that provides clear guidance to States and the regulated community.

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Tens of thousands of small emitters lack the potential to emit major amounts even in the absence of controls. It is important to note that under the Clean Air Act these sources do not need to obtain a permit or other legal limit to avoid major source requirements. Therefore, the issues discussed in this paper are not relevant to these sources.

For simplicity, this paper uses the terms "limit" and "limitation" to refer to both operational restrictions such as limits on hours of operation or throughput and to emissions control devices. Also, references to States apply equally to local air pollution control districts.

EPA's overarching goal in conducting this rulemaking is to establish a system that provides administrative flexibility and avoids unnecessary paperwork while ensuring the effectiveness of limits on PTE that are used to avoid major source requirements under the Act. This rulemaking presents an opportunity to re-examine EPA's historical policy on PTE in its totality, to carry forward those elements of it that still make sense, and to explore innovative ideas for achieving this goal.

This rulemaking proposal will include two fundamental alternatives on the issue of federal enforceability. The first approach would recognize "effective" State-enforceable requirements as limiting a source's potential to emit. The second would retain federal enforceability as a necessary condition of effective limits, but take comment on options for streamlining administrative requirements for creation of federally enforceable limits.

Although the federal enforceability issue is rightly a focus of attention, EPA believes it is critical to recognize that the “effectiveness” of limits includes considerations other than who may enforce them. The requirement that limits on PTE be enforceable by EPA and citizens under the Act has historically been just one aspect of EPA's policy on PTE.[3] Effectiveness of limits is a multi-faceted concept that can be broken down into component parts.

Three overarching considerations govern the "effectiveness" of PTE limits:

- Enforceability as a practical matter. To be "effective," limitations must be written so that it is possible to verify compliance and to document violations when enforcement action is necessary. Therefore, a key issue is how to define minimum criteria that limits must meet to be "enforceable as a practical matter." A related question is

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The term "federally enforceable" historically has been used in two ways -- first, to refer narrowly to the authority of EPA and citizens to bring suit for a violation; and, second, to refer to the collective set of elements that the Agency believed contribute to effectiveness of limits (e.g., practical enforceability of limits, approval of state programs as meeting certain criteria, notice of proposed limits to the public and EPA, enforceability in federal court by EPA and citizens). Most of these other elements are separable from enforceability by EPA and citizens, and are treated separately in this paper.

whether procedural safeguards are necessary to ensure those criteria are met.

- Compliance incentive effectiveness. EPA believes that a limit cannot be deemed effective if there is insufficient incentive to comply with it.[4] The "effectiveness" of a limit, therefore, depends in part upon the strength of the incentive it provides for a source to comply -- which in turn is tied to the probability of an enforcement action in the event of a violation. The federal enforceability issue is related to this consideration.

- State program effectiveness. Whether the first two aspects of effectiveness are achieved is influenced by the effectiveness of a State program for issuing and enforcing PTE limits. The nature of a State's program affects whether PTE limits are typically issued in a form that is practically enforceable, and whether sources have substantial incentives to comply with their limits. Relevant factors include the State's permitting requirements and program "infrastructure," including the adequacy of its enforcement authority and the level of resources available. In question here is whether a State *program* should have to meet certain criteria in order for the limits it creates to be considered effective, and whether procedures to assure *program* effectiveness should be required.

This paper is structured around the three considerations listed above. Because a key question in the litigation was whether limits need be federally enforceable to be effective, this paper begins by discussing the effectiveness of limits in encouraging sources to comply.

## II. Effectiveness of limits: Strength of compliance incentive

The EPA believes that, in order to be effective, a limit must carry with it a credible expectation of enforcement. This aspect of effectiveness, referred to here as "compliance incentive effectiveness," is not revealed by an examination of

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EPA assumes that a limit on potential to emit, in order to be cognizable, must be legally enforceable by an appropriate governmental entity. Though some have made the suggestion that even voluntary limitations should be recognized, EPA does not believe that calculation of a source's potential to emit in the future should take into account pollution control measures that can be freely disregarded.

the PTE limit itself and cannot be definitively evaluated through an up-front evaluation of a State rule or program. Rather, compliance incentive effectiveness is an ongoing consideration related to the strength of a State's enforcement program.

A central question arising from the court decisions is whether sufficient compliance incentives exist if EPA and citizens cannot directly enforce PTE limits in federal court in cases where a State's enforcement program fails to secure compliance with PTE limits. The conclusion that compliance incentive effectiveness is substantially improved through the enforcement authority of EPA and citizens was historically the basis for the requirement that limits on PTE be enforceable by EPA and citizens under the Act.

In light of the NMA and CMA decisions, EPA intends as part of the PTE rulemaking to propose the two options below as ways to ensure compliance effectiveness.

Under Approach 1, *State or locally enforceable limits*, EPA would give formal recognition to effective State limits, so long as the source owner and operator assume the responsibility for demonstrating that the limits are effective and that the source is complying with these limits. Under this approach, if a source failed to comply regularly with its State permit, EPA and citizens could not sue to enforce the permit, but the source would be in violation of major source requirements of the Clean Air Act.[5]

Under Approach 2, *Streamlined federal enforceability*, the EPA would substantially reduce the administrative objections that have been raised regarding the process currently required for limits to be recognized as federally enforceable. The Agency would consider changes that would enable sources to obtain relatively quickly and easily limits that are enforceable by EPA and citizens.

Approach 1: State or locally enforceable limits

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EPA will consider proposing as part of Approach 1 several additional components described later in this paper. For example, State and local programs could be allowed to issue PTE limits without the program undergoing up-front EPA review. EPA would take comment on what requirements for public participation or notice to EPA, if any, may be appropriate for limits that are not federally enforceable.

1. Description of Approach

EPA would promulgate rule amendments that would recognize limitations that are enforceable by State and local air quality agencies as adequate to restrict a source's potential to emit, as long as the limits are enforceable as a practical matter. Under this approach, EPA and citizens could bring legal action in federal court alleging violations of the major source requirements of the Act in cases when a source fails to obtain or comply with State or local permits that are actually effective in restricting the source's PTE. Under this approach neither EPA nor citizens would have authority under the Clean Air Act to enforce directly the terms of the State or local permit.

In such an enforcement action, EPA or citizens would allege that a source is in violation of the Clean Air Act in that 1) the source would be a major source in absence of any limits on the source's PTE, 2) there are no effective PTE limits in place, or the source has failed to comply with limits that would be effective if complied with, and 3) the source has failed to comply with major source requirements.

In the case of a source which has State or local PTE limits that are not federally enforceable, the regulatory amendments would allocate the burden of proof to the source owner to demonstrate that 1) the source has such State or local limits, 2) that the limits meet EPA's definition of "enforceable as a practical matter," and 3) that the source has regularly complied with the limits. Such a demonstration would constitute an affirmative defense to the allegation that the source is operating as a major source without complying with major source requirements.[6]

This allocation of responsibility is consistent with case law holding that those seeking to be excluded from a generally applicable regulatory scheme bear the burden of establishing their entitlement to the exclusion. This approach has precedent in the RCRA program; 40 C.F.R. 261.2(f) provides that a person

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In the case of a source that has PTE limits which are federally enforceable, EPA or a citizen (rather than the source) would continue to have the burden of showing that the PTE limit is not effective as a practical matter or that the source has not complied with it. In other words, there would be no change from the current system when EPA or a citizen seeks to establish that a source with federally enforceable limits has violated either the PTE limits or major source requirements.

claiming an exemption [from a RCRA permitting requirement] has the burden of proof of establishing that he is entitled to the exemption. This regulation has been upheld and interpreted to include both the burden of producing evidence and the burden of persuasion (that is, the burden of convincing the judge of all elements of the case). See, United States v. Eastern of New Jersey, 770 F. Supp. 964, 978 (D.N.J. 1991); Hazardous Waste Treatment Council v. EPA, 862 F.2d 277, 289 (D.C. Cir. 1988), cert. den. 490 U.S. 1106 (1989).

Initially, EPA believes it could implement this approach through a rule provision stating that a PTE limit that is not complied with regularly will not shield the source from enforcement for operation as a major source. This would make clear that a State PTE limit that is not regularly complied with will not be considered effective, and therefore will not be considered in calculating the source's PTE if there is an enforcement action asserting that the source is major. This is the current law today for federally enforceable permits. In United States v. Louisiana-Pacific Corp., 682 F. Supp. 1122 (D. Colo. 1987), the Court determined that, where a source had not regularly complied with its minor source permit purportedly limiting PTE, that permit would not serve as a shield to liability for violation of PSD requirements, notwithstanding the fact that the permit was enforceable by EPA.

Approach 1 envisions that source owners would bear the responsibility for having effective limits for the entire time period during which a limit was needed (e.g. after commencing construction of a source for which such limits are needed to avoid major source preconstruction requirements). If it were later discovered by EPA or citizens that effective limits have not been in place, the source owner could not avoid enforcement actions for the time period associated with construction and initial operation by adding effective limits at a later date.

EPA plans to propose this approach as one alternative for satisfying its obligation to assure compliance incentive effectiveness. Among the issues to be examined in considering this option are:

- whether the EPA should require notice from the source or the State that the source is relying on a non-federally enforceable permit (i.e. a permit not directly enforceable by EPA and citizens in federal court) as a shield from a major source requirement.

- the extent to which the EPA should limit the use of such permits to facilities or companies that are otherwise in compliance with the Act;

- whether this option should be limited to permits issued by State or local authorities with authority to enforce the SIP.

2. Illustrative examples

The following examples illustrate how this option would be implemented:

Example 1. A source has a permit that is not federally enforceable. Material usage and content limits in the permit are enforceable as a practical matter, and the source did not obtain a PSD permit. However, the source regularly violates the material usage and content requirements in its permit. The source's records show that, although there may be no clear record as to whether the source has actually emitted 250 tons per year for any 12-month period, the source has the potential to emit 250 tons per year. Because the source did not comply with its State permit, EPA or citizens could bring enforcement action against the source for failure to comply with major source requirements of the Act.

Example 2. A source has a permit that is not federally enforceable and that requires use of a carbon adsorber to control VOC emissions. A federal inspector observes that the carbon adsorber is not being operated and maintained properly, and observes breakthrough (that is, no control) during the inspection. Upon review of the permit, it contains no requirement for any recordkeeping demonstrating that the carbon bed is being regularly regenerated. In addition, the owner can provide no evidence that the carbon bed is being maintained with sufficient regularity. The control device needs to operate at 70 percent or better to achieve minor source levels. For this case, the source would be subject to an enforcement action for violations of major source requirements. Even though there is no evidence that the source is regularly violating its limit, the burden is on the source owner to demonstrate that the source has an effective set of requirements that would allow the EPA or citizens to determine whether it was in violation.

Approach 2: Streamlined federal enforceability

1. Description of approach

Under this approach, EPA would retain the current requirement that PTE limitations must be federally enforceable, but streamline administrative requirements to address concerns that have been raised.

In light of the D.C. Circuit's holding that EPA has not adequately explained the need for federal enforceability, EPA would provide an enhanced rationale for how the federal enforceability requirement could be considered a reasonable means of ensuring compliance incentive effectiveness. In addition, the following specific steps would be taken to streamline the current administrative process for achieving federal enforceability of limits:

- EPA would finalize the amendments to 40 CFR 51.161 that were proposed on August 31, 1995 in order to provide States with explicit discretion to limit up-front public review in minor NSR programs to those situations deemed to be environmentally significant. EPA believes that current minor NSR programs allowing such discretion already create limits that can be enforced by EPA and citizens in federal court. The proposed rulemaking amendments would significantly broaden States' discretion to limit public review, and would eliminate any ambiguity or uncertainty that may exist over the enforceability of these permits.

- EPA would also make clear in rulemaking language that similar discretion would exist for federally enforceable State operating permit (FESOP) programs.

- States would not be required to provide EPA with an up-front notification before permits are issued in cases where public notice is not required. Rather, States would periodically (semi-annually or annually) provide EPA with a list of PTE limits that have been issued to sources seeking to avoid federal major source requirements. EPA would make this information available to the public.

- States would still be required to submit rules and programs to EPA for approval into the SIP. Rule amendments would guarantee that State limits issued under such program would be recognized from the time the limits were established, so long as the limits were enforceable as a practical matter. This would ensure that such limits would be recognized

during the time period for which EPA approval of the State program is pending.[7]

2. Issues discussion

a. State discretion on appropriate level of public review.

Among the objections to preserving federal enforceability of limits as a requirement is a perception that federal enforceability cannot be accomplished without requiring public review of any permit approval action which is taken to create limitations on potential to emit. The EPA believes that a permit limit can be enforceable by the EPA and citizens under the Clean Air Act even if the permit was not issued with public review. The EPA believes that States, as recently proposed with respect to the minor NSR and Title V programs, can be given broad discretion with respect to judgements on which actions establishing or revising PTE limits are of sufficient environmental significance to warrant up-front public review. The EPA plans to solicit comment on whether providing such discretion in all programs utilizing PTE limits would help to alleviate the administrative objections to retaining federal enforceability.

b. Voluntary acceptance of the federal enforceability of State limits

Another alternative to eliminate possible delay to the source would be to require that PTE limits be federally enforceable in order to be federally recognizable, but to allow sources to voluntarily accept the federal enforceability of a State limit. This would eliminate the need for approval of the underlying State program. EPA plans to explore the viability of this approach in the PTE rulemaking.

Compliance incentives and citizen enforcement

EPA plans to take comment in the rulemaking on two broad issues involving compliance incentives and citizen enforcement. The first issue is whether differing opportunities for citizen enforcement create significant differences in the strength of

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Historically, EPA has required that State programs be approved through rulemaking before the PTE limits established under that program could be federally recognized as limiting PTE. This has created potential adverse consequences for a source possessing a limit that is enforceable as a practical matter when the State's program has not yet been approved by EPA.

compliance incentives for sources under Approaches 1 and 2. A second issue, which arises under both approaches, is whether citizens have adequate access to the information needed to identify violators and bring successful enforcement suits.

Regarding the first issue, EPA has generally presumed that the possibility of citizen enforcement action enhances compliance with environmental laws. As part of the rulemaking, EPA plans to consider whether the prospect of citizen suits can enhance the compliance incentive effectiveness of limits on sources' potential to emit.

The ability of citizens to enforce permit requirements under Clean Air Act section 304 tracks that of the federal government. The Agency will request comment on the extent to which the presence or absence of federal enforceability affects citizens' practical ability to bring enforcement actions against sources in violation. In reference to Approach 1, the Agency will seek information on the number of States in which standing issues could prevent citizen suits to enforce PTE limits. EPA also is interested in whether citizens would be able to effectively enforce major source requirements in most circumstances under Approach 1.

The second broad issue relates to citizens' access to information. One difference between the federal government’s and citizens' opportunity to bring suit is the ability of the federal government to obtain access to facility information and records through subpoena and inspection powers. It has been suggested to EPA that the relatively few number of citizen suits under the CAA is due in part to inadequate access to records. To be able to enforce a source's limit, citizens need access to the permit and compliance records. To enforce the major source threshold, citizens also need information demonstrating that the source's potential or actual emissions exceed the major source threshold. The Agency will seek comment on the extent to which citizens currently have access to the information required, and on whether there are reasonable ways to enhance citizens' access to information under either Approach 1 or 2.

Information on a facility's potential to emit is particularly difficult for citizens to obtain. One possible way to address this problem would be to require a source or the State to provide notice to EPA when the source takes State or local limits on its PTE. Such notice might include a statement regarding the assumptions used in calculating the uncontrolled PTE, absent the State or locally required limits or control equipment. Citizens could then access such information through EPA. The Agency also will seek comment on providing safeguards

for claimed "proprietary business information" in releasing the notification to the public.

## III. Practical enforceability of limits

Whether a PTE limit is “effective” depends in part on whether that limit is enforceable as a practical matter. EPA therefore believes that questions concerning enforceability as a practical matter will be among the most important addressed in the PTE rulemaking.

Definition of "enforceable as a practical matter"

Under either Approach 1 or Approach 2, the EPA would consider amending current rules to require that emission limitations used to limit a source's potential to emit be “enforceable as a practical matter.” The rule would require limitations to:

- be permanent;
- contain a legal obligation for the source to adhere to the terms and conditions;
- not allow a relaxation of a SIP requirement;
- be technically accurate and quantifiable;
- identify an averaging time that allows at least monthly checks on compliance (that is, monthly or shorter averages are encouraged; where this is unreasonable, longer averages would be required to be accounted for on a rolling monthly basis); and
- require a level of recordkeeping, reporting, and monitoring sufficient to demonstrate compliance with the limit.

In addition to these general criteria for ensuring that limits are verifiable and otherwise enforceable, the EPA intends to request comment on:

- Whether EPA regulations should more specifically describe the minimum elements of practicable enforceability. For example, should the regulations include language on the form in which limits must be expressed to be effective -- more specifically, principles from section III of EPA’s June 13, 1989 guidance on limiting potential to emit in new source permitting (e.g., restrictions on use of emission limits,

requirement that limits include operating parameters and underlying assumptions in cases where add-on controls operating at specified efficiency are required, independent enforceability of production and operational limits)?

- Whether EPA regulations should provide examples of terms that would be inappropriate in a PTE limit. For instance, the regulation might list as examples long-term (e.g. annual) emission rate limitations, limits that cannot be directly correlated with the relevant regulatory threshold (e.g. opacity limits to a PM threshold), or limits based on erroneous or unsupported generic emission factors.

EPA's initial thinking is that the rule would not provide specific requirements regarding the "appropriate level" of recordkeeping, reporting and monitoring, nor would the regulatory text list examples of situations that are prohibited. EPA notes that guidance issued on June 13, 1989, regarding practicable enforceability is still the most comprehensive statement from EPA on this subject. EPA would, within resource limitations, and with the help of State and local agencies, work to develop additional guidance where needed. In this regard the EPA would solicit comments on examples that could be provided in guidance or in the preamble to the final rule amendments.

## IV. State program effectiveness

As stated above, the effectiveness of a State program affects both whether PTE limits are typically issued in a form that is practicably enforceable, and whether sources have substantial incentives to comply with their limits. Therefore, an issue to be addressed in the rulemaking is whether EPA should specify minimum effectiveness criteria that State programs must satisfy for the limits they create to be recognized as limiting PTE -- and if so, whether there should be a mechanism for EPA evaluation of these programs.

The Agency historically has required that State programs meet minimum criteria -- for legal authority, resources, and substantive and procedural aspects of permitting programs -- in order for the limits they create to be recognized as limiting PTE.

Some considerations influencing state program effectiveness are susceptible to evaluation before (or at the time) the PTE limits created by the program are relied upon by a source. These "front-end" considerations include questions of State air program "infrastructure," such as whether the program possesses adequate

resources and whether there exists adequate legal authority for enforcement. In addition, there are considerations related to the adequacy of each program or rule creating PTE limits -- specifically, rules governing the substantive and procedural aspects of permit issuance for individual sources, and "prohibitory" or "exclusionary" rules designed to limit the PTE of sources in particular categories.

Other considerations can only be evaluated on an ongoing basis -- notably, the effectiveness of State enforcement efforts in promoting compliance. This "back-end" aspect of State program effectiveness is discussed separately below.

Front-end considerations

1. Description of approaches

Under Approach 1, EPA would not require up-front review or approval of State or local rules or programs for creating PTE limits. EPA would presume that these programs possess an adequate infrastructure, adequate legal authority for enforcement, and adequate permitting procedures. EPA would take comment on whether it should maintain authority to deem a State program generally "ineffective" at any time if clearly identifiable deficiencies in one or more of these State program elements were present, based on criteria established by EPA. Such a remedy could be appropriate, for example, if a program issued significant numbers of permits that are not enforceable as a practical matter. The result of deeming a program ineffective could be to render ineffective all limits created by that program, or to render ineffective any limits issued after the date of the ineffectiveness finding. EPA would take comment on this issue and on procedures for determining that a State program is ineffective.

Under Approach 2, EPA would continue to evaluate State rules and programs that create PTE limits, with the streamlining changes described under the heading "Approach 2: Streamlined Federal Enforceability."

Under both Approach 1 and Approach 2, the EPA would require that an "effective limit" must be obtained from the agency generally responsible for air quality permits. Limitations from other State or local authorities could not be taken into account.

2. Criteria for State program effectiveness

a. Overview

EPA initially believes the front-end State program effectiveness issues to be addressed in the PTE rulemaking are the following:

- Should a State have devoted a certain level of resources before its program can be considered effective and therefore able to create PTE limits? EPA plans to solicit comment on this issue. Though it may be possible to determine on an audit basis whether a State's resources are adequate, the level of resources needed will be particular to a State's strategy for addressing PTE, and so cannot be specified in advance by EPA.

- Should a State be required to have adequate legal authority for enforcement before its PTE limit program can be considered effective?

- Should the State's permitting regulations be required to meet minimum criteria in order to be able to create PTE limits? In its June 28, 1989 Federal Register notice on PTE, EPA required State permitting programs to meet certain criteria in order to yield federally recognizable PTE limits. Relevant to this discussion, the programs could not allow for the relaxation of a limit in the SIP, and the program had ta provide for public and EPA notice of permit issuance. (See further discussion below.)

- Are there other criteria that should be met for a State program to be able to create PTE limits? EPA plans to solicit comment on this question.

b. Procedures ta ensure practical enforceability of limits

EPA will consider in the rulemaking whether procedural requirements are needed to help ensure that the limits issued by a State program are enforceable as a practical matter. If so, such procedures could be required either as necessary elements of an effective State program, or -- if there is na up-front review of State programs under Approach 1 -- as necessary conditions of an effective limit. The procedural issues that EPA is currently aware of concern notice and an opportunity for review by the public and EPA.

This paper already has described the way that EPA would address the public participation and EPA notice issues under its streamlined federal enforceability approach (see above). However, these issues arise whether or not PTE limits are required ta be federally enforceable. EPA plans to take comment and consider the appropriate way ta address these issues under

Approach 1. One option identified by EPA is that sources receiving State-enforceable PTE permit limitations that are not federally enforceable, or the State issuing these limits, could be required to notify the EPA within 3-6 months of the permit, and to provide the EPA with a copy of the permit. EPA notification and approval would not be required before the State could issue the permit or before that permit becomes effective. The EPA would provide the public access to the permits.

In connection with public participation and EPA notice, EPA plans to take comment on:

- whether there are types of permits for which a minimum level of public participation in establishment of PTE limits should be required, in view of EPA's August 1995 proposal regarding public comment in minor new source review programs.

- whether notice and an opportunity for EPA review carries with it additional certainty for the source that its limit will not later be found ineffective.

- whether notice to EPA of draft permits should be required, or whether EPA should instead rely on a system of auditing permits already issued.

Questions of public participation and EPA notice also are relevant to issuance of "prohibitory" or "exclusionary" rules designed ta exclude certain qualifying sources from major source requirements. As these generic rules limit the PTE for potentially large numbers of sources, public participation and prior notice to EPA of the proposed State or local rule may be appropriate whether or not limits are required to be federally enforceable. EPA will seek information on the extent ta which notice ta the public is already part of State rulemaking procedures. The Agency also will seek comment on whether notice to EPA of the draft or proposed rule would be reasonable and add certainty to sources’ reliance on generic rules.

3. Possible mechanisms for State program evaluation

If there are some substantive criteria for an effective State program, the rulemaking must also address whether there will be a mechanism for evaluation of the State program infrastructure. EPA initially sees three options.

1. EPA articulates minimum effectiveness criteria for State programs, but does not require prior approval of a State program before limits established by the State can be federally

recognizable. Instead, EPA audits State programs and retains the ability to deem a State program "ineffective" at any time.

2. EPA establishes minimum effectiveness criteria for State programs, and EPA establishes by rule a subsequent informal review and approval process (e.g., an exchange of letters between EPA and the State). Under this option, the process would be established as part of the original rule, but no additional case-by-case rulemaking would be needed for approval of individual State programs. State programs would be deemed effective upon approval as being capable of creating PTE limits.

3. EPA establishes minimum effectiveness criteria for State programs, and EPA formally reviews and approves programs through rulemaking. State programs would be deemed effective upon completion of the rulemaking.

EPA notes that, currently, many State PTE programs have already received approval through rulemaking. EPA expects that there would be na need ta re-evaluate these programs.

Back-end considerations: Effectiveness of State enforcement

The twa approaches described above for ensuring compliance incentive effectiveness -- "State and locally enforceable limits", and "streamlined federal enforceability" -- focus on sanctions available against a source directly when the source fails to comply with its PTE limit. EPA will alsa explore whether it should retain the ability to deem a State program "ineffective" where non-compliance with PTE limits is common due ta the lack of a credible State enforcement program. This option has historically been available to EPA because approval of PTE programs inta the SIP allows EPA to withdraw that approval where appropriate, and would be retained under Approach 2.

Under Approach 1, EPA will take comment on whether it should establish a federal remedy for program-wide failure to assure effectiveness. Preliminarily, EPA believes such a remedy would involve deeming a program "ineffective" such that any limit established under that program would no longer be recognized as limiting a source's PTE. EPA will solicit comment on the appropriate procedures for deeming a State program ineffective from an enforcement standpoint.

## V. Transition issues

Description of approach

*In the interim, pending action ta adopt Approach 1 or Approach 2 (or some other approach), EPA would plan ta extend the transition period for section 112 and title V, contained in EPA's policy memorandum dated January 25, 1995, for an additional time period that extends from January 1997 ta allow for promulgation of a final PTE rule.*

Discussion

EPA recognizes that certain approaches discussed in this paper might establish new requirements or procedures for ensuring the effectiveness of PTE limits. EPA believes that, given the general streamlining nature of the options discussed in this paper, the potential for disruption from the current state of affairs is small. However, approaches set forth in this discussion paper differ from those contemplated in EPA's January 25, 1995, memorandum, "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act," and other agency guidance on potential to emit. In the PTE rulemaking, EPA plans to request comment on any transitional issues that may be raised by past reliance on guidance contained in the January 25, 1995, memorandum or other guidance that differs substantively from the new direction that EPA will be taking in response to decisions of the D.C. Circuit. EPA will expressly consider whether any temporary measures will be needed to ensure a smooth transition ta the approach finally adopted in the PTE rulemaking.

Another issue related to potential to emit is whether EPA should adopt rulemaking amendments that would provide an exemption for sources with actual emissions significantly less than major source thresholds. In a guidance memorandum dated November 14, 1995 entitled "Calculating Potential ta Emit (PTE) and Other Guidance for Grain Handling Facilities," the EPA included a commitment ta promulgate rulemaking amendments that would extend permanent relief ta low-emitting sources, excluding such sources from being classified as "major sources" for purposes of title V permitting. (The exact cutoff for what constitutes a low-emitting source would be determined in the rulemaking process.) As discussed above, since this November memorandum was issued the EPA has developed an option which would delete the requirement for PTE limits ta be federally enforceable and allow reliance on limits that are State-enforceable. The EPA believes that allowance for use of State-enforceable limits (as well as other streamlining options in this paper) should

significantly reduce the burden ta a source in obtaining a PTE limit, and may provide an effective solution for the issues raised at that time. Accordingly, before proceeding with further rulemaking concerning such an approach, the EPA seeks comment from stakeholders on whether a small source exemption would still be needed if the Agency adopted the options being put forward today.

June 5, 2001

Mr. D. Edward Settle
Manager, Air Quality
ThermoRetec Corporation
1726 Cole Blvd., Bldg. 22, Suite 150
Golden, CO 80401-3213

Dear Mr. Settle:

This is in response to your letter dated February 1, 2001, in which you requested clarification of our guidance for calculating actual or potential emissions of certain regulated pollutants from a new source or modification. Your specific issue was whether the emission rate, in tons per year, should be calculated to represent the "end of pipe" release or a theoretical release rate of a reference compound. You further indicated that the regulated pollutants that you were concerned about included total reduced sulfur compounds, fluorides, volatile organic compounds (VOC), sulfur dioxide, and nitrogen oxides. As further explained below, our general policy for calculating actual or potential emissions from new and modified stationary sources is to follow, to the extent possible, the Environmental Protection Agency (EPA) methods and procedures for developing emission factors/inventories and measuring source compliance.

In a letter dated March 1, 1996, from Robert Kellam, Acting Director, Information Transfer and Program Integration Division, to Donald Gabrielson, which you referenced in your letter, it was stated that "if actual emissions are used as the basis for determining the potential to emit for a source, then these emissions should be measured at the point where the emissions are released." This statement was intended to reflect our position (stated above) that emission calculations should normally be done in a manner compatible with procedures for developing emission factors/inventories and measuring source compliance. This helps to ensure that any emission limitation established for a source for New Source Review (NSR) and title V applicability will be compatible with the formats by which emissions are quantified for inventories and source compliance.

In the case of $NO_x$ emissions, for example, the EPA guidance for developing emission factors and for determining source compliance indicates that $NO_x$ emissions are to be calculated on the basis of the molecular weight of $NO_2$. Such guidance is contained in the EPA's "Procedures for Preparing Emission Factor Documents," (EPA-454/R-95-015, November 1997) and is consistent with the reference test methods contained in 40 CFR part 60 Appendix A for the measurement of oxides of nitrogen. Each of the relevant test methods (with the exception of Method 7E) directs the user to

measure/calculate the in-stack emissions of $NO_x$ as $NO_2$.[1]

For the other regulated pollutants that you listed, with the exception of VOC, calculation of the actual or potential emissions for purposes of NSR and title V applicability should follow the EPA principles for developing emission factors, inventories and test methods for the subject pollutant. For VOC emissions, however, it is recognized that the EPA's test methods do not measure the pollutant mass exactly or only measure a subset of the pollutant mass.[2] Nevertheless, for the purposes of both NSR and title V applicability, our policy has been that VOC emissions should be calculated as the total mass of VOCs. That is, a value for each volatile organic compound known to be emitted should be calculated separately and the sum of the individual values should be reported as total VOCs (e.g., 20 tpy of toluene and 26 tpy of methyl ethyl ketone should be calculated separately and then reported as 46 tpy of VOC). This follows our guidance in the document titled "Procedures for Preparing Emission Factor Documents," where we indicate that emission factors for VOCs should be reported "in terms of actual weight of the emitted substance." Those organic substances which are specifically excluded from EPA's definition of VOC at 40 CFR § 51.100(s), because they have "negligible photochemical reactivity," should not be included in the total VOC emission calculation for NSR and title V applicability. The document also provides an exception in the case of unknown species by stating that such emissions should be calculated using an "educated guess" or a molecular weight of 44 (for reporting as propane). Where necessary, this procedure should be used to calculate emissions of those volatile organic compounds that cannot otherwise be quantified.

It is the EPA's intent that a consistent approach be taken, wherever possible, to quantify and report pollutant emissions for its various air programs. Thus, the methods described above for quantifying pollutant emissions would also apply to our procedures for such things as NSR netting, emission trading and offsets, as well as for other SIP-related programs for criteria pollutants. In the case of air quality modeling to predict annual average estimates of ambient $NO_2$ from point sources, the so-called Ozone Limiting Method does, as you point out, include procedures that can be used to show that not all of the $NO_x$ emissions from a source are converted to $NO_2$ in the ambient air. Nevertheless, even this method requires the initial assumption that all $NO_x$ in the stack is emitted as $NO_2$. This in-

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[1]As you point out, the guidance contained in Chapter A of EPA's Draft NSR Workshop Manual (October 1990) provides that significant emissions of $NO_x$ are "based on the sum of all oxides of nitrogen." (Footnote a, Table A-4, page A.20 of the Manual.) This highlights the fact that not just the $NO_2$ component of a source's $NO_x$ emissions is to be considered when quantifying total $NO_x$ emissions. Further guidance contained in the EPA reference (in-stack) test methods and EPA guidance for developing emission factors and inventories indicates that the total mass is to be calculated on the basis of the molecular weight of $NO_2$.

[2]EPA Method 18 has the potential to come the closest to estimating actual mass of all of the organics that are in the gas stream; however, it is not often possible to identify all the species present and to calibrate for each one.

stack amount of $NO_2$ is the amount that should be reported as the $NO_x$ emissions for a source, regardless of the ultimate $NO_x$ conversion rate determined to be applicable in the area of concern.

With regard to your claim that you have received conflicting information about the appropriate way to calculate actual or potential emissions to determine NSR and title V applicability, we believe it is important that all State and local air agencies quantify and report pollutant emissions in the same way that we do. In previous situations where this issue has arisen, we have provided our position in writing to specific States as appropriate. Moreover, we intend to distribute this letter to all EPA Regional Offices so they can share it with their respective State and local air agencies. In addition, this letter will be posted on our NSR web site so that it will be available for public information.

I appreciate the opportunity to be of service and trust this information is helpful. If you have any questions, please contact Dan deRoeck at (919) 541-5593 or deroeck.dan@epa.gov.

Sincerely,

/s/ signed by Henry Thomas for

John S. Seitz
Director
Office of Air Quality Planning
and Standards

cc: Thirty, → HUBN → DRGAA
Raymond Hedkins

*Ohio EPA*
*Division of Air Pollution Control*

# inter-office communication

to: (See distribution list.)

from: Eric Foster thru Tom Kalman/Jim Orlemann

subject: Guidance for Calculating PTE from Oil-fired Asphalt Plants

date: June 5, 1996

A question was raised by a local air agency as to how potential to emit ("PTE") should be calculated for hot mix asphalt ("HMA") plants burning oil in drum mix dryers. There are emission factors for these plants in AP-42, Table 11.1-8, but they are based on only two stack tests. Also, there are emission factors for industrial boilers burning oil which could possibly be used (Table 1.3-2). However, it has been determined that these emission factors do not take into account the fact that aggregate in the dryers reduces the $SO_2$ emissions. Therefore, this guidance will explain how the HMA emission factors from Table 11.1-8 may be modified for use in calculating PTE from HMA plants with drum mix dryers. In addition, some guidance is given for calculating PTE for HMA batching plants.

Question:

What emission factors should be used to calculate the PTE for HMA plants burning oil in drum mix dryers?

Answer:

For $SO_2$ PTE, the emission factor used will depend on the type of oil burned. If the plant normally uses No. 2 fuel oil, or oil with 0.5% or lower sulfur content, then an emission factor of 0.006 lb/ton of product (0.003 kg/Mg) should be used. However, if the plant normally uses No. 4, 5, or 6 fuel oil, or oil with higher than 0.5% sulfur content, an emission factor of 0.1 lb/ton of product (0.05 kg/Mg) should be used. If waste oil is used, the sulfur content of the oil would need to be determined in order to decide which emission factor to use. These emission factors were derived from the original emission factor of 0.056 lb/ton (0.028 kg/Mg). The two stack tests upon which this factor was based were separated in order to take into account the sulfur content of the oil used at a particular facility, since this has a large impact on $SO_2$ emissions. [One stack test was performed using No. 2 fuel oil

and gave an average $SO_2$ emission of 0.006 lb/ton of product. The other test was performed using waste oil (sulfur content of 0.65%) and gave an average $SO_2$ emission of 0.1 lb/ton of product.]

For CO, $CO_2$, $NO_x$, and TOC, the emission factors from Table 11.1-8 should be used, since none of these pollutants are directly dependent on the sulfur content of the oil burned. The stack tests for these factors included dryers that were processing reclaimed asphalt pavement (RAP). Because of limited data, the effect of RAP processing on emissions could not be determined. Also, these factors will give a higher PTE than the factors for industrial boilers in Table 1.3-2.

Question:

What emission factors should be used to calculate the PTE for HMA batching plants burning oil in the dryer?

Answer:

For $SO_2$, the emission factor (0.24 lb/ton of product) for HMA batching plants in Table 11.1-7 should be used, which is based on a stack test using No. 6 fuel oil. If a facility uses No. 2 fuel oil or oil with less than 0.5% sulfur content, and they disagree with using this emission factor, they could do a stack test. Using the boiler emission factor from Table 1.3-2 would be inaccurate, since it does not account for the effects of aggregate on the $SO_2$ emissions.

For CO, $CO_2$, $NO_x$, and TOC, the emission factors from Table 11.1-7 should be used. These pollutants should not be affected by burning different types of oils, since they are not dependent on the sulfur content in the oil.

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xc: Tom K., Bill, Bruce, Tammy, Tom R., Mike H., Bob, Jeanne, and all ES and AQM&P permit staff

September 6, 1995

MEMORANDUM

SUBJECT: Calculating Potential to Emit (PTE) for Emergency Generators

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)

TO: Director, Air, Pesticides and Toxics Management Division, Regions I and IV
Director, Air and Waste Management Division, Region II
Director, Air, Radiation and Toxics Division, Region III
Director, Air and Radiation Division, Region V
Director, Air, Pesticides and Toxics Division, Region VI
Director, Air and Toxics Division, Regions VII, VIII, IX, and X

The purpose of this guidance is to address the determination of PTE for emergency electrical generators.

Background

In a memorandum dated January 25, 1995, the Environmental Protection Agency (EPA) addressed a number of issues related to the determination of a source's PTE under section 112 and title V of the Clean Air Act (Act). One of the issues discussed in the memorandum was the term "maximum capacity of a stationary source to emit under its physical and operational design," which is part of the definition of "potential to emit." The memorandum clarified that inherent physical limitations, and operational design features which restrict the potential emissions of individual emission units, can be taken into account. This clarification was intended to address facilities for which the theoretical use of equipment is much higher than could ever actually occur in practice. For such facilities, if their

physical limitations or operational design features are not taken

into account, the potential emissions could be overestimated and consequently the source owner could be subject to the Act requirements affecting major sources. Although such source owners could in most cases readily accept enforceable limitations restricting the operation to its designed level, EPA believes this administrative requirement for such sources to be unnecessary and burdensome.

On the topic of "physical and operational design," the January 25 memorandum provided a general discussion. In addition, EPA committed to providing technical assistance on the type of inherent physical and operational design features that may be considered acceptable in determining the potential to emit for certain individual small source categories. The EPA is currently conducting category-specific analyses in support of this effort, and hopes as a result of these analyses to generate more general guidance on this issue as well.

The purpose of this memorandum is to address the issue of PTE as it relates specifically to emergency generators. There is a significant level of interest in this source category because there are many thousands of locations for which an emergency generator is the only emitting source. Moreover, based on a review of this source category, there exists a readily identifiable constraint on the operational design of emergency generators. Hence, the EPA believes it would be useful to provide today's guidance before the entire effort is complete.

The policies set forth in this memorandum are intended solely as guidance, do not represent final Agency action, and cannot be relied upon to create any rights enforceable by any party.

Guidance for Emergency Generators

For purposes of today's guidance, an "emergency generator" means a generator whose sole function is to provide back-up power when electric power from the local utility is interrupted. The emission source for such generators is typically a gasoline or diesel-fired engine, but can in some cases include a small gas turbine. Emissions consist primarily of carbon monoxide and nitrogen oxides. Other criteria pollutants, and hazardous air pollutants, are also emitted, but at much lower levels. Emissions occur only during emergency situations (i.e., where electric power from the local utility is interrupted), and for a very short time to perform maintenance checks and operator training.

The EPA believes that generators devoted to emergency uses are clearly constrained in their operation, in the sense that, by definition and design, they are used only during periods where electric power from public utilities is unavailable. Two factors indicate that this constraint is in fact "inherent." First, while the combined period for such power outages during any one year will vary somewhat, an upper bound can be estimated which would never be expected to be exceeded absent extraordinary circumstances. Second, the duration of these outages are entirely beyond the control of the source, and when they do occur (except in the case of a major catastrophe) rarely last more than a day.

For emergency generators, EPA has determined that a reasonable and realistic "worst-case" estimate of the number of hours that power would be expected to be unavailable from the local utility may be considered in identifying the "maximum capacity" of such generators for the purpose of estimating their PTE. Consequently, EPA does not recommend the use of 8760 hours per year (i.e., full-year operation) for calculating the PTE for emergency generators. Instead, EPA recommends that the potential to emit be determined based upon an estimate of the maximum amount of hours the generator could operate, taking into account (1) the number of hours power would be expected to be unavailable and (2) the number of hours for maintenance activities.

The EPA believes that 500 hours is an appropriate default assumption for estimating the number of hours that an emergency generator could be expected to operate under worst-case conditions. Alternative estimates can be made on a case-by-case basis where justified by the source owner or permitting authority (for example, if historical data on local power outages indicate that a larger or smaller number would be appropriate). Using the 500 hour default assumption, EPA has performed a number of calculations for some typically-sized emergency generators. These calculations indicate that these generators, in and of themselves, rarely emit at major source levels. (Of course, there may be unusual circumstances where these calculations would not be representative, for example where many generators are present that could operate simultaneously).

Cautions

Today's guidance is only meant to address emergency generators as described. Specifically, the guidance does not address: (1) peaking units at electric utilities; (2) generators at industrial facilities that typically operate at low rates, but are not confined to emergency purposes; and (3) any standby

generator that is used during time periods when power is available from the utility. This guidance is also not intended to discourage permitting authorities from establishing operational limitations in construction permits when such limitations are deemed appropriate or necessary. Additionally, this memorandum is not intended to be used as the basis to rescind any such restrictions already in place.

Distribution/Further Information

The Regional Offices should send this memorandum to States within their jurisdiction. Questions concerning specific issues and cases should be directed to the appropriate Regional Office. Regional Office staff may contact Tim Smith of the Integrated Implementation Group at 919-541-4718. The document is also available on the technology transfer network (TTN) bulletin board, under "Clean Air Act" - "Title V" - "Policy Guidance Memos". (Readers unfamiliar with this bulletin board may obtain access by calling the TTN help line at 919-541-5384).

cc: Air Branch Chief, Region I-X
Regional Air Counsels, Region I-X
Adan Schwartz (2344)
Tim Smith (MD-12)

OhioEPA

Initials

Time

# CENTRAL DISTRICT OFFICE

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PTE GUIDANCE

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| Table IA | | | | | | | |
|---|---|---|---|---|---|---|---|
| PROCESSES WITH MAXIMUM TOLUENE EMISSIONS | | | | | | | |
| * R-5 and R-6B interchangeable; C-4 and C-5 interchangeable | | | | | | | |
| PRODUCT | A | B | C | D | E | F | G |
| AER (TPY) | 0.11 | 2.44 | 0.67 | 1.35 | 1.84 | 0.56 | 3.92 |
| EQUIPMENT | PERCENT UTILIZATION | | | | | | |
| R-1 | | 64.00 | | 23.00 | | | |
| R-3 | | | 44.00 | | | | |
| R-4 | | 74.00 | | | | | |
| *R-5 | 50.00 | | | 100.00 | 100.00 | | 100.00 |
| R-6A | | | | | | | |
| *R-6B | 100.00 | 100.00 | | | | | |
| R-7 | | | | | | | |
| R-8 | | 48.00 | | | | | |
| R-12 | | | | | 24.00 | | |
| C-2 | | | | | | | |
| *C-4 | 100.00 | | 15.00 | 39.00 | | | |
| *C-5 | 50.00 | | | | | | |
| S-1 | | | | | | | |
| S-2 | | | | | | | |
| S-4 | | | | | | | |
| L-1 | | 52.00 | 100.00 | | 36.00 | | |
| D-1 | | | 44.00 | 16.00 | | | |
| D-2 | 53.00 | | | | | | |
| D-4 | | | | | | | |
| D-5 | | | | | | | |
| D-6 | 50.00 | | | | | 100.00 | |
| IE-1 | | | | | | | |
| IE-2 | | | | | | | |

| TABLE IB | | | | |
|---|---|---|---|---|
| TOLUENE POTENTIAL TO EMIT (PTE) | | | | |
| PRODUCT | G | C | F | TOTALS |
| EMISSIONS (TPY) | 7.84 | 0.67 | 0.56 | 9.07 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-5 | 100.00 | | | 100.00 |
| R-6B | 100.00 | | | 100.00 |
| D-6 | | | 100.00 | 100.00 |
| R-3 | | 44.00 | | 44.00 |
| C-4 | | 15.00 | | 15.00 |
| L-1 | | 100.00 | | 100.00 |
| D-1 | | 44.00 | | 44.00 |

| TABLE IIA | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| PROCESSES WITH MAXIMUM METHANOL EMISSIONS | | | | | | | | | |
| * R-5 and R-6B are interchangeable; C-4 and C-5 are interchangeable | | | | | | | | | |
| PRODUCT | E | H | I | J | K | L | M | N | O |
| AER (TPY) | 1 | 3.22 | 0.24 | 1.58 | 1.86 | 0.21 | 0.55 | 0.53 | 0.6 |
| EQUIPMENT | PERCENT UTILIZATION | | | | | | | | |
| R-1 | | | 57.00 | | 100.00 | 82.00 | 43.00 | | 65.00 |
| R-3 | | | 100.00 | | | | | | |
| R-4 | | | | | | | | | |
| *R-5 | 100.00 | 50.00 | | 40.00 | | 100.00 | | | 30.00 |
| R-6A | | | | | | | | 20.00 | |
| *R-6B | | | | | | 44.00 | | | |
| R-7 | | | | | | | | | |
| R-8 | | | | | | | 100.00 | | 100.00 |
| R-12 | 24.00 | | | 42.00 | | 41.00 | | | |
| C-2 | | | | 83.00 | 33.00 | | 71.00 | | 15.00 |
| *C-4 | | 100.00 | 57.00 | 42.00 | | | | | 10.00 |
| *C-5 | | | | 42.00 | | 47.00 | | | |
| S-1 | | | | | | | | | |
| S-2 | | | | | | | | | |
| S-4 | | | | | | | | | |
| L-1 | 36.00 | | | | | | | | |
| D-1 | | | | 100.00 | | 35.00 | 43.00 | | |
| D-2 | | | | | | | | | |
| D-4 | | 50.00 | | | | | | | |
| D-5 | | | | | | | | 72.00 | |
| D-6 | | | 79.00 | | 100.00 | | | 100.00 | 100.00 |
| IE-1 | | | | | | | 67.00 | | 90.00 |
| IE-2 | | | | | | | | | 90.00 |

| TABLE IIB | | | | |
|---|---|---|---|---|
| METHANOL POTENTIAL TO EMIT (PTE) | | | | |
| PRODUCT | H | K | E | TOTALS |
| EMISSIONS (TPY) | 6.44 | 1.86 | 1.0 | 9.3 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-1 | | 100.00 | | 100.00 |
| R-5 | 100.00 | | | 100.00 |
| R-6B | | | 100.00 | 100.00 |
| R-12 | | | 24.00 | 24.00 |
| C-2 | | 33.00 | | 33.00 |
| C-4 | 100.00 | | | 100.00 |
| C-5 | 100.00 | | | 100.00 |
| D-4 | 100.00 | | | 100.00 |
| D-6 | | 100.00 | | 100.00 |
| L-1 | | | 36.00 | 36.00 |

| TABLE IIIA | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| PROCESSES WITH MAXIMUM HEXANE EMISSIONS | | | | | | | | | |
| * R-5 and R-6B are interchangeable; C-4 and C-5 are interchangeable. | | | | | | | | | |
| | | | | | | | | | |
| PRODUCT | D | I | L | P | Q | R | S | T | U |
| AER (TPY) | 2.13 | 0.73 | 1.83 | 0.59 | 1.2 | 1.02 | 4.05 | 3 | 0.33 |
| EQUIPMENT | PERCENT UTILIZATION | | | | | | | | |
| R-1 | 23.00 | 57.00 | 82.00 | | 100.00 | 92.00 | 100.00 | | |
| R-3 | | 100.00 | | | 45.00 | 92.00 | 70.00 | | |
| R-4 | | | | 38.00 | 9.00 | | | | |
| *R-5 | 100.00 | | 100.00 | | | | 57.00 | | |
| R-6A | | | | | | | | | |
| *R-6B | | | 44.00 | | | | | 100.00 | |
| R-7 | | | | | | | | | |
| R-8 | | | | | 9.00 | | | | 100.00 |
| R-12 | | | 41.00 | | | 100.00 | | | |
| C-2 | | | | | | | | | |
| *C-4 | 39.00 | 57.00 | | 100.00 | 44.00 | | 100.00 | 29.00 | 48.00 |
| *C-5 | | | 47.00 | | | | 14.00 | | |
| S-1 | | | | | | 92.00 | | | |
| S-2 | | | | | | | | | |
| S-4 | | | | | | | | | |
| L-1 | | | | | | 92.00 | | | |
| D-1 | 16.00 | | 35.00 | 100.00 | | | 6.00 | 83.00 | |
| D-2 | | | | | | | | | |
| D-4 | | | | | | | | | 91.00 |
| D-5 | | | | | | | | | |
| D-6 | | 79.00 | | | 12.00 | | | | |
| IE-1 | | | | | | | | | |
| IE-2 | | | | | | | | | |

| TABLE IIIB | | | | |
|---|---|---|---|---|
| HEXANE POTENTIAL TO EMIT | | | | |
| | | | | |
| | | | | |
| PRODUCT | S | T | U | TOTALS |
| EMISSIONS (TPY) | 4.05 | 3.4 | 0.33 | 7.8 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-1 | 100.00 | | | 100.00 |
| R-3 | 70.00 | | | 70.00 |
| R-5 | 57.00 | 13.00 | | 70.00 |
| R-6B | | 100.00 | | 100.00 |
| R-7 | | | | |
| R-8 | | | 100.00 | 100.00 |
| C-4 | 100.00 | | | 100.00 |
| C-5 | 14.00 | 33.00 | 48.00 | 95.00 |
| D-1 | 6.00 | 94.00 | | 100.00 |
| D-4 | | | 91.00 | 91.00 |

| TABLE IV | | | | |
|---|---|---|---|---|
| TOTAL HAP POTENTIAL TO EMIT | | | | |
| | | | | |
| | | | | |
| PRODUCT | H | G | K | TOTALS |
| EMISSIONS (TPY) | 6.44 | 3.92 | 1.86 | 12.22 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-1 | | | 100.00 | 100.00 |
| R-3 | | | | |
| R-4 | | | | |
| R-5 | 100.00 | | | 100.00 |
| R-6A | | | | |
| R-6B | | 100.00 | | 100.00 |
| R-7 | | | | |
| R-8 | | | | |
| R-12 | | | | |
| C-2 | | | 33.00 | 33.00 |
| C-4 | 100.00 | | | 100.00 |
| C-5 | 100.00 | | | 100.00 |
| S-1 | | | | |
| S-2 | | | | |
| S-4 | | | | |
| L-1 | | | | |
| D-1 | | | | |
| D-2 | | | | |
| D-4 | 100.00 | | | 100.00 |
| D-5 | | | | |
| D-6 | | | 100.00 | 100.00 |
| IE-1 | | | | |
| IE-2 | | | | |

# Action Memo

SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION

March 16, 1995

Potential to Emit Workgroup

FROM: Sherry L. Edwards

**SOCMA Guidance on Calculating Potential Emissions**

Please find attached for your review and comment the draft SOCMA guidance on calculating potential emissions from a batch process. As we agreed, this guidance will be distributed to the SOCMA membership and submitted to EPA in hopes that the Agency will adopt the recommended methodology as official guidance. I have spoken with EPA staff and told them we would forward the revised information to them shortly.

Please submit your comments to me by no later than Thursday, March 23. You may call me at (202) 414-4170 or fax comments to me at (202) 289-8584. Thank you for your prompt attention to this matter.

Attachment

RECEIVED
MAR 20 1995
W.S. TURETSKY



1100 NEW YORK AVENUE, N.W. • SUITE 1090 • WASHINGTON, DC 20005 • TELEPHONE (202) 414-4100

# HOW TO CALCULATE POTENTIAL EMISSIONS FROM A BATCH PROCESS TO DETERMINE MAJOR SOURCE STATUS UNDER THE CLEAN AIR ACT

Graphic

**GUIDANCE PREPARED BY THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION**

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# SOCMA GUIDANCE ON POTENTIAL TO EMIT

# HOW TO DETERMINE IF A BATCH PROCESSING FACILITY IS A MAJOR SOURCE


1.0 Introduction

- 1.1 Need for Guidance on PTE
- 1.2 EPA Policy on Inherent Operational Limitations
- 1.3 Intended Use for Guidance

2.0 Five (5) Step SOCMA PTE Emission Estimation Methodology

- 2.1 ACT Derived AERs
- 2.2 Percent Equipment Utilization
- 2.3 Interchangeable Equipment Determinations
- 2.4 Data Tabulation
- 2.5 Selection of PTE

3.0 Model PTE Calculations

Appendices

Appendix A: USEPA Guidance on PTE

Appendix B: Typical Batch Sheet

Appendix C: Batch Percent Utilization/Emission Spreadsheet Form

Appendix D: Batch Potential to Emit Spreadsheet Form

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## WHO IS THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION

The Synthetic Organic Chemical Manufacturers Association (SOCMA) is a trade association serving more than 230 companies that have a common interest in the manufacture, distribution and marketing of organic chemical products. The majority of SOCMA's members are small businesses with annual sales under $40 million. SOCMA member companies are representative of a much larger number of organic chemical manufacturers throughout the United States. Most of SOCMA's manufacturing member companies utilize batch processes and many are custom chemical manufacturers who produce specialty chemicals by contracting with larger companies.

Batch processing provides an efficient and frequently the only method to make small quantities of chemicals to meet specific needs and consumer demands for specialized products. Batch processors must be able to respond quickly to new requirements by customers, fill small market niches and develop new products. They are at the cutting edge of new technology, provide products often made nowhere else in the world and help keep imports down by responding quickly to customer demands for service and delivery. This segment of the chemical industry retains a high degree of entrepreneurship and must retain the flexibility to meet ever changing needs and new technological developments.

Batch processes are distinct from continuous operations in that a continuous operation has a constant raw material feed to each unit operation and continual product withdrawal from each unit operation. A batch process has an intermittent introduction of frequently changing raw materials into the process, varying process conditions imposed on the process within the same vessel and, consequently, an intermittent release of air emissions. Vessels are often idle while waiting for raw materials, waiting for quality control checks, undergoing cleaning, etc. Thus the possibility for emissions from a batch process is substantially different from that of a continuously operating process.

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## SECTION 1 - INTRODUCTION

### SECTION 1.1 - NEED FOR GUIDANCE ON POTENTIAL TO EMIT

There is a great need for guidance on how to calculate potential-to-emit (PTE) for batch processing facilities. Applicability of most of the Clean Air Act's rules are based on a source's "potential to emit."

SOCMA has repeatedly objected to the Environmental Protection Agency's (EPA's) current definition of "potential to emit" because it allows sources to consider only "federally enforceable" controls or other restrictions on emissions when calculating PTE. There is no statutory requirement that controls be federally enforceable; therefore, SOCMA has recommended that the Agency recognize non-federally enforceable controls.

While this is a legal interpretation of significant concern, this guidance focuses on a technical component of the potential to emit issue: a methodology for calculating potential emissions from batch processes, which accounts for inherent limitations on the operation of such processes. Because batch facilities use the same equipment to manufacture a variety of products in a given year, it is physically impossible for these facilities to produce all of these products on a 24 hours a day, seven day a week basis. Therefore, the calculation of potential emissions from these facilities must consider equipment utilization rates for each product/process and their relationship to one another. This requires the consideration of the physical attributes of a process before controls are even considered.

For instance, a company produces products A and B and owns equipment U, W, X, Y and Z to manufacture them. The company utilizes equipment U, W and X to manufacture product A; and X, Y and Z to manufacture product B. Processes to manufacture products A and B both utilize equipment X; therefore, it is impossible for the facility to run both processes at the same time. The calculation of potential emissions must recognize this equipment utilization factor in order to yield an estimate of potential emissions over time which is physically possible at this particular plant.

The effect of emissions controls is not of concern at this point in the calculation of potential emissions. Of course, controls may further limit a source's actual and potential emissions; however, it is important to consider the issues of a source's actual ability to generate air emissions and the reductions achieved by controls separately.

SOCMA is concerned with this issue because many states are requiring batch facilities to calculate their potential emissions using the same methodology as applied to continuous operations, which requires an assumption of a 24 hours a day, seven days a week operation. This methodology greatly inflates estimates of potential emissions

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beyond what is physically possible for batch facilities that use the same equipment to produce a variety of products.

The Agency has released guidance on PTE issues; however, none of the information adequately addresses the specific concerns of batch processors. For example, the Agency touches upon PTE issues in its February 1994 Alternative Control Technology (ACT) document for batch processes; however, calculation procedures are not addressed. SOCMA has developed guidance to provide a more realistic way of calculating potential emissions from a batch process. The following information is being provided to assist you in working with your permitting agencies to calculate potential emissions from your batch facility. The calculation methodology was developed by SOCMA's Air Committee and is not official government guidance. However, SOCMA is urging the Agency to adopt this methodology as official guidance.

## SECTION 1.2 - EPA POLICY ON INHERENT OPERATIONAL LIMITATIONS

The Agency has defined PTE similarly in various Clean Air Act rules. For example, in the Part 63 General Provisions, EPA defines PTE as:

> *The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. (40 CFR Section 63.2)*

However, under EPA policy not all operational limitations have to be federally enforceable. In January 1995 guidance (see Appendix A), the Agency discusses inherent limitations on the potential to emit which may be considered without being federally enforceable:

> *Clearly, there are sources for which inherent physical limitations for the operation restrict the potential emissions of individual emission units. Where such inherent limitations can be documented by a source and confirmed by the permitting agency, EPA believes that States have the authority to make such judgments and factor them into estimates of a stationary source's potential to emit.*

SOCMA applauds the Agency for including this language in the guidance. Equipment availability (or more appropriately unavailability) is certainly an inherent

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physical limitation on a particular operation. The SOCMA methodology provides for documentation of both the products manufactured and the equipment used to manufacture these products. The methodology begins with the largest emitting product/process and methodically rules out other processes that cannot be manufactured at the same time. These physical restraints on the facilities operations are not based on a decision to limit production requiring enforceability. Quite simply, it is physically impossible to operate beyond this worst case scenario given a finite list of products and equipment. The documentation required in SOCMA's methodology is sufficient to demonstrate this.

## SECTION 1.3 - INTENDED USE OF GUIDANCE

This guidance was developed to assist companies that must calculate potential emissions to determine major source status under the Clean Air Act. It is not intended as the sole method of calculating potential emissions. There are other methods and scenarios under which a source may need to calculate potential emissions. For instance, a batch facility that is already considered major and required to apply for an operating permit may wish to pursue another methodology that results in the highest PTE conceivable in order to avoid triggering permit modifications when making a change that increases its PTE.

The methodology does have limitations. For instance, the methodology relies on the utilization of existing equipment and a specific product mix. Whenever new products or equipment are brought on-site, the source would have to recalculate PTE based on the changes. SOCMA recognizes that this may be time consuming for those facilities that frequently bring new products on line and, therefore, does not advocate this guidance as the sole methodology for calculating PTE. SOCMA does believe that it provides a useful alternative to the 24 hours a day, seven days a week standard currently mandated by some state permitting authorities.

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## SECTION 2 - EMISSION ESTIMATION METHODOLOGIES

In general, SOCMA recommends a five (5) step procedure for calculating potential to emit to determine if a batch processing facility is a major source. Each step is described below.

### SECTION 2.1 - CALCULATION OF PRODUCT SPECIFIC ANNUAL EMISSION RATES FOR SPECIFIC EQUIPMENT TRAINS NEEDED TO PRODUCE SPECIFIC PRODUCTS (STEP #1)

The USEPA's 1994 Alternatives Control Technology (ACT) Document contains several equations for calculating emissions for various types of batch operations. In addition, the ACT Document implies that the following methodology should be used for converting these emission calculations to Annual Emission Rates (AER):

**Equation 2.1:**

$$\text{(AER) Product M Pollutant X} = \frac{\text{ACT Derived Total Emissions Per Batch} \times 8760 \ \frac{\text{Hours}}{\text{Year}}}{\text{(Time in hours required for the piece of equipment in The Batch Train that is used the most)}}$$

Where AER = Annual Emission Rate for Pollutant X for Product M to be produced in a specific batch train. (It should be noted that the above calculation assumes that Product M is the only product produced in the batch train.)

To complete Step 1, calculate the AER values for every pollutant regulated by the Clean Air Act for every batch train needed to produce a specific product.

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## SECTION 2.2 - CALCULATION OF EQUIPMENT UTILIZATION PERCENTAGES FOR EACH PIECE OF EQUIPMENT IN THE BATCH TRAIN NEEDED TO PRODUCE A SPECIFIC PRODUCT (STEP #2)

Step 2 of the PTE analysis can be completed by extracting from batch sheets the time needed to run each piece of equipment in every batch train. The following equation should be used to calculate percent utilization (i.e., percentage of time required for every piece of equipment for every product which can be produced in the batch train):

**Equation 2.2:**

$$\text{Percent Utilization Product M} = 100\% \times \frac{\text{(Time in hours of individual piece of equipment)}}{\text{(Maximum hours for piece of equipment with the largest time)}}$$

A typical batch sheet is provided in Appendix B to illustrate the use of Equation 2.2. Note that the batch train for hypothetical Product H consists of a reactor, a centrifuge, and a dryer. Reaction, centrifugation, and drying times for Product H are 120, 240, and 120 hours, respectively. Therefore, using Equation 2.2, the percent utilization for the reactor is $100\% \times \frac{120}{240}$ or 50%.

Similarly, percent utilizations for the centrifuge and dryer are 100% and 50%, respectively.

## SECTION 2.3 - DETERMINATIONS INVOLVING INTERCHANGEABLE EQUIPMENT (STEP #3)

To complete Step 3, identify interchangeable or alternative equipment which can be substituted for equipment normally used to make a particular product by examining batch sheets. Referring to Appendix B, note that reactor R-6B and centrifuge C-4 can be substituted for reactor R-5 and centrifuge C-5.

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## SECTION 2.4 - TABULATION OF AER, PERCENT UTILIZATION, AND INTERCHANGEABLE EQUIPMENT DETERMINATIONS (STEP #4)

Step 4 can be completed by recording, in a Batch Percent Utilization/Emission Spreadsheet, the AER values (from Step 1) for each product that emits a regulated pollutant. A blank form is provided in Appendix C. In the same spreadsheet, record percent utilization (Step 2) for each piece of equipment which makes up the batch train for a specific product and also indicate interchangeable equipment (Step 3). It should be noted that separate spreadsheets must be filled out for each hazardous air pollutant (HAP) and for each criteria pollutant. Examples are provided in Section 3 of this manual to help the user complete Step 4 of the procedure.

## SECTION 2.5 - SELECTION OF PTE (STEP #5)

### SECTION 2.5.1 - PTE FOR A SINGLE PIECE OF BATCH PROCESSING EQUIPMENT

PTE for a batch process which requires only a single piece of equipment (e.g., one reactor) is equal to the worst case Annual Emission Rate (AER) for that piece of equipment. Worst case AER is determined by first computing AER values for every product which can be produced in this piece of equipment and then by selecting the highest AER value. To summarize, PTE for a single piece of equipment is equal to the highest AER value and assumes that the product with the highest AER value will be the only product produced in that piece of equipment.

### SECTION 2.5.2 - PTE FOR OTHER BATCH PROCESSING FACILITIES

PTE for batch processing facility with more than one piece of equipment must be determined by completing Step 5 of the SOCMA procedure. To complete Step 5, examine the emissions and percent utilization data for each matrix generated in Step 4 and select maximum emissions for each pollutant by fully utilizing all available equipment which can be used to produce a particular product. Do not exceed 100% utilization for any piece of equipment. The examples in Section 3.0 will teach the user how to fill out a Batch PTE Spreadsheet. Please note that a blank PTE Batch Spreadsheet form is also provided in Appendix D.

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## SECTION 3 - MODEL PTE CALCULATIONS

A hypothetical custom chemical batch processing facility has 23 point sources which emit 3 HAPs (toluene, methanol and hexane) and one criteria pollutant (VOCs) during the manufacture of 21 products (identified as letters A through T.) To determine the applicability of Clean Air Act requirements such as Title V permitting, Reasonably Available Control Technology (RACT) standards, and Section 112 (g) for future modifications, this facility must determine its potential to emit and wishes to use the SOCMA recommended calculation procedures.

### 3.1 Calculation of Toluene PTE

By following the calculation procedures and completing the Batch Percent Utilization Spreadsheet described in Section 2.4 above, we can see that, as indicated in Table 1A, toluene can be emitted from 7 batch reactors, 3 batch dryers, 3 batch centrifuges, and 1 thin film evaporator. Toluene is emitted in the production of 7 different products.

Product G is the largest emitter of toluene and requires batch reactor R-5 for the entire batch time (i.e., 100% utilization). Since reactors R-5 and R-6B are interchangeable, the maximum toluene emissions for process G is two (2) times the toluene emission rate for one train or 2 x 3.92 = 7.84 TPY. By making this worst case selection, we have tied up both reactors R-5 and R-6B 100% of the time. Therefore, no other process can be run or considered that requires these reactors. Consequently, only Processes C and F can be run concurrently with Process G since all other products require reactors R-5 or R-6B. By inspection, there is no equipment conflict between C and F, so they can be operated concurrently 100% of the time. Therefore, their toluene emissions are added to twice G's emissions to calculate a total toluene plant-wide potential to emit of 9.1 ton/year (see Batch PTE Spreadsheet Table 1B which also serves as a final equipment conflict check).

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### 3.2 Calculation of Methanol PTE

As indicated in Table 2A, methanol can be emitted from 7 reactors, 3 centrifuges, 1 thin film evaporator, 4 dryers, and 2 ion exchange units. Methanol is emitted in the production of 9 different products.

By reviewing that Batch Percent Utilization Spreadsheet, we can see that Product H is the largest emitter of methanol and requires 1 batch reactor (R-5) 50% of the time, 1 dryer (D-4) 50% of the time, and 1 centrifuge (C-4) 100% of the entire batch time. However, reactor R-5 and dryer D-4 can be run 100% of the time if both centrifuges C-4 and C-5 are used. The maximum methanol emissions for Product H would then be two (2) times the methanol emission rate for one train (2 x 3.2 = 6.4 TPY).

By making this worst case assumption, we have tied up reactor R-5, centrifuges C-4 and C-5, and dryer D-4 100% of the time. Therefore, no other process can be run or considered that requires this equipment. Consequently, by inspection of Table 2A, Product J can be eliminated because it uses centrifuges C4 and C5. Process J's use of reactor R-5 would not itself eliminate process J because reactor R-6B is interchangeable. Product L can be eliminated because it uses centrifuge C5. Products I and O can be eliminated because they both require centrifuge C-4.

The highest methanol emitter for remaining processes (Products E, K, M and N) is Process K which requires reactor R-1, centrifuge C-2 and dryer D-6. Including Process K in the PTE calculation eliminates Products M and N which, respectively, utilize reactor R-1 and dryer D-6.

The only remaining methanol emitter is Process E which uses reactor R-5. Since reactor R-6B is available, Process E is included in the total methanol PTE calculations. Therefore, the methanol potential to emit can be calculated by summing emissions from Processes E, H, and K and is equal to 1.0 + 6.4 + 1.9 or 9.3 TPY (Table II-B).

### 3.3 Calculation of Hexane PTE

As indicated in Table 3A, hexane can be emitted from 8 batch reactors, 2 batch centrifuges, 1 still, 1 thin film evaporator, and 3 dryers. Hexane is emitted in the production of 9 different products.

By reviewing that Batch Percent Utilization Spreadsheet, we can see that Product S is the largest emitter of hexane and requires reactor R-1 and centrifuge C-4 100% of the time. Therefore, no other process can be considered that requires this equipment. Consequently, Products D, I, L, Q, and R can be eliminated because they all use reactor R-1.

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By inspection, we can see that Product T is the next largest emitter of hexane and should be included in the total hexane PTE because it requires reactor R-6B 100% of the time. However, since reactor R-5 can also be used to produce Product T and there is "spare" capacity in both centrifuge C-5 and dryer D-1, an additional 13% of the time T can be run using reactor R-5. This limits out dryer D-1 at 100% of capacity. Therefore, dryer D-1 is at 94% utilization for Product T and centrifuge C-5 is at 33% utilization total (i.e., basic yearly batch x 1.13).

Product P is eliminated because there is 100 % utilization of dryer D-1 in making Products S and T. Since there is capacity in centrifuge C-5 to produce Product U concurrently with Products S and T, its emissions should be counted in the final hexane plant-wide PTE along with emissions from products S and T.

### 3.4 Calculation of Total HAP PTE

The total HAP PTE should be determined by first identifying the product with the largest (HAP) emission rate. In this case, Product S has the largest (HAP) emission rate (4.05 TPY of hexane) and fully utilizes reactors R-1 and centrifuge C-4. However, the third largest emitter of HAP is Product H which emits 3.2 TPY of methanol and which uses 50% of reactor R-5's, 100% of centrifuge C-4's, and 50% of dryer D-4's capacity. Product H's methanol emissions would be 6.4 TPY if reactor R-5, centrifuges C-4 and C-5, and dryer D-4 are run at 100% capacity. Since Product S's emissions are less than Product H's at full equipment utilization, Product H should be selected and Product S emissions should be eliminated from the worst case PTE calculation. Therefore, reactor R-5 and centrifuges C-4 and C-5, and dryer D-4 are fully utilized. Any product using any one of these pieces of equipment other than reactor R-5 can be eliminated from the total HAP PTE calculation (Products A, C, D, I, J, L, O, P, Q, S, T and U).

The second largest emitter of a HAP is Product G which can utilize reactor R-6B and which emits 3.92 TPY of toluene. Since there are no equipment conflicts, its HAP emissions will be included in the total plant-wide HAP PTE.

Products B (2.44 TPY toluene) and E (1.0 TPY methanol) are eliminated from the total HAP PTE calculation because they use reactors R-5 or R-6B, which are fully utilized to make Products G and H.

The next largest emitter of a HAP is Product K which emits 1.86 TPY of methanol and which fully utilizes reactor R-1 and dryer D-6. Since this equipment is not used to make Products G and H, Product K's emissions should be included in the total worst case HAP PTE calculation.

Products R is eliminated from the total HAP PTE calculation because it uses reactor R-1.

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Product M (10.55 TPY methanol) is eliminated because it uses reactor R-1.

Products F and N are eliminated because they use dryer D-6 which is tied up in the production of Product K.

Therefore, the total HAP PTE is 12.2 TPY and is determined by adding emissions from Products G (3.9 TPY toluene), Product H (6.4 TPY methanol), and Product K (1.86 TPY methanol).

| Table IA | | | | | | | |
|---|---|---|---|---|---|---|---|
| PROCESSES WITH MAXIMUM TOLUENE EMISSIONS | | | | | | | |
| * R-5 and R-6B interchangeable; C-4 and C-5 interchangeable | | | | | | | |
| PRODUCT | A | B | C | D | E | F | G |
| AER (TPY) | 0.11 | 2.44 | 0.67 | 1.35 | 1.84 | 0.56 | 3.92 |
| EQUIPMENT | PERCENT UTILIZATION | | | | | | |
| R-1 | | 64.00 | | 23.00 | | | |
| R-3 | | | 44.00 | | | | |
| R-4 | | 74.00 | | | | | |
| *R-5 | 50.00 | | | 100.00 | 100.00 | | 100.00 |
| R-6A | | | | | | | |
| *R-6B | 100.00 | 100.00 | | | | | |
| R-7 | | | | | | | |
| R-8 | | 48.00 | | | | | |
| R-12 | | | | | 24.00 | | |
| C-2 | | | | | | | |
| *C-4 | 100.00 | | 15.00 | 39.00 | | | |
| *C-5 | 50.00 | | | | | | |
| S-1 | | | | | | | |
| S-2 | | | | | | | |
| S-4 | | | | | | | |
| L-1 | | 52.00 | 100.00 | | 36.00 | | |
| D-1 | | | 44.00 | 16.00 | | | |
| D-2 | 53.00 | | | | | | |
| D-4 | | | | | | | |
| D-5 | | | | | | | |
| D-6 | 50.00 | | | | | 100.00 | |
| IE-1 | | | | | | | |
| IE-2 | | | | | | | |

| TABLE IB | | | | |
|---|---|---|---|---|
| TOLUENE POTENTIAL TO EMIT (PTE) | | | | |
| PRODUCT | G | C | F | TOTALS |
| EMISSIONS (TPY) | 7.84 | 0.67 | 0.56 | 9.07 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-5 | 100.00 | | | 100.00 |
| R-6B | 100.00 | | | 100.00 |
| D-6 | | | 100.00 | 100.00 |
| R-3 | | 44.00 | | 44.00 |
| C-4 | | 15.00 | | 15.00 |
| L-1 | | 100.00 | | 100.00 |
| D-1 | | 44.00 | | 44.00 |

| TABLE IIA | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| PROCESSES WITH MAXIMUM METHANOL EMISSIONS | | | | | | | | | |
| * R-5 and R-6B are interchangeable; C-4 and C-5 are interchangeable | | | | | | | | | |
| PRODUCT | E | H | I | J | K | L | M | N | O |
| AER (TPY) | 1 | 3.22 | 0.24 | 1.58 | 1.86 | 0.21 | 0.55 | 0.53 | 0.6 |
| EQUIPMENT | PERCENT UTILIZATION | | | | | | | | |
| R-1 | | | 57.00 | | 100.00 | 82.00 | 43.00 | | 65.00 |
| R-3 | | | 100.00 | | | | | | |
| R-4 | | | | | | | | | |
| *R-5 | 100.00 | 50.00 | | 40.00 | | 100.00 | | | 30.00 |
| R-6A | | | | | | | | 20.00 | |
| *R-6B | | | | | | 44.00 | | | |
| R-7 | | | | | | | | | |
| R-8 | | | | | | | 100.00 | | 100.00 |
| R-12 | 24.00 | | | 42.00 | | 41.00 | | | |
| C-2 | | | | 83.00 | 33.00 | | 71.00 | | 15.00 |
| *C-4 | | 100.00 | 57.00 | 42.00 | | | | | 10.00 |
| *C-5 | | | | 42.00 | | 47.00 | | | |
| S-1 | | | | | | | | | |
| S-2 | | | | | | | | | |
| S-4 | | | | | | | | | |
| L-1 | 36.00 | | | | | | | | |
| D-1 | | | | 100.00 | | 35.00 | 43.00 | | |
| D-2 | | | | | | | | | |
| D-4 | | 50.00 | | | | | | | |
| D-5 | | | | | | | | 72.00 | |
| D-6 | | | 79.00 | | 100.00 | | | 100.00 | 100.00 |
| IE-1 | | | | | | | 67.00 | | 90.00 |
| IE-2 | | | | | | | | | 90.00 |

| TABLE IIB | | | | |
|---|---|---|---|---|
| METHANOL POTENTIAL TO EMIT (PTE) | | | | |
| PRODUCT | H | K | E | TOTALS |
| EMISSIONS (TPY) | 6.44 | 1.86 | 1.0 | 9.3 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-1 | | 100.00 | | 100.00 |
| R-5 | 100.00 | | | 100.00 |
| R-6B | | | 100.00 | 100.00 |
| R-12 | | | 24.00 | 24.00 |
| C-2 | | 33.00 | | 33.00 |
| C-4 | 100.00 | | | 100.00 |
| C-5 | 100.00 | | | 100.00 |
| D-4 | 100.00 | | | 100.00 |
| D-6 | | 100.00 | | 100.00 |
| L-1 | | | 36.00 | 36.00 |

| TABLE IIIA | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| PROCESSES WITH MAXIMUM HEXANE EMISSIONS | | | | | | | | | |
| * R-5 and R-6B are interchangeable; C-4 and C-5 are interchangeable. | | | | | | | | | |
| PRODUCT | D | I | L | P | Q | R | S | T | U |
| AER (TPY) | 2.13 | 0.73 | 1.83 | 0.69 | 1.2 | 1.02 | 4.05 | 3 | 0.33 |
| EQUIPMENT | PERCENT UTILIZATION | | | | | | | | |
| R-1 | 23.00 | 57.00 | 82.00 | | 100.00 | 92.00 | 100.00 | | |
| R-3 | | 100.00 | | | 45.00 | 92.00 | 70.00 | | |
| R-4 | | | | 38.00 | 9.00 | | | | |
| *R-5 | 100.00 | | 100.00 | | | | 57.00 | | |
| R-6A | | | | | | | | | |
| *R-6B | | | 44.00 | | | | | 100.00 | |
| R-7 | | | | | | | | | |
| R-8 | | | | | 9.00 | | | | 100.00 |
| R-12 | | | 41.00 | | | 100.00 | | | |
| C-2 | | | | | | | | | |
| *C-4 | 39.00 | 57.00 | | 100.00 | 44.00 | | 100.00 | 29.00 | 48.00 |
| *C-5 | | | 47.00 | | | | 14.00 | | |
| S-1 | | | | | | 92.00 | | | |
| S-2 | | | | | | | | | |
| S-4 | | | | | | | | | |
| L-1 | | | | | | 92.00 | | | |
| D-1 | 16.00 | | 35.00 | 100.00 | | | 6.00 | 83.00 | |
| D-2 | | | | | | | | | |
| D-4 | | | | | | | | | 91.00 |
| D-5 | | | | | | | | | |
| D-6 | | 79.00 | | | 12.00 | | | | |
| IE-1 | | | | | | | | | |
| IE-2 | | | | | | | | | |

| TABLE IIIB | | | | |
|---|---|---|---|---|
| HEXANE POTENTIAL TO EMIT | | | | |
| PRODUCT | S | T | U | TOTALS |
| EMISSIONS (TPY) | 4.05 | 3.4 | 0.33 | 7.8 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-1 | 100.00 | | | 100.00 |
| R-3 | 70.00 | | | 70.00 |
| R-5 | 57.00 | 13.00 | | 70.00 |
| R-6B | | 100.00 | | 100.00 |
| R-7 | | | | |
| R-8 | | | 100.00 | 100.00 |
| C-4 | 100.00 | | | 100.00 |
| C-5 | 14.00 | 33.00 | 48.00 | 95.00 |
| D-1 | 6.00 | 94.00 | | 100.00 |
| D-4 | | | 91.00 | 91.00 |

| TABLE IV | | | | |
|---|---|---|---|---|
| TOTAL HAP POTENTIAL TO EMIT | | | | |
| | | | | |
| | | | | |
| PRODUCT | H | G | K | TOTALS |
| EMISSIONS (TPY) | 6.44 | 3.92 | 1.86 | 12.22 |
| EQUIPMENT | PERCENT UTILIZATION | | | |
| R-1 | | | 100.00 | 100.00 |
| R-3 | | | | |
| R-4 | | | | |
| R-5 | 100.00 | | | 100.00 |
| R-6A | | | | |
| R-6B | | 100.00 | | 100.00 |
| R-7 | | | | |
| R-8 | | | | |
| R-12 | | | | |
| C-2 | | | 33.00 | 33.00 |
| C-4 | 100.00 | | | 100.00 |
| C-5 | 100.00 | | | 100.00 |
| S-1 | | | | |
| S-2 | | | | |
| S-4 | | | | |
| L-1 | | | | |
| D-1 | | | | |
| D-2 | | | | |
| D-4 | 100.00 | | | 100.00 |
| D-5 | | | | |
| D-6 | | | 100.00 | 100.00 |
| IE-1 | | | | |
| IE-2 | | | | |

# APPENDIX B

## TYPICAL SOCMA BATCH SHEET

Product: Product H dried — Part No: 4008001
From: Material 1 — Part No: 1068500
MW Product: 300.00 — Basis: 1470.0 Kg — Packet Revision Date: 8/19/91
MW RAW: 100 — Yield: 70.00 %

| Part No. | Compound | FW | Sp. Gr. | Moles | kg. | kg./ba | Gal/ba | Price $/kg | Unit Cost $/kg | Recovery % | Credit $/kg |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1068500 | Material 1 | 100.00 | 1.835 | 1.00 | 1.0000 | 700.0 | 113.1 | 1.858 | 0.932 | | |
| 1088400 | Acid 2 | 50.00 | 1.500 | | 0.4836 | 338.5 | 59.6 | 0.850 | 0.150 | | |
| 1025250 | Material 3 | 150.00 | 3.118 | | 1.3907 | 973.5 | 82.5 | 3.250 | 2.152 | | |
| 1133100 | Methanol (tank) | 32.07 | 0.791 | | 6.0393 | 4227.5 | 1412.0 | 0.225 | 0.647 | | |
| 1023250 | Material 4 | 100.00 | 0.951 | | 4.8008 | 3360.5 | 805.1 | 5.100 | 11.859 | | |
| 1234000 | Water | 18.02 | 1.000 | | 2.7844 | 1949.1 | 514.9 | 0.000 | 0.000 | | |
| 1088500 | Acid 5 | 50.00 | 1.158 | | 1.5031 | 1052.2 | 239.5 | 0.163 | 0.117 | | |
| 1186800 | Base 6 | 50.00 | 1.530 | | 0.1021 | 71.5 | 12.3 | 0.340 | 0.017 | | |
| 1133100 | Methanol (tank) | 32.07 | 0.791 | | 1.8742 | 1311.9 | 438.2 | 0.225 | 0.201 | | |
| 1011750 | Acetone (tank) | 58.08 | 0.787 | | 1.8742 | 1311.9 | 440.4 | 0.790 | 0.705 | | |
| 4008001 | Product H dried | 300.00 | | 0.70 | 2.1000 | 1470.0 | 3,889.4 | | 18.580 | | |

| Container Charge | |
|---|---|
| Part No: | 1900000 |
| | No Package |
| Cost/Container: | $0.00 |
| Capacity (kg): | 1 |
| Unit Cost/ Kg.: | 0.000 |

| Part # | Value |
|---|---|

BATCH RAWS = $24,372

Manufacturing Cost Consolidation: GHR Rate = 54.00 $/GHr

| Step | Intermediate | Equip | Alternate Equip | Cycle Hr. | Equip Factor | GHr GHr/Ba | Unit Cycle Hr/Kg | Unit Cost $/Kg | Stream | Quant. Lit./Ba | Unit Quant. Lit./Kg | Hazard. Cost $/Liter | Unit Cost $/Kg |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| A | Reaction | R-5 | R-6b | 120 | 1.400 | 168.00 | 0.082 | 8.171 | | | | | |
| | Centrifugation | C-5 | C-4 | 240 | 0.300 | 72.00 | 0.163 | 2.845 | | | | | |
| | Drying | D-4 | | 120 | 0.400 | 48.00 | 0.082 | 1.763 | | | | | |
| | | | | | GHr = | 288.00 | GHr/Ba | | | | | | |

Batch LOH = $15,552

| | |
|---|---|
| Overhead ($/Kg) | 10.580 |
| Raws ($/Kg) | 18.580 |
| Raws recovery credit | |
| Containers ($/Kg) | 0.000 |
| GMC ($/Kg) | 27.159 |

Key Raws = 100.000 %RM's
Real Raws = 18.580 / kg.

APPROVED FOR USE
Date: _____

Accounting — Process Devel.
Production — Gn. Mgr.

Prepared by: _____
Date: _____

S4DBA1.XLS

| | | | | | |
|---|---|---|---|---|---|
| Product: | Product H | Part No: | 5008001 | | |
| From: | Product H dried | Part No: | 4008001 | | |
| | MW Product: | 300.00 | Basis: | 462.7 Kg | Packet Revision Date: 9/18/91 |
| | MW RAW: | 300.00 | Yield: | 89.50 % | |

| Part No. | Compound | FW | Sp. Gr. | Moles | kg. | kg./ba | Gal/ba | Price $/kg | Unit Cost $/kg | Recovery % | Credit $/kg |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 4008001 | Product H dried | 300.00 | 1.000 | 1.00 | 1.0000 | 1470.0 | 388.4 | 27.159 | 27.296 | | |
| 5008001 | Product H | 300.00 | | 1.00 | 0.8950 | 1462.7 | 388.4 | | 27.296 | | |

BATCH RAWS = $39,924

| Container Charge | |
|---|---|
| Type: | 1906RTF |
| | 30 gallon Plastic Drum |
| Cost/Container: | $11.64 |
| Capacity (kg): | 50 |
| Unit Cost/ Kg.: | 0.233 |

Manufacturing Cost Consolidation: GHR Rate = 54.00 $/GHr

| Step | Intermediate | Equip | Cycle Hr. | Equip Factor | GHr GHr/Ba | Unit Cycle Hr/Kg | Unit Cost $/Kg | Stream | Quant. Lit./Ba | Unit Quant. Lit./Kg | Hazard. Cost $/Liter | Part # | Unit Cost $/Kg | Value |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 5 | Grinding | FG | 4 | 0.200 | 0.80 | 0.003 | 0.030 | | | | | | | |
| | Sifting | FS | 24 | 0.200 | 4.80 | 0.016 | 0.177 | | | | | | | |
| | | | | GHr = | 5.60 GHr/Ba | | | | Batch LOH = | 1302 | | | | |

| | |
|---|---|
| Overhead ($/Kg) | 0.207 |
| Raws ($/Kg) | 27.296 |
| Raws recovery credit | |
| Containers ($/Kg) | 0.233 |
| GMC ($/Kg) | 27.735 |

Key Raws = 61.048 %RM's
Real Raws = 16.663 / kg.

APPROVED FOR USE
Date: _____

| | |
|---|---|
| Accounting | Process Devel. |
| Production | Gn. Mgr. |

Prepared by: _____
Date: _____

From: LAURA ANN GIRE ("GIRE.LAURA@EPAMAIL.EPA.GOV")
To: mhopkins@central,
Date: Friday, April 26, 1996 11:30 am
Subject: Letter to WI on using Equivalent Gallons Method to limit PTE & RACT (SMTP Id#: 193)

(AR-18J)

April 25, 1996

Mr. Dale Ziege
Bureau of Air Management
Department of Natural Resources
101 South Webster Street
Box 7921
Madison, Wisconsin 53707

Dear Mr. Ziege:

This letter is in regards to your request for a determination by the United States Environmental Protection (USEPA) on the Wisconsin Department of Natural Resources (WDNR) using #equivalent gallons# as a form of compliance demonstration. Equivalent gallons has been used to limit Potential to Emit (PTE) in New Source Review Construction Permits, Title V Operating Permits, and Federally Enforceable Sate Operating Permits (FESOPS). It also is being used to demonstrate compliance with #Reasonably Available Control Technology (RACT)#.

In our analysis of the rationale and concept behind equivalent gallons, we reviewed Section NR 422.04 of the Wisconsin Administrative Code and found four State Implementation Plan (SIP) approved methods of determining compliance for RACT. Those four methods listed in NR 422.04 do not include equivalent gallons. The WDNR has not demonstrated that the equivalent gallons method is as stringent as the other methods approved into the SIP. Thus, the equivalent gallons approach does not appear to be a recognized method approved into Wisconsin#s SIP for determining compliance with RACT. Similarly, this method cannot be used to determine compliance with your overall Part D SIP program, e.g., your 15 percent plan.

Furthermore, the equivalent gallons approach does not follow the June 13, 1989, memo from John Seitz, entitled #Guidance on Limiting Potential to Emit in New Source Permitting#. This memo states that, #limitations must be stated as conditions that can be enforced independently of one another.# The equivalent gallons method is not

consistent with this policy. Equivalent gallons utilizes a product of multiple parameters to develop a limit. Each of those parameters cannot be enforced independently, since the limitation is based on the product of those parameters and not on each one.

In summary, we find that emission limits calculated through the equivalent gallons method are neither independently enforceable nor shown to be at least as stringent as approved methods in the SIP. Therefore, this method cannot be used to limit PTE emissions in FESOPS, Title V, Prevention of Significant Deterioration, Part D New Source Review, Offset, or Synthetic Minor Permits. We trust the WDNR to take the necessary steps to ensure that equivalent gallons are not used in the future.

If you have any further questions regarding this letter or would like to discuss the matter further, please contact Laura Gire at (312) 886-5031.

Sincerely yours

/s

Robert Miller, Chief
Permits and Grants Section

From: "cschutt@aq.pca.state.mn.us" ("CSCHUTT@AQ.PCA.STATE.MN.US")
To: dsmith@aq.pca.state.mn.us>, "carole.cenci" ...
Date: Tuesday, May 28, 1996 2:50 pm
Subject: RE: Comment Letters To WI for Facility trying Circumvent PSD (SMTP Id#: 445)

Laura:

Thanks for sharing this information with us. However one question remains : how far apart (in time) permit actions need to be so that these are not considered circunvention ? In other words, how much time is acceptable between two permit actions for the same facility which would accomplish the same thing that Aarrowcas
wants to do in one permit action?. The first one would make a source synthetic minor and the second one would authorize an increase of emissions which would otherwise
have triggered PSD if the subject source was not a permitted synthetic minor. What other aspects would you consider to make a determination ? Do you have an opinion or policy on this ?
Would you please forward this message to Dale Ziege, since I do not have his e-mail address ?
Thanks, Carolina

---

From: laura ann gire
To: mhopkins; trigo; foyj; yanochkd; epa2209; carole.cenci; carolina.schutt
Subject: Comment Letters To WI for Facility trying Circumvent PSD
Date: Thursday, May 09, 1996 11:49AM

Two comment letters were sent to WI. The first one, aarrow.doc, was sent. WI requested us to clarify our comment regarding circumvention, a second letter was sent arrow.doc.

- AARROW.DOC follows

(AR-18J)

April 26, 1996

Dale Ziege
Wisconsin Department of Natural Resources
P.O. Box 7921
101 South Webster Street
Madison, Wisconsin 53707-7921

Dear Mr. Ziege

This letter is in regards to the Wisconsin Department of Natural Resources draft permit (96-SDD-006) to Aarrowcast in Shawano, Wisconsin. The company proposes to increase the facility s iron melting capacity to 9 tons per hour and change associated casting manufacturing equipment. The modifications would increase the facility s Volatile Organic Compound (VOC) emissions 99.15 tons per year (TPY). The company proposes to first voluntarily limit the present potential to emit (PTE) of the existing facility to under the Prevention of Significant Deterioration (PSD) threshold level, making it a synthetic minor source.

Aarrowcast s existing facility is currently considered a PSD major source for
VOC under the PSD rules found at 40 Code of Federal Regulations
Part 52.21(b)(1)(I). Aarrowcast is a Iron and Steel Mill , which is one of the 28 source categories that have a PSD major source threshold of 100 TPY. The significant PSD emission de-minimis rate for a major modification for VOC s is 40 TPY.

Under the PSD regulations, a major source may take a limit on its PTE in order
to become a synthetic minor source. Additionally, the source may also be modified during the same time period. However, the combination of restricting
a facility s existing PTE to below major source thresholds while making a modification to that same source which both exceeds the significant emission de-minimis rate for a major modification and results in the source again becoming a PSD major source, is considered a circumvention of the PSD regulations. This appears to be the case for Aarrowcast. Thus, the permit as
drafted does not currently meet the requirements of the Clean Air Act.

If you have any further questions or comments, please contact
Constantine Blathras at (312) 886-0671.

Sincerely yours

/s/

Robert Miller, Chief
Permits and Grants Section

cc Steve Dunn
Wisconsin Department of Natural Resources

Gary Schuettpelz
Environmental Services
Menominee Indian Tribe of Wisconsin

standard bcc's: official file
copy w/attachment(s)
originator's file copy w/attachment(s)
originating organization reading file w/attachment(s)

other bcc's: S. Rothblatt (via WPO)
C. Newton (via WPO)
R. Van Mersbergen (via WPO)
P. Spyropoulos (via WPO)

ARD:APB:PGS:C.Blathras:cdb:4/25/96 FILE: C:\SERVER\AARROW.WIS

ARROW.DOC follows

(AR-18J)

May 7, 1996

Mr. Dale Ziege
Bureau of Air Management
Department of Natural Resources
101 South Webster Street
Box 7921
Madison, Wisconsin 53707

Re: Aarrowcast
Permit No. 96-SDD-006

Dear Mr. Ziege:

This letter is in response to the Wisconsin Department of Natural Resources (WDNR) request for the United States Environmental Protection Agency (USEPA) to clarify its comment concerning Aarrowcast. On April 26, 1996, USEPA sent a comment letter to WDNR which suggested that the proposed permit may result in a circumvention of the Prevention of Significant Deterioration (PSD) rules. The WDNR asked USEPA to provide further clarification of why USEPA believes that this could be a circumvention.

Aarrowcast received a construction permit, #94-CHB-423, a year ago for a minor modification that made the entire facility a major source for PSD purposes for Volatile Organic Compounds (VOC), i.e., the sum of all VOCs allowable emissions >100 tons per year (tpy). Thus, any further significant modification to this facility would require the new modification to go through PSD review. At this time, Aarrowcast has requested WDNR to place a synthetic minor limitation on the entire existing facility, such that the emissions of VOCs would be limited to 99 tpy. In

addition to the 99 tpy limit on the existing facility, the source wants to add a new modification and requested that the new modification be limited to an additional 99 tpy of VOCs.

A source is allowed to take a restriction on its potential to emit in order to become a synthetic minor (<100 tpy) if it can show that the last 2 years of actual emissions have been less than 100 tpy. However, if the sole purpose of the facility-wide restriction is to avoid an applicable requirement, such as PSD review, then USEPA considers this to be circumvention.

It appears that Aarrowcast requested a synthetic minor emission limitation to become a minor source in order to avoid having its new significant modification of 99 tpy go through PSD review. Thus, it appears that Aarrowcast is trying to circumvent the PSD requirements. The USEPA trusts that WDNR will make the necessary changes to this permit and re-notice it as a PSD permit.

If you have any further questions regarding this letter or would like to discuss the matter further, please contact Laura Gire at (312) 886-5031 or Constantine Blathras at (312) 886-0671.

Sincerely yours

/s

Robert Miller, Chief
Permits and Grants Section

standard bcc s: official file copy w/attachment (s)
originator s file copy w/attachment (s)
originating organization reading file w/attachment (s)

other bcc s Permits and Grants Chiefs via WPO
Ron Van Mersbergen via WPO
Constantine Blathras via WPO
Beth Valenziano via WPO
Branch Reading File
Steve Dodge via WPO

ARD:APB:PGS:GIRE:LAG:5/6/96 DISKETTE/FILE: GIRE/arrow.wpd

bcc: Mr. Gary Schuettpelz
Menominee Indian Tribe
Of Wisconsin

January 22, 1996

MEMORANDUM

SUBJECT: Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)
Office of Air and Radiation

Robert I. Van Heuvelen, Director
Office of Regulatory Enforcement (2241A)
Office of Enforcement and Compliance Assurance

TO: Regional Office Addressees (see below):

The purpose of this memorandum is to notify you that the Agency is today releasing detailed guidance (referred to below as the "Interim Policy") clarifying the immediate impacts of two recent decisions by the U.S. Court of Appeals for the D.C. Circuit regarding EPA regulations requiring federal enforceability of limitations on a source's potential to emit ("PTE") under certain CAA programs. This cover memorandum briefly summarizes the court decisions, and briefly summarizes the immediate impacts of the decisions on current regulations. A more detailed discussion of the impacts of the two court decisions is attached. The policy will remain in place until January 1997, but may be extended if necessary to coincide with the promulgation of revised regulations.

The Court Decisions

In National Mining Association v. EPA, 59 F.3d 1351 (D.C. Cir. 1995), the court addressed hazardous air pollutant programs under section 112. The court found that EPA had not adequately explained why only federally enforceable measures should be considered as limits on a source's potential to emit. Accordingly, the court remanded the section 112 General Provisions regulation to EPA for further proceedings. EPA must either provide a better explanation as to why federal enforceability promotes the effectiveness of state controls, or remove the exclusive federal enforceability requirement. The court did not vacate the section 112 regulations, that is, the

court did not declare the regulations null and void. The regulations remain in effect pending completion of new rulemaking.

In Chemical Manufacturers Ass'n v. EPA, No. 89-1514 (D.C. Cir. Sept. 15, 1995), the court, in light of National Mining, remanded the PTE definition in the PSD and NSR regulations to EPA. The court also vacated the federal enforceability requirement of the PTE definitions in the PSD and NSR regulations.

Summary of Immediate Impacts of the Court Decisions

EPA plans to propose rulemaking amendments in spring 1996 that would address the federal enforceability issue as it relates to section 112, title V, and Prevention of Significant Deterioration & New Source Review ("PSD/NSR") regulations. Pending this rulemaking, the immediate impacts are as follows:

Effects on Section 112. Because the court did not vacate the rule, the current part 63 regulations, requiring federal enforceability, remain in effect.

Effects on title V. Although neither court case addressed the title V regulations, industry challenges to the part 70 requirements are pending. Because the federal enforceability provision of the title V regulations are closely related to the regulations addressed in the two decided cases, EPA will ask the court to leave part 70 in place as the rulemaking amendments are being developed.

Effects on PSD/NSR. Because the court vacated the rules, the requirements in the nationwide rules for PSD and major source NSR concerning federal enforceability are not in effect. In many cases, however, individual State rules implementing these programs have been individually approved in the State Implementation Plan (SIP). The court did not vacate any requirements for federal enforceability in these individual State rules, and these requirements remain in place. As discussed in detail in the Interim Policy, the immediate practical impacts on the PSD/NSR programs are not substantial for newly constructed major sources. Greater impacts may exist for existing major sources seeking to avoid review by demonstrating a net emissions decrease.

Effects on January 25, 1995 Transition Policy. The transition policy remains in effect with one change. For sources emitting more than 50% of the major source threshold, and holding

State-enforceable limits, EPA is no longer requiring that the source submit a certification to EPA.

Distribution/Further Information

The Regional Offices should send this memorandum to States within their jurisdiction. Questions concerning specific issues and cases should be directed to the appropriate Regional Office. Regional Office staff may contact Tim Smith of the Integrated Implementation Group at 919-541-4718, Adan Schwartz of the Office of General Counsel at 202-260-7632, or Julie Domike of the Office of Enforcement and Compliance Assurance at 202-564-6577. The document is also available on the technology transfer network (TTN) bulletin board, under "Clean Air Act, Title V, Policy Guidance Memos." (Readers unfamiliar with this bulletin board may obtain access by calling the TTN help line at 919-541-5384).

Attachment

Addressees:

Director, Office of Ecosystem Protection, Region I
Director, Air and Waste Management Division, Region II
Director, Air, Radiation, and Toxics Division, Region III
Director, Air, Pesticides, and Toxics Management Division, Region IV
Director, Air and Radiation Division, Region V
Director, Multimedia Planning and Permitting Division, Region VI
Director, Air, RCRA, and TSCA Division, Region VII
Assistant Regional Administrator, Office of Pollution Prevention, State and Tribal Assistance, Region VIII
Director, Air and Toxics Division, Region IX
Director, Office of Air, Region X

Regional Counsels, Regions I-X

Director, Office of Environmental Stewardship, Region I
Director, Division of Enforcement and Compliance Assurance, Region II
Director, Enforcement Coordination Office, Region III
Director, Compliance Assurance and Enforcement Division, Region VI
Director, Enforcement Coordination Office, Region VII
Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, Region VIII
Enforcement Coordinator, Office of Regional Enforcement Coordination, Region IX

# EPA INTERIM POLICY ON FEDERAL ENFORCEABILITY REQUIREMENT FOR LIMITATIONS ON POTENTIAL TO EMIT
January 1996

This document provides guidance clarifying the immediate impacts of recent court decisions related to federal enforceability of limitations on a source's potential to emit ("PTE"). In brief, most current regulatory requirements and policies regarding PTE, including the interim policy recognizing state-enforceable limits under section 112 and Title V in some circumstances, remain in effect while EPA conducts expedited rulemaking to address these issues in detail. However, at present, certain netting transactions involving PTE limits under new source review programs may now take place without federal enforceability. Today's guidance will be superseded upon completion of the new rulemaking.

## Background

Several important Clean Air Act programs apply to only major sources, i.e., those that "emit or have the potential to emit" amounts exceeding major source thresholds listed in the Act. The EPA has promulgated regulations defining the term "potential to emit" for most of these programs. In particular, five sets of regulations are in place implementing the major source prevention of significant deterioration (PSD) and nonattainment area new source review (NSR) permitting programs (40 CFR 51.166, 40 CFR 52.21, 40 CFR 51.165, Appendix S of 40 CFR Part 51, and 40 CFR 52.24). Regulations governing approvability of state operating permit programs under Title V of the CAA are contained in 40 CFR Part 70, and EPA has proposed regulations implementing a federal operating permits program that are to be promulgated at 40 CFR Part 71. Regulations implementing the requirements of section 112 of the Act related to major sources of hazardous air pollutants are contained in 40 CFR Part 63, subpart A.

For each of the above Clean Air Act programs, the EPA regulations provide that "controls" (i.e., both pollution control equipment and operational restrictions) that limit a source's maximum capacity to emit a pollutant may be considered in determining its potential to emit. Historically, large numbers of new or modified sources that otherwise would be subject to PSD and NSR permitting requirements have limited their PTE in order to obtain "synthetic minor" status and thereby avoid major source requirements. With the advent of operating permit programs under Title V and the MACT program under section 112, many sources that otherwise would be subject to these new requirements under the Clean Air Act Amendments of 1990 also have obtained, or plan to obtain, PTE limits to avoid coverage. For each of these

programs, EPA regulations have required that PTE limits be "federally enforceable" in order to be considered in determining PTE.

These federal enforceability requirements were the subject of two recent decisions of the D.C. Circuit Court of Appeals. The first decision, National Mining Association v. EPA, 59 F.3d 1351 (D.C. Cir. July 21, 1995), dealt with the potential to emit definition under the hazardous air pollutant programs promulgated pursuant to CAA section 112. In this decision, the Court implicitly accepted EPA's argument that only "effective" state-issued controls should be cognizable in limiting potential to emit. In addition, the court did not question the validity of current federally enforceable mechanisms in limiting PTE. However, the court found that EPA had not adequately explained why only federally enforceable measures should be considered in assessing the effectiveness of state-issued controls. Accordingly, the Court remanded the section 112 General Provisions regulation to EPA for further proceedings. Thus, EPA must either provide a better explanation as to why federal enforceability promotes the effectiveness of state controls, or remove the exclusive federal enforceability requirement. The court did not vacate the section 112 regulations, and they remain in effect pending completion of EPA rulemaking proceedings in response to the court's remand.

The second decision, Chemical Manufacturers Ass'n v. EPA, No. 89-1514 (D.C. Cir. Sept. 15, 1995), dealt with the potential to emit definition in the PSD and NSR programs. Specifically, this case challenged the June 1989 rulemaking in which the EPA reaffirmed the requirement for federal enforceability of PTE limits taken to avoid major source permitting requirements in these programs. In a briefly worded judgment, the court, in light of National Mining, remanded the PSD and NSR regulations to EPA. In addition, in contrast to its disposition of the section 112 regulations in National Mining, the court in Chemical Manufacturers vacated the federal enforceability requirement of the PTE definitions in the PSD and NSR regulations.

In a third set of cases, industry challenges to the federal enforceability requirements in Part 70 are pending before the D.C. Circuit. The Title V cases have not been briefed. However, since the federal enforceability provisions of these Title V regulations are closely related to the regulations addressed in the two decided cases, EPA plans to ask the court to remand the regulations to EPA for further rulemaking, and to leave Part 70 in place during the new rulemaking.

Plans for Rulemaking Amendments

EPA plans to hold discussions with stakeholders and propose rulemaking amendments by spring 1996, and to issue final rules by spring 1997, that would address the court decisions impacting regulations promulgated pursuant to section 112 and the PSD/NSR regulations. At the same time, EPA will propose a parallel approach to cognizable PTE limits for major sources subject to title V. EPA currently plans to address the following options, after discussions with stakeholders:

(a) An approach that would recognize "effective" State-enforceable limits as an alternative to federally enforceable limits on a source's potential to emit. Under this option, a source whose maximum capacity to emit without pollution controls or operational limitations exceeds relevant major source thresholds may take a State or local limit on its potential to emit. In such circumstances, the source must be able to demonstrate that the State-enforceable limits are (1) enforceable as a practical matter, and (2) being regularly complied with by the facility.

(b) An approach under which the EPA would continue to require federal enforceability of limits on a source's potential to emit. Under this approach, in response to specific issues raised by the court in National Mining, EPA would present further explanation regarding why the federal enforceability requirement promotes effective controls. Under this approach, EPA would propose simplifying changes to the administrative provisions of the current federal enforceability regulations.

The remainder of this guidance memorandum addresses the immediate impacts of the court decisions on each of the three programs, in light of the upcoming rulemaking.

Effects on PSD/NSR

EPA interprets the court's decision to vacate the PSD/NSR federal enforceability requirement in the Chemical Manufacturers case as causing an immediate change in how EPA regulations should be read, although EPA expects that the effect of this change will be limited. Specifically, provisions of the definitions of "potential to emit" and related definitions requiring that physical or operational changes or limitations be "federally enforceable" to be taken into account in determining PSD/NSR applicability, the term "federally enforceable" should now be read to mean "federally enforceable **or legally and practicably**

**enforceable by a state or local air pollution control agency**."[1] For the reasons discussed below, however, the practical effects of the vacatur will be limited during the period prior to completion of new EPA rulemaking on this issue. During this interim period, federal enforceability is still required to create "synthetic minor" new and modified sources in most circumstances pending completion of EPA's rulemaking.

First, EPA interprets the order vacating certain provisions of EPA regulations as not affecting the provisions of any current SIP, or of any permit issued under any current SIP. Thus, previously issued federally enforceable permits, such as permits issued under federally enforceable state operating permit programs under Title I ("FESOPPs") remain in effect. Likewise, EPA-approved state PSD and NSR SIP rules requiring that all pollution controls or operational restrictions limiting potential to emit be federally enforceable remain in place, even though

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[1]Both National Mining and Chemical Manufacturers directly addressed only the definition of potential to emit, and not related definitions that also employ the federal enforceability requirement, in particular, those related to netting. (See, e.g., 40 CFR § 52.21(b)(3)(vi)(b) providing that an emissions decrease is creditable only if it is "federally enforceable.") The court's concerns regarding the adequacy of EPA's rationale, however, appear to extend to these netting provisions; consequently, EPA interprets the vacatur as extending to them as well. Conversely, EPA reads the vacatur as not extending to aspects of the PTE definition other than the federal enforceability provision. Such other aspects (e.g., determining a source's "maximum capacity" to emit in the absence of controls) were not at issue in the litigation and not addressed by the court decisions. In addition, EPA interprets Chemical Manufacturers as not addressing the regulatory requirements for federal enforceability of offsets used to comply with NSR requirements. CAA § 173(a) expressly requires that any emissions reductions required as a precondition to the issuance of a nonattainment NSR permit to be "federally enforceable" before the permit may be issued. This requirement is not affected by the court decisions.

such provisions may have been based on the now-vacated terms of EPA regulations.[2]

Second, a new or modified source that seeks to lawfully avoid compliance with the "major" source requirements of either PSD or nonattainment NSR by limiting its potential to emit to achieve synthetic minor status must still obtain a general or "minor" NSR preconstruction permit under section 110(a)(2)(C) of the Act and 40 C.F.R. § 51.160-164. Every SIP contains a minor NSR program that applies generally to new or modified sources of air pollutants, without regard to whether those sources are "major." Permits under such programs are, like all other SIP measures, federally enforceable. See CAA section 113(b)(1); 40 CFR § 52.23.[3] The requirement under section 110(a)(2)(C) to

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[2]The situation is somewhat different in the several states lacking approved PSD programs, which are governed instead by the federal PSD program at 40 CFR § 52.21. (In most instances, these states have been delegated authority to issue PSD permits under the federal program pursuant to § 52.21(u).) Since these states do not have an EPA-approved PSD program, their SIPs presumably also lack state rules containing a blanket requirement that new or modified sources use only federally enforceable limits on PTE when seeking synthetic minor status to avoid PSD. Rather, sources in these states have been subject to the federal enforceability requirements of § 52.21. As noted above, Chemical Manufacturers vacated the requirements in § 52.21 that physical or operational changes be "federally enforceable" to be taken into account in determining the applicability of PSD to a proposed new source or modification. Accordingly, in states governed by § 52.21, a limit that is either "federally enforceable or legally and practicably enforceable by a state or local air pollution control agency" may now be used in determining PSD applicability in some circumstances. The effect of the vacatur in these states is limited, however, because as discussed below, new and modified sources in these states are still subject to the requirement to obtain federally enforceable minor source permits.

[3]Consider, for example, an existing source in a moderate ozone nonattainment area that plans to add a new emissions unit that would have the potential to emit 100 tons per year ("TPY") of VOC if uncontrolled, and would therefore be considered a major modification subject to major NSR requirements, including a requirement to install pollution controls representing LAER that would reduce emissions in this instance by 90%. The source may instead seek to avoid major NSR by installing cheaper controls

obtain a federally enforceable minor NSR permit was not at issue in the Chemical Manufacturers case, and is unaffected by the court's ruling.

As noted above, the court's action does not affect FESOPPs that many states have adopted as an additional mechanism for avoiding PSD/NSR or for creating an emissions reduction credit that may be tradeable to another source. Permits issued under such programs continue to be valid for purposes of limiting PTE. States are free to submit SIP revisions to remove such provisions in light of the vacatur, and to substitute mechanisms that are legally and practicably enforceable by the state for limiting potential to emit in some circumstances under the PSD/NSR program. However, we expect few states to do so pending the outcome of new EPA rulemaking on the broader federal enforceability issue.

Likewise, states conceivably might now seek to reduce the scope of SIP-approved minor NSR programs where they are presently broader than minimum federal requirements (e.g., to no longer cover changes at existing emissions units that reduce emissions to create a netting credit or tradeable emission reduction credit), and to substitute state-enforceable mechanisms. Here also, however, EPA does not expect states to seek such changes pending the outcome of EPA rulemaking. In addition, regarding the minimum scope of minor NSR programs, section 110(a)(2)(C) provides that state minor NSR programs must regulate all new or modified sources "as necessary" to insure consistency with air quality planning goals. Given the central role of new and modified synthetic minor sources in the overall PSD/NSR regulatory scheme, and the adverse environmental consequences if controls were not effective in limiting PTE, it is unlikely that states would have the legal ability to exclude from such programs transactions that are intrinsic to the avoidance of major NSR permitting requirements.

The principal immediate impact of the vacatur of the PSD/NSR federal enforceability regulations likely will occur in cases involving "netting" exercises at existing sources, where a source seeks to internally offset an emissions increase at a new or modified emissions unit by installing pollution controls or accepting operational limitations at another unit within the

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that reduce emissions by 61% and thereby limit the emissions increase to 39 TPY -- just below the "major" modification threshold. Such a source would still need to obtain a minor NSR permit to construct the new unit, and that permit would be federally enforceable.

plant. For the reasons discussed above, in such cases the new or modified unit would still need to obtain a federally enforceable minor NSR permit. In contrast, the vacatur ordered by the court may allow the unit that is limiting its emissions to rely in some circumstances on controls that are legally and practicably enforceable by the state.[4] Note, however, that under the terms of many state minor NSR programs, the unit undergoing an emissions reduction would still need to be included in the minor NSR permit. Also, if the state's SIP has a general requirement that PTE limits be federally enforceable, the unit reducing emissions would still need a federally enforceable limit. Such programs would not be affected by the court's ruling. In sum, the precise impact of the vacatur on PSD/NSR applicability in any state can be definitively established only by reviewing the provisions of a particular SIP.

Effects on Section 112 and Title V

The National Mining decision did not vacate the current definition of a major source under section 112 program in the General Provisions to Part 63, and neither of the court decisions addressed the definition of a major source for the title V program in 40 CFR part 70. Both of these current definitions, therefore, remain in effect. As discussed above, however, these regulations will be affected by the rulemaking EPA is conducting in response to the court decisions.

EPA today reiterates that independent from the decision in National Mining, current EPA policy already recognizes State-enforceable PTE limits under section 112 and Title V in many circumstances under a transition policy intended to provide for orderly implementation of these new programs under the Clean Air

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[4]Consider, for example, an existing source like the one addressed above in Footnote 3, that also plans to install a new unit that would have the potential to emit 100 tons per year of VOC per year if uncontrolled. In contrast to the earlier example, however, this source plans to avoid major NSR not by controlling the new unit, but instead by installing controls at another emissions unit at the plant whose baseline emissions are 100 TPY that will reduce actual emissions by 61 TPY. The overall result of this netting transaction is the same as in the earlier example: a net emissions increase of 39 TPY at the plant. The new unit would still need to obtain a minor NSR permit, and that permit would still be federally enforceable. In light of the vacatur in Chemical Manufacturers, however, the existing unit that is adding controls now may be able to limit its PTE using a state-enforceable permit.

Act Amendments of 1990. This policy is set forth in a memorandum, "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act" (January 25, 1995). The transition policy is summarized below; as noted, EPA is now making one significant change in that policy in light of National Mining.

In recognition of the absence in some states of suitable federally enforceable mechanisms to limit PTE applicable to sources that might otherwise be subject to section 112 or Title V, EPA's policy provides for the consideration of State-enforceable limits as a gap-filling measure during a transition period that extends until January 1997.[5] Under this policy, for the 2-year transition period, restrictions contained in State permits issued to sources that actually emit more than 50 percent, but less than 100 percent, of a relevant major source threshold are treated by EPA as acceptable limits on potential to emit, provided: (a) the permit and the restriction in particular are enforceable as a practical matter; (b) the source owner submits a written certification to EPA accepting EPA and citizen enforcement. In light of National Mining, EPA believes that the certification requirement is no longer appropriate as part of this policy. Accordingly, **EPA hereby amends the January 1995 transition policy by deleting the certification requirement**.

In addition, under the transition policy, sources with consistently low levels of actual emissions relative to major source thresholds can avoid major source requirements even absent any permit or other enforceable limit on PTE. Specifically, the policy provides that sources which maintain their emissions at levels that do not exceed 50 percent of any applicable major source threshold are not treated as major sources and do not need a permit to limit PTE, so long as they maintain adequate records to demonstrate that the 50 percent level is not exceeded.

Under the terms of EPA's transition policy, the transition period is to end in January 1997. In addition, completion of EPA's rulemaking in response to the recent court decisions, which EPA anticipates will occur by early 1997, may render the transition policy unnecessary after that time. However, in conjunction with the rulemaking, EPA will consider whether it is appropriate to extend the transition period beyond January 1997.

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[5]Since PSD and nonattainment NSR are mature programs, minor NSR permits to limit PTE were available in all states well prior to enactment of the Clean Air Act Amendments of 1990. Hence, EPA's transition policy does not extend to those programs.

Per Mike Hopkins Phone Conversation 4/25/95

Restricting Potential to emit

If the potential emissions of an emission unit are over major source threshold, i.e. 40 ton NSR or 100 ton Title V, etc. one of the following federally enforceable permit restrictions will be needed to avoid future Title V permitting:

limit on gallons coating applied/month
or
12 month rolling average gallon limit
or
365 day rolling average gallon limit

In conjunction with one of these need lbs VOC/gallon limit.

For rolling restrictions, USEPA prefers 365 day but they will accept 12 month rolling.

The above is used to calculate and restrict PTE.

The above example is for VOC type sources. Other restrictions can be used for other types of sources but, generally, USEPA requires a process variable to be monitored (that can be related to emissions) - not emissions.

USEPA also wants short term limits on emission unit. They want lbs/hr limit. Modeling and Planning recommends figuring worst case lbs/hr emission rate (this can be pretty high number) and include that in permit. This number is needed in order to conduct Air toxic modeling anyway, include lb/hr emission rate.

Reporting requirements

Based on E.G. by Orlemann (see EG #43) as a rule of thumb.

If source above 25 tons uncontrolled potential (see EG #43) need terms and conditions which require quarterly reports.

If less than 25 tons uncontrolled potential maybe only need annual report, up to county engineer. If less than 25 tons/yr uncontrolled potential EG #43 says field office staff can decide if terms are needed. This decision should be based on the likelihood of compliance. IE. if the source is close to noncompliance, then recordkeeping and reporting are appropriate. If it is obvious that the source cannot operate out of compliance, then recordkeeping and reporting is not necessary.

If 5 to 15 tons, no report just keep records. None of this is in stone. In general if we feel company can comply CO will likely buy off on it. However, if they believe more stringent reporting necessary they can at any time overrule this and require more stringent reporting.

If want permit federally enforceable USEPA wants quarterly reporting, so company can not go a entire year in violation. This is also the main reason USEPA does not accept annual limits (ton/year limit) to restrict potential to emit. With a ton/year limit it is likely that over a year will go by before we would discover the violation (after the annual report was submitted).

Don't forget to look closely at USEPA's PTE guidance.

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**NOTE TO: SEE BELOW**

SUBJECT: January 25, 1995 Memorandum Regarding Potential to Emit

Recently, you received a memorandum entitled, "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)" dated January 25, 1995. Subsequently, it has come to our attention that there were two errors on page 9 of this memorandum as follows:

(1) In the sentence beginning "For this 2-year period such sources...," insert the words "(i.e., those emitting under the 50 percent threshold)"

(2) In the sentence beginning "To qualify...," insert the words "transition period" after the word "entire" and delete the phrase "as major sources and would not be required to obtain a permit that limits their potential to emit that would be considered to be adequate during this transition period."

Please include the corrected page 9 when distributing this memorandum.

If you have any questions or need further assistance, please contact Timothy Smith of my staff at 919-541-4718.

Robert G. Kellam
Acting Director
Information Transfer and
Planning Integration
Division

Attachment

Addressees:
Air Division Director, Regions I-X

delays in State adoption or EPA approval of programs or in their implementation. In order to ensure that such gaps do not create adverse consequences for States or for sources, EPA is announcing a transition policy for a period up to two years from the date of this memorandum. The EPA intends to make this transition policy available at the discretion of the State or local agency to the extent there are sources which the State believes can benefit from such a transition policy. The transition period will extend from now until the gaps in program implementation are filled, but no later than January 1997. Today's guidance, which EPA intends to codify through a notice and comment rulemaking, provides States discretion to use the following options for satisfying potential to emit requirements during this transition period.

1. Sources maintaining emissions below 50 percent of all applicable major source requirements. For sources that typically and consistently maintain emissions significantly below major source levels, relatively few benefits would be gained by making such sources subject to major source requirements under the Act. For this reason, many States are developing exclusionary rules and general permits to create simple, streamlined means to ensure that these sources are not considered major sources. To ease the burden on States' implementation of title V, and to ensure that delays in EPA's approval of these types of programs will not cause an administrative burden on the States, EPA is providing a 2-year transition period for sources that maintain their actual emissions, for every consecutive 12-month period (beginning with the 12 months immediately preceding the date of this memorandum), at levels that do not exceed 50 percent of any and all of the major stationary source thresholds applicable to that source. A source that exceeds the 50 percent threshold, without complying with major source requirements of the Act (or without otherwise limiting its potential to emit), could be subject to enforcement. For this 2-year period, such sources (i.e., those emitting under the 50 percent threshold) would not be treated as major sources and would not be required to obtain a permit that limits their potential to emit. To qualify under this transition policy, sources must maintain adequate records on site to demonstrate that emissions are maintained below these thresholds for the entire transition period. Consistent with the California approach, EPA believes it is appropriate for the amount of recordkeeping to vary according to the level of emissions (see paragraphs 1.2 and 4.2 of the attached rule).

2. Larger sources with State limits. For the 2-year transition period, restrictions contained in State permits issued to sources above the 50 percent threshold would be treated by EPA as acceptable limits on potential to emit, provided: (a) the permit is enforceable as a practical matter; (b) the source owner submits a written certification to EPA that it will comply with

January 25, 1995

MEMORANDUM

SUBJECT: Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)

FROM: John S. Seitz, Director /s/
Office of Air Quality Planning and Standards (MD-10)

Robert I. Van Heuvelen, Director
Office of Regulatory Enforcement (2241)

TO: Director, Air, Pesticides and Toxics Management Division, Regions I and IV
Director, Air and Waste Management Division, Region II
Director, Air, Radiation and Toxics Division, Region III
Director, Air and Radiation Division, Region V
Director, Air, Pesticides and Toxics Division, Region VI
Director, Air and Toxics Division, Regions VII, VIII, IX, and X

Many stationary source requirements of the Act apply only to "major" sources. Major sources are those sources whose emissions of air pollutants exceed threshold emissions levels specified in the Act. For instance, section 112 requirements such as MACT and section 112(g) and title V operating permit requirements largely apply only to sources with emissions that exceed specified levels and are thus major. To determine whether a source is major, the Act focuses not only on a source's actual emissions, but also on its potential emissions. Thus, a source that has maintained actual emissions at levels below the major source threshold could still be subject to major source requirements if it has the potential to emit major amounts of air pollutants. However, in situations where unrestricted operation of a source would result in a potential to emit above major-source levels, such sources may legally avoid program requirements by taking federally-enforceable permit conditions which limit emissions to levels below the applicable major source threshold. Federally-enforceable permit conditions, if violated, are subject to enforcement by the Environmental Protection Agency (EPA) or by citizens in addition to the State or Local agency.

As the deadlines for complying with MACT standards and title V operating permits approach, industry and State and local

air pollution agencies have become increasingly focused on the need to adopt and implement federally-enforceable mechanisms to limit emissions from sources that desire to limit potential emissions to below major source levels. In fact, there are numerous options available which can be tailored by the States to provide such sources with simple and effective ways to qualify as minor sources. Because there appears to be some confusion and questions regarding how potential to emit limits may be established, EPA has decided to: (1) outline the available approaches to establishing potential to emit limitations, (2) describe developments related to the implementation of these various approaches, and (3) implement a transition policy that will allow certain sources to be treated as minor for a period of time sufficient for these sources to obtain a federally-enforceable limit.

Federal enforceability is an essential element of establishing limitations on a source's potential to emit. Federal enforceability ensures the conditions placed on emissions to limit a source's potential to emit are enforceable by EPA and citizens as a legal and practical matter, thereby providing the public with credible assurances that otherwise major sources are not avoiding applicable requirements of the Act. In order to ensure compliance with the Act, any approaches developed to allow sources to avoid the major source requirements must be supported by the Federal authorities granted to citizens and EPA. In addition, Federal enforceability provides source owners and operators with assurances that limitations they have obtained from a State or local agency will be recognized by EPA.

The concept of federal enforceability incorporates two separate fundamental elements that must be present in all limitations on a source's potential to emit. First, EPA must have a direct right to enforce restrictions and limitations imposed on a source to limit its exposure to Act programs. This requirement is based both on EPA's general interest in having the power to enforce "all relevant features of SIP's that are necessary for attainment and maintenance of NAAQS and PSD increments" (see 54 FR 27275, citing 48 FR 38748, August 25, 1983) as well as the specific goal of using national enforcement to ensure that the requirements of the Act are uniformly implemented throughout the nation (see 54 FR 27277). Second, limitations must be enforceable as a practical matter.

It is important to recognize that there are shared responsibilities on the part of EPA, State, and local agencies, and on source owners to create and implement approaches to creating acceptable limitations on potential emissions. The lead responsibility for developing limitations on potential emissions rests primarily with source owners and State and local agencies. At the same time, EPA must work together with interested parties, including industry and States to ensure that clear guidance is established and that timely Federal input, including Federal approval actions, is provided where appropriate. The guidance in

this memorandum is aimed towards continuing and improving this partnership.

Available Approaches for Creating Federally-enforceable Limitations on the Potential to Emit

There is no single "one size fits all" mechanism that would be appropriate for creating federally-enforceable limitations on potential emissions for all sources in all situations. The spectrum of available mechanisms should, however, ensure that State and local agencies can create federally-enforceable limitations without undue administrative burden to sources or the agency. With this in mind, EPA views the following types of programs, if submitted to and approved by EPA, as available to agencies seeking to establish federally-enforceable potential to emit limits:

1. Federally-enforceable State operating permit programs (FESOPs) (non-title V). For complex sources with numerous and varying emission points, case-by-case permitting is generally needed for the establishment of limitations on the source's potential to emit. Such case-by-case permitting is often accomplished through a non-title V federally-enforceable State operating permit program. This type of permit program, and its basic elements, are described in guidance published in the Federal Register on June 28, 1989 (54 FR 27274). In short, the program must: (a) be approved into the SIP, (b) impose legal obligations to conform to the permit limitations, (c) provide for limits that are enforceable as a practical matter, (d) be issued in a process that provides for review and an opportunity for comment by the public and by EPA, and (e) ensure that there is no relaxation of otherwise applicable Federal requirements. The EPA believes that these type of programs can be used for both criteria pollutants and hazardous air pollutants, as described in the memorandum, "Approaches to Creating Federally-Enforceable Emissions Limits," November 3, 1993. This memorandum (referred to below as the November 1993 memorandum) is included for your information as Attachment 1. There are a number of important clarifications with respect to hazardous air pollutants subsequent to the November 1993 memorandum which are discussed below (see section entitled "Limitations on Hazardous Air Pollutants").

2. Limitations established by rules. For less complex plant sites, and for source categories involving relatively few operations that are relatively similar in nature, case-by-case permitting may not be the most administratively efficient approach to establishing federally-enforceable restrictions. One approach that has been used is to establish a general rule which creates federally-enforceable restrictions at one time for many sources (these rules have been referred to as "exclusionary" rules and by some permitting agencies as "prohibitory" rules). A specific suggested approach for volatile organic compounds (VOC) limits by rule was described in EPA's memorandum dated October

15, 1993 entitled "Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based Upon Volatile Organic Compound (VOC) Use." An example of such an exclusionary rule is a model rule developed for use in California. (The California model rule is attached, along with a discussion of its applicability to other situations--see Attachment 2). Exclusionary rules are included in a State's SIP and generally become effective upon approval by EPA.

3. General permits. A concept similar to the exclusionary rule is the establishment of a general permit for a given source type. A general permit is a single permit that establishes terms and conditions that must be complied with by all sources subject to that permit. The establishment of a general permit provides for conditions limiting potential to emit in a one-time permitting process, and thus avoids the need to issue separate permits for each source within the covered source type or category. Although this concept is generally thought of as an element of a title V permit program, there is no reason that a State or local agency could not submit a general permit program as a SIP submittal aimed at creating potential to emit limits for groups of sources. Additionally, general permits can be issued under the auspices of a SIP-approved FESOP. The advantage of a general permit, when compared to an exclusionary rule, is that upon approval by EPA of the State's permit program, a general permit could be written for one or more additional source types without triggering the need for the formal SIP revision process.

4. Construction permits. Another type of case-by-case permit is a construction permit. These permits generally cover new and modified sources, and States have developed such permit programs as an element of their SIP's. As described in the November 1993 memorandum, these State major and minor new source review (NSR) construction permits can provide for federally-enforceable limitations on a source's potential to emit. Further discussion of the use of minor source NSR programs is contained in EPA's letter to Jason Grumet, NESCAUM, dated November 2, 1994, which is contained in Attachment 3. As noted in this letter, the usefulness of minor NSR programs for the creation of potential to emit limitations can vary from State to State, and is somewhat dependent on the scope of a State's program.

5. Title V permits. Operating permits issued under the Federal title V operating permits program can, in some cases, provide a convenient and readily available mechanism to create federally-enforceable limits. Although the applicability date for part 70 permit programs is generally the driving force for most of the current concerns with respect to potential to emit, there are other programs, such as the section 112 air toxics program, for which title V permits may themselves be a useful mechanism for creating potential to emit limits. For example, many sources will be considered to be major by virtue of combustion emissions of nitrogen oxides or sulfur dioxide, and

will be required to obtain part 70 permits. Such permits could be used to establish federally-enforceable limitations that could ensure that the source is not considered a major source of hazardous air pollutants.

Practicable Enforceability

If limitations--whether imposed by SIP rules or through individual or general permits--are incomplete or vague or unsupported by appropriate compliance records, enforcement by the States, citizens and EPA would not be effective. Consequently, in all cases, limitations and restrictions must be of sufficient quality and quantity to ensure accountability (see 54 FR 27283).

The EPA has issued several guidance documents explaining the requirements of practicable enforceability (e.g., "Guidance on Limiting Potential to Emit in New Source Permitting," June 13, 1989; memorandum from John Rasnic entitled "Policy Determination on Limiting Potential to Emit for Koch Refining Company's Clean Fuels Project," March 13, 1992). In general, practicable enforceability for a source-specific permit means that the permit's provisions must specify: (1) A technically-accurate limitation and the portions of the source subject to the limitation; (2) the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); and (3) the method to determine compliance including appropriate monitoring, recordkeeping, and reporting. For rules and general permits that apply to categories of sources, practicable enforceability additionally requires that the provisions: (1) identify the types or categories of sources that are covered by the rule; (2) where coverage is optional, provide for notice to the permitting authority of the source's election to be covered by the rule; and (3) specify the enforcement consequences relevant to the rule. More specific guidance on these enforceability principles as they apply to rules and general permits is provided in Attachment 4.

Limitations on Hazardous Air Pollutants (HAP)

There are a number of important points to recognize with respect to the ability of existing State and local programs to create limitations for the 189 HAP listed in (or pursuant to) section 112(b) of the Act, consistent with the definitions of "potential to emit" and "federally-enforceable" in 40 CFR 63.2 (promulgated March 16, 1994, 59 FR 12408 in the part 63 General Provisions). The EPA believes that most State and local programs should have broad capabilities to handle the great majority of situations for which a potential to emit limitation on HAP is needed.

First, it is useful to note that the definition of potential to emit for the Federal air toxics program (see the subpart A "general provisions," section 63.2) considers, for purposes of controlling HAP emissions, federally-enforceable limitations on

criteria pollutant emissions if "the effect such limitations would have on "[hazardous air pollutant] . . . emissions" is federally-enforceable (emphasis added). There are many examples of such criteria pollutant emission limits that are present in federally-enforceable State and local permits and rules. Examples would include a limitation constraining an operation to one (time limit specified) shift per day or limitations that effectively limit operations to 2000 hours per year. Other examples would include limitations on the amount of material used, for example a permit limitation constraining an operation to using no more than 100 gallons of paint per month. Additionally, federally-enforceable permit terms that, for example, required an incinerator to be operated and maintained at no less than 1600 degrees would have an obvious "effect" on the HAP present in the inlet stream.

Another federally-enforceable way criteria pollutant limitations affect HAP can be described as a "nested" HAP limit within a permit containing conditions limiting criteria pollutants. For example, the particular VOC's within a given operation may include toluene and xylene, which are also HAP. If the VOC-limiting permit has established limitations on the amount of toluene and xylene used as the means to reduce VOC, those limitations would have an obvious "effect" on HAP as well.

In cases as described above, the "effect" of criteria pollutant limits will be straightforward. In other cases, information may be needed on the nature of the HAP stream present. For example, a limit on VOC that ensured total VOC's of 20 tons per year may not ensure that each HAP present is less than 10 tons per year without further investigation. While the EPA intends to develop further technical guidance on situations for which additional permit terms and conditions may be needed to ensure that the "effect" is enforceable as a practical matter, the EPA intends to rely on State and local agencies to employ care in drafting enforceable requirements which recognize obvious environmental and health concerns.

There are, of course, a few important pollutants which are HAP but are not criteria pollutants. Example of these would include methylene chloride and other pollutants which are considered nonreactive and therefore exempt from coverage as VOC's. Especially in cases where such pollutants are the only pollutants present, criteria pollutant emission limitations may not be sufficient to limit HAP. For such cases, the State or local agency will need to seek program approval under section 112(l) of the Act.

Section 112(l) provides a clear mechanism for approval of State and local air toxics programs for purposes of establishing HAP-specific PTE limits. The EPA intends, where appropriate, that in approving permitting programs into the SIP, to add appropriate language citing approval pursuant to section 112(l) as well. An example illustrating section 112(l) approval is the

approval of the State of Ohio's program for limiting potential to emit (see 59 FR 53587, October 25, 1994). In this notice, EPA granted approval under section 112(l) for hazardous air pollutants aspects of a State program for limiting potential to emit. Such language can be added to any federally-enforceable State operating permit program, exclusionary rule, or NSR program update SIP approval notice so long as the State or local program has the authority to regulate HAP and meets other section 112(l) approval criteria. Transition issues related to such section 112(l) approvals are discussed below.

Determination of Maximum Capacity

While EPA and States have been calculating potential to emit for a number of years, EPA believes that it is important at this time to provide some clarification on what is meant in the definition of potential to emit by the "maximum capacity of a stationary source to emit under its physical and operational design." Clearly, there are sources for which inherent physical limitations for the operation restrict the potential emissions of individual emission units. Where such inherent limitations can be documented by a source and confirmed by the permitting agency, EPA believes that States have the authority to make such judgements and factor them into estimates of a stationary source's potential to emit.

The EPA believes that the most straightforward examples of such inherent limitations is for single-emission unit type operations. For example, EPA does not believe that the "maximum capacity" language requires that owner of a paint spray booth at a small auto body shop must assume that (even if the source could be in operation year-round) spray equipment is operated 8760 hours per year in cases where there are inherent physical limitations on the number of cars that can be painted within any given period of time. For larger sources involving multiple emissions units and complex operations, EPA believes it can be more problematic to identify the inherent limitations that may exist.

The EPA intends, within its resource constraints, to issue technical assistance in this area by providing information on the type of operational limits that may be considered acceptable to limit the potential to emit for certain individual small source categories.

Transition Guidance for Section 112 and Title V Applicability

Most, if not all, States have recognized the need to develop options for limiting the potential emissions of sources and are moving forward with one or more of the strategies described in the preceding sections in conjunction with the submission and implementation of their part 70 permit programs. However, EPA is aware of the concern of States and sources that title V or section 112 implementation will move ahead of the development and

implementation of these options, leaving sources with actual emissions clearly below the major source thresholds potentially subject to part 70 and other major source requirements. Gaps could theoretically occur during the time period it takes for a State program to be designed and administratively adopted by the State, approved into the SIP by EPA, and implemented as needed to cover individual sources.

The EPA is committed to aiding all States in developing and implementing adequate, streamlined, and cost-effective vehicles for creating federally-enforceable limits on a source's potential emissions by the time that section 112 or title V requirements become effective. To help bridge any gaps, EPA will expedite its reviews of State exclusionary rules and operating permit rules by, among other things, coordinating the approval of these rules with the approval of the State's part 70 program and by using expeditious approval approaches such as "direct final" Federal Register notices to ensure that approval of these programs does not lag behind approval of the part 70 program.

In addition, in such approval notices EPA will affirm any limits established under the State's program since its adoption by the State but prior to Federal approval if such limits were established in accordance with the procedures and requirements of the approved program. An example of language affirming such limits was recently used in approving an Illinois SIP revision (see 57 FR 59931, included as Attachment 5).

The EPA remains concerned that even with expedited approvals and other strategies, sources may face gaps in the ability to acquire federally-enforceable potential to emit limits due to delays in State adoption or EPA approval of programs or in their implementation. In order to ensure that such gaps do not create adverse consequences for States or for sources, EPA is announcing a transition policy for a period up to two years from the date of this memorandum. The EPA intends to make this transition policy available at the discretion of the State or local agency to the extent there are sources which the State believes can benefit from such a transition policy. The transition period will extend from now until the gaps in program implementation are filled, but no later than January 1997. Today's guidance, which EPA intends to codify through a notice and comment rulemaking, provides States discretion to use the following options for satisfying potential to emit requirements during this transition period.

1. Sources maintaining emissions below 50 percent of all applicable major source requirements. For sources that typically and consistently maintain emissions significantly below major source levels, relatively few benefits would be gained by making such sources subject to major source requirements under the Act. For this reason, many States are developing exclusionary rules and general permits to create simple, streamlined means to ensure that these sources are not considered major sources. To ease the burden on States' implementation of title V, and to ensure that

delays in EPA's approval of these types of programs will not cause an administrative burden on the States, EPA is providing a 2-year transition period for sources that maintain their actual emissions, for every consecutive 12-month period (beginning with the 12 months immediately preceding the date of this memorandum), at levels that do not exceed 50 percent of any and all of the major stationary source thresholds applicable to that source. A source that exceeds the 50 percent threshold, without complying with major source requirements of the Act (or without otherwise limiting its potential to emit), could be subject to enforcement. For this 2-year period, such sources (i.e., those emitting under the 50 percent threshold) would not be treated as major sources and would not be required to obtain a permit that limits their potential to emit. To qualify under this transition policy, sources must maintain adequate records on site to demonstrate that emissions are maintained below these thresholds for the entire transition period. Consistent with the California approach, EPA believes it is appropriate for the amount of recordkeeping to vary according to the level of emissions (see paragraphs 1.2 and 4.2 of the attached rule).

2. Larger sources with State limits. For the 2-year transition period, restrictions contained in State permits issued to sources above the 50 percent threshold would be treated by EPA as acceptable limits on potential to emit, provided: (a) the permit is enforceable as a practical matter; (b) the source owner submits a written certification to EPA that it will comply with the limits as a restriction on its potential to emit; and (c) the source owner, in the certification, accepts Federal and citizen enforcement of the limits (this is appropriate given that the limits are being taken to avoid otherwise applicable Federal requirements). Such limits will be valid for purposes of limiting potential to emit from the date the certification is received by EPA until the end of the transition period. States interested in making use of this portion of the transition policy should work with their Regional Office to develop an appropriate certification process.

3. Limits for noncriteria HAP. For noncriteria HAP for which no existing federally-approved program is available for the creation of federally-enforceable limits, the 2-year transition period provides for sufficient time to gain approval pursuant to section 112(l). For the 2-year transition period, State restrictions on such noncriteria pollutants issued to sources with emissions above the 50 percent threshold would be treated by EPA as limiting a source's potential to emit, provided that: (a) the restrictions are enforceable as a practical matter; (b) the source owner submits a written certification to EPA that it will comply with the limits as a restriction on its potential to emit; and (c) the source owner, in the certification, accepts Federal and citizen enforcement of the limits. Such limits will be valid for purposes of limiting potential to emit from the date the certification is received by EPA until the end of the transition period.

The Regional Offices should send this memorandum, including the attachments, to States within their jurisdiction. Questions concerning specific issues and cases should be directed to the appropriate Regional Office. Regional Office staff may contact Timothy Smith of the Integrated Implementation Group at 919-541-4718, or Clara Poffenberger with the Air Enforcement Division at 202-564-8709.

Attachments

cc: Air Branch Chief, Region I-X
Regional Counsels

November 3, 1993

MEMORANDUM

SUBJECT: Approaches to Creating Federally-Enforceable Emissions Limits

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)

TO: Director, Air, Pesticides and Toxics Management Division, Regions I and IV
Director, Air and Waste Management Division, Region II
Director, Air, Radiation and Toxics Division, Region III
Director, Air and Radiation Division, Region V
Director, Air, Pesticides and Toxics Division, Region VI
Director, Air and Toxics Division, Regions VII, VIII, IX, and X

The new operating permits program under title V of the Clean Air Act (Act), combined with the additional and lower thresholds for "major" sources also provided by the 1990 Amendments to the Act, has led to greatly increased interest by State and local air pollution control agencies, as well as sources, in obtaining federally-enforceable limits on source potential to emit air pollutants. Such limits entitle sources to be considered "minor" for the purposes of title V permitting and various other requirements of the Act. Numerous parties have identified this as a high priority concern potentially involving thousands of sources in each of the larger States.

The issue of creating federally-enforceable emissions limits has broad implications throughout air programs. Although many of the issues mentioned above have arisen in the context of the title V permits program, the same issues exist for other programs, including those under section 112 of the Act. As discussed below, traditional approaches to creating federally-enforceable emissions limits may be unnecessarily burdensome and time-consuming for certain types and sizes of sources. In addition, they have been of limited usefulness with respect to creating such limits for emissions of hazardous air pollutants (HAP's).

The purpose of this memorandum is to respond to these needs by announcing the availability of two further approaches to creating federally-enforceable emissions limits: the extension of existing criteria pollutant program mechanisms for HAP program purposes, and the creation of certain classes of standardized emissions limits by rule. We believe that these options are responsive to emerging air program implementation issues and provide a reasonable balance between the need for administrative streamlining and the need for emissions limits that are technically sound and enforceable.

Background

Various regulatory options already exist for the creation of federally-enforceable limits on potential to emit. These were summarized in a September 18, 1992 memorandum from John Calcagni, Director, Air Quality Management Division. That memorandum identified the five regulatory mechanisms generally seen as available. These are: State major and minor new source review (NSR) permits [if the NSR program has been approved into the State implementation plan (SIP) and meets certain procedural requirements]; operating permits based on programs approved into the SIP pursuant to the criteria in the June 28, 1989 Federal Register (54 FR 27274); and title V permits (including general permits). Also available are SIP limits for individual sources and limits for HAP's created through a State program approved pursuant to section 112(l) of the Act.

Regional Office and State air program officials realize that these five options are generally workable, but feel that the programs emerging from the 1990 Amendments present certain further needs that are not well met. They note that NSR is not always available, title V permitting can be more rigorous than appropriate for those sources that are in fact quite small, and that general permits have limitations in their usefulness. The use of State operating permits approved into the SIP pursuant to the June 28, 1989 Federal Register is generally considered to be a promising option for some of these transactions; however, these programs do not regulate toxics directly.

State Operating Permits for Both Criteria Pollutants and HAP's

As indicated above, State operating permits issued by programs approved into the SIP pursuant to the process provided in the June 28, 1989 Federal Register are recognized as federally enforceable. This is a useful option, but has historically been viewed as limited in its ability to directly create emissions limits for HAP's because of the SIP focus on criteria pollutants.

Since that option was created, however, section 112 of the Act has been rewritten, creating significant new regulatory requirements and conferring additional responsibilities and authorities upon the Environmental Protection Agency (EPA) and the States. Section 112 now mandates a wide range of activities: source-specific preconstruction reviews, areawide approaches to controlling risk, provisions for permitting pursuant to the title V permitting program, and State program provisions in section 112(l) that are similar to aspects of the SIP program. A result of these changes is that implementation of toxics programs will entail the use of many of the same administrative mechanisms as have been in use for the criteria pollutant programs.

Upon further analysis of these new program mandates and corresponding authorities, EPA concludes that section 112 of the Act, including section 112(l), authorizes it to recognize these same State operating permits programs for the creation of federally-enforceable emissions limits in support of the implementation of section 112. Congress recognized, and longstanding State practice confirms, that operating permits are core-implementing mechanisms for air quality program requirements. This was EPA's basis for concluding that section 110 of the Act authorizes the recognition and approval into the SIP of operating permits pursuant to the June 28, 1989 promulgation, even though section 110 did not expressly provide for such a program. Similarly, broad provision of section 112(l) for "a program for the implementation and enforcement . . . of emission standards and other requirements for air pollutants subject to this section" provides a sound basis for EPA recognition of State operating permits for implementation and enforcement of section 112 requirements in the same manner as these permitting processes were recognized pursuant to section 110.

In implementing this authority to approve State operating permits programs pursuant to section 112, it should be noted that the specific criteria for what constitutes a federally-enforceable permit are also the same as for the existing SIP programs. The June 28, 1989 Federal Register essentially addressed in a generic sense the core criteria for creating federally-enforceable emissions limits in operating permits: appropriate procedural mechanisms, including public notice and opportunity for comment, statutory authority for EPA approval of the State program, and enforceability as a practical matter. The EPA did this in the context of SIP development, not because these criteria are specific to the SIP, but because section 110 of the Act was seen as our only certain statutory basis for this prior to the 1990 Amendments. Based on the discussion above, States can extend or develop State operating permits programs for toxics

pursuant to the criteria set forth in the June 28, 1989 Federal Register. The EPA is also evaluating analogous opportunities to enhance State NSR programs to address toxics and will address this in future guidance.

This is a significant opportunity to limit directly the emissions of HAP's. It also offers the advantage of the administrative efficiencies that arise from using existing administrative mechanisms, as opposed to creating additional ones.

States are encouraged to consult with EPA Regional Offices to discuss the details of adapting their current programs to carry out these additional functions. The EPA will consider State permitting programs meeting the criteria in the June 28, 1989 Federal Register as being approvable for HAP program functions as well. States may submit their programs for implementing this process with their part 70 program submittals, or at such other time as they choose. The EPA has various options for administratively recognizing these State program submittals. The EPA plans initially to review these State programs as SIP review actions, but with official recognition pursuant to authorities in both sections 110 and 112. Once rulemaking pursuant to section 112(l) of the Act is completed, EPA expects to use the process developed in that rule for approving State programs for HAP's. The section 112(l) process may be especially useful prior to EPA approval and implementation of the State title V programs. The reader may wish to refer to the process for certain section 112(l) approvals proposed on May 19, 1993 (58 FR 29296) (see section 63.91).

The General Provisions (40 CFR part 63) establish the applicability framework for the implementation of section 112. In the final rule, EPA will indicate that State operating permits programs which meet the procedural requirements of the June 28, 1989 Federal Register can be used to develop federally-enforceable emissions limits for HAP's, thereby limiting a source's potential to emit. In addition, after we gain implementation experience, EPA will be evaluating the usefulness of further rulemaking to define more specific criteria by which this process may be used in the implementation of programs under section 112 of the Act. Any such rulemaking could similarly be incorporated into the General Provisions in part 63.

State-Standardized Processes Created by Rule to Establish Source-Specific, Federally-Enforceable Emissions Limits

State air program officials have highlighted specific types of sources that are of particular administrative concern because

of their nature and number. These include sources whose emissions are primarily volatile organic compounds (VOC) arising from use of solvents or coatings, such as automobile body shops. Another example is fuel-burning sources that have low actual emissions because of limited hours of operation, but with the potential to emit sulfur dioxide in amounts sufficient to cause them to be classified as major sources.

The EPA recognizes that emissions limitations for some processes can be created through standardized protocols. For example, limitations on potential to emit could be established for certain VOC sources on the basis of limits on solvent use, backed up by recordkeeping and by periodic reporting. Similarly, limitations on sulfur dioxide emissions could be based on specified sulfur content of fuel and the source's obligation to limit usage to certain maximum amounts. Limits on hours of operation may be acceptable for certain others sources, such as standby boilers. In all cases, of course, the technical requirements would need to be supported by sufficient compliance procedures, especially monitoring and reporting, to be considered enforceable.

The EPA concludes that such protocols could be relied on to create federally-enforceable limitations on potential to emit if adopted through rulemaking and approved by EPA. Although such an approach is appropriate for only a limited number of source categories, these categories include large numbers of sources, such as dry cleaners, auto body shops, gas stations, printers, and surface coaters. If such standardized control protocols are sufficiently reliable and replicable, EPA and the public need not be involved in their application to individual sources, as long as the protocols themselves have been subject to notice and opportunity to comment and have been approved by EPA into the SIP.

To further illustrate this concept and to provide implementation support to the States, EPA has recently released guidance on one important way of using this process. This document, entitled "Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound Use," was issued by D. Kent Berry, Acting Director, Air Quality Management Division, on October 15, 1993. It describes approvable processes by which States can create federally-enforceable emissions limits for VOC for large numbers of sources in a variety of source categories.

States have flexibility in their choice of administrative process for implementation. In some cases, it may be adequate for a State to apply these limits to individual sources through a

registration process rather than a permit. A source could simply submit a certification to the State committing to comply with the terms of an approved protocol. Violations of these certifications would constitute SIP violations, in the case of protocols approved into the SIP, and be subject to the same enforcement mechanisms as apply in the case of any other SIP violation. Such violations would, of course, also subject the source to enforcement for failure to comply with the requirements that apply to major sources, such as the requirement to obtain a title V permit or comply with various requirements of section 112 of the Act.

Some States have also indicated an interest in more expansive approaches to implementing this concept, such as making presumptive determinations of control equipment efficiency with respect to particular types of sources and pollutants. While such approaches are more complicated and present greater numbers of concerns in the EPA review process, they offer real potential if properly crafted. The EPA will evaluate State proposals and approve them if they are technically sound and enforceable as a practical matter.

States may elect to use this approach to create federally-enforceable emissions limits for sources of HAP's as well. Based on the same authorities in section 112 of the Act, as cited above in the case of operating permits, EPA can officially recognize such State program submittals. As with the operating permits option discussed in the preceding section, EPA plans initially to review these activities as SIP revisions, but with approval pursuant to both sections 110 and 112 of the Act, and approve them through the section 112(l) process when that rule is final.

Implementation Guidance

As indicated above, the creation of federally-enforceable limits on a source's potential to emit involves the identification of the procedural mechanisms for these efforts, including the statutory basis for their approval by EPA, and the technical criteria necessary for their implementation. Today's guidance primarily addresses the procedural mechanisms available and the statutory basis for EPA approval.

The EPA will be providing further information with respect to the implementation of these concepts. As described above, the first portion of this guidance, addressing limits on VOC emissions, was issued on October 15, 1993. My office is currently working with Regional Offices and certain States in order to assist in the development of program options under consideration by those States. We will provide technical and

regulatory support to other State programs and will make the results of these efforts publicly available through the Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network bulletin board.

We will provide further support through the release of a document entitled "Enforceability Requirements for Limiting Potential to Emit Through SIP Rules and General Permits," which is currently undergoing final review within EPA. In addition, EPA will be highlighting options for use of existing technical guidance with respect to creating sound and enforceable emissions limits. An important example of such guidance is the EPA "Blue Book," which has been in use by States for the past 5 years as part of their VOC control programs.

States are encouraged to discuss program needs with their EPA Regional Offices. The OAQPS will work with them in addressing approvals. As indicated, additional technical guidance for implementing these approaches is underway and will be made publicly available soon. For further information, please call Kirt Cox at (919) 541-5399.

cc: Air Branch Chief, Regions I-X
Regional Counsel, Regions I-X
OAQPS Division Directors
A. Eckert
M. Winer
A. Schwartz
E. Hoerath

**Attachment 2**
**California Example Rule**

Background

State agencies and local agencies (such as the Air Pollution Control Districts in California) can adopt rules which place emissions limitations on a category of sources through a combination of limitations and compliance requirements. These rules, if practicably enforceable, adopted with adequate public process and approved into the SIP, can validly limit potential to emit. Moreover, because State or local rules can cover many sources with a single regulatory action, they are well-suited to cover large populations of smaller sources. Many States are finding that a combination of SIP rules or general permits for smaller sources combined with individual permits for larger sources provides the simplest means of ensuring that minor source emissions are adequately limited.

Discussion of California Rule

The EPA, the California Air Pollution Control Officers Association and the California Air Resources Board recently completed development of a model rule for use by the California Air Pollution Control Districts. Because the rule contains several innovations, including covering all source categories, and should prove to be an inexpensive and efficient means of limiting the potential emissions of thousands of sources in California, the EPA believes that parts of the rule may be helpful for other States to review and consider.

The proposed rule is designed to place smaller sources under annual emissions limits which restrict their "potential to emit" and thus their exposure to "major source" requirements of the Clean Air Act. The rule ensures compliance with the annual limit through a series of recordkeeping and reporting requirements. These requirements are tapered to reduce burdens as source size decreases. The rule creates three levels of responsibility. The first tier requires both recordkeeping and reporting. The second tier requires only recordkeeping with no reporting. For instance, sources that emit only attainment pollutants which limit their emissions to below 25 tons per year have no reporting requirement. For sources under 5 tons per year (or 2 tons per year for a single hazardous air pollutant), there is no specified recordkeeping or reporting requirements although these sources must still maintain sufficient records to demonstrate their compliance with the rule.

To the extent possible, the recordkeeping requirements are itemized by source category and are designed to take advantage of records that sources are already likely to maintain. Through these measures, the rule should assure the public that the sources subject to the rule are properly maintaining their

emissions below major source levels, while maximizing source flexibility and minimizing paperwork.

There are other safeguards built into the rule and in California's overall regulatory scheme which add to the EPA's confidence that the proposal can work. The rule applies only to sources that agree to limit their emissions to 50 percent or less of the major source threshold. Sources with emissions above this level must either comply with all applicable "major source" requirements or secure a source-specific, federally-enforceable Air Pollution Control District permit that properly limits emissions to levels below major source thresholds. Some sources may be able to qualify for an "alternative operation limit" which places simple operating limits on a source's combustion of fuel, sale of gasoline or use of a solvent. Because of the ease with which compliance can be tracked with operational limits, the rule allows sources using these limits to go up to 80 percent of the major source threshold. Either way, EPA believes that the rule creates a sufficient compliance buffer.

Moreover, California has an extensive permit and inspection infrastructure that increases EPA's confidence that the rule will prove adequate for limiting emissions. California law requires that, upon annual renewal, each permit be reviewed to determine that the permit conditions are adequate to assure compliance with district rules and other applicable requirements. In addition, most California Air Pollution Control Districts have an extensive inspection program which means that compliance with the rule will be spot checked by inspectors visiting the source.

Finally, the rule is designed to provide smaller sources with a federally-enforceable means of limiting their potential emissions. The rule excludes sources that already have a federally enforceable operating permit, and it cannot be used to avoid complying with an permit required by the Air Pollution Control Districts.

Aside from these general observations, EPA did have a number of comments regarding specific language included in the rule. The three most significant comments are set forth below. However, States interested in using this rule as a model should be aware that it was specifically designed to fit with California State law and existing SIP provisions and that States may wish to consider making other changes to reflect their individual needs and requirements.

> Section 2.7: In a PM-10 nonattainment area, PM-10 precursors may need to be included when determining whether a source is major as required by section 189(e) of the Clean Air Act. Districts adopting this model rule should consider whether the definition of "Major Source" in section 2.7 should be augmented to include sources of PM-10 precursors.

Section 4.2(D): The rule allows sources using air pollution control equipment to demonstrate compliance through the maintenance of general records on the unit and its operations. EPA has always been concerned with this provision since many pollution control units are only effective if specific operating procedures are followed. These specifics are best set and tracked in a source-specific, federally enforceable permit. For this reason, section 1.3 sunsets the applicability of the draft rule, after January 1, 1999, to pollution control equipment. For the coverage to continue beyond that date, a district must extend the provision. The EPA will disapprove the extension if the experience with the rule demonstrates that more specific conditions are needed to ensure that pollution control devices are being used properly and continuously.

Section 4.2(E): In general, EPA does not favor the use of generic or catch-all recordkeeping requirements for compliance purposes. There is a fear that the records necessary to show compliance for individual source categories will not be specified by the generic provision and thus will not be maintained. For this reason, EPA urges the Board and the Districts to evaluate regularly whether specific recordkeeping requirements should be developed for additional categories. As we noted during our negotiations, EPA will evaluate this question after the rule is in effect for three years and the EPA may seek -- through a SIP call or through other mechanisms -- to require additional recordkeeping requirements if there are implementation problems with this generic category. The districts may wish to add to the rule a provision which would authorize them to add recordkeeping requirements for additional source categories without a further SIP revision.

**State of California**
**Proposed Rule to Limit**
**Potential to Emit**
**January 11, 1995**

**APPLICABILITY**

General Applicability: This rule shall apply to any stationary source which would, if it did not comply with the limitations set forth in this rule, have the potential to emit air contaminants equal to or in excess of the threshold for a major source of regulated air pollutants or a major source of hazardous air pollutants (HAPs) and which meets one of the following conditions:

A In every 12-month period, the actual emissions of the stationary source are less than or equal to the emission limitations specified in section 3.1 below; or

B. In every 12-month period, at least 90 percent of the emissions from the stationary source are associated with an operation limited by any one of the alternative operational limits specified in section 6.1 below.

Stationary Source with De Minimis Emissions: The recordkeeping and reporting provisions in sections 4.0, 5.0 and 6.0 below shall not apply to a stationary source with de minimis emissions or operations as specified in either subsection A or B below:

A. In every 12-month period, the stationary source emits less than or equal to the following quantities of emissions:

5 tons per year of a regulated air pollutant (excluding HAPs),

2 2 tons per year of a single HAP,

3. 5 tons per year of any combination of HAPs, and

4. 20 percent of any lesser threshold for a single HAP that the United States Environmental Protection Agency (U.S. EPA) may establish by rule.

B. In every 12-month period, at least 90 percent of the stationary source's emissions are associated with an operation for which the throughput is less than or equal to one of the quantities specified in subsections 1 through 9 below:

1,400 gallons of any combination of solvent-containing materials but no more than 550 gallons of any one solvent-containing material, provided that the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;

2. 750 gallons of any combination of solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, but not more than 300 gallons of any one solvent-containing material;

3 ____ gallons of solvent-containing (or volatile organic compound containing) material used at a paint spray unit(s);[1]

4. 4,400,000 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery systems;

5. 470,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery systems;

6. 1,400 gallons of gasoline combusted;

7. 16,600 gallons of diesel fuel combusted;

8. 500,000 gallons of distillate oil combusted, or

9. 71,400,000 cubic feet of natural gas combusted.

Within 30 days of a written request by the District or the U.S. EPA, the owner or operator of a stationary source not maintaining records pursuant to sections 4.0 or 6.0 shall demonstrate that the stationary source's emissions or throughput are not in excess of the applicable quantities set forth in subsection A or B above.

1.3 Provision for Air Pollution Control Equipment: The owner or operator of a stationary source may take into account the operation of air pollution control equipment on the capacity of the source to emit an air contaminant if the equipment is required by Federal, State, or District rules and

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[1]To be determined based on district SIP rules

regulations or permit terms and conditions. The owner or operator of the stationary source shall maintain and operate such air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. This provision shall not apply after January 1, 1999 unless such operational limitation is federally enforceable or unless the District Board specifically extends this provision and it is submitted to the U.S. EPA. Such extension shall be valid unless, and until, the U.S. EPA disapproves the extension of this provision.

1.4 Exemption, Stationary Source Subject to Rule ____ (District Title V rule): This rule shall not apply to the following stationary sources:

A. Any stationary source whose actual emissions, throughput, or operation, at any time after the effective of this rule, is greater than the quantities specified in sections 3.1 or 6.1 below and which meets both of the following conditions:

1. The owner or operator has notified the District at least 30 days prior to any exceedance that s/he will submit an application for a Part 70 permit, or otherwise obtain federally-enforceable permit limits, and

2. A complete Part 70 permit application is received by the District, or the permit action to otherwise obtain federally-enforceable limits is completed, within 12 months of the date of notification.

However, the stationary source may be immediately subject to applicable federal requirements, including but not limited to, a maximum achievable control technology (MACT) standard.

B Any stationary source that has applied for a Part 70 permit in a timely manner and in conformance with Rule ____ (the District's Title V rule), and is awaiting final action by the District and U.S. EPA.

C. Any stationary source required to obtain an operating permit under Rule ____ (the District's Title V rule) for any reason other than being a major source.

D Any stationary source with a valid Part 70 permit

Notwithstanding subsections B and D above, nothing in this section shall prevent any stationary source which has had a Part 70 permit from qualifying to comply with this rule in the future in lieu of maintaining an application for a Part 70 permit or upon rescission of a Part 70 permit if the owner or operator demonstrates that the stationary source is

in compliance with the emissions limitations in section 3.1 below or an applicable alternative operational limit in section 6.1 below.

Exemption, Stationary Source with a Limitation on Potential to Emit: this rule shall not apply to any stationary source which has a valid operating permit with federally-enforceable conditions or other federally-enforceable limits limiting its potential to emit to below the applicable threshold(s) for a major source as defined in sections 2.7 and 2.8 below.

6 Within three years of the effective date of Rule ____ (District Title V rule), the District shall maintain and make available to the public upon request, for each stationary source subject to this rule, information identifying the provisions of this rule applicable to the source.

This rule shall not relieve any stationary source from complying with requirements pertaining to any otherwise applicable preconstruction permit, or to replace a condition or term of any preconstruction permit, or any provision of a preconstruction permitting program.[2] This does not preclude issuance of any preconstruction permit with conditions or terms necessary to ensure compliance with this rule.

[2]For example, PSD, NSR, and ATC

**DEFINITIONS**

All terms shall retain the definitions provided under 40 CFR Part 70.2 [alternatively, the District Title V rule] unless otherwise defined herein.

12-month period: A period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

2.2 Actual Emissions: The emissions of a regulated air pollutant from a stationary source for every 12-month period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications, material volatile organic compound (VOC) content reports or laboratory analyses; other information required by this rule and applicable District, State and Federal regulations; or information requested in writing by the District. All calculations of actual emissions shall use U.S. EPA, California Air Resources Board (CARB) or District approved methods, including emission factors and assumptions.

2.3 Alternative Operational Limit: A limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product, as specified in Section 6.0, Alternative Operational Limit and Requirements.

Emission Unit: Any article, machine, equipment, operation, contrivance or related groupings of such that may produce and/or emit any regulated air pollutant or hazardous air pollutant.

Federal Clean Air Act: The federal Clean Air Act (CAA) as amended in 1990 (42 U.S.C. section 7401 et seq.) and its implementing regulations.

Hazardous Air Pollutant: Any air pollutant listed pursuant to section 112(b) of the federal Clean Air Act.

Major Source of Regulated Air Pollutants (excluding HAPs): A stationary source that emits or has the potential to emit a regulated air pollutant (excluding HAPs) in quantities equal to or exceeding the lesser of any of the following thresholds:

A. 100 tons per year (tpy) of any regulated air pollutant;

B. 50 tpy of volatile organic compounds or oxides of nitrogen for a federal ozone nonattainment area classified as serious, 25 tpy for an area classified as severe, or 10 tpy for an area classified as extreme; and

C 70 tpy of $PM_{10}$ for a federal $PM_{10}$ nonattainment area classified as serious.

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)."

Major Source of Hazardous Air Pollutants: A stationary source that emits or has the potential to emit 10 tons per year or more of a single HAP listed in section 112(b) of the CAA, 25 tons per year or more of any combination of HAPs, or such lesser quantity as the U.S. EPA may establish by rule. Fugitive emissions of HAPs shall be considered in calculating emissions for all stationary sources. The definition of a major source of radionuclides shall be specified by rule by the U.S. EPA .

Part 70 Permit: An operating permit issued to a stationary source pursuant to an interim, partial or final Title V program approved by the U.S. EPA.

2.10 Potential to Emit: The maximum capacity of a stationary source to emit a regulated air pollutant based on its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation is federally enforceable.

2.11 Process Statement: An annual report on permitted emission units from an owner or operator of a stationary source certifying under penalty of perjury the following: throughputs of process materials; throughputs of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this rule or requested in writing by the District.

2.12 Regulated Air Pollutant: The following air pollutants are regulated:

A Oxides of nitrogen and volatile organic compounds

B Any pollutant for which a national ambient air quality standard has been promulgated;

C. Any Class I or Class II ozone depleting substance subject to a standard promulgated under Title VI of the federal Clean Air Act;

D. Any pollutant that is subject to any standard promulgated under section 111 of the federal Clean Air Act; and

E Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the federal Clean Air Act, including:

1. Any pollutant listed pursuant to section 112(r) (Prevention of Accidental Releases) shall be considered a regulated air pollutant upon promulgation of the list.

2. Any HAP subject to a standard or other requirement promulgated by the U.S. EPA pursuant to section 112(d) or adopted by the District pursuant to 112(g) and (j) shall be considered a regulated air pollutant for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to section 112(e)(3).

3 Any HAP subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the U.S. EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a regulated air pollutant when the determination is made pursuant to section 112(g)(2). In case-by-case emissions limitation determinations, the HAP shall be considered a regulated air pollutant only for the individual source for which the emissions limitation determination was made.

**EMISSION LIMITATIONS**

Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in section 6.1 below, no stationary source subject to this rule shall emit in every 12-month period more than the following quantities of emissions:

A. 50 percent of the major source thresholds for regulated air pollutants (excluding HAPs),

B. 5 tons per year of a single HAP

C. 12.5 tons per year of any combination of HAPs, and

D 50 percent of any lesser threshold for a single HAP as the U.S. EPA may establish by rule.

3.2 The APCO shall evaluate a stationary source's compliance with the emission limitations in section 3.1 above as part of the District's annual permit renewal process required by Health & Safety Code section 42301(e). In performing the evaluation, the APCO shall consider any annual process statement submitted pursuant to Section 5.0, Reporting Requirements. In the absence of valid continuous emission monitoring data or source test data, actual emissions shall be calculated using emissions factors approved by the U.S. EPA , CARB, or the APCO.

Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in section 6.1 below, the owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed the limits specified in section 3.1 above.

## 4.0 RECORDKEEPING REQUIREMENTS

Immediately after adoption of this rule, the owner or operator of a stationary source subject to this rule shall comply with any applicable recordkeeping requirements in this section. However, for a stationary source operating under an alternative operational limit, the owner or operator shall instead comply with the applicable recordkeeping and reporting requirements specified in Section 6.0, Alternative Operational Limit and Requirements. The recordkeeping requirements of this rule shall not replace any recordkeeping requirement contained in an operating permit or in a District, State, or Federal rule or regulation.

4.1. A stationary source previously covered by the provisions in section 1.2 above shall comply with the applicable provisions of section 4.0 above and sections 5.0 and 6.0 below if the stationary source exceeds the quantities specified in section 1.2.A above.

The owner or operator of a stationary source subject to this rule shall keep and maintain records for each permitted

emission unit or groups of permitted emission units[3] sufficient to determine actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to District, CARB, or U.S. EPA staff upon request.

A Coating/Solvent Emission Unit

The owner or operator of a stationary source subject to this rule that contains a coating/solvent emission unit or uses a coating, solvent, ink or adhesive shall keep and maintain the following records:

1. A current list of all coatings, solvents, inks and adhesives in use. This list shall include: information on the manufacturer, brand, product name or code, VOC content in grams per liter or pounds per gallon, HAPS content in grams per liter or pounds per gallon, or manufacturer's product specifications, material VOC content reports or laboratory analyses providing this information;

2. A description of any equipment used during and after coating/solvent application, including type, make and model; maximum design process rate or throughput; control device(s) type and description (if any); and a description of the coating/solvent application/drying method(s) employed;

3. A monthly log of the consumption of each solvent (including solvents used in clean-up and surface preparation), coating, ink and adhesive used; and

4. All purchase orders, invoices, and other documents to support information in the monthly log.

B. Organic Liquid Storage Unit

The owner or operator of a stationary source subject to this rule that contains a permitted organic liquid storage unit shall keep and maintain the following records:

1. A monthly log identifying the liquid stored and monthly throughput; and

2 Information on the tank design and specifications including control equipment.

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[3]In some cases it may be appropriate to keep records on groups of emission units which are connected in series. Examples are internal combustion engines in the oil fields with a common fuel line, or a series of paint spray booths with a common feed.

C. Combustion Emission Unit

The owner or operator of a stationary source subject to this rule that contains a combustion emission unit shall keep and maintain the following records:

1 Information on equipment type, make and model, maximum design process rate or maximum power input/output, minimum operating temperature (for thermal oxidizers) and capacity, control device(s) type and description (if any) and all source test information; and

2. A monthly log of hours of operation, fuel type, fuel usage, fuel heating value (for non-fossil fuels; in terms of BTU/lb or BTU/gal), percent sulfur for fuel oil and coal, and percent nitrogen for coal.

D. Emission Control Unit

The owner or operator of a stationary source subject to this rule that contains an emission control unit shall keep and maintain the following records:

1. Information on equipment type and description, make and model, and emission units served by the control unit;

2 Information on equipment design including where applicable: pollutant(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and

3. A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.

E General Emission Unit

The owner or operator of a stationary source subject to this rule that contains an emission

unit not included in subsections A, B or C above shall keep and maintain the following records:

1. Information on the process and equipment including the following: equipment type, description, make and model; maximum design process rate or throughput; control device(s) type and description (if any);

2. Any additional information requested in writing by the APCO;

3. A monthly log of operating hours, each raw material used and its amount, each product produced and its production rate; and

4. Purchase orders, invoices, and other documents to support information in the monthly log.

**REPORTING REQUIREMENTS**

At the time of annual renewal of a permit to operate under Rule _____ (the District's general permitting rule), each owner or operator of a stationary source subject to this rule shall submit to the District a process statement. The statement shall be signed by the owner or operator and certify that the information provided is accurate and true.

For the purpose of determining compliance with this rule, this requirement shall not apply to stationary sources which emit in every 12-month period less than or equal to the following quantities:

A. For any regulated air pollutant (excluding HAPs),

1. 25 tons per year including a regulated air pollutant for which the District has a federal area designation of attainment, unclassified, transitional, or moderate nonattainment,

2. 15 tons per year for a regulated air pollutant for which the District has a federal area designation of serious nonattainment,

3 6.25 tons per year for a regulated air pollutant for which the District has a federal area designation of severe nonattainment,

B. 2.5 tons per year of a single HAP

C 6.25 tons per year of any combination of HAPs, and

D. 25 percent of any lesser threshold for a single HAP as the U.S. EPA may establish by rule.

A stationary source previously covered by provisions in section 5.2 above shall comply with the provisions of section 5.1 above if the stationary source exceeds the quantities specified in section 5.2.

Any additional information requested by the APCO under section 5.1 above shall be submitted to the APCO within 30 days of the date of request.

## 6.0 ALTERNATIVE OPERATIONAL LIMIT AND REQUIREMENTS

[The District may propose additional alternative operational limits]

The owner or operator may operate the permitted emission units at a stationary source subject to this rule under any one alternative operational limit, provided that at least 90 percent of the stationary source's emissions in every 12-month period are associated with the operation(s) limited by the alternative operational limit.

6.1 Upon choosing to operate a stationary source subject to this rule under any one alternative operational limit, the owner or operator shall operate the stationary source in compliance with the alternative operational limit and comply with the specified recordkeeping and reporting requirements.

A. The owner or operator shall report within 24 hours to the APCO any exceedance of the alternative operational limit.

B. The owner or operator shall maintain all purchase orders, invoices, and other documents to support information required to be maintained in a monthly log. Records required under this section shall be maintained on site for five years and be made available to District or U.S. EPA staff upon request.

C. Gasoline Dispensing Facility Equipment with Phase I and II Vapor Recovery Systems

The owner or operator shall operate the gasoline dispensing equipment in compliance with the following requirements:

1. No more than 7,000,000 gallons of gasoline shall be dispensed in every 12-month period.

2. A monthly log of gallons of gasoline dispensed in the preceding month with a monthly calculation of the total gallons dispensed in the previous 12 months shall be kept on site.

3 A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

D Degreasing or Solvent-Using Unit

The owner or operator shall operate the degreasing or solvent-using unit(s) in compliance with the following requirements:

1. a If the solvents do not include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 5,400 gallons of any combination of solvent-containing materials and no more than 2,200 gallons of any one solvent-containing material shall be used in every 12-month period,.

   b. If the solvents include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 2,900 gallons of any combination of solvent-containing materials and no more than 1,200 gallons of any one solvent-containing material shall be used in every 12-month period.

2. A monthly log of amount and type of solvent used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site.

3. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

E. Paint Spraying Unit[4]

The owner or operator shall operate the paint spraying unit(s) in compliance with the following requirements:

1. The total usage rate of all VOC-containing materials, including but not limited to, coatings, thinners, reducers, and cleanup solution shall not exceed _____ gallons in every 12-month period.

2. A monthly log of the gallons of VOC-containing materials used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site.

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[4]To be determined based on District SIP rules

3. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

F. Diesel-Fueled Emergency Standby Engine(s) with Output Less Than 1,000 Brake Horsepower

[Depending on the District's federal ozone attainment status, the District will adopt either subsection 1.a 1.b, or 1.c below.]

The owner or operator shall operate the emergency standby engine(s) in compliance with the following requirements:

1. a. For a federal ozone area designation of attainment, unclassified, transitional, or moderate nonattainment, the emergency standby engine(s) shall not operate more than 5,200 hours in every 12-month period and shall not use more than 265,000 gallons of diesel fuel in every 12-month period.

   b. For a federal ozone nonattainment area classified as serious, the emergency standby engine(s) shall not operate more than 2,600 hours in every 12-month period and shall not use more than 133,000 gallons of diesel fuel in every 12-month period.

   c. For a federal ozone nonattainment area classified as severe, the emergency standby engine(s) shall not operate more than 1,300 hours in 12-month period and shall not use more than 66,000 gallons of diesel fuel in every 12-month period.

2. A monthly log of hours of operation, gallons of fuel used, and a monthly calculation of the total hours operated and gallons of fuel used in the previous 12 months shall be kept on site.

3. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

6.2 The owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in an exceedance of an applicable operational limit specified in section 6.1 above.

**VIOLATIONS**

Failure to comply with any of the applicable provisions of this rule shall constitute a violation of this rule. Each day during which a violation of this rule occurs is a separate offense.

A stationary source subject to this rule shall be subject to applicable federal requirements for a major source, including Rule ____ (District Title V rule) when the conditions specified in either subsections A or B below, occur:

A. Commencing on the first day following every 12-month period in which the stationary source exceeds a limit specified in section 3.1 above and any applicable alternative operational limit specified in section 6.1, above, or

B. Commencing on the first day following every 12-month period in which the owner or operator can not demonstrate that the stationary source is in compliance with the limits in section 3.1 above or any applicable alternative operational limit specified in section 6.1 above.

**Attachment 3**
**November 2, 1994 Letter Describing Use of Minor NSR Programs**

Mr. Jason Grumet
Executive Director, Northeast States
for Coordinated Air Use Management
129 Portland Street
Boston, Massachusetts 02114

Dear Mr. Grumet:

This is in response to Mr. Michael Bradley's March 22, 1994 letter to Mary Nichols seeking clarification of the Federal enforceability of State's existing minor new source review (NSR) programs. It is my understanding that some of the NESCAUM States are interested in using their existing minor NSR programs to limit a source's potential to emit so as to allow sources to legally avoid being considered a major source for title V purposes.

In my November 3, 1993 memorandum entitled "Approaches to Creating Federally-Enforceable Emission Limits," I described approaches that States could use to limit a source's potential to emit for title V purposes. While a number of approaches are acceptable, the Environmental Protection Agency (EPA) has promoted the use of State operating permits programs approved under sections 110 and 112(l), pursuant to the criteria set forth in the June 28, 1989 Federal Register. Among other things, these criteria include an opportunity for public and EPA review and require that permit conditions be practically enforceable. Several States have followed EPA's recommendation and have either adopted these requirements or are in the process of doing so.

The Agency recognizes the use of other approaches as well. In response to your question, EPA's position is that minor NSR permits issued under programs that have already been approved into the State implementation plan (SIP) are federally enforceable. Thus, EPA allows the use of federally-enforceable minor NSR permits to limit a source's potential to emit provided that the scope of a State's program allows for this and that the minor NSR permits are in fact enforceable as a practical matter.

Because minor NSR programs are essentially preconstruction review programs for new sources and modifications to existing sources, minor NSR programs can generally be used to limit a

source's potential emissions when such limits are taken in conjunction with a preconstruction permit action. In addition, please note that the term "modification" generally encompasses both physical changes and changes in the method of operation at an existing source (see Clean Air Act section 111(a)(4)). Thus, the scope of some, though not all, minor NSR programs is broad enough to be used to also limit a source's potential to emit for nonconstruction-related events. This occurs where the modification component of State programs extends to both physical changes and changes in the method of operation. In these cases, where a voluntary reduction in the method of operation (e.g., limit in hours of operation or production rate) by itself is considered a modification for minor NSR permitting, a source may reduce its hours of operation or production rate and make such a change federally enforceable through limits in its minor NSR permit.

Some States' minor NSR programs are written so as to preclude a source from limiting its potential to emit absent an increase in emissions. There may be other limitations on the scope of these programs as well. Since there is considerable variation among State minor NSR programs, a review of any individual State program would be necessary to determine its ability to limit a source's potential to emit. It may be beneficial for States to contact the appropriate EPA Regional Office if there are questions about the scope of the SIP-approved minor NSR program.

Minor NSR programs have generally been used in the past to limit a source's potential to emit for criteria pollutants. There is a growing need for sources to limit their potential to emit for toxic pollutants as well. The EPA is currently considering ways in which a State may limit the potential to emit of toxic pollutants, including possible uses of existing minor NSR programs. I plan to keep you and others aware of our efforts in this regard.

You should also be aware that a recent court ruling has called into question the Federal enforceability of a State minor NSR permit that does not meet the public participation requirements of current EPA regulations despite SIP approval of the State's program [see United States v. Marine Shale Processors, No. 90-1240 (E.D. La.) (bench ruling), June 15, 1994]. In that case involving extensive alleged violations of the permit terms, the court held that EPA could not enforce the terms of the minor NSR permit. The court subsequently ruled that the company could not rely on the permit to limit its potential to emit, and thus was liable for having failed to obtain a major

NSR permit. The outcome of this case suggests that States should proceed cautiously in relying on minor NSR programs to limit potential to emit where the program does not actually provide public participation.

In summary, EPA has provided guidance on approaches that are available to limit a source's potential to emit. The Agency recommends approaches that meet the criteria set forth in the June 28, 1989 Federal Register. Many States are taking action to adopt such programs. With respect to minor NSR permits, EPA believes that permits conditions issued in accordance with existing State minor NSR programs that have been approved into the SIP, and which are enforceable as a practical matter, are federally enforceable and can be used to limit potential to emit. Caution is advised, however, with respect to permits that do not meet procedural requirements. These programs are primarily preconstruction review programs although in many cases they can also limit a source's potential to emit in conjunction with operational changes.

As you have noted, title V issues are complicated and resource intensive. In order for the title V program to be successfully implemented, it is important that States and EPA work cooperatively in developing operating permits programs. Your comments and recommendations on program development issues are welcome.

We appreciate this opportunity to be of service and trust that this information will be helpful to you.

Sincerely

John S. Seitz
Director
Office of Air Quality Planning
and Standards

cc: Air Division Director, Regions I-X

**Attachment 4**
**January 25, 1995 Guidance on Practicable Enforceability**

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

JAN 25 1995

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

SUBJECT: Guidance an Enforceability Requirements for Limiting Potential to Emit through SIP and §112 Rules and General Permits

FROM: Kathie A. Stein, Director
Air Enforcement. Division

TO: Director, Air and, Pesticides and Toxics Management Division, Regions I and IV
Director, Air and Waste Management Division, Region II
Director, Air, Radiation and Toxics Division, Region III
Director, Air and Radiation Division, Region V
Director, Air, Pesticides and Toxics Division, Region VI
Director, Air and Toxics Division, Regions VII, VIII, IX, and X

Attached is a guidance document developed over the past year by the former Stationary Source compliance Division in coordination with the Air Enforcement Division, Office of Air Quality Planning and Standards$ OAR's Office of Policy Analysis and Review, and the Office of General Counsel, as well-as with significant input from several Regions.

A number of permitting authorities have begun discussions with or have submitted programs for review by EPA that would provide alternative mechanisms for limiting potential to emit Several authorities have submitted SIP rules and at least one State has been developing a state general permit approach.; We believe that this guidance is important to assist the EPA Regions as well as States in approving and developing such approaches.

For additional information regarding this guidance, please contact me or Clara Poffenberger of my staff at (202) 564-8709.

cc: John Rasnic, Director
Manufacturing, Energy, and Transportation Division Office of Compliance

Air Branch Chiefs, Regions I -X

Enforceability Requirements for Limiting potential to Emit Through SIP and §112 Rules and General Permits

Introduction

As several EPA guidance describe, there are several mechanisms available for sources to limit potential to emit. EPA guidance have also describe the importance of practical enforceability or the means used to limit the Potential to Emit. This guidance is intended to provide additional guidance on practical enforceability for such limits. We provide references for guidance an practical enforceability for permits and rules in general and provide guidance in this document for application of the same principles to "limitations established by rule or general permit," as described in the guidance document issued January 25, 1995, entitled "Options for Limiting Potential to Emit (PTE) of a Stationary Source under section 112 and Title V of the Clean Air Act (Act)." The description is as follows:

> Limitations established by rules. For less complex plant sites, and for source categories involving relatively few operations that are similar in nature, case-by-case permitting may not be the most administratively efficient approach to establishing federally enforceable restrictions. One approach that has been used is to establish a general rule which creates federally enforceable restrictions at one time for many sources (these rules have been referred to as "prohibitory" or "exclusionary" rules). The concept of exclusionary rules is described in detail in the November 3, 1993 memorandum ["Approaches to Creating Federally Enforceable Emissions Limits," from John S. Seitz]. A specific suggested approach for VOC limits by rule was described in EPA's memorandum dated October 15, 1993 entitled "Guidance for State Rules for Optional Federally Enforceable Emissions Limits Base Upon Volatile Organic Compound (VOC) Use." An example of such an exclusionary rule is a model rule developed for use in California. (The California model rule is attached, along with a discussion of its applicability to other situations - see Attachment 2). Exclusionary rules are included in a State's SIP or 112 program and generally become effective upon approval by the EPA.

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The EPA prefers the term "exclusionary rule" in that this phrase is a less ambiguous description of the overall purpose of these rules.

General permits -A concept similar to the exclusionary rule is the establishment Of a general permit for a given source type. A general permit is a single permit that establishes terms and conditions that must be complied with by all sources subject to that permit. The establishment of a general permit could provide for emission limitations in a one-time permitting process, and thus avoid the need to issue separate permits for each source. Although this concept is generally thought of as an element of Title V permit programs there in no reason that a state or local agency could not submit a general permit program as a SIP submittal Aimed at creating synthetic minor sources. Additionally FESOP [Federally Enforceable State Operating Permit usually reffering to Title I State OperatingPermit Programs approved under- the criteria established by EPA in the June 28, 1989 Federal Register notice, 54 FR 27274] programs can include general permits as an element of the FESOP program being approved into the SIP. The advantage of a SIP general permit, when compared to an exclusionary rule, is that upon approval by the EPA of the state's general permit program, a general permit could be written for an additional source type without triggering the need for the formal SIP revision process. (January 25, 1995 Seitz and Van Heuvelen memorandum, page 4.)

SIP or §112 Rules

Source-category standards 'approved in the. SIP. or under 112,if enforceable as a. practical matter, can be used as federally enforceable limits on potential to emit. Such provisions require public participation and EPA review. Once a specific source qualifies under the applicability requirements of the source category rule, additional public participation is not required to make the limits federally enforceable as a matter of legal sufficiency since the rule itself underwent public participation and EPA review. The rule must still be enforceable as practical matter in order to be considered federally enforceable. A source that violates this type of rule limiting potential to emit below major a source thresholds or is later determined not to qualify for coverage under the rule, could be subject to enforcement action for violation of the rule and for constructing or operating without a proper permit (a. part 70, a New Source Review permit, or operating without meeting §112 requirements, or any combination thereof).

General Permits

The title V regulations set out provisions for general permits covering numerous similar sources. The primary purpose of general permits is to provide a permitting alternative where

the normal permitting process would be overly burdensome, such as for area sources under section 112. General permits may be issued to cover any category of numerous similar sources, including major sources, provided that such sources meet certain criteria laid out in 40 CFR part 70. Sources may be issued general permits strictly for the purpose of avoiding classification as major source. in other words, general permits may be used to limit the potential to emit for numerous similar sources. However, general permits must also most both legal and practical federal enforceable requirements.

With respect to legal sufficiency, the operating permit regulations provide that once the general permit has been issued, after opportunity for public participation and, EPA and affected State review, the permitting authority may grant or deny a sources request to be covered by a general permit without further public participation or EPA or affected State review. The action of granting or denying the source's request is not subject to judicial review. A general permit does not carry a permit shield. A source may be subject to enforcement action for operating without a part 70 permit if the source is later determined not to qualify for coverage under the general permit. Sources covered by general permits must comply with all part 70 requirements.

State SIP or 112(l) General Permits

Another mechanism available to limit potential to emit is a general permit program approved into the SIP or under section 112(1), the hazardous air pollutant program authority. This mechanism allows permitting authorities to issue and revise general permits consistent with SIP or 112(1) program requirements without going through the SIP or 112(1) approval process for each general permit or revision of a general permit. The program is also separate from title V, like Title I state operating permits, and issuance and revisions of the permits are to comply with title V procedures.

Once a program is approved, issuing and revising general permits should be significantly less burdensome and time-consuming for State legislative and rulemaking authorities. The EPA review should also be less burdensome and time-consuming. After a program is approved, permitting authorities have the flexibility to submit and issue general permits as needed rather than submitting them all at once as part of a SIP submittal. Given the reduced procedural burden, permitting authorities should be able to issue general permits to small groups or categories or sources rather than attempt to cover broad categories with a generic rule. We anticipate that specific permit requirements or general permits may be readily developed with the assistance of interested industry groups.

The state general permit approach may allow sources to meet the federal the federal enforceability requirements more easily than other approaches. However, to use this approach, states must have a federally enforceable program that provides the state the authority, to issue such permits; to accomplish this, EPA must approve the program into the SIP or pursuant to section. 112(1) of the Clean Air Act.

Enforceability Principles

In 1989, in response to challenges from the Chemical Manufacturers Association and other industry groups, EPA reiterated its position that controls and limitations used to limit a source's Potential to emit must be federally enforceable. See 54 FR 27274 (June 28, 1989). Federally enforceable limits can be established by Clean Air Act programs such as NSPS, NESHAPs, MACTs, and SIP requirements. However, source-specific limits are generally set forth in permits. Generally, to be considered federally enforceable, the permitting program must be approved by EPA into the SIP and include provisions for public participation. "In addition, permit terms and conditions must be practicably enforceable to be considered federally enforceable. EPA provided specific guidance on federally enforceable permit conditions in a June 13, 1989 policy memo “Limiting Potential to Emit in New Source Permitting” from John Seitz and in the June 28, 1989 Federal Register notice (54 FR 27274) Additional guidance Can also be found in United states v. Louisiana Pacific,682 F. Supp 1122 (D. Colo. 1987) 682 F. Supp 1141 (D. Colo.1988), which led to these guidance statements and a number of other memoranda covering practicable enforceability as it relates to rolling averages, short-term averages, and emission caps. See “Use of Long Term Rolling Averages to Limit Potential to Emit,” form John. B. Rasnic to David Kee, February 24, 1992; “Limiting Potential to Emit;” from Mamie Miller to George Czerniak, August, 1992; “Policy Determination an Limiting Potential to Emit for Koch Refining Company's Clean Fuels Project", from John B. Rasnic to David Kee, March 13, 1992; and “3M Tape Manufacturing Division Plant, St. Paul, Minnesota” from. John B. Rasnic to David Kee, July 14, 1992.

In 1987, EPA laid out enforceability criteria that SIP rules must meet. see “Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,” from Michael Alushin, Alan Eckert, and John Seitz, September 3, 1987 (1997 SIP memo). The criteria include clear statements as to applicability, specificity as to the standard that must be met, explicit statements of the compliance time frames (e.g. hourly, daily, monthly, or 12-month averages, etc.), that the time frame and method of compliance employed must be sufficient to protect the standard involved, record keeping requirements must be specified, and equivalency provisions must meet certain requirements.

Based an these precedents this guidance describes six enforceability criteria which a rule or a general permit must meet to make limits enforceable as a practical matter. In general, practical enforceability for a source-specific permit term means that the provision must specify (1) a technically accurate limitation and the portions of the source subject to the limitation; (2) the time period for the limitation (hourly, daily, monthly, annually); and (3) the method to determine compliance including appropriate monitoring, record keeping and reporting. For rules and general permits that apply to categories of sources, practical enforceability additionally requires that the provision (4) identify the categories of sources that are covered by the rule; (5) where coverage is optional, provide for notice to the permitting authority of the source’s election to be covered by the rule; and (6) recognize the enforcement consequences relevant to the rule.

This guidance will address requirements (4) "arid (5) first as they are concepts that are unique to rules and general' permits.

A. Specific Applicability

Rules and general permits designed to limit potential to emit must be specific as to the emission units or sources covered by the rule or permit. In other words, the rule or permit must clearly identify the category(ies) of the sources that qualify for the rule's coverage. The rule must apply to categories of sources that are defined specifically or narrowly enough so that specific limits and compliance monitoring can be identified and achieved by all sources in the categories defined.

A rule or general permit that covers, a homogeneous group of sources should allow standards to be set that limit potential to emit and provide the specific monitoring requirements. (Monitoring is more fully addressed in section D.) The State can allow for generic control efficiencies where technically sound and appropriate, depending on the extent of the application and ability to monitor compliance with resultant emission limits. Similarly, specific and narrow applicability may allow generic material usage or limits on hours of operation to be sufficient. For example, a rule or general permit that applies to fossil fuel fired boilers of a certain size may allow for limits on material usage, such as fuel-type and quantity. A rule or general permit that applies, only to standby diesel generators or emergency generators may allow restrictions on hours of operation to limit potential to emit. The necessary compliance terms (i.e., monitoring or record keeping) associated with any of these limits, such as with hours of operation, can readily be specified in the rule or the general permit itself.

General permits under Title V are assumed to include this

enforceability principle because the Part 70 regulations set out specific criteria that states should consider in developing their general permit provisions (See 57 FR 32278). These factors include requirements that

> "categories of sources covered by general permits should be generally homogenous in terms of operations, processes, and emissions. All sources in the category should have essentially similar operations or processes and emit pollutants with similar characteristics."

Another factor stated is "sources should be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, or record keeping." Examples of source categories appropriate for general permits include: degreasers, dry cleaners, small heating systems, sheet fed printers, and VOC storage tanks (see 57 FR 32278).

B. Reporting or Notice to Permitting Authority

The rule or general permit should provide specific reporting requirements as part of the compliance method. Although the compliance method for all sources must include record keeping requirements, the permitting authority may make a determination that reporting requirements for small sources would provide minimal additional compliance assurance. Where ongoing reporting requirements are determined not to be reasonable for a category of sources, the rule or general permit should still provide that the source notify the permitting authority of its coverage by the rule or the permit. In the limited situation where all the sources described in a source category are required to comply with the all of the provisions of a rule or general permit, notice is not needed. However, where there are no reporting requirement's and no opt-in provisions, the permitting authority must provide the public with the names and locations of sources subject to the rule or permit.

For Title V general permits, Part 70 requires sources to submit an application for a general permit which must be approved or disapproved by the permitting authority. For SIP or §112 rules and SIP or §112 general permits, in response to receiving the notice or application, the permitting authority may issue an individual permit, or alternatively, a letter or certification. The permitting authority may also determine initially whether it will issue a response for each individual application or notice, and may initially specify a reasonable time period after which a source that has submitted an application or notice will be deemed to be authorized, to operate under the general permit or SIP or §112 rule.

C. Specific Technically Accurate Limits

The rule or general permit issued pursuant to the SIP or §112 must specify technically accurate limits on the potential to emit. The rule or general permit must clearly specify the limits that apply, and include the specific associated compliance monitoring. (The compliance monitoring requirements are discussed further in the next section.) The standards or limits must be technically specific and accurate to limit potential to emit, identifying any allowed deviations.

The 1987 policy on SIP enforceability states that limitations “must be sufficiently specific so that a source is fairly on notice as to the standard it must meet.” For example, “alternative equivalent technique” provisions should not be approved without clarification concerning the time period over which equivalency is measured as wall as whether the equivalency applies on a per source or per line basis or is facility-wide.

Further, for potential to emit limitations, the standards set must be technically sufficient to provide assurance to EPA and the public that they actually represent a limitation on the potential to emit for the category of sources identified. Any presumption for control efficiency must be technically accurate and the rule must provide the specific parameters as enforceable limits to assure that the control efficiency will be met. For example, rules setting presumptive efficiencies for incineration controls applied to a specific or broad category must state the operating temperature limits or range, the air flow, or any other parameters that may affect the efficiency on which the presumptive efficiency is based. Similarly, material usage limits such as fuel limits, as stated above, require specifying the type of fuel and may require specifying other operating parameters.

A rule that allows sources to submit the specific parameters and associated limits to be monitored may not be enforceable because the rule itself does not set specific technical limits. The submission of these voluntarily accepted limits on parameters or monitoring requirements would need to be federally enforceable. Absent a source-specific permit and appropriate review and public participation of the limits, such a rule is not consistent with the EPA's enforceability principles.

D. Specific compliance Monitoring

The rule must specify the methods to determine compliance. Specifically, the rule must state the monitoring requirements, record keeping requirements, reporting requirements, and test methods as appropriate for each potential to emit limitation; and clarity which methods are used for making a direct determination of compliance with the potential to emit limitations.

“Monitoring” refers to many different types of data collection, including continuous emission or opacity monitoring, and measurements of various of Parameters of process or control devices (e.g. temperature, pressure drop, fuel usage) and record keeping of parameters that been limited ,such as hours of operation, production levels, or raw material usage. Without a verifiable plantwide, verifiable emission limits must assigned to each unit or group of units subject to the subject to he rule or general permit. Where monitoring cannot be used to determine emissions directly, limits on appropriate operating parameters must be established for the units or source, and must the monitoring must be sufficient to yield data form the relevant time period that is representative of the source’s compliance with the standard or limit. Continuous emissions monitoring, especially in the case of smaller sources, is not required.

E. Practicably Enforceable Averaging Times

The averaging time for all limits must be practicably enforceable. In other words, the averaging time period must readily allow for determination of compliance. EPA policy expresses a preference toward short term limits, generally daily but not to exceed one month. However, EPA policy allows for rolling limits not to exceed 12 months or 365 days where the permitting authority finds that the limit provides an assurance that compliance can be readily determined and verified. See June 13, 1989 “Guidance on Limiting Potential to Emit," February 24, 1992 memorandum "Use of Long Term Rolling Averages to Limit Potential to Emit” from John Rasnic to David Kee and March 13 1992 "Policy Determination on Limiting Potential to Emit for Koch Refining Company Clean Fuels Project” from John B. Rasnic to David Kee, stating that determinations to allow an annual rolling average versus a shorter term limit must be made on a case by case basis. Various, factors weigh in favor of allowing a long term rolling average, such as historically unpredictable emissions. Other factors may weigh in favor of shorter term limit, such as the inability to set interim limits during the first year. The permitting agency must make a determination as to what monitoring and averaging period is warranted for the particular source-category in light of how close the allowable emissions would be to the applicability threshold.

F. Clearly Recognized Enforcement

Violations of limits imposed by the rule or general permit that limit potential to emit constitute violations of major source requirements. In other words the source would be violating a “synthetic minor” requirement which may result in the source being treated as a major source under Titles I and V. The 1989 Federal Register Notice provides for separate enforcement

and permitting treatment depending on whether the source subsequently chooses to become a major or remain minor. Thus violations of the rule or general permit or violation of the specific conditions of the rule or general permit subjects the source to potential enforcement under the Clean Air Act and state law. The operating permit rule states that not withstanding the shield provisions of part 70, the source subject to a general permit may be subject to enforcement action for operating without a part 70 permit if the source is later determined not to qualify or the conditions and terms of the general permit. Moreover, violation of any of the conditions of the rule or general permit may result in a different determination of the source's potential to emit and thus may subject the source to major requirements and to enforcement action for failure to comply with major source requirements from the initial determination.

G. Rule Requirements for State General Permit Programs

As discussed above, general permit programs must be submitted to EPA for approval under SIP authority or under section 112(1), or both, depending on its particular pollutant application. SIP and §112(1) approval and rulemaking procedures must be met, including public notice and comment. The specific application of the enforceability principles for establishing State SIP or §112(1) general permit programs require that the rule establishing the program set out these principles as rule requirements. In other words, these principles must be specific rule requirements to be met by each general permit.

The rule establishing the program must require that (1)general permits apply to a specific and narrow category of sources; (2) sources electing coverage under general permits where coverage is not mandatory, provide notice or reporting to the permitting authority; (3) general permits provide specific and technically accurate(verifiable) limits that restrict the potential to emit; (4) general permits contain specific compliance requirements; (5) Limits in general permits are established based on practicably enforceable averaging times; and (6) violations of the permit are considered violations of the state and federal requirements and result in the source being subject to major source requirements.

In addition, since the rule establishing the program does not provide the specific standards to be met by the source, each general permit, but not each application under each general permit, must be issued pursuant to public and EPA notice and comment. The 1989 Federal Register notice covering enforceability of operating permits requires that SIP operating permit programs issue permits pursuant to public and EPA notice and comment. Title V requires that permits, including general permits, be issued subject to EPA objection.

Finally, sources remain liable or compliance with major source requirements if the specific application of a general permit to the source does not limit the source's potential to emit below major source or major modification thresholds. (The limits provided in these mechanisms may actually limit the potential to emit of sources but may not limit the potential to emit for some sources to below the threshold necessary to avoid major source requirements. For example, a general permit for industrial boilers may in fact provide limits that are sufficient to bring a source with only two or three boilers to below the subject thresholds but a source with more than three boilers may have a limited PTE but not limited below the major source threshold.) Also, where the source is required to use another mechanism to limit potential to emit, i.e., a construction permit, the general permit may not be relied upon by the source or the State, to limit potential to emit.

Permits issued pursuant to the approved program, meeting the above requirements, are adequate to provide federally enforceable limits on potential to emit for New Source Review, title V, and §112 programs as long as they are approved pursuant to SIP (section 110) and section 112(1) authorities.

**Attachment 5**
**Example Language for Affirming Limits**

[Note: the following language is taken from the Thursday December 17, 1992 Federal Register, page 59931. To place this excerpt into context, readers are encouraged to obtain the entire Federal Register notice]

> "The USEPA today finds the existing Illinois SIP regulations to be consistent with federal requirements. If the State followed its own procedures, each permit issued under this regulation was subject to public notice and prior USEPA review. Therefore, USEPA will consider all operating permits issued which were processed in a manner consistent with both the State regulations and the five criteria to be federally enforceable with the promulgation of this rule provided that any permits that the State wishes to make federally enforceable are submitted to USEPA and accompanied by documentation that the procedures approved today have been followed. USEPA will expeditiously review any individual permits so submitted to ensure their conformity to the program requirements."

Phone conversation notes:

With: Steve Pak, USEPA

Date: 01/21/93

Re: Rolling averages

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asked Steve what USEPA's policy is on allowing 12 month rolling averages for recordkeeping. He said that USEPA will always accept month by month, and 365 day rolling averages. The rolling 12 month averages will be accepted if it can be demonstrated that production is unpredictable and substantially changes month to month. He gave the example of a standby generator. Since operation is on an occasional use USEPA will accept 12 month rolling averages. I asked him if the company did not know which month they will shutdown will 12 month rolling averages be OK. He said yes. The main reason to allow 12 month rolling averages is if the company can prove that production is unpredictable and the changes on a month to month basis is substantial. Steve said that even though USEPA will accept 12 month rolling averages, they would prefer month by month or 365 day rolling averages.

M. Hopkins

cc: Jim Braun, DAPC
Dave Newsad, CDO

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

MAR 13 1992

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Policy Determination on Limiting Potential to Emit for Koch Refining Company's Clean Fuels Project

FROM: John B. Rasnic, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO: David Kee, Director
Air and Radiation Division
Region V

This is in response to your memorandum dated January 24, 1992. As stated in your memorandum, the Koch Refining Company in Rosemount, Minnesota, has submitted a permit application for their Clean Fuels Project (CFP) to the Minnesota Pollution Control Agency. In addition, Koch is attempting to correct deficiencies in its refinery expansion. In order to limit potential emissions from these projects, Koch would like to have policy determinations made for several issues regarding the June 13, 1989, memorandum "Guidance on Limiting the Potential to Emit in New Source Permitting" signed by Terrell Hunt and John Seitz.

Koch specifically requests whether the following conditions could be used to limit their potential to emit to below major modification thresholds: bubble all process heater emissions for the existing heaters, take a federally enforceable emission limit on the heaters, use an averaging period of 365 consecutive days which are rolled daily for the heaters, bubble all VOC emissions for its storage tanks in the refinery tank farm, and take a federally enforceable emission limit for storage tanks.

With regard to the bubble for the 59 heaters, your memorandum states that due to fuel use variability dictated by the refinery and individual heater operating conditions, Koch wishes to bubble the emissions from the heaters. The permits will require continuous flow monitors on individual heaters, and historical records have shown usage variability in the distribution system. The individual fuel monitors will allow for the overall emissions calculation to be made. As indicated to us in your memorandum, historical records show that individual limits reflecting the individual operating need for each of the heaters would be difficult to develop. Thus, a bubble for the 59 heaters may be reasonable. However, the bubble need only be granted to the

extent that it facilitate enforceability of the limits applied. Also, the decision whether to grant a bubble should consider the bubble's impact on our ability to evaluate whether any future physical or operational changes at the heaters should be subject to NSR.

Taking an emission cap to limit potential to emit is restricted by the June 13, 1989 guidance. The guidance states that "the particular circumstances of some individual sources make it difficult to state operating parameters for control equipment limits in a manner that is easily enforceable as a practical matter. The guidance lays out two examples that would be exceptions to the prohibition on using emission limits to restrict potential to emit. As is expressed in your memorandum, the particular circumstances of Koch refinery make it difficult to state operating parameters in a manner that is easily enforceable as a practical matter. In fact, what is described as the "VOC exception" in the 1989 guidance applies in principle to sulfur dioxide (SO2) emissions for the process heaters burning refinery gas. For these heaters, no add-on control equipment is used, but rather several parameters are used to determine a mass emission rate.

However, in accordance with the 1989 potential to emit policy, when an emission limit is taken to restrict potential to emit, some type of continuous monitoring of compliance with that emission limit is required. In the case Of SO2 emissions, the application of continuous emission monitors (CEMS) should be explored. The use of a CEM equivalent may also be acceptable given that it provides a continuous assessment of emissions that is at least as reliable as a CEM. The appropriate means for monitoring or calculating emissions must be determined on a case by case basis by the permitting authority. Use of an emission limit to restrict potential to emit SO2 at the refinery heaters, which are served by a common fuel line, is acceptable provided that emissions can be and are required to be readily and periodically determined or calculated. The continuous monitoring method described in your memorandum includes analyzing the sulfur content of the oil in the tank on a daily basis and measuring the oil used with continuous flow monitors as well as monitoring fuel usage at each heater as well as meeting a specified H2S content.

With respect to an acceptable averaging time for limiting potential to emit, the section in the June 1989 guidance entitled "Time Periods for Limiting Production and Operation" allows for averaging periods of 365 consecutive days which are rolled daily. This allows for short term enforceability of production or operation limits while allowing for long term data to be considered. When a long term average is used, we believe that it is reasonable to require permit conditions which provide for interim limits that ensure compliance and enforceability during the

first year. The method used to provide interim limits and the need to do so should be determined on a case by case basis, considering how close the allowable emissions would be to the applicability threshold, and how closely the enforcing agency believes monitoring is warranted for the particular source. Determinations whether to allow an annual rolling average versus a shorter term limit must also be made on a case by case basis. Various factors may weigh in favor of allowing a long term rolling average.

From discussions with your staff, we understand that Koch Refinery has historic unpredictable variations in their emissions. Use of a 365 day rolling average in this case may therefore be warranted. However, other facts not presented to us may weigh in favor of a shorter limit. Yet, your indication that Koch Refinery may be willing to use emission data for the year prior to start-up of the heaters, to provide interim enforceable limits for the first year of their potential to emit limitation, weighs in favor of allowing a 365 day rolling average. This approach allows the limits to become enforceable on the first day of operations.

With regard to setting an overall limit for the storage tanks in the refinery tank farm, although throughput to individual tanks in the tank farm is closely monitored for business purposes, it is argued that throughput limitations for particular tanks are infeasible as they would defeat the purpose of the tank as a temporary holding vessel. The tank farm consists of over 150 tanks. These tanks would also hold a variety of products. The annual throughput for a particular product will depend on the market demand and refinery capacity. Given the need for variability in the operation of these tanks, an overall limit for the tank farm, as opposed to individual limits for tanks, appears warranted. Discussions with your staff and Minnesota Pollution Control Agency have indicated that even with a bubble over the tanks in the tank farm, modifications affecting emissions in the tank farm could be detected.

With respect to Koch's request to use an emission limit rather than production or operation limits for the tank farm, as stated for the heaters, some type of continuous monitoring is required. Since a CEM is not feasible for monitoring VOC emissions, the permit must require a continuous assessment of emissions that is at least as reliable as a CEM. The appropriate means for continually assessing emissions must be determined on a case by case basis by the permitting authority. Your memorandum states that CEMs would not be used to directly determine compliance with a VOC emission limit because none are available for this application. Compliance would instead be determined daily based on product density and volatility, product throughput per tank, and control efficiency per tank. We believe that if the source is willing to monitor and

determine compliance daily, then the source could be allowed to use an emission cap to limit potential to emit. Otherwise, the maximum usage of the tank (both in volume and volatility) must be assumed in determining potential to emit.

Our response is based on the facts presented in your memorandum of January 24, 1992. This response does not reflect EPA's position with regard to deficiencies from the 1985 expansion. This response does not constitute or imply a final decision with regard to enforcement or the legality of the 1985 expansion.

If you have any questions concerning our response, please contact Clara Poffenberger at FTS 678-8709.

cc: Gary McCutchen, NSR Section, AQMD (MD-15)
William L. MacDowell, Region V
Ron VanMersbergen, Region V
Rachel Rinehart, Region V
Karen Schapiro, AED
Julie Domike, AED
Jeffrey Renton, OGC

u3-5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 2046
FEB 24, 1992

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Use of Long Term Rolling Averages to Limit Potential to Emit

FROM: John B. Rasnic, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO: David Kee, Director
Air and Radiation Division
Region V

This is in response to your memorandum dated September 17, 1991 and several other recent requests for clarification of the guidance entitled "Limiting Potential to Emit in New Source Permitting" (signed by Terrel Hunt and John Seitz, dated June 13, 1989). My staff met with your staff on these issues in October, 1991, and in response has surveyed the Regional offices for any additional suggestions for clarification of the policy. It was our understanding last fall that a direct response to your September memorandum would not be responsive to your needs. However, we have since determined that guidance on application of the "Potential to Emit Policy" to the nine source categories listed in your September 17 memorandum is warranted. To that end, this memorandum gives guidelines for determination of whether to allow long term rolling averages for the nine source categories.

Our survey of the Regions helped us to formulate our response regarding the nine source categories. As we have stated before, we believe that each case in which a source seeks to restrict its potential to emit by imposition of long-term production limits (i.e., limits that exceed one month) must be independently evaluated. Therefore, the facts of a specific case may lead to a different response, and the availability of a 12 month rolling average for the nine listed sources is not automatic. As you know, the potential to emit policy allows use of long-term rolling averages in any case where a source experiences "substantial and unpredictable" annual variations in production. Thus, it is the burden of the source to demonstrate the need for flexibility. In no event shall a source be allowed longer than an annual average rolled less frequently than a month.

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General responses regarding the acceptability of long term averages for the nine source categories follows:

1. Agricultural production such as harvesting or food processing where part of a year the equipment is idle (sugar beet processing facilities).

Rolling averages have been allowed for seasonal food processors. 365 day rolling averages are appropriate given the uncertainties of operating schedules. Each case should be examined, however, for predictability, and alternative limits may be set that would not be as long as an annual rolling average. One option would be requiring a monthly production limit of zero for the off months, and a higher limit for the operating months.

2. Asphalt manufacturing in northern latitudes when there is no winter demand.

Units for which normal operating rates vary greatly (e.g., seasonal processes or batch mode operations) may be allowed longer averaging times. Such sources may be requested to document the historic unpredictability of their operations. Some regions do allow for longer averages where seasonal variations or climatological conditions affect the operation of the source. Any seasonal variations should be examined for predictability, and alternative limits may be set without using a longer averaging period. Again one option would be requiring a low production limit in the winter and higher production levels in the summer.

3. Emergency standby units.

This is a good example of a source that would qualify for a long term average. An emergency standby unit is the classic example of unpredictability.

4. Limit on oil usage in a boiler which can accommodate oil and natural gas but is on interruptable status during winter (commercial or institutional boilers).

Typically, this type of source may qualify for a longer rolling average. However, each case must be examined for predictability and it is recommended that sources demonstrate a history of unpredictable variations.

5. A printing press which has a surge in demand for Christmas season greeting cards.

Generally, this type of source may be able to predict such a seasonal increase in demand. However, if the source is able to demonstrate historical substantial unpredictability, it may be allowed a rolling average. You may also consider requiring a



monthly average with higher monthly production/operation in the busy season than in the off season, such that annual emissions are still below the applicability threshold.

6. Quarrying or mining activities which may be interrupted by winter weather.

Generally, this type of activity allows for use of a long term rolling average, unless it is determined that such interruptions are predictable.

7. Plants where there may be variations in production due to unpredictable orders or contracts.

Proof of historic substantial unpredictability should be provided to justify a long term rolling average.

8. Units used occasionally for testing new products or experimentation.

Generally, rolling averages may be allowed for this type of source. But again, this depends on the definition of "occasionally" for an individual plant.

9. Natural gas pipeline compressor stations with load variations depending on the seasonal variations in fuel demand in different parts of the network.

Unpredictable seasonable variations due to climatological conditions may very well support use of a long term rolling average.

When a determination is made that a rolling average is warranted due to substantial and unpredictable variation in production, the question of enforceability must be addressed. As we have discussed, a 365 day rolling average allows for short term enforceability of production or operation limits while allowing for long term data to be considered. When such a long term average is used, we believe that it is reasonable to require permit conditions which provide for interim limits that ensure compliance and enforceability during the first year. The method used to provide interim limits and the need to do so should be determined on a case by case basis, considering how close the allowable emissions would be to the applicability threshold, and how close the enforcing agency believes monitoring is warranted for the particular source. You have indicated to us that some sources have suggested taking a requirement in the permit to use available data from the past year to average at the start of operations. This may weigh in favor of allowing a 365 day rolling average.

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In response to your broader request for additional examples of how to apply the Potential to Emit Policy, we hope to discuss this issue at our annual NSR workshop. Our initial contact with other Regions indicated that the policy is adequate and allows sufficient flexibility for the permitting authority.

If you have any questions concerning our response, please contact Clara Poffenberger at FTS 678-8709.

cc:
Gary McCutchen, NSR Section, AQMD (MD-15)
William L. MacDowell, Region V
Ron VanMersbergen, Region V
Rachel Rinehart, Region V
Karen Schapiro, AED
Julie Domike, AED
William Tyndall, OGC
Jeffrey Renton, OGC

JUL 0 1 1991

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

JUN 25 1991

REPLY TO ATTENTION OF:
(5AE-26)

Robert Hodanbosi, Manager
Air Quality Model and Planning Section
Division of Air Pollution Control
Ohio Environmental Protection Agency
1800 WaterMark Drive
P.O. Box 1049
Columbus, Ohio 43266-0149

Dear Mr. Hodanbosi:

The United States Environmental Protection Agency (USEPA) reviewed the information submitted by USS Kobe in its memorandum dated May 17, 1991, in support of its desire for a 12-month rolling average in computing emissions from its Number 3 Blast Furnace and associated facilities. The company claims the source has substantial and unpredictable variations in production and, therefore, qualifies for a 12-month rolling average.

USEPA's policy memorandum entitled "Guidance on Limiting Potential to Emit in New Source Permitting", dated June 13, 1989, states that in some rare situations where there is substantial and unpredictable annual variation in production, such as the operation of an emergency boiler, a rolling limit longer than a month can be justified. The arguments submitted by USS Kobe suggest that: 1) state of the economy, 2) fluctuation in customer demand, 3) plant layoffs, 4) labor strikes, 5) collapse in product markets, and 6) change in plant ownership, are appropriate bases for justifying longer use of such longer rolling averages. We disagree. These kinds of conditions are faced by nearly all industries from time to time. USS Kobe has not demonstrated that it is more susceptible than most industries to variations in production due to these conditions.

We do not believe USS Kobe's case to be a rare situation and the company has not established that its production variations are unique. To open this exemption to broad applicability would be counter to the intent of the policy. Therefore, the company should not be allowed to use a 12-month rolling average to limit its potential to emit and thus avoid review as a major modification.

If you have any questions concerning this matter, please call me at (312) 886-6798.

Sincerely yours,

William L MacDowell

William MacDowell, Chief
Regulation Development Section
Air Enforcement Branch

Printed on Recycled Paper

WASHINGTON, D.C. 20460

EC-6-1998-66

JUN 13 1989

MEMORANDUM

SUBJECT: Guidance on Limiting Potential to Emit in New Source Permitting

FROM: Terrell E. Hunt
Associate Enforcement Counsel
Air Enforcement Division
Office of Enforcement and Compliance Monitoring

John S. Seitz, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO: Addressees

This memorandum transmits the final guidance on conditions in construction permits which can legally limit a source's potential to emit to minor or de minimis levels. We received many helpful comments on the January 24, 1989 draft of this guidance, and have incorporated the comments into the final document wherever possible. A summary of the major changes which have been made to the guidance in response to these comments is provided below.

Several commenters noted that the draft guidance used the term "federally enforceable" to mean both federally enforceable as defined in the new source regulations (40 C.F.R. §§ 52.21(b)(17), 51.165(a)(1)(xiv), 51.166(b)(17)), and enforceable as a practical matter. We have tried to distinguish the places where each term should be used, explained the relationship between the two terms, and indicated that in order to properly restrict potential to emit, limitations must be both federally enforceable as defined in the regulations and practically enforceable.

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Some commenters requested that the section on averaging times for production limits be more specific as to when it is appropriate to use limitations which exceed a one month time basis. We have tried to explain why it is not possible to develop generic criteria for making this distinction, and to indicate situations where exceptions to the policy that production and operation limitations not exceed one month may be warranted.

There were some requests for a section on enforcement. We have included a new Section VI which addresses this topic. We also received many good suggestions on the example permit limitations. The section on examples has been substantially reworked to reflect your comments.

Finally, we learned through the comments that in two specific circumstances, short term emission limits are the most useful and reasonable way to restrict and verify limits on potential to emit. These circumstances are: 1) when control equipment is installed but control equipment operating parameters are difficult to measure during enforcement inspections; and 2) in surface coating operations with numerous and unpredictable use of coatings containing varying VOC content, where add-on control equipment is not employed. Therefore, we have made a narrow exception to the flat prohibition on use of emission limits to restrict potential to emit for these specific circumstances, and only when certain additional conditions have been met.

Again, we appreciate the thoughtful comments we have received on this guidance. Please insert this document into your Clean Air Act Compliance/Enforcement Policy Compendium as Item Number H.3. If you have any questions, please contact Judith Katz in the Air Enforcement Division at FTS 382-2843, or Sally Farrell in the Stationary Source Compliance Division at FTS 382-2875.

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# LIMITING POTENTIAL TO EMIT IN NEW SOURCE PERMITTING

JUNE 13, 1989

AIR ENFORCEMENT DIVISION
OFFICE OF ENFORCEMENT AND COMPLIANCE MONITORING

STATIONARY SOURCE COMPLIANCE DIVISION
OFFICE OF AIR QUALITY PLANNING AND STANDARDS

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## Limiting Potential to Emit in New Source Permitting

### I. Introduction

Whether a new source or modification is major and subject to new source review under Parts C and D of the Clean Air Act is dependent on whether that source or modification has or will have the potential to emit major or significant amounts of a regulated pollutant. Therefore, the definition of "potential to emit" under the new source regulations is extremely important in determining the applicability of new source review to a particular source. The federal regulations define "potential to emit" as:

> the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of fuel combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

40 C.F.R.§§ 52.21(b)(4), 51.165(a)(1)(iii), 51.166(b)(4).

Permit limitations are very significant in determining whether a source is subject to major new source review. This is because they are the easiest and most common way for a source to obtain restrictions on its potential to emit. A permit does not

have to be a major source permit to legally restrict potential emissions. A minor source construction permit issued pursuant to a state program approved by EPA as meeting the requirements of 40 C.F.R. § 51.160 is federally enforceable. In fact, any permit limitation can legally restrict potential to emit if it meets two criteria: 1) it is federally enforceable as defined by 40 C.F.R. §§ 52.21(b)(17), 51.165(a)(1)(xiv), 51.166(b)(17), i.e., contained in a permit issued pursuant to an EPA-approved permitting program or a permit directly issued by EPA, or has been submitted to EPA as a revision to a State Implementation Plan and approved as such by EPA; and 2) it is enforceable as a practical matter. The second criterion is an implied requirement of the first criterion. A permit requirement may purport to be federally enforceable, but, in reality cannot be federally enforceable if it cannot be enforced as a practical matter.

Non-permit limitations can also legally restrict potential to emit. These limitations include New Source Performance Standards codified at 40 C.F.R. Part 60 and National Emission Standards for Hazardous Air Pollutants codified at 40 C.F.R. Part 61.

The appropriate means of restricting potential to emit through permit conditions has been an issue in recent enforcement cases. Through these cases and through guidance issued by EPA, the Agency has addressed three questions: what types of permit

limitations can legally limit potential to emit; whether long averaging times for production limitations are enforceable as a practical matter; and whether sources may limit potential to emit to minor source levels as a means of circumventing the preconstruction review requirements of major source review.

II. The Louisiana-Pacific Case

In United States v. Louisiana-Pacific Corporation, 682 F. Supp. 1122 (D. Colo. Oct. 30, 1987) and 682 F. Supp. 1141 (D. Colo. March 22, 1988), Judge Alfred Arraj discussed the type of permit restrictions which can be used to limit a source's potential to emit. The Judge concluded that:

> ...not all federally enforceable restrictions are properly considered in the calculation of a source's potential to emit. While restrictions on hours of operation and on the amount of materials combusted or produced are properly included, blanket restrictions on actual emissions are not.

682 F. Supp. at 1133.

The Court held that Louisiana-Pacific's permit conditions which limited carbon monoxide emissions to 78 tons per year and volatile organic compounds to 101.5 tons per year should not be considered in determining "potential to emit" because these blanket emission limits did not reflect the type of permit conditions which restricted operations or production such as limits on hours of operation, fuel consumption, or final product.

The Louisiana-Pacific court was guided in its reasoning by the D.C. Circuit's holding in Alabama Power v. Costle, 636 F. 2d 323 (D.C. Circuit 1979). Before Alabama Power, EPA regulations required potential to emit to be calculated according to a source's maximum uncontrolled emissions. In Alabama Power, the D. C. Circuit remanded those regulations to EPA with instructions

the Agency include the effect of in-place control equipment in defining potential to emit. EPA went beyond the minimum dictates of the D.C. Circuit in promulgating revised regulations in 1980 to include, in addition to control equipment, any federally enforceable physical or operational limitation. The Louisiana-Pacific court found that blanket limits on emissions did not fit within the concept of proper restrictions on potential to emit as set forth by Alabama Power.

Moreover, Judge Arraj found that:

> ...a fundamental distinction can be drawn between the federally enforceable limitations which are expressly included in the definition of potential to emit and ...(emission) limitations.... Restrictions on hours of operation or on the amount of material which may be combusted or produced ... are, relatively speaking, much easier to "federally enforce." Compliance with such conditions could be easily verified through the testimony of officers, all manner of internal correspondence and accounting, purchasing, and production records. In contrast, compliance with blanket restrictions on actual emissions would be virtually impossible to verify or enforce.

Thus, Judge Arraj found that blanket emission limits were not enforceable as a practical matter

Finally, the Court reasoned that allowing blanket emission limitations to restrict potential to emit would violate the intent of Congress in establishing the Prevention of Significant Deterioration (PSD) program.

III. Types of Limitations that will Restrict Potential to Emit

As an initial matter in this discussion, a few important terms should be defined. Emission limits are restrictions over a given period of time on the amount of a pollutant which may be emitted from a source into the outside air. Production limits are restrictions on the amount of final product which can be manufactured or otherwise produced at a source. Operational limits are all other restrictions on the manner in which a source is run, including hours of operation, amount of raw material consumed, fuel combusted, or conditions which specify that the source must install and maintain add-on controls that operate at a specified emission rate or efficiency. All production and operational limits except for hours of operation are limits on a source's capacity utilization. Potential emissions are defined as the product of a source's emission rate at maximum operating capacity, capacity utilization, and hours of operation.

To appropriately limit potential to emit consistent with the opinion in Louisiana-Pacific, all permits issued pursuant to 40 C.F.R. §§51.160, 51.166, 52.21 and 51.165 must contain a

production or operational limitation in addition to the emission limitation in cases where the emission limitation does not reflect the maximum emissions of the source operating at full design capacity without pollution control equipment. Restrictions on production or operation that will limit potential to emit include limitations on quantities of raw materials consumed, fuel combusted, hours of operation, or conditions which specify that the source must install and maintain controls that reduce emissions to a specified emission rate or to a specified efficiency level. Production and operational limits must be stated as conditions that can be enforced independently of one another. For example, restrictions on fuel which relates to both type and amount of fuel combusted should state each as an independent condition in the permit. This is necessary for purposes of practical enforcement so that, if one of the conditions is found to be difficult to monitor for any reason, the other may still be enforced.

When permits contain production or operational limits, they should also have recordkeeping requirements that allow a permitting agency to verify a source's compliance with its limits. For example, permits with limits on hours of operation or amount of final product should require an operating log to be kept in which the hours of operation and the amount of final product produced are recorded. These logs should be available

for inspection should staff of a permitting agency wish to check a source's compliance with the terms of its permit.

When permits require add-on controls operated at a specified efficiency level, permit writers should include, so that the operating efficiency condition is enforceable as a practical matter, those operating parameters and assumptions which the permitting agency depended upon to determine that the control equipment would have a given efficiency.

An emission limitation alone would limit potential to emit only when it reflects the absolute maximum that the source could emit without controls or other operational restrictions. When a permit contains no limits on capacity utilization or hours of operation, the potential to emit calculation should assume operation at maximum design or achievable capacity (whichever is higher) and continuous operation (8760 hours per year).

The particular circumstances of some individual sources make it difficult to state operating parameters for control equipment limits in a manner that is easily enforceable as a practical matter. Therefore, there are two exceptions to the absolute prohibition on using blanket emission limits to restrict potential to emit. If the permitting agency determines that setting operating parameters for control equipment is infeasible in a particular situation, a federally enforceable permit

containing short term emission limits (e.g. lbs per hour) would be sufficient to limit potential to emit, provided that such limits reflect the operation of the control equipment, and the permit includes requirements to install, maintain, and operate a continuous emission monitoring (CEM) system and to retain CEM data, and specifies that CEM data may be used to determine compliance with the emission limit.

Likewise, for volatile organic compound (VOC) surface coating operations where no add-on control is employed but emissions are restricted through limiting VOC contents and quantities of coatings used, emission limits may be used to restrict potential to emit under the following limited circumstances. If the permitting agency determines for a particular surface coating operation that operating and production parameters (e.g., gallons of coating, quantities produced) are not readily limited due to the wide variety of coatings and products and due to the unpredictable nature of the operation, emission limits coupled with a requirement to calculate daily emissions may be used to restrict potential to emit. The source must be required to keep the records necessary for this calculation, including daily quantities and the VOC content of each coating used. Emission limits may be used in this limited circumstance to restrict potential to emit since, in this case, emission limits are more easily enforceable than operating or production limits.

## IV. Time Periods For Limiting Production and Operation

As discussed above, a limitation specifically recognized by the regulations as reducing potential to emit is a limitation on production or operation. However, for these limitations to be enforceable as a practical matter, the time over which they extend should be as short term as possible and should generally not exceed one month. This policy was explained in a March 13, 1987 memorandum from John Seitz to Bruce Miller, Region IV. The requirement for a monthly limit prevents the enforcing agency from having to wait for long periods of time to establish a continuing violation before initiating an enforcement action.

EPA recognizes that in some rare situations, it is not reasonable to hold a source to a one month limit. In these cases, a limit spanning a longer time is appropriate if it is a rolling limit. However, the limit should not exceed an annual limit rolled on a monthly basis. EPA cannot now set out all-inclusive categories of sources where a production limit longer than a month will be acceptable because every situation that may arise in the future cannot now be anticipated. However, permits where longer rolling limits are used to restrict production should be issued only to sources with substantial and unpredictable annual variation in production, such as emergency

boilers. Rolling limits could be used as well for sources which shut down or curtail operation during part of a year on a regular seasonal cycle, but the permitting authority should first explc the possibility of imposing a month-by-month limit. For example, if a pulp drier is periodically shut down from December to April, the permit could contain a zero hours of operation limit for each of those months, and then the appropriate hourly operation limit for each of the remaining months. Under no circumstances would a production or operation limit expressed on a calendar year annual basis be considered capable of legally restricting potential to emit.

V. Sham Operational Limits

In the past year, several sources have obtained purportedl. federally enforceable permits with operating restrictions limiting their potential to emit to minor or de minimis levels for the purpose of allowing them to commence construction prior to receipt of a major source permit. In such cases where EPA can demonstrate an intent to operate the source at major source levels, EPA considers the minor source construction permit void ab initio and will take appropriate enforcement action to prevent the source from constructing or operating without a major source permit.

The following example illustrates the kind of situation addressed in this section: An existing major stationary source proposes to add a 12.5 megawatt electric utility steam generating unit, and applies for a federally enforceable minor source permit which restricts operation at the unit to 240 hours per year. Because the project is designed as a baseload facility, EPA does not believe that the source intends to operate the facility for only 240 hours a year. Further investigation would probably uncover documentation of the source's intent to operate at higher levels than those for which it is permitted.

This situation raises the question of whether a source can lawfully bypass the preconstruction or premodification review requirements of Prevention of Significant Deterioration (PSD) and nonattainment New Source Review by committing to permit conditions which restrict production to a level at which the source does not intend to operate for any extensive time. If, after constructing and commencing operation, the source obtains a relaxation of its original permit conditions prior to exceeding them, does this constitute a violation of the preconstruction review requirements? This section discusses why it is improper to construct a source with a minor source permit when there is intent to operate as a major source, and provides guidelines for identifying these "sham" permits.

A. Permits with conditions that do not reflect a source's planned mode of operation are void ab initio and cannot act to shield the source from the requirement to undergo preconstruct/ review.

1. Sham permits are not allowed by 40 CFR §52.21(r)(4)

Section 52.21(r)(4) states:

> At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then (PSD) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

When a source that is minor because of operating restrictions in a construction permit later applies for a relaxation of that construction permit which would make the source major, Section 52.21(r)(4) prescribes the methodology f determining best available control technology (BACT). However, it does not foreclose EPA's ability, in addition to the retroactive application of BACT and other requirements of the PSD program, to pursue enforcement where the Agency believes that the initial minor source permit was a sham. EPA will limit its activity to requiring application of 40 CFR 52.21(r)(4) only for the cases where a source legitimately changes a project after finding that the operating restrictions which were taken in good faith cannot be complied with. Whether a source has acted in good faith is a factual question which is answered by available evidence in the particular case.

2. Sham permits are not allowed by the definition of potential to emit: 40 C.F.R. §§52.21(b)(4), 51.165(a)(1)(iii), 51.166(b)(4).

The definition of potential to emit enables sources to obtain federally enforceable permits with operational restrictions as a means of limiting emissions to minor source levels. However, implicit in the application of these limitations is the understanding that they comport with the true design and intended operation of the project.

3. Sham permits are not allowed by the Clean Air Act

Parts C and D of the Clean Air Act exhibit Congress's clear intent that new major sources of air pollution be subject to preconstruction review. The purposes for these programs cannot be served without this essential element. Therefore, attempts to expedite construction by securing minor source status through the receipt of operational restrictions from which the source intends to free itself shortly after operation are to be treated as circumvention of the preconstruction review requirements.

B. Guidelines for determining when minor source construction permits are shams.

EPA's determination that a purportedly federally enforceable construction permit is a sham is made based on an evaluation of specific facts and evidence in each individual case. The following are criteria which should be scrutinized when making such a determination:

1. Filing a PSD or nonattainment NSR permit application

If a major source or major modification permit application is filed simultaneously with or at approximately the same time as the minor source construction permit, this is strong evidence of an intent to circumvent the requirements of preconstruction review. Even a major source application filed after the minor source application, but either before operation has commenced or after less than a year of operation should be looked at closely.

2. Applications for funding

Applications for commercial loans or, for public utilities, bond issues, should be scrutinized to see if the source has guaranteed a certain level of operation which is higher than that in its construction permit. If the project would not be funded or if it would not be economically viable if operated on an

extended basis (at least a year) at the permitted level of production, this should be considered as evidence of circumvention.

3. Reports on consumer demand and projected production levels.

Stockholder reports, reports to the Securities and Exchange Commission, utility board reports, or business permit applications should be reviewed for projected operation or production levels. If reported levels are necessary to meet projected consumer demand but are higher than permitted levels, this is additional evidence of circumvention.

4. Statements of authorized representatives of the source regarding plans for operation.

Statements by representatives of the source to EPA or to state or local permitting agencies about the source's plans for operation can be evidence to show intent to circumvent preconstruction review requirements.

Note that if a determination is made that a permit is a "sham" for one pollutant and, therefore, the source is a major source or major modification, the permit may possibly still contain valid limits on potential to emit for other pollutants.

In such cases, the entire source must still go through new source review, during which, for PSD review, all pollutants for which there is a net significant increase must be analyzed for BACT. In nonattainment new source review, new sources must have LAER determinations only for pollutants for which they are major. Major modifications, however, must have LAER determinations for all nonattainment pollutants emitted in significant amounts. If the valid limits in a partially void minor source construction permit keep certain pollutants below significance levels, then those pollutants would not have to be analyzed for BACT or LAER. However, if a source or modification is determined to be major for PSD or NSR because part of its minor permit is deemed void, it would have to undergo BACT or LAER analysis for all significant pollutants.

VI. Enforcement Procedures

This guidance has discussed permit conditions which will legally restrict potential to emit, shielding a source from the requirement to comply with major new source permitting regulations. Failure by a permitting agency to adhere to these guidelines may result in a permit that does not legally restrict potential to emit, thereby subjecting a source to major new source review. If that source has not gone through preconstruction review, it is a significant violator of the Clean Air Act and is subject to enforcement for constructing or

modifying without a major new source permit.

The enforcement options available to EPA in these situations include administrative action under §§167 or 113(a)(5) of the Act or federal judicial action under §§ 113(b)(2), 113(b)(5), 113(c), or 167. Which enforcement option is selected depends on tha facts of the particular situation. (See July 15, 1988 guidance on EPA Procedures for Addressing Deficient New Source Permits.)

## VII. Examples

The following examples are provided to illustrate the type of permit restrictions which would and would not legally limit potential to emit to less than major source thresholds. These examples are provided for purposes of clarifying the potential to emit and averaging time guidance only. They are not intended to reflect all the permit conditions necessary for a valid permit. Specific test methods, compliance monitoring and recordkeeping and reporting requirements are necessary to make permit limitations enforceable as a practical matter. The use of examples where averaging times are the longest times allowed under EPA policies is not intended to necessarily condone the selection of the longest averaging times; averaging times should in practice be as short as possible.

1. The minor source construction permit for a boiler contains the following restrictions: 250,000 gal fuel/month; 0.8% S fuel; 8000 hours/year.

These conditions are federally enforceable production and operation limits, but do not limit potential to emit because one of them does not meet EPA policies on enforceability as a practical matter. The averaging time for hours of operation, one of the operational limits necessary to restrict emissions to less than 250 tpy, exceeds a monthly or rolling yearly limit. If, instead of 8000 hours/year, the hourly restriction were stated as 666 hours/month, the permit would serve to keep the source a minor source, assuming the permit contains appropriate recordkeeping provisions.

2. A waferboard plant which has the physical capacity to emit over 300 tpy of carbon monoxide in the absence of using specific combustion techniques has the following permit restriction as the sole emission limitation: 249 tpy.

This does not limit potential to emit since an operational or production restriction is necessary for the source to be restricted to 249 tpy. The permit must contain a restriction on hours of operation or capacity utilization which, when multiplied by the maximum emission rate for the CO sources at the plant, results in emissions of 249 tpy. Additionally, while the

emission limit alone cannot restrict potential to emit, the emission limit is unenforceable as a practical matter since it is limited on an annual basis. The permit should contain a short term emission limit (in addition to the annual emission limit), consistent with the compliance period or parameter in the applicable test method for determining compliance.

3. A small scale rock crushing plant that cannot emit more than 240 tpy under maximum operation without controls (including plant-wide particulate emissions from transfer and storage operations) has the following permit restriction as the sole emission limitation: 240 tpy particulate matter.

Since no operational limitations are necessary for the source to emit below 250 tpy, no operational restrictions need be in the permit to limit potential to emit. However, although this is not a major source, the state agency should express the emission limit in this permit as a lb/hour measure or gr/dscf so that it will be enforceable as a practical matter.

4. A plant consisting solely of a small rock crusher has the following permit restrictions: 0.05 lb gr PM/dscf; fabric filter must be employed and maintained at 99% efficiency.

Assuming that maintaining the fabric filter at 99% efficiency will result in emissions of less than 250 tpy, this

permit would limit potential to emit if it also contained either 1) parameters that allowed the permitting agency to verify the fabric filter's operating efficiency or 2) a requirement to install and operate continuous opacity monitors (COMs) and a specification that COM data may be used to verify compliance with emission limits. Note that if this second alternative were adopted, it would not be necessary to require that the fabric filter be maintained at 99% efficiency.

To determine potential to emit, the efficiency rate of the fabric filter would be multiplied by the maximum uncontrolled emission rate, the maximum number of operating hours and maximum throughput capacity since there are no other operating or production limits. However, the efficiency rate of the fabric filter would not be enforceable as a practical matter unless there were an enforceable means to monitor ESP performance on a short term basis. The two alternatives mentioned above would satisfy this requirement.

5. A surface coating operation has the capability of utilizing 15,000 gal coating/month, with the following permit restrictions: 3.0 lb VOC/gal coating minus water; 20.5 tons VOC/month; monthly VOC emissions to be determined from records of the daily volumes of coatings used times the manufacturers specified VOC content.

This does not limit potential to emit since the source has the physical capacity to exceed 250 tpy of VOC, and the permit does not contain a production or an operational limitation. A monthly limit on gallons of coating used which when multiplied by 3.0 lb/gal equates to less than the 250 tpy threshold (e.g., 13,500 gallons/month), with appropriate recordkeeping, would generally be necessary to limit potential to emit. If, however, the permitting agency determines, due to the wide variety of coatings employed and products produced, that restrictions on operation or production are not practically enforceable, then the above emission limits could restrict potential to emit if there are requirements that the source calculate emissions daily, and keep the appropriate records.

If the source was alternatively to meet the 20.5 ton/month limit by employing add-on controls, the permit would need to contain an operational limit, such as the requirement to install and operate an incinerator at 99% efficiency. A requirement to monitor incinerator efficiency (either directly or indirectly via temperature monitoring for example), and appropriate recordkeeping requirements to verify compliance with each of the permit conditions would also be necessary to make the permit conditions enforceable as a practical matter. Note, however, that in the case where add-on controls are employed, the source may be able to meet a shorter term emission limit than the ton per month figure.

## VIII. Conclusion

We hope this guidance will help EPA Regions identify sou: which have the potential to emit major amounts of an air pollutant which will subject those sources to the requirements of preconstruction new source review. Every source which is subject to these requirements but has not obtained a major new source permit should be seriously considered for enforcement action.

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APR 14 1987
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U.S. EPA Region V

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

APR - 8 1987

OFFICE OF
AIR AND RADIATION

**MEMORANDUM**

SUBJECT: Clarification of New Source Review Policy on Averaging Times for Production Limitations

FROM: John S. Seitz, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO: Air Management Division Directors
Regions I, III and IX

Air and Radiation Division Director
Region V

Air and Waste Management Division Director
Region II

Air, Pesticides and Toxics Management Division Directors
Regions IV and VI

Air and Toxics Division Directors
Regions VII, VIII and X

On March 13, 1986 the Stationary Source Compliance Division issued the attached memorandum which describes EPA's policy on maximum allowable averaging times for production and operational limitations. The limitations addressed are those which restrict a source's potential to emit to below PSD/NSR major source or major modification thresholds. Since the issuance of this memorandum last March, there have been several attempts to misuse the policy and apply it to emission limitations, rather than to production/operational limitations. The purpose of this memorandum is to distinguish between EPA's policy on averaging times for production limitations versus emission limitations, and to clarify the proper implementation of the March 13, 1986 memorandum.

Production limitations place restrictions on a source's operating rate, or rate of material throughput. Examples of production limitations are: hours of operation, gallons of coating per job or per unit time, million BTU per unit time,

material processed per unit time. Federally enforceable limitations on these parameters may serve to limit a source's potential to emit to below major source thresholds. EPA's policy on the longest averaging times that are considered Federally enforceable is set forth in the March 13, 1986 memorandum from Edward E. Reich. The longest averaging time generally acceptable for the purposes of practical Federal enforcement is one month, however, a source may seek approval of longer rolling averages as discussed in that memorandum.

Emission limitations place restrictions directly on the source's pollutant emission rate. Examples of emission limitations are: lb VOC/gal coating, lb VOC/hour, lb $SO_2$/MBTU, lb $SO_2$/hour, grains particulates/dscf. In order for emission limitations to be Federally enforceable from the practical stand point, they must be short term and specific so as to enable the Agency to determine compliance at any time. Emission limitations on a yearly basis alone (e.g., tons per year, or rolling yearly averages) do not satisfy EPA's requirements with respect to Federal enforceability. EPA's policy on averaging times for VOC emission limitations is stated in the January 20, 1984 memorandum from John O'Connor, Acting Director of OAQPS.

The March 13, 1986 Edward Reich memorandum describes EPA's policy on averaging times for production limitations which limit potential to emit to below major source or major modification thresholds. That memorandum states that the averaging time policy for production limitations does not apply to emission limitations. Therefore, limitations on a source's emission rate (e.g., lb VOC/unit time) designed to keep the source's potential emissions below NSR/PSD thresholds must comport with EPA policy on emission limitations. Sources may not use the March 13, 1986 memorandum on averaging times for production limitations to justify the use of longer (e.g., yearly or monthly) averaging times for emission limitations.

Any questions regarding this memorandum or the March 13, 1986 memorandum may be directed to Sally M. Farrell at FTS 382-2875.

Attachment

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

March 13, 1986

MEMORANDUM
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SUBJECT: Time Frames for Determination of Applicability to New Source Review

FROM: Director
Stationary Source Compliance Division
Office of Air Quality
Planning and Standards

TO: Bruce P. Miller, Acting Chief
Air programs Branch, Region IV

In a recent phone conversation between Roger Pfaff of your staff, and Sally Farrell of my staff, time frames for determination of compliance with permit restrictions on hours of operation, or rates of materials/fuel use were discussed. Specifically, inquiry was made as to whether SCCD considered a rolling yearly average on a daily basis (i.e. averaging some parameter over 365 days, where each day starts the summing/averaging period for a new year) as an appropriate measure of applicability to Prevention of Significant Deterioration (PSD) and nonattainment new source review (NSR).

A source may commit to limit its production by including federally enforceable restrictions on hours of operation or fuel and materials consumption in its permit. Limited operation of the source may serve to lower its emission rates to levels below those which trigger PSD/NSR review. Such permit limits are used by sources to avoid major source review.

At the NSR meetings in Denver this January, attended by new source review staff from Headquarters and all ten Regions, it agreed that a month long period for these permit restrictions is the longest time frame that should be accepted as federally enforceable. Under the constraints of Section 113

of the Clean Air Act it would, in practice, be difficult to enforce violations using a longer time frame, such as an annual average. Upon finding of a violation, Section 113 requires that EPA first issue a Notice of Violation. If the violation extends 30 days beyond notification, the Agency may then issue an order to comply or take civil action. If compliance is based on an annual average, there may be a considerable time lag before the violation can be enforced. Therefore, a one month limit is agreed to be the maximum time EPA should generally accept for avoiding a PSD/NSR threshold. However, if a source is unable to use the monthly limit (due to seasonal variations in productions for example), rolling periods of longer durations are also acceptable for determining applicability to major source review. With the year long rolling average on a daily basis, the source must demonstrate compliance for any consecutive 365 days, thereby averting the problems encountered with enforcing discrete annual averages. A twelve month rolling average (year long, on a twelve month basis) is the maximum time frame that would be accepted as federally enforceable.

It should be emphasized that the averaging periods recommended are for the purpose of determining applicability to new source review. The above policy is not to be extended to determination of compliance with emission limitations.

If you have any questions, please contact Sally M. Farrell at FTS 382-2875.

Edward E. Reich

cc: Marcia Spink, Region I
Ken Eng, Region II
Ben Mykijewycz, Region III
Roger Pfaff, Region IV
Ron Van Mersbergen, Region V
Troy Oberg, Region VI
Dan Rodriguez, Region VII
Steven Frey, Region VIII
Matt Haber, Region IX
David Bray, Region X
Kirt Cox, OAQPS

MAR 13 1986

MEMORANDUM

SUBJECT Time Frames for Determination of Applicability to New Source Review

FROM: Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO Bruce P. Miller, Acting Chief
Air Programs Branch, Region IV

In a recent phone conversation between Roger Pfaff of your staff, and Sally Farrell of my staff, time frames for determination of compliance with permit restrictions on hours of operation, or rate of materials/fuel use were discussed. Specifically, inquiry was made as to whether SSCD considered a rolling yearly average on a daily basis (i.e. averaging some parameter over 365 days, where each day starts the summing/averaging period for a new year) as an appropriate measure of applicability to Prevention of Significant Deterioration (PSD) and nonattainment new source review (NSR).

A source may commit to limit its production by including federally enforceable restrictions on hours of operation or fuel and materials consumption in its permit. Limited operation of the source may serve to lower its emission rates to levels below those which trigger PSD/NSR review. Such permit limits are used by sources to avoid major source review.

At the NSR meetings in Denver this January, attended by new source review staff from Headquarters and all ten Regions, it was agreed that a month long period for these permit restrictions is the longest time frame that should be accepted as federally enforceable. Under the constraints of Section 113

CONCURRENCES

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|---|---|---|---|---|---|---|---|
| SYMBOL | EN-341 | EN-341 | | | | | |
| SURNAME | Farrell | Biondi | [illegible] | [illegible] | | | |
| DATE | [illegible] | 2/18/86 | [illegible] | 3/11/86 | | | |

of the Clean Air Act it would, in practice, be difficult to enforce violations using a longer time frame, such as an annual average. Upon finding of a violation, Section 113 requires that EPA first issue a Notice of Violation. If the violation extends 30 days beyond notification, the Agency may then issue an order to comply or take civil action. If compliance is based on an annual average, there may be a considerable time lag before the violation can be enforced. Therefore, a one month limit is agreed to be the maximum time EPA should generally accept for avoiding a PSD/NSR threshold. However, if a source is unable to use the monthly limit (due to seasonal variations in production, for example), rolling periods of longer durations are also acceptable for determining applicability to major source review. With the year long rolling average on a daily basis, the source must demonstrate compliance for any consecutive 365 days, thereby averting the problems encountered with enforcing discrete annual averages. A twelve month rolling average (year long, on a twelve month basis) is the maximum time frame that would be accepted as federally enforceable.

It should be emphasized that the averaging periods recommended are for the purpose of determining applicability to new source review. The above policy is not to be extended to determination of compliance with emission limitations.

If you have any questions, please contact Sally M. Farrell at FTS 382-2875.

Edward E. Reich

cc: Marcia Spink, Region I
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David Bray, Region X
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EN-341:S.Farrell:mrd:3-4-86:Disk#1:Draft#1:3/3/86:Final#1:3/4/86

July 15, 1997

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
1600 WaterMark Drive
Columbus, Ohio 43215-1034

Dear Mr. Hodanbosi:

The purpose of this letter is to advise your agency on how three facilities in Cleveland, Ohio--LTV Steel, Stein, Inc., and Allega, Inc.--should be classified under the Title V operating permit program. LTV Steel produces slag as a by-product of its steel production. The LTV facility sells its basic oxygen furnace (BOF) slag to Stein, and its blast furnace slag to Allega. Stein and Allega process the slag into aggregates to sell to other companies. The issue presented is whether these three facilities should be considered as separate Title V sources or as one Title V source. Our analysis indicates that they should be considered a single source.

The prevention of significant deterioration regulations in 40 CFR 52.21(b)(5) and (6) and the Title V operating permit regulations in 40 CFR 70.2 define a stationary source as any building, structure, facility, or installation whose pollutant-emitting activities belong to the same industrial grouping, are located on contiguous or adjacent properties, and are under the control of the same person or entity (or entities under common control). According to the March 16, 1979, USEPA memorandum from the Division of Stationary Source Enforcement director titled "Definition of a Source," determinations of what entities are under common control with the applicant are to be made on a fact- specific case-by-case basis. A number of factors could decide common control status.

USEPA is guided by the definition of control used by the Securities Exchange Commission (SEC). For SEC purposes, control means, "[T]he possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person (or organization or association) whether through the ownership of shares, contract, or otherwise." See 17 CFR 210.1-02(g) (1996). If two sources are under different ownership, but one company has some decision-making ability in the second facility through a contractual agreement or a voting interest, the sources can be considered under common control.

Adjacent sources under different, independent ownership, may be considered under common control due to the nature of their operations. It is our understanding that, by contract: LTV Steel provides 100 percent of its slag product to the Stein and Allega facilities; the Stein and Allega facilities receive all of their slag product from the LTV Steel facility; and Stein and Allega are required by contract to accept 100% of LTV's BOF slag and blast furnace slag, respectively. Accordingly, but for the existence of the LTV Steel facility, there would be no slag processing plants at this location.

Although the three facilities may be independently owned and operated (and the companies operating them may run facilities elsewhere in the nation that do not interact with each other), the

operations of the Stein and Allega facilities at this particular location appear to be entirely dependent upon agreements or contracts with the LTV Steel facility. Thus the functions of the Stein and Allega facilities at this location are subject to control by LTV Steel through contract, as LTV would have power to cause the direction of the management decisions and policies of the Stein and Allega facilities. Therefore, for Title V purposes, LTV Steel, Stein, and Allega here are considered under common control.

USEPA's position is reflected in Engineering Guide # 58, a policy statement issued by the Ohio Environmental Protection Agency (OEPA). This Engineering Guide serves to clarify the definition of "facility" for new source review and Title V permitting. It states that two independently owned facilities may be under common control if there is a financial interest between them. The examples provided therein illustrate that if the two facilities are co-located and have the same 2-digit SIC code, and if the primary function of one facility is to support the production of the other facility's principal product, then the two facilities should be considered as one source for permitting.

The other factors important in determining whether facilities should be aggregated as a single source are clearly satisfied. LTV Steel, Stein, and Allega have the same 2-digit SIC code, so they belong to the same industrial grouping. Stein and Allega operate on property owned and leased by LTV Steel. The three facilities are located on contiguous property. Since the three factors are satisfied, it is USEPA's position that LTV Steel, Stein, and Allega should be aggregated together as a single source for Title V permitting.

Another independent rationale for aggregating Stein and Allega with LTV Steel as a single major source is because Stein and Allega are "support facilities" for LTV. As indicated in the August 7, 1980, Federal Register (45 FR 52695), "one source classification encompasses both primary and support facilities, even when the latter includes units with a different two-digit SIC code. Support facilities are typically those which convey, store, or otherwise assist in the production of the principal product." Stein and Allega are the sole recipients of LTV Steel's slag. Since the removal of slag is essential to LTV Steel's lawful production process, Stein andAllega assist in the production of LTV Steel. Therefore, they are support facilities and together constitute a single source.

While the three facilities are to be considered the same source for Title V applicability, individual Title V permits may be issued to them separately, or to different responsible parties. I hope this information is useful. We will consider any further information submitted by OEPA with regard to the issues presented in this matter. If you have any questions, please call Kaushal Gupta, of my staff, at (312) 886-6803.

Sincerely yours,

/s/

Cheryl L. Newton, Chief
Permits and Grants Section

cc: Jeanne Mallet, OEPA

**From:** Jeanne Mallett
**To:** Bhodanbo@Central-Office.DAPC, Jorleman@Central-Off.
**Date:** Wed, Jul 16, 1997 11:12 am
**Subject:** 7/15/97 letter to OEPA -Forwarded -Reply

fyi: I have not yet received any backup from their lawyer on the common control issue. Personally and legally, I do not believe they have a leg to stand on here on the facts presented, although it may be the case upon further investigation that Stein and Allega are under common control. What, if anything, do you want to do on this?

Cc: Misty, Ryan, Sarah
Ryan → Hopkins
FEB 22 1996

Vorys, Sater, Seymour and Pease
Suite 2100 • Atrium Two • 221 E. Fourth Street • Post Office Box 0236 • Cincinnati, Ohio 45201-0236 • Telephone (513) 723-4000 • Facsimile (513) 723-4056

Writer's Direct Dial Number
(513) 723-4024

February 20, 1996

Michael Hopkins, P.E.
Manager Air Quality Modeling
and Planning Division
Ohio EPA
1800 WaterMark Drive
Columbus, Ohio 43266

RE: Relocation of Air Emissions Source Within a Facility

Dear Mike:

This letter is a follow-up to our conversation of January 16, 1996 regarding the relocation of emission units within a "facility".

As you know, because of Title V operating permit requirements, Ohio EPA views Honda's Marysville Automobile (MAP) and Motorcycle plants (MMP), its East Liberty Automobile plant (ELP), and several other operations, as one "facility". Most operations are in Union County, while ELP is located in Logan County.

Under OAC Rule 3745-31-01(J)(1)(a)(iii), a modification, and the requirement to obtain a Permit to Install (PTI), is triggered when there is a physical change to an air contaminant source that "results in the relocation of the source to new premises, including, but not limited to, the movement of any existing source from another state, *county*, or other geographic location..." (emphasis added).

"Premises" is not defined but it is assumed to refer to a facility's premise number as assigned by Ohio EPA.

Prior to Ohio Administrative Code (OAC) Chapter 3745-77 and the now accepted view that these different plants constitute one facility, a PTI modification would have been required to move an emission unit from one county to another.

However, because the various plants are now viewed as one "facility", this provision of the PTI rules appears to have the unintended consequence of requiring a permit modification when an emission unit is moved within the facility, only because of the "county" criterion.

Honda submitted comments on January 8, 1996 to the public record relating to the rulemaking revising OAC Chapter 3745-31, suggesting that the definition should be revised so as to trigger a modification when a company moves an emissions unit from one facility to another, but not within a facility. This would provide the needed relief to facilities straddling county lines.

In our discussion, you indicated there are several facilities in Ohio that straddle county lines. Ohio EPA allows these facilities to move emission units within the facility provided the emission unit remains unchanged. In other words, provided the movement of the emission unit does not trigger the other modification criteria, the movement is allowed by Ohio EPA without requiring a permit to install. You requested in these situations that the permittee provide documents supporting its position that the emission unit remains unchanged, as well as documents indicating its new location, stack height, etc.

A movement of the specific emission unit we discussed is no longer contemplated but the issue is still relevant for future planning. Based on our discussion and assuming concurrence that there are no changes that would otherwise trigger a modification, we would anticipate that in such cases the permit would be administratively modified to indicate the new location, but no other changes would be required.

Your assistance in this matter and the Ohio EPA's common sense approach is appreciated. If my understanding of our conversation conflicts with yours, please do not hesitate to contact me.

Sincerely,

Bill

William D. Hayes

WDH/jh

cc: Richard Lahiere, EHSG, Honda of America Mfg.
Christopher Korleski, Legal, Honda of America Mfg.
Jeanne Mallett, Ohio EPA Legal
Phil Henrichs, Ohio EPA SWDO
Kim Ness, Ohio EPA CDO

Mike Hopkins

*Ohio EPA*

*Division of Air Pollution Control*

# inter-office communication

**to:** All DO's and Permit Role LAA's

**from:** Tom Rigo Tom

**subject:** Multiple Premise #'s at the Same Facility

**date:** April 25, 1994

It has been brought to our attention that there are some facilities in Ohio that have been permitted separately under different 10-digit premise numbers for the same facility location. We believe this has happened because the term facility was not clearly defined in Ohio's rules. However, Title V requirements OAC rule 3745-77-01(W) specifically define what constitutes a major source (facility). You should note that this is the same definition that has defined facility for federal new source review programs such as PSD. The definition, in part, is as follows:

(W) "MAJOR SOURCE" MEANS ANY STATIONARY SOURCE OR ANY GROUP OF STATIONARY SOURCES THAT ARE LOCATED ON ONE OR MORE CONTIGUOUS OR ADJACENT PROPERTIES AND UNDER COMMON CONTROL OF THE SAME PERSON (OR PERSONS UNDER COMMON CONTROL) BELONGING TO A SINGLE MAJOR INDUSTRY GROUPING AND THAT ARE DESCRIBED IN PARAGRAPHS (W)(1), (W)(2), OR (W)(3) OF THIS RULE. FOR THE PURPOSES OF DEFINING "MAJOR SOURCE," A STATIONARY SOURCE OR GROUP OF STATIONARY SOURCES SHALL BE CONSIDERED PART OF A SINGLE INDUSTRIAL GROUPING IF ALL OF THE POLLUTANT EMITTING ACTIVITIES AT SUCH SOURCE OR GROUP OF SOURCES ON CONTIGUOUS OR ADJACENT PROPERTIES BELONG TO THE SAME MAJOR GROUP (I.E., ALL HAVE THE SAME TWO-DIGIT CODE) AS DESCRIBED IN THE STANDARD INDUSTRIAL CLASSIFICATION MANUAL, 1987. ...

It is important that we identify where current facilities are not permitted correctly so that when facilities go to apply for a Title V permit or a Chapter 3745-35 permit (when the new automated system is on-line), we can provide them with a new 10-digit premise number. Under this new number, the facility will consolidate all the fragmented permitting that did occur with past permits. We want to permit facilities in the same manner in the future for both OAC Chapter 3745-35 and 3745-77 facilities.

Please complete the enclosed survey and return it to us by May 31, 1994. If you find that your office has not issued any multiple permits at the same facility, please indicate that fact on the survey form and return the form. Should you have any questions please contact me or Clara at (614) 644-2300.

## DO's and LAA's:

Dennis Bush, NEDO
Bruce Blankenship, Canton
Lynn Malcolm, Akron
Bob Staib, Cleveland
Bill Garber, Toledo
Don Waltermeyer, NWDO
Curt Marshall, RAPCA
Harry Sweitering, Cincinnati
Phil Hinrichs, SWDO
Don Walden, Portsmouth
Harold Strohmeyer, NOVAA
Glen Greenwood, SEDO
Jay McCoy, CDO

cc: Clara Dailey, DAPC
Dave Newsad, CDO
Mike Hopkins, DAPC
Jim Orlemann, DAPC
Bob Hodanbosi, DAPC

# Survey Form For Multiple Permits At The Same Facility Location

| Facility Name | Address(es) | Premise Numbers |
| --- | --- | --- |

March 13, 1998

Donald Sutton, Manager
Permits Section
Division of Air Pollution Control
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794-9506

Dear Mr. Sutton:

The purpose of this letter is to provide further guidance on the major modification provisions of the federal rules for Prevention of Significant Deterioration (PSD), 40 CFR 52.21, as applied to a proposed "re-permitting" of the integrated steel mill (Application 93040047) at the Acme Steel Company (Acme) located in Chicago and Riverdale, Illinois. While the U. S. Environmental Protection Agency (USEPA) has had many discussions with your staff at the Illinois Environmental Protection Agency (IEPA) regarding the proposed Acme permit actions, we would like to clarify our position.

According to the information we have received, since approximately 1964, Acme has operated the facilities in Chicago and Riverdale as one integrated steel mill [with coke ovens and blast furnace operations in Chicago together with basic oxygen furnace (BOF), casting and hot strip mill operations in Riverdale]. The Acme integrated steel mill operates in a series of four batch processes. At the Chicago portion of the plant, coke from the coke plant is sent to the blast furnace. The blast furnace produces hot metal that is transported via commercial rail to the BOF shop in Riverdale. With the addition of scrap steel, the BOF shop produces liquid steel that is formed into steel coils in the continuous caster/hot strip mill. Both portions of Acme steel mill are located in the Chicagoland severe non-attainment area for ozone and the Lake Calumet non-attainment area for particulate matter less than 10 microns (PM-10).

In their recent proposal, Acme would like to revise a construction permit issued on March 4, 1994, that authorized the replacement of its old steel processing (teeming, soaking, reheating, and hot strip mill operations at the Riverdale site) with a new, more efficient continuous caster/hot strip mill. The 1994 permit necessitated the limiting of all major operations (i.e., production of coke, iron, steel, and fuel usage) such that the continuous caster/hot strip mill project would not be considered a major modification for emissions of PM-10 or sulfur dioxide.

Acme now believes that the project was permitted incorrectly. Specifically, Acme requests that the Riverdale and Chicago portions of the plant be considered two separate sources for New Source Review (NSR) permitting. Due to their belief that debottlenecking of the production line, as considered in the 1994 permit, did not occur with the addition of the new continuous caster/hot strip mill, Acme also requests the removal of all the 1994 permit conditions and limitations associated with the coke ovens, blast furnace and the BOF.

The primary issue presented is whether the Chicago and Riverdale facilities can be considered separate sources or one source. Secondary is the issue of "re-permitting" the 1994 netting

analysis based on different assumptions and limits. With respect to the first issue, the PSD regulations in 40 CFR 52.21(b)(5) and (6) and the Title V operating permit regulations in 40 CFR 70.2 define a stationary source as any building, structure, facility, or installation whose pollutant-emitting activities belong to the same industrial grouping, are located on contiguous or adjacent properties, and are under the control of the same person or entity (or entities under common control). The common control and industrial grouping factors important in determining whether operations should be aggregated as a single source are clearly satisfied. The integrated steel mill operations in Riverdale and Chicago have the same 2-digit SIC code and they are both owned and operated as single source by Acme. The remaining factor to consider in case-by-case single source determinations is consideration of the contiguity and/or adjacency of the Riverdale and Chicago operations. The Riverdale portions of the steel mill are located approximately 3.7 geographic miles from the closest part of the coke plant at the Chicago portion of the mill. Although the two sites are separated by Lake Calumet, landfills, I-94, and the Little Calumet River, USEPA considers that the close proximity of the sites, along with the interdependency of the operations and their historical operation as one source, as sufficient reasons to group these two facilities as one.

Furthermore, it would now be inappropriate to divide the activities of the steel mill into two sources, because it appears that the netting analysis supporting the 1994 permit depended on the whole facility being one source. The netting analysis performed for PM-10 demonstrated that Acme needed PM-10 emission reductions at the Chicago portion of the plant to offset the increases at the Riverdale portion of the plant due to the continuous caster/hot strip mill addition and resulting debottlenecking. Although Acme would now like to choose a different netting scenario, such that the 1994 operational restrictions would not be necessary to avoid major NSR, this
"re-permitting" request is not possible because of the timing of the proposed emission reduction credits. As 40 CFR 52.21(b)(3)(vi) states:

A decrease in actual emissions is creditable only to the extent that:
(a) ...
(b) It is federally enforceable at and after the time that actual construction on the particular change begins; and
(c) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

Although USEPA does not consider Acme’’s business choices to constitute mistakes that warrant permit review, if Acme feels that they need more flexibility or capacity than provided by the 1994 permit, USEPA will work with the IEPA to evaluate that request following the proper modification procedures provided by NSR.

We understand that Illinois EPA has been working closely with Acme to update the PM-10 attainment demonstration for the Lake Calumet PM-10 non-attainment area. Yet, the proposed use of some of those "voluntary reductions" for netting credits is questionable due to pending enforcement consent decrees which require those reductions. We applaud your efforts to work cooperatively to bring this area into attainment for PM-10, but such efforts cannot be made, such that they violate the principles of the PSD and NSR regulations.

I hope you will find this information useful. We will consider any further information submitted by Illinois EPA with regard to the issues presented in this matter. If we can answer any questions regarding these comments, or if we can provide any further guidance, please contact Keary Cragan, of my staff, at (312) 353-5669. Once again, thank you for your commitment to working with us to improve the permitting process.

Sincerely yours,

/s/

Cheryl L. Newton, Chief
Permits and Grants Section

Image Not Available

Image Not Available

**OhioEPA**
State of Ohio Environmental Protection Agency

P.O. Box 1049, 1800 WaterMark Dr.
mbus, Ohio 43266-0149
.) 644-3020
FAX (614) 644-2329

~~JAN 1 8 1992~~ JAN 1 4 1992

George V. Voinovich
Governor

# MEMORANDUM

TO: Tom Tucker, DAPC

FROM: Jeanne Malliett, Legal

SUBJECT: Interpretation of "Source" in OAC 3745-18-04

DATE: January 9, 1992

You asked that I provide you with my interpretation of the term "source" in OAC 3745-18-04. As you recognize, the term is not defined in OAC 3745-18. Nor is it defined in the general provisions on air pollution control in OAC 3745-15.

Given these limitations, my legal opinion is that the interpretation of the term must follow a rule of reason. Looking at the structure of the OAC rules "air contaminant" is defined in OAC 3745-15-01 as "particulate matter, dust, fumes, gas, mist, smoke, vapor or odorous substances or any combination thereof." Air contaminants are controlled primarily by controlling emissions from air contaminant sources. The basic form of regulation of sources is the permit program. All air contaminant sources, except those specifically exempted by rule or by definition, must obtain a Permit to Install (PTI) and a Permit to Operate (PTO). Both the PTI rules, 3745-31-01 et seq., and the PTO rules, 3745-35-01 et seq., define an "air contaminant source." Although the definitions are somewhat different both define an air contaminant source in terms of a specific point of emissions smaller than an entire facility. "Air contaminant source" is defined under the PTI rules, as it is in the Revised Code Section 3704.01(C), as "each separate operation or activity that results in or may result in the emission of any air contaminant," and under the PTO rules as "any machine, device, apparatus, equipment, building or other principal facility that emits or may emit any air pollutant." Since sulfur dioxide emissions are air contaminants by definition in 3745-15-01, it is clear that the "sulfur dioxide emissions source" is an "air contaminant source "and subject to the PTI and PTO rules and therefore to the definition of "air contaminant source" contained therein. Moreover, the statutory definition cited above clearly applies to all rules promulgated under its authority.

By way of additional support against a contrary interpretation, it is important to note that U.S. EPA has reviewed our rules often in the context of the SIP review process and has at times mentioned in the preamble to its comments the difference between the federal definition of "source" which equates broadly to "facility" and the state definition of "air contaminant source" which envisions a smaller realm. Despite the comments, according to

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DAPC information, the U.S. EPA has not required a change or made its comments in terms of their definition as opposed to Ohio EPA's. There is thus a tacit recognition that the two definitions are different. Thus, Ford's concern that the word "source" in 3745-18-04 might be interpreted in line with the federal definition is not wellfounded, either in legal interpretation of Ohio rules or in actual practice in relations between the feds and Ohio EPA. However, as we discussed we should take affirmative action to clarify matters. The obvious solution is to amend 3745-15-01 to include a definition of "air contaminant source" or "source" that will be applicable to all air pollution rules except where specifically defined otherwise. I would also recommend that at some time soon the definitions of "air contaminant source" in 3745-31-01 and 3745-35-01 be reconciled and that that definition be placed in 3745-15-01 and removed from both other sections. In other words, there should be a single definition of the term "air contaminant source" or "source" applicable to all air pollution rules.

JMM/dms
cc: Patricia Walling-Miller, Chief, DAPC
Bob Hodanbosi, DAPC
Jim Orlemann, DAPC