UTAH STATE
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

UTAH AIR QUALITY BOARD MEETING

June 6, 2001

PLEASE PRINT

NAME	AFFILIATION
Joe Mortone	Battelle
MIKE PARKER	ATK
Jan Miller	DAQ
Kris Snow	SAIC
Bill Adams	Kennecott
Lydia Salman	"
MIKE STRONG	EG+G
SUSAN HARID	MACTEC
Kip Billings	WFRC
Elden Bingham	UDOT
Cheryl Heying	DAQ
STEVE ALDER	Utah County
Kathy VanDame	WCAC
Gisela Jensen	DAQ

State of Utah

Utah Air Quality Board

Michael O. Leavitt
Governor

Chair

John M. Veranth
Vice Chair

Richard W. Sprott
Executive Secretary

Karl F. Brooks
David B. George
James R. Horrocks
Dannie R. McConkie
Dianne R. Nielson
Richard R. Olson
Wayne M. Samuelson
JoAnn B. Seghini
Joseph D. Thompson
Jeffrey K. Utley

150 North 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820
(801) 536-4000
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AIR QUALITY BOARD MEETING

FINAL AGENDA

June 6, 2001
1:30 P.M.

168 N. 1950 W. (Building #2) Room 101

I. Call to Order
II. Date of Next Meeting
III. **Election of Chair and Vice Chair**
IV. **Approval of Minutes:** May 2 and May 15, 2001, Air Quality Board Meetings
V. **Appointment of Hearing Officer:** Geneva Rock Products Notice of Violation
VI. **Title V Variance Renewal Request: Kennecott Utah Copper**
VII. **Proposed for Public Comment:** R307-220-4 and Designated Facilities Plan Section III, Small Municipal Waste Combustion Units, and R307-223, Small Municipal Waste Units
VIII. **Approval Order Modification:** Salt Lake County Public Works Department, Welby Pit
IX. Information Items
  A. Update on Kennecott's Tailings Pond
  B. Compliance Activities for April 2001
  C. HAPs Compliance Activities for April 2001
  D. Monitoring Data for May 2001
  E. SIPs Update
X. Miscellaneous

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Charlene Lamph, Office of Human Resources, at 536-4413 (TDD 536-4414) at least five working days prior to the scheduled meeting/hearing.

- MINUTES -
UTAH AIR QUALITY BOARD MEETING
JUNE 6, 2001

I. CALL TO ORDER

John Veranth, Vice Chair, called the meeting to order at 1:35 p.m.

Board members present:

Karl F. Brooks	David B. George	Richard R. Olson
Dannie R. McConkie	Joseph D. Thompson	John M. Veranth
James R. Horrocks	Jeffrey K. Utley	Dianne R. Nielson
JoAnn Seghini		

Executive Secretary: Richard W. Sprott

II. INTRODUCTION OF NEW BOARD MEMBERS

Mr. Veranth introduced Jim Horrocks and Jeff Utley, new Board members. Both gentlemen mentioned previous experience and service and look forward to serving on the Air Quality Board.

III. DATE OF THE NEXT AIR QUALITY BOARD MEETING

The next meeting will be held Wednesday, July 11, 2001.

IV. ELECTION OF CHAIR AND VICE CHAIR OF THE AIR QUALITY BOARD

Richard Olson nominated David George for chair. Dannie McConkie seconded the nomination. The nominations were closed. David George was voted in by acclamation.

David George nominated John Veranth for vice chair. The nomination was seconded. The nominations were closed. John Veranth was voted in by acclamation.

Mr. George conducted the remainder of the meeting.

V. MINUTES OF THE MAY 2 AND MAY 15, 2001, AIR QUALITY BOARD MEETINGS

JoAnn Seghini made the motion to approve the minutes of both meetings. Karl Brooks seconded the motion. The motion carried.

VI. APPOINTMENT OF HEARING OFFICER FOR GENEVA ROCK PRODUCTS

John Veranth volunteered to act as hearing officer for the Geneva Rock Notice of Violation.

VII. TITLE V VARIANCE RENEWAL REQUEST: KENNECOTT UTAH COPPER

David George recused himself since he is employed by Kennecott.

Presenters: David Beatty, Manager, Operating Permits Section; Lydia Salmon, Kennecott

Kennecott is requesting a fifth annual renewal for a Title V variance originally granted in 1996 for the Bingham Canyon Mine/Copperton Concentrator. EPA is making changes to its definition of "major source," and it is expected that those changes will become final in the near future. A Title V application will be unnecessary for Kennecott once EPA's changes become final. Last year's variance was granted knowing that a variance would be needed again this year.

- **MOTION**

John Veranth made the motion to grant the variance request for another year. Joseph Thompson seconded the motion. The motion carried.

VIII. PROPOSED FOR PUBLIC COMMENT: R307-220-4 AND DESIGNATED FACILITIES PLAN SECTION III, SMALL MUNICIPAL WASTE COMBUSTION UNITS, AND R307-223, SMALL MUNICIPAL WASTE UNITS

Presenter: Mike Beheshti, Environmental Engineer

The plan and the rule submitted for the Board's consideration have been written to meet EPA's operational guidelines for small existing municipal waste incineration facilities, which includes Wasatch Energy Systems (WES). The plan includes the compliance date for WES found in the Stipulation and Consent Order approved by the Board and signed by WES on March 27, 2000.

States are required to submit to EPA, no later than September 5, 2001, a plan that implements the emission guidelines contained in subpart BBBB of 40 CFR 60. The subpart requires the state plan to receive public review before it is submitted to EPA for approval.

A public hearing has been scheduled for July 17, 2001, at the Layton City Hall, at 6:30 p.m.

- **MOTION**

Joseph Thompson made the motion to take these items to public comment. Richard Olson seconded the motion. Dannie McConkie recused himself from discussion and voting on this matter. Mr. McConkie is a member of the board of trustees for WES. The motion carried.

IX. APPROVAL ORDER MODIFICATION: SALT LAKE COUNTY PUBLIC WORKS DEPARTMENT, WELBY PIT

Presenter: John Hadley, Environmental Engineer

Salt Lake County submitted a notice of intent to increase the hours of operation and modify production limits at the Welby Pit location. The Welby Pit includes sand and gravel operations as well as an asphalt

batch plant. The Welby Pit is listed in the State Implementation Plan and must obtain approval from the Board for any approval order changes.

This modification has gone to public comment; no comments have been received. Staff recommends approval of the modification.

- **MOTION**

Joseph Thompson made the motion to approve this approval order modification. Richard Olson seconded the motion. The motion carried.

X. INFORMATION ITEMS

A. Update on Kennecott's Tailings Pond

Bill Adams, Director of Environmental Affairs at Kennecott, presented this update. Mr. Adams commented that portions of the area have been flooded and portions have been seeded for vegetation and polymer applied across the tops. Kennecott plans to repeat these steps for several sections of the tailings pond.

Jeff Utley asked about the status with regard to EPA and the possible PM10 violations due to the dust problems from the tailings pond. Rick Sprott responded that DAQ is in the process of developing a "natural and exceptional events" package to submit to EPA, but the outcome is uncertain.

B. Compliance Activities

For the benefit of the two new Board members, Marv Maxell explained the contents of the compliance activities report.

C. HAPs Compliance Activities

Mr. Maxell explained that Bryce Bird, HAP Section Manager, is on vacation and will explain the contents of the HAPs compliance activities report in detail at the next Board meeting.

D. Monitoring Data

Bob Dalley stated that June 1 was the beginning of the Spare the Air no-drive program for the summer season to reduce the impact of ozone on days when meteorology is conducive to the formation of ozone.

E. SIPs Update

Dave McNeill reviewed the SIP information and mentioned that an "Attainment Status" column has been added.

DAQ has submitted a proposal to EPA to flag the ozone data from last year due to the forest fires. DAQ has been informed that EPA will approve that submittal. A final version is being prepared and will be submitted within the next two or three weeks.

XI. MISCELLANEOUS

Public Hearings: John Veranth volunteered to act as hearing officer for R307-220-4 and R307-223, State Plan for Small Municipal Waste Combustion Units, on July 17, 2001, at 6:30 p.m. at the Layton City Hall.

The meeting adjourned at 2:36 p.m.

State of Utah
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

Michael O. Leavitt
Governor
Dianne R. Nielson, Ph.D.
Executive Director
Richard W. Sprott
Director

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(801) 536-4414 T.D.D.

MEMORANDUM

TO: Air Quality Board DAQ-051-01

THROUGH: Richard W. Sprott, Executive Secretary

FROM: David Beatty, Manager, Operating Permits Section

DATE: May 29, 2001

SUBJECT: Title V Variance Renewal Request: Kennecott Utah Copper Corporation (KUCC) Bingham Canyon Mine/Copperton Concentrator Source

The Division of Air Quality staff has reviewed the subject variance renewal request. KUCC has accurately described their view of the proposed rule change and how they believe it will affect their source. KUCC believes that if the variance renewal is granted the proposed rule change will be promulgated during the effective time of the 2001 variance, and subsequently Bingham Canyon Mine/Copperton Concentrator will no longer be a major source. DAQ does not oppose KUCC's variance request. However, it should be noted that EPA may not recognize the variance, as described in their written comment dated May 1, 1996.

The current definition of major source in 40 CFR Part 70 requires sources regulated by a standard promulgated under Section 111 or 112 of the Act to consider fugitive emissions or fugitive dust in determining whether they are a major source. In August 1994, EPA proposed a change to part 70. EPA explained that it had not followed the procedural steps necessary as defined under Section 302(j) of the CAA to expand the scope of source categories required to consider fugitives to determine whether they were a major source. At that time, EPA proposed to change the definition of major source such that only sources belonging to a source category subject to Section 111 or 112 standard, promulgated as of August 7, 1980, would be required to count fugitives to determine if they were major. In August 1995, EPA proposed further changes to part 70 and stated that they no longer believed that revising this definition, as was proposed in 1994, is the appropriate approach. Instead, EPA proposed that fugitive emissions be included for source categories subject to standards promulgated under Section 111 or 112 for which the Administrator has made an affirmative determination under Section 302(j). Therefore, if the rule is changed as proposed, EPA would have to do an affirmative 302(j) determination before KUCC would be required to include fugitives in their major source determination.

It was originally anticipated that the part 70 changes would become final September 1996. It has been delayed and it is now anticipated that the changes to part 70 may be finalized during the fall of 2001.

Kennecott Utah Copper Corporation
Bingham Mine
P. O. Box 232
Bingham Canyon, Utah 84006-0232
(801) 569-6201

MAY 16 2001

Kennecott

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

May 16, 2001

Mr. Richard Sprott
Executive Secretary
Utah Air Quality Board
150 North 1950 West
P. O. Box 144820
Salt Lake City, Utah 84114-4820

Subject: Title V Variance Renewal Request for Kennecott Utah Copper Corporation (KUCC) Bingham Canyon Mine/Copperton Concentrator Source

Dear Mr. Sprott:

Kennecott Utah Copper Corporation (KUCC) is submitting the enclosed variance renewal request to exclude fugitive emissions from mineral processing in the determination of whether Bingham Canyon Mine/Copperton Concentrator source (Source) is a Title V major source. The variance was initially granted on May 1, 1996 and has been approved annually by the Air Quality Board since that time. If KUCC were required to include mineral processing fugitive emissions, the Source would exceed the 100 tpy threshold for PM_{10}. Exceeding the 100 tpy threshold would cause the Source to be considered a "major source" requiring the production and submission of a Title V Operating Permit Application by July 10, 2001. It should be noted that KUCC is not requesting a variance from any air emission or operating requirements under existing Division of Air Quality (DAQ) Approval Orders and/or State Implementation Plans. KUCC is merely requesting relief from filing a Title V Application, which will be unnecessary after EPA changes its regulations.

EPA has acknowledged that requiring mineral processing to include fugitive emissions in "major source" determinations was an improper requirement and has proposed to revise its rule on two separate occasions to clarify that mineral processing fugitive emissions do not need to be included in "major source" determinations. EPA recently stated the major source definition would be corrected in April 2001 to exclude fugitive emissions from mineral processing and certain other sources. Although the April 2001 date has slipped, a final rule can be expected in the near future. Unfortunately, the State of Utah will not have time to adopt the change, even assuming immediate action by EPA, until after the required permit submittal date of July 10, 2001.

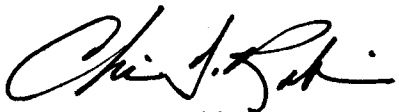
Based on the completion of two other Title V applications, KUCC has determined that the cost of preparing a Title V application for the Bingham Canyon Mine/Copperton Concentrator source would exceed $50,000. This cost does not include DAQ review time or permit writing. The effort and money expended by both KUCC and DAQ will have been wasted because the impending EPA revision to applicable regulations will make the Bingham Canyon Mine/ Copperton Concentrator a synthetic minor source.

Emissions from the Bingham Canyon Mine/Copperton Concentrator source will not be affected in any way by the approval of this variance renewal. No additional emissions and no exceedances of the NAAQS will result from the approval of this variance renewal. Granting this variance renewal will have no effect on the public health or the environment. Please see the enclosed variance renewal request for additional details.

For these reasons, the Board granted KUCC's variance request, dated March 29, 1996, on May 1, 1996. Since then, EPA has delayed final promulgation of revisions to its Part 70 Operating Permit rule. However, the Agency did promulgate the Part 71 Federal Operating Permit rule, which applies in states where EPA (not the State) is the permitting authority; the final Part 71 rule excludes fugitive emissions from mines and mills from the major source determination. The Agency's most recently published agenda predicted final promulgation of the corrected major source definition in April 2001, but it has not been promulgated yet. Apparently EPA will act soon, but the State will need time to adopt the final rule. The variance renewal the Board granted in 2000 will expire on July 10, 2001. Therefore, KUCC asks the Board to renew that variance for another year.

KUCC appreciates the Division's cooperation in resolving this issue in a timely manner and requests that the variance renewal request be considered by the Air Quality Board at the June 2001 meeting. If you have any questions or would like to discuss this issue further, please contact William J. Adams at 569-7553 or Lydia Salmon at 252-3115.

Sincerely,



Chris J. Robison
Vice President
General Manager, Mining and Concentrating

Enclosure

cc: Rusty Ruby, DAQ
W. J. Adams
L. S. Salmon

VARIANCE REQUEST

STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

Business Name: Kennecott Utah Copper Corporation

Mailing Address: P.O. Box 6001
Magna, Utah 84044-6001

Location Address: 8362 West 10200 South
Bingham Canyon Mine/Copperton Concentrator
Salt Lake County
84006-0232

Applicant is:
( ) Individual
( ) Partnership
(X) Corporation
( ) Government
( ) Other Entity

William J. Adams (569-7553) and Marcelle F. Shoop (252-3553)
Contact - Indicate the name and telephone number of the person authorized to receive notices

List names and addresses of all partners, officers, or other persons in control.

Bruce Farmer - President and Chief Executive Officer
Chris J. Robison – Vice President/General Manager, Mining and Concentrating
William R. Williams - Vice President, Technical Services
William J. Adams - Director Environmental Affairs

The mailing address for all four individuals is:

P.O. Box 