



Minnesota Pollution Control Agency

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May 4, 2007

U. S. Environmental Protection Agency
EPA West (Air Docket)
Attention: E-Docket ID No. EPA-HQ-OAR-2004-0094
1200 Pennsylvania Ave. NW
Room: 3334, Mail Code: 6102T
Washington, DC 20460

Dear Sir or Madam:

The Minnesota Pollution Control Agency (MPCA) in general supports the intent of the proposed changes to the General Provisions to the national emission standards for hazardous air pollutants (NESHAP) as published in the Federal Register, January 3, 2007. We support efforts that facilitate a major source of hazardous air pollutants (HAPs), when adopting pollution prevention measures, to be relieved of ongoing compliance with an applicable NESHAP. However, we believe this proposal relies far too heavily on already-stretched state resources to be an effective substitute permitting program for sources potentially subject to NESHAPs.

Before we offer our comments on implementation issues of this proposal, we want to make it clear the MPCA believes that companies that do eliminate HAPs through pollution prevention should be allowed to become area HAP sources. The current policy of "once in, always in" has at times prevented small businesses from taking steps to adopt pollution prevention, and needs to be revised to further encourage such changes. When the costs related to maintaining a Title V permit are higher than the investment to make the P2 change, a facility makes an economic decision and does not pursue pollution reductions. Our small business assistance program has spent considerable time with facilities to work to lower emissions; sometimes the final barrier to making a permanent change is the cost related to a Title V permit. We believe it is far better to find opportunities to permanently reduce pollution than to continue maintaining permits. We offer an example of the cost of permitting in our first attachment "Cost of Title V Permitting".

Our comments on the proposal itself relate to the following concerns:

- U.S. Environmental Protection Agency (EPA) has erred in assuming that area sources are not likely to increase HAPs emissions after becoming an area source.
- The proposal relies far too heavily on state's abilities to write permit conditions that properly limit HAPs.
- If it is EPA's intention to complete this rulemaking, the proposal should be significantly modified to codify within the rule the minimum requirements that state permits must meet to properly limit HAP PTE.

EPA errs in assuming that area sources will not increase emissions after becoming an area source.

We believe actual emissions of HAPs will rise under this proposal. This result stems from EPA substituting the hourly emissions limit required by a NESHAP standard as the limit for controlling emissions with the annual limit of the major HAPs threshold test (proposed 40 CFR 63.1(c)(6)). A NESHAP most frequently limits the hourly rate at which HAPs can be emitted, while the major source threshold is an annual limit. It is a very real possibility that relieving a source of compliance with a NESHAP will result in increases in HAP emissions, because under this proposal, a facility is able to increase its hourly emissions of a chemical, and still remain a minor source. In instances where an emissions source is required to use a pollution control device with a high operating cost, such as thermal oxidizer or carbon adsorption system, this proposal will likely motivate a source to save money and stop operating the pollution control device, as long as the facility remains below the major source threshold.

The MPCA knows of a facility subject to the requirements in 40 CFR Subpart PPPP—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products where this is the case.

The emissions limits for this standard are in the form of a limitation in mass of organic HAP emitted per mass of coating solids used during each 12- month compliance period. (40 CFR § 63.4490). The standard allows facilities to use compliant-coatings to comply with the limit. Facilities document compliance by computing HAPs emitted based on the amount of the coatings, thinners and/or other additives and cleaning materials used in the coating operation(s), calculated as a rolling 12-month emission rate and determined on a monthly basis (40 CFR § 63.4491(b)). Our Minnesota facility claims there is enough variability in the organic HAP content of each material used, such that they are not able to meet the standard in 40 CFR § 63.4490 without the use of add-on pollution control equipment. However, the facility could still remain below the major source threshold for HAPs without operating the pollution control equipment 100% of the time the high HAP coating units are operational. Attachment 2 shows example calculations of how this can be accomplished by sources with actual emissions at various levels.

It is not the cessation of the use of control equipment that is the problem; it is the real increase in HAPs during the time when the facility is emitting HAPs with acute effects above health based thresholds. The lack of control then also leads to episodes of nuisance odors associated with periods where the pollution control equipment is not operational.

EPA could address this real environmental impact by including in this regulation a process to limit HAPs with known acute health thresholds for area sources. EPA could develop look-up tables that establish conservative emission rates for HAPs with acute effects below which any facility can be assumed not to have adverse impacts on nearby receptors. If a facility wants to operate at a level higher than the value given in this look-up table, it could opt to perform more refined dispersion modeling to demonstrate that there are no acute impacts from relaxing the emission limitations from levels it would otherwise be subject under the appropriate MACT standard.

The proposal places far too much reliance on an individual state's discretion on how to write permit conditions that properly limit HAPs potential to emit and on how to determine compliance with such a limitation.

EPA guidance issued so far has not been sufficient to ensure consistent and fair application of the principles of federal enforceability as a practical matter nation-wide. EPA has issued numerous policy and guidance documents on how to limit Potential to Emit (PTE) via permits that are at least enforceable as a practicable matter, several of which are listed in the preamble to this proposal. In spite of the numerous written policy and guidance, there is a wide range of ongoing examples where individual permits have been successfully challenged due to problems in this regard. Similarly, this has been cited as an area of improvement in air permit programs reports prepared by EPA. Attachment 3 contains examples of this situation (Note, this is not an exhaustive list.)

The nation-wide variability in the implementation of the principles of enforceability as a practical matter creates a number of problems for states when trying to implement the proposed rule: a) it creates (or at least amplifies) an uneven playing field among states; b) it creates conflict during permit-drafting negotiations and c) increases the permit processing time and effort.

We are concerned about these matters, especially in this instance where EPA is relying on individual negotiated state operating permits to sufficiently limit HAPs PTE. States will need to justify to applicants why the permitting authority is following federal rule and guidance in spite of the apparent differences of how other states apply these principles. We are already engaged in these discussions with businesses which have major HAP facilities in multiple states, and foresee these same discussions becoming longer and more frequent if the rule is adopted as proposed. Because of these differences between states, large amounts of time can be spent negotiating detailed aspects of permit conditions limiting HAP PTE. This includes the need to perform testing to verify emission factors, the need for and frequency of material analysis to show compliance with limits, the need to establish process operating limit and pollution control operation requirements, the need and frequency of record keeping and reporting, etc.

We also foresee little "compliance cost" savings at a facility with this rule as proposed. It is presumed by EPA, and probably many currently affected facilities, that many NESHAP compliance demonstration and tracking provisions would be avoided if a source accepts a permit to become an area source. On the contrary, if a state is committed to crafting state operating permits that adhere to the principals of practical enforceability to properly exclude the source as a major HAP facility, many of the same compliance tracking and demonstration provisions in the NESHAP are needed (i.e. performance tests, conducting material balances, requirements to operate and maintain pollution control equipment within certain ranges, record keeping, monitoring and reporting requirements).

The lack of a minimum standard in compliance demonstration for minor HAP source in this proposed rule will exacerbate the ongoing disparity and difficulty in how the practical enforceability principles are applied to limit PTE of HAPs. In the absence of clear, specific

federal regulatory requirements, sources will likely argue that anything that resembles the compliance demonstration procedures in the NESHAP they are seeking to be exempt from is not justifiable as they are now a minor HAP source.

The proposed rule should define minimum standards for limiting PTE for HAP sources in state permits in this rule.

We recognize that it is not possible to define specific standards to limit HAP PTE that will be applicable to all types of HAP sources. However, it is possible to strike a balance and define minimum standards in this rule for key aspects of the limitations in state permits. We believe that for EPA to adopt a rule that properly reclassifies a major HAP emitter into an area source, this proposal must be significantly revised to include minimum requirements of a state permit to properly limit HAPs PTE.

EPA should include as part of this rule at 40 CFR § 63.1(c)(6) an interim definition of “potential to emit” (PTE) for the purpose of this rule. This interim definition and minimum permit requirements should supersede EPA policy document titled “Third Extension of January 25, 1995 Potential to Emit Transition Policy (December 20, 1999). This interim definition of potential to emit should be in place until the time when EPA issues the PTE rule in response to court remands (National Mining Association v. EPA, 59 F. 3d 1351 (D.C. Cir. 1995) and Chemical Manufacturers Ass’n v. EPA, No. 89-1514, 1995 WL 6500098 (D.C. Cir. Sept. 15, 1995) and Clean Air Implementation Project v. EPA, No. 96-1224 1996 WL 39318 (D.C. Cir. June 28, 1996))

EPA should then include in this rule, for purposes applicable only to this rule, permanent minimum requirements and criteria to be used in state permits on how to limit PTE for HAPs that are enforceable as a practical matter. EPA has several precedent-setting examples of its own where it has incorporated the definitions and the minimum standards and criteria to limit PTE of regulated pollutants into a rule. Attachment 4 has examples on how different elements of enforceability as a practical matter have been incorporated into final and proposed federal regulations.

Such action will go far in easing the implementation of the contemplated program change by states in more than one way. It will limit the time spent on permit negotiations and will simplify the permitting actions generated by this rule by setting a minimum standard for all states. It will also serve as clear and nationally uniform guidance and definition on how to set PTE limits on HAPs that at the very least are enforceable as a practical matter (if not fully federally enforceable). Both states and businesses would welcome clear programmatic requirements to address the costs and liabilities related to NESHAP compliance.

As described in EPA’s January 25, 1995, policy 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”, EPA describes key conditions for creating limits that are enforceable as a practical matter. We offer comments for EPA to consider specifically within this proposal of limiting HAPs PTE:

“...(1) a technically-accurate limitation and the portions of the source subject to the limitation;...”

HAPs PTE limits should be technically consistent with the limit’s associated method for compliance determination and should accurately describe the emitting source to which the limit applies.

Limits included in permits to restrict HAPs PTE must be consistent with the accuracy with which the method of compliance is capable of verifying that the limitation is being met. For instance, many state permits are written restricting annual HAPs limits of 24.9 tpy and 9.9 tpy. These limits are not appropriate where monthly calculations of emissions based on monthly material usage measurements and Material Safety Data Sheet information is used because they lack the accuracy to determine compliance with the annual limit. Instead, EPA should create rules that require linking such limits to their ability to be measured, or establish emission factors that include safety factors, as EPA did when drafting rules to help facilities avoid applicable requirements of 40 CFR § 75.19(c) (conditions for low mass-emitting NOx and SO2 sources). In this example, 40 CFR § 97.4(b) (use of default NOx emission rate from Table LM-2), the rule describes how to calculate emissions and incorporates emission factors that contain significant safety factors.

Any presumption for control efficiency and operating conditions of the equipment used to limit PTE in general likewise must be technically accurate, and a rule must provide the specific associated performance parameters, as enforceable limits, to assure that the control efficiency will be met. These performance indicators should then be required to be routinely monitored and maintained within an acceptable range on an ongoing basis. Example of where this approach already in use in federal standards can be found in NESHAP for the Printing and Publishing Industry at 40 CFR § 63.827 and § 63.828. Including this requirement in federal rules could be accomplished by simply directing the permitting authority to first consider the pollution control operation, monitoring, record keeping and reporting requirements in the NESHAP that the applicant seeks to avoid as a way to ensure consistent compliance requirements with the HAPs PTE limit, as well as consistency between permitting authorities.

Our last attachment is from the State of Minnesota describing the “Capped Emission Permit”. This permit option is a permit-by-rule in Minnesota that is used to limit PTE of facilities to avoid certain federal applicable requirements such as a NESHAP. We offer this as an example of how a permitting authority can codify within rules the conditions that establish federally enforceable permitting conditions that properly restrict PTE.

...(2) “the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits);...”

EPA and permitting authorities seek to use averaging times for all limits that readily allow for determination of compliance. For instance, if a mass balance is used to show compliance with an annual HAP emission limit, EPA should state what the acceptable rolling sum period is: 12-month rolling sum or 365-day rolling sum. Averaging times for a required controlled efficiency

should reflect the reference method used to determine compliance. Unless EPA is considering modifying its intent to ensure continuous compliance with limits, averaging periods must be made clear.

“...(3) the method to determine compliance including appropriate monitoring, recordkeeping and reporting.”

Methods for Determining Compliance

The propose rule should define the methods that are appropriate for each potential to emit limitation; and clarify which methods are used for making a direct determination of compliance with the PTE limitations. EPA should establish the minimum compliance demonstration requirements and methods. The MPCA has found the elements listed below to be critical to compliance determinations and believe that EPA should propose a rule to address minimum requirements. Again, for each of these elements, a federal regulation could simply direct the permitting authority to first consider the compliance demonstration methods and procedures required in the NESHAP that the applicant seeks to avoid as a way to ensure compliance with the PTE HAP limitation.

- For limits that require a determination of actual amount of HAPs used in any given compliance period:
 - What are the minimum monitoring requirements for this limit?
 - Should a source be required to use a certified product data sheet (CPDS) as defined in various NESHAP as the minimum acceptable source of information of organic HAP content?
 - What is the appropriate methodology to determine inorganic HAP content?
 - Is it necessary to require daily measurement of the use of HAP-containing material, or is another frequency acceptable?
- How should the actual amount of used HAP that is fixed on the product and therefore not released (i.e. due to polymerization or deposition as part of a protective coating such as in the case of color pigments in paints) be determined, and what are the minimum monitoring requirements?
 - How is transfer efficiency determined, and what are its minimum monitoring requirements?
- How is pollutant capture efficiency determined, and what are its minimum monitoring requirements?
- How are overall pollutant destruction or removal efficiency of a control device determined, and what are its minimum monitoring requirements?
- What are the appropriate stack measurement methods to determine individual HAP emissions? What is the minimum frequency of testing?
- What is the proper method for determining the actual amount of HAPs disposed offsite, and for what period? What are the minimum monitoring requirements for this determination?

Recordkeeping and Reporting Requirements

The rule should include the requirement to maintain recordkeeping and reporting requirements already specified in the general provisions of 40 CFR pt. 63 or other equivalent provisions. EPA can properly describe record keeping; EPA exempted sources from having to comply with a NESHAP within the NESHAP itself and described proper records at 40 CFR § 63.820(a)(3) (NESHAP for the Printing and Publishing Industry) shown below:

- (a) Each owner or operator of a source subject to permit limits on HAP PTE for the purpose of avoiding an otherwise applicable MACT standard shall maintain the records specified below on a monthly basis in accordance with the requirements of 40 CFR § 63.10(b)(1) .
 - (1) Records specified in 40 CFR Part § 63.10(b)(2) of all measurements and calculations needed to demonstrate compliance with the limitation on individual and combined HAPs including but not limited to continuous emission monitor data, capture and control device performance, system operating parameter data, mass of all HAP containing materials used, the mass fraction of HAP present in each HAP containing material used , HAP usage, volatile matter usage, and solids usage, material mass balance that support data that the source is required to report.
 - (2) Records specified in 40 CFR § 63.10(b)(3) for each applicability determination performed by the owner or operator in accordance with the requirements of the MACT standard they seek to avoid.
 - (3) Records specified in 40 CFR § 63.10(c) for each continuous monitoring system operated by the owner or operator and required by this permit.
 - (4) Records of operation and maintenance requirements that meet the criteria in 40 CFR § 63.6(e) for the purpose of ensuring compliance with the HAP PTE limitations.

Similarly, reporting requirements need to work in concert with the compliance determination process to demonstrate that the facility is indeed an area source. The proposed rule should require the owner or operator of a source subject to permit limits on HAP PTE for the purpose of avoiding an otherwise applicable NESHAP to submit to the permitting authority:

- A Notification of Performance Test required in this permit to show compliance with the HAP PTE limitations. This notification to the permitting authority should be made in accordance with 40 CFR § 63.7(b), and must include a site-specific test plan identifying the operating conditions and parameters to be monitored to ensure that the limitation on HAP PTE is maintained.
- A Notification of when a source wants to become a major source by increasing its emissions to the major source threshold or above. This notification can be made by means of submitting the appropriate permit application to change its status. Nothing in this part authorizes the permittee to increase its emissions without first obtaining the appropriate permit from the permitting authority.

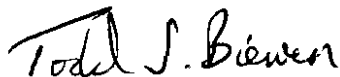
- A notification of any exceedances of a permit limitation as part of semiannual compliance certification report.

Can sources that are permitted as an area source subsequently be re-permitted as a major source and have more time to comply?

EPA requested comment on whether sources that were “major,” then became minor sources and then became major sources again should have additional time to comply with the NESHAP if the standard had changed since the last time it was subject to the NESHAP. We believe that in such a situation a source should comply immediately, since the operators will have known about the change in the NESHAP prior to deciding to increase the source’s emissions again.

Thank you for your consideration of our comments on the proposed revisions to the General Provisions.

Sincerely,



Todd J. Biewen, Manager
Air Assessment and Environmental Data Management Section
Environmental Analysis and Outcomes Division

TJB:jrh

Attachments:

Attachment 1. Cost of Title V Permitting

Attachment 2. Number of Days a Facility Could Operate Without Pollution Control Equipment And stay below the Major Source HAPs Threshold

Attachment 3. Examples of Individual Permits and Air Permit Programs with Permit Conditions which are Deficient in Enforceability as a Practical Matter

Attachment 4. Examples of Promulgated and Proposed Federal Regulations that Contain Elements of Enforceability as a Practical Matter for the Purpose of Limiting Potential to Emit of a Regulated Pollutant

Attachment 5. Minnesota Pollution Control Agency Fact Sheet: “Capped Permits” February 2004

Attachment 1
Costs for Title V Permitting
Associated Finishing, Co. Mankato, Minnesota

For some small businesses, Title V permitting costs can be a barrier to permanent pollution prevention, because under the current “once in, always in” policy, there is no relief from Title V permitting even after a pollution prevention change is made. We describe the situation at Associated Finishing Co., with their permission, to illustrate one company’s experience.

Associated Finishing first obtained a Title V permit in October 1997 as a major HAP emitter. This business had potential emissions for Hazardous Air Pollutants (HAPs) at the major source level and would be subject to 40 CFR 63 Subpart M, Miscellaneous Metal Parts and Products Surface Coating NESHAP.

Associated Finishing reports that the business spent 100 hours collecting and preparing information for its Title V permit application. There were additional costs for an air permit consultant to prepare the permit package. The company reports that the total cost for preparing the permit application was \$12,300.

The company then spent about 220 hours a year after the permit was issued on compliance requirements of the Title V permit, or \$8,695. These hours and their associated cost reflect the compliance requirements of a Title V permit prior to the inclusion of specific compliance requirements of a NESHAP.

This business is a job shop. As part of the way they do business, they must use the coatings requested by their customers. They have changed their operations so that they can now coat by either powder or liquid application. They are sometimes able to steer their customer’s choices to powder coatings. They have changed the paint application guns in their liquid booths to high volume low pressure guns. These actions have helped them reduce emissions. Because of these changes to their operations, Associated Finishing was able to obtain a federally enforceable state synthetic minor permit before January 2, 2007, the first substantive compliance date for 40 CFR 63 Subpart M. Thus, the company is not subject to this NESHAP. Their state permit does not expire, and unless they expand to become a major source, they will not need to renew it. This saves them the time and money for consultant’s fees that would go into a permit renewal application.

Because the permit contains conditions to track emissions so that the company remains an area source of HAPs, Associated Finishing reports that the amount of employee time on compliance tracking activities of the permit has not changed. However, the facility no longer must reapply for the Title V permit (in Minnesota, once every five years). They are closely tracking their emissions and may be able to qualify for reduced recordkeeping in the future, as provided for in state permitting rules. If this occurs they will save time on permit compliance tasks as well.

Attachment 2.
Number Of Days A Facility Could Operate Without Pollution Control Equipment And Stay Below The Major Source HAPs Threshold

Actual Operation is 5 days/week, 52 weeks per year, 8hr/day = 260 days/yr = 2080 hrs/yr

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
Example	Total Uncontrolled HAP, Actual Emissions, TPY	Total Uncontrolled HAP, Actual Emissions ton/day (Calculated by dividing col. (a) by operating days (260))	Total Uncontrolled HAP, Actual Emissions ton/hr (Calculated by dividing col. (a) by operating hours (2080))	Total Controlled HAPs, Actual Emissions At 95% control eff. (calculated as 8% of col. (a))	Controlled Actual Emissions of HAP at 92% efficiency, ton/day	Total Controlled HAP, Actual Emissions, ton/hr (Calculated by dividing col. (d) by operating hours (2080))	Possible number of days of uncontrolled emissions of total HAP to meet an emission limit at 24.5 TPY	Possible number of hours of controlled emissions of total HAP to meet an emission limit at 24.5 TPY
Case 1	104	0.4	0.05	8.32	0.032	0.004	44.0	351.7
Case 2	52	0.2	0.025	4.16	0.016	0.002	110.5	884.3
Case 3	26	0.1	0.0125	2.08	0.008	0.001	243.7	1949.6

Attachment 3.

Examples of Individual Permits and Air Permit Programs with Permit Conditions which are Deficient in Enforceability as a Practical Matter

Region 2 NJ, VI, NY, PR

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/nyofco_decision2002.pdf

IN THE MATTER OF NEW YORK ORGANIC FERTILYZER COMPANY. Permit ID: 2-6007-00140/00011, Facility DEC ID: 2600700140. Issued by the New York State Department of Environmental Conservation Region 2. ORDER RESPONDING TO PETITIONER'S REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE Title V OPERATING PERMIT. Petition Number: II-2002-12. May 24, 2004.

p.34, 36, 42, 43

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/kodak_response2003.pdf

IN THE MATTER OF EASTMAN KODAK COMPANY. ID: 8-2614-00205/01801, Facility DEC ID: 8261400205. Issued by the New York State Department of Environmental Conservation Region 8. ORDER RESPONDING TO PETITIONER'S REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE OPERATING PERMIT. Petition No.: II-2003-02. February 18, 2005.

p. 25, 27, 33- 40, 43 - 46

Region 4 KY, TN, MS, AL, GA, SC, NC, FL

Georgia

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/cargillamendment_decision2003.pdf

7/16/2004

IN THE MATTER OF CARGILL, INC. GAINESVILLE, GEORGIA SOYBEAN OIL MILL PETITION IV-2003-7 PERMIT NO. 2075-139-0002-V-01-1 ISSUED BY THE GEORGIA ENVIRONMENTAL PROTECTION DIVISION ORDER RESPONDING TO PETITIONERS' REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE OPERATING PERMIT AMENDMENT

p. 9-13

USEPA Region 4 Comments on [Synthetic minor operating permits \(conditional major, FESOPs, etc.\)](#)

<http://www.epa.gov/region4/air/regulators/smop/index.htm>

Kentucky Title V Objection Letters due to deficiencies in enforceability as a practical matter.
<http://www.epa.gov/region4/air/permits/kentuckyobjections.html>.

[AK Steel - June 13, 2003](#)

Mississippi Title V Objection Letters due to deficiencies in enforceability as a practical matter.
<http://www.epa.gov/region4/air/permits/mississippiobjections.html>.

[International Paper - Vicksburg Mill - December 23, 1999.](#)

[First Chemical Corp. - April 18, 1997 .](#)

[Tri-C Wood Products, Inc. - November 8, 1996](#)

Tennessee Title V Objection Letters due to deficiencies in enforceability as a practical matter.
<http://www.epa.gov/region4/air/permits/tennesseeobjections.html>.

[Buckeye Technologies, Inc. - September 16, 1999](#)

Florida Title V Objection Letters due to deficiencies in enforceability as a practical matter
<http://www.epa.gov/Region4/air/permits/floridaobjections.html>

[Polystar Industries, Inc. - February 11, 2002.](#)

[Fiber Unlimited - December 13, 2001](#)

[Buckeye Florida, Limited Partnership - Foley Mill - October 17, 2000](#)

[North County Regional Resource Recovery Facility - West Palm Beach, Florida - August 11, 2000](#)

[Pinellas County Resource Recovery Facility - Clearwater, Florida - July 20, 2000](#)

[Southdown, Inc. - Brooksville Plant - June 19, 2000](#)

[Citrus World, Inc. - Lake Wales Facility - April 24, 2000](#)

[Florida Power And Light - Cape Canaveral Plant - October 19, 1998](#)

[Tampa Electric Company - Polk Power Station - October 8, 1998](#)

[Florida Power And Light - Cover Letter for Multiple Plants - December 11, 1997](#)

Region 5 MN, WI, OH, MI, IN, IL

Minnesota

<http://yosemite.epa.gov/r5/ardcorre.nsf/36ae8bf3212bb6b28625650c0079f5da/d6af7d198d55f9c3862566790055d0cb!OpenDocument>

Sept. 3, 1998

Al-Corn Clean Fuel Permit

Ohio

<http://yosemite.epa.gov/r5/ardcorre.nsf/36ae8bf3212bb6b28625650c0079f5da/144175bc252c1dde86256b14006e50c1!OpenDocument>
11/21/01

Ohio Correction to Title V program Deficiencies

<http://yosemite.epa.gov/r5/ardcorre.nsf/36ae8bf3212bb6b28625650c0079f5da/f74442ef42a5791e86257088006df246!OpenDocument>
IN THE MATTER OF)

MIDWEST GENERATION, LCC Waukegan Generating Station Petition number V-2004-5 CAAPP No. 95090047
ORDER RESPONDING TO PETITIONERS'

ORDER RESPONDING TO PETITIONER'S REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE
OPERATING PERMIT. Proposed by the Illinois Environmental Protection Agency. Sept. 28, 2005 p.9 – 13

<http://yosemite.epa.gov/r5/ardcorre.nsf/36ae8bf3212bb6b28625650c0079f5da/c2b8e57205d17a0d8625711e007ba73e!OpenDocument>
IN THE MATTER OF ONYX ENVIRONMENTAL SERVICES)

Petition number V-2005-1 CAAPP No. 163121AAP

ORDER RESPONDING TO PETITIONERS' REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE
OPERATING PERMIT

Proposed by the Illinois Environmental Protection Agency. Feb. 1, 2006.

p. 9 – 12

Region 6 NM, OK, AR, LA, TX

Louisiana

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/gp_decision2002.pdf

IN THE MATTER OF OPERATING PERMIT PORT HUDSON OPERATIONS GEORGIA PACIFIC ZACHARY EAST BATON
ROUGE PARISH LOUISIANA. Part 70 Operating Permit 0840-00010-VO (Also designated as 0840-0010).

PETITION NO. 6-03-01. May 9, 2003

p.36

Region 7 NE, IA, KS, MO

Missouri

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/doe_run_decision2000.pdf
7/31/2002. IN THE MATTER OF TITLE V OPERATING PERMIT FOR **DOE RUN COMPANY BUICK MINE AND MILL**.
Permit No 2200-0005-010. Issued by the Missouri Department of Natural Resources. VII-1999-001. ORDER RESPONDING TO
PETITIONER'S REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE OPERATING PERMIT. p.23
http://www.epa.gov/region7/programs/artd/air/st_local/reviews.htm.
MISSOURI Department of Natural Resources **2004 AIR PROGRAM REVIEW-**
p. 30, 32

Nebraska

http://www.epa.gov/region7/programs/artd/air/st_local/reviews.htm.
Nebraska Department of Environmental Quality Air Program Review Final Report September 2003
p.45 and 49

Kansas

http://www.epa.gov/region7/programs/artd/air/st_local/reviews.htm.
Kansas Department of Health and Environment. AIR PROGRAM REVIEW REPORT. **December 1, 2006**
p. 9 and 10

Iowa

http://www.epa.gov/region7/programs/artd/air/st_local/reviews.htm.
Iowa Department of Natural Resources 2005 Air Program Review Final Report, p. 38 and 39,

Region 8 SD, ND, WY, MT, UT, CO

Wyoming

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/buckingham_decision2002.pdf

11/1/2002

IN THE MATTER OF TITLE V OPERATING PERMIT FOR BUCKINGHAM LUMBER COMPANY BUCKINGHAM LUMBER MILL. Wyoming Permit No. 31-080. ORDER RESPONDING TO PETITIONER'S REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE OPERATING PERMIT. Petition Number: VIII-2002-1 p.9, 11 -13

Region 9 CA, NV, AZ, HI

California

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/chevron_cbe_decision2004.pdf

In the Matter of Chevron Products Petition No. IX-2004-08 Company, Richmond, California Facility ORDER RESPONDING TO PETITIONER'S REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE OPERATING. Facility No. A0010 Issued by the Bay Area Air Quality Management District p.20, 21

Region 10, WA, OR, ID, AK

Washington

12/22/2000

http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/fort_james_decision1999.pdf

IN THE MATTER OF FORT JAMES CAMAS MILL. Air Operating Permit No. 000025-6. Issued by the Washington Department of Ecology, Industrial Section. Petition Number: X-1999-1. ORDER RESPONDING TO PETITIONER'S REQUEST THAT THE ADMINISTRATOR OBJECT TO ISSUANCE OF A STATE OPERATING PERMIT.. p.14, 15, 17, p.21, 25, 28, 31, 34

Attachment 4.

Examples of Promulgated and Proposed Federal Regulations that Contain Elements of Enforceability as a Practical Matter for the Purpose of Limiting Potential to Emit of a Regulated Pollutant

Element in an Emission Limitation that is Enforceable as a Practical Matter (*)	Proposed or Promulgated Federal Regulation
<p>(1) A technically-accurate limitation and the portions of the source subject to the limitation; the limitation 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 source. 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.</p> <p>(2) the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); the averaging time for all limits must readily allow for determination of compliance.</p>	<ul style="list-style-type: none"> • 40 CFR pt. 63 subp. KK National Emission Standards for the Printing and Publishing Industry. <ul style="list-style-type: none"> ○ 40 CFR § 63.820(a)(2), 40 CFR § 63.820(a)(4) • 40 CFR pt. 63 subp. JJ National Emission Standards for Wood Furniture Manufacturing Operations <ul style="list-style-type: none"> ○ 40 CFR § 63.800(b) • 40 CFR pt. 97 Federal NOx Budget Trading Program and CAIR NOx and SO2 Trading Programs <ul style="list-style-type: none"> ○ 40 CFR § 97.4(b) emission limitations of 25 TPY or less of NOX by means of limiting hours of operation in a give period. • Review of New Sources and Modifications in Indian Country. Proposed Rules. FR Vol. 71, No. 161, Monday, August 21, 2006, p. 48696 <ul style="list-style-type: none"> ○ § 49.152 Definitions. defines “Allowable emissions”, “Emission limitation”, and “Enforceable as a practical matter” ○ §49.155 defines the criteria to be met by minor source permit regarding “Emission limitation”.
<p>(3) the method to determine compliance - test methods as appropriate for each potential to emit limitation; and clarify which methods are used for making a direct determination of compliance with the potential to emit</p>	<ul style="list-style-type: none"> • 40 CFR pt. 63 subp. KK National Emission Standards for the Printing and Publishing Industry. <ul style="list-style-type: none"> ○ Certified product data sheet (CPDS) defined in 40 CFR §

<p>limitations. - appropriate monitoring, which must be sufficient to yield data from the relevant time period that is representative of the source's compliance with the limit.</p>	<p style="text-align: center;">63.822</p> <ul style="list-style-type: none"> • 40 CFR pt. 63 subp. JJ National Emission Standards for Wood Furniture Manufacturing Operations <ul style="list-style-type: none"> ○ 40 CFR § 63.800(b) ○ Certified product data sheet (CPDS) defined in 40 CFR § 63.801 • 40 CFR pt. 97 Federal NOx Budget Trading Program and CAIR NOx and SO2 Trading Programs <ul style="list-style-type: none"> ○ 40 CFR § 97.4(b) emission limitations of 25 TPY or less of NOX by means of limiting hours of operation and specifies how the hours of operation limitation are to be calculated and monitored for a given period. • Review of New Sources and Modifications in Indian Country. Proposed Rules. FR Vol. 71, No. 161, Monday, August 21, 2006, p. 48696 <ul style="list-style-type: none"> ○ 40 CFR § 49.152 Definitions. defines “<i>Enforceable as a practical matter</i>” ○ 40 CFR § 49.155 defines the criteria to be met by minor source permit regarding monitoring requirements.
<p>(4) the method to determine compliance - recordkeeping. <i>Record keeping requirements</i></p>	<ul style="list-style-type: none"> • 40 CFR pt. 63 subp. KK National Emission Standards for the Printing and Publishing Industry. <ul style="list-style-type: none"> ○ 40 CFR § 63.829(d) • 40 CFR pt. 63 subp. JJ National Emission Standards for Wood Furniture Manufacturing Operations <ul style="list-style-type: none"> ○ 40 CFR § 63.800(b) • 40 CFR pt. 97 Federal NOx Budget Trading Program and CAIR NOx and SO2 Trading Programs <ul style="list-style-type: none"> ○ 40 CFR § 97.4(b) specifies how

	<p>to keep records of the hours of operation for a given period.</p> <ul style="list-style-type: none"> • Review of New Sources and Modifications in Indian Country. Proposed Rules. FR Vol. 71, No. 161, Monday, August 21, 2006, p. 48696 <ul style="list-style-type: none"> ○ § 49.152 Definitions. defines “<i>Enforceable as a practical matter</i>” ○ §49.155 defines the criteria to be met by minor source permit regarding record keeping requirements.
<p>(5) the method to determine compliance - reporting. <i>Reporting Requirements -.</i></p>	<ul style="list-style-type: none"> • 40 CFR pt. 63 subp. KK National Emission Standards for the Printing and Publishing Industry. <ul style="list-style-type: none"> ○ 40 CFR § 63.830(b)(1) • 40 CFR pt. 63 subp. JJ National Emission Standards for Wood Furniture Manufacturing Operations <ul style="list-style-type: none"> ○ 40 CFR § 63.800(b) • 40 CFR pt. 97 Federal NOx Budget Trading Program and CAIR NOx and SO2 Trading Programs <ul style="list-style-type: none"> ○ 40 CFR § 97.4(b) specifies what to report in terms of the hours of operation for a given period. • Review of New Sources and Modifications in Indian Country. Proposed Rules. FR Vol. 71, No. 161, Monday, August 21, 2006, p. 48696 <ul style="list-style-type: none"> ○ § 49.152 Definitions. defines “<i>Enforceable as a practical matter</i>” ○ §49.155 defines the criteria to be met by minor source permit regarding reporting requirements.

(*) “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 June 25, 1995 (1995 PTE Memorandum)

Attachment 5.
MPCA Fact Sheet “Facts about Capped Air Emission Permits”



Facts About Capped Air Emission Permits

Air Quality fact sheet #2.28, March 2006

Industrial Division

Air Quality Permit Section

Description

The “capped emission permit” option is a rule-based permit in which all requirements are contained in rule rather than in a tailored permit document. It is designed for noncomplex facilities that do not require site-specific permit conditions.

The rule creating the capped permit was effective on December 6, 2004. It allows facilities that comply with its requirements and have emissions no greater than 90 percent of federal permitting thresholds to make physical and operational changes without need for advance Minnesota Pollution Control Agency (MPCA) approval or permit amendment as long as they remain eligible for the permit.

The rule limits all hazardous air pollutant emissions below levels that would otherwise subject a facility to federal major source standards.

The capped permit is expected to result in less time and money spent by both the regulated facility and the MPCA, while imposing environmental limitations similar to those that would be found in individually developed permits. Safeguards are built into the permit requirements to help protect ambient air quality and to ensure that the facility will not exceed federal permitting thresholds. At the same time, the opportunity for public participation is preserved in the 30-day public notice that follows receipt of application.

A facility can choose between an option 1 and an option 2 capped permit. Option 1 has higher allowable facility-wide emission limits than option 2, but requires tracking of emissions from insignificant activities.

Capped Permit Emission Thresholds for Options 1 and 2

Pollutant	Option 1 Threshold (tons/year)	Option 2 Threshold (tons/year)
Hazardous Air Pollutants (HAPs)	9.0 t./yr. for a single HAP 20.0 t./yr. total for all HAPs	8.0 t./yr. for a single HAP 20.0 t./yr. total for all HAPs
PM	90.0	75.0
PM-10	90.0	75.0
VOC	90.0	85.0
SO ₂	90.0	90.0
NO _x	90.0	85.0
CO	90.0	85.0
Pb	0.5	0.5

Purpose

The capped permit was created:

- to help reduce the permit backlog for small and medium-size sources that do not qualify for the MPCA’s streamlined registration permit.
- to create incentives for facilities to reduce their emissions to qualify for the capped emission permit as well as an incentive for them to keep their emissions from growing even as their businesses expand.
- to reduce administrative costs related to permitting for both facilities and the MPCA over the long-term.

If your facility has already submitted an application for a different type of permit that has not yet been acted on by the



MPCA, the agency's Customer Assistance Center can provide information from its database to assist your facility in completing the capped permit application forms. Call (651) 297-2274 or (800) 646-6247.

Eligibility

To be eligible for the capped permit your facility must:

- have actual emissions below capped permit thresholds and
- do an ambient air quality assessment using a simplified model tool (annual NO_x, short-term PM₁₀ and SO₂ only).

Some facility types are automatically not eligible:

- acid rain sources (utilities)
- waste combustors
- ethanol plants
- sand and gravel operations (Because a state general permit is available for this sector.)
- facilities subject to a New Source Performance Standard (40 CFR part 60) other than one of the following subparts: Dc, I, K, Ka, Kb, DD, EE, GG, SS, XX, JJJ and TTT.

In addition, if a facility requires site-specific conditions in its permit, it is not eligible. Examples include facilities that:

- are subject to State Implementation Plan requirements (usually located in areas previously designated as nonattainment with federal ambient air quality standards); or
- made assumptions in an Environmental Impact Statement or Environmental Assessment Worksheet that must be made enforceable through a permit.

Compliance requirements

The capped permit rule contains all of the requirements to comply with a capped permit. Some of the features are:

1. Each month record actual emissions for the previous 12 months. Keep all records that support the calculations.
2. Develop and maintain a compliance plan containing a list of applicable state and federal requirements and a list of the actions taken to show compliance with those requirements. This plan is kept on site; it is not submitted to the MPCA.

3. Conduct an analysis before making a physical or operational change that will increase emissions at the facility. This analysis will help a facility determine whether it will remain eligible. It is not submitted to the MPCA, but must be kept on site.
4. Submit an emissions inventory along with an updated equipment list each year.

For more information

More information about air emission capped permits is available at www.pca.state.mn.us/air/permits/capped.html: Permit rule language

- Application forms
- Information on public participation
- Example compliance plan
- Ambient air quality assessment tools

If you have questions about the capped permit, contact the MPCA's Customer Assistance Center at (651) 297-2274 or (800) 646-6247 or visit the capped permit Web page at www.pca.state.mn.us/air/permits/capped.html.

Benefits of a capped permit over an individually developed state permit

Faster issuance. The goal is to issue a capped permit within 60 to 90 days after receipt of the application.

Shorter application package. A facility only provides information related to determining eligibility because the compliance requirements are already contained in the capped permit rule.

Flexibility to make changes. This permit allows facilities that comply with its requirements to make physical and operational changes without needing to obtain advance MPCA approval or permit amendment as long as they remain eligible for the permit (e.g., remain below the emission caps).

Reduced reporting. A deviation report is required to be submitted only if a deviation occurred in the past six-month period, instead of every six months regardless of whether a deviation occurred.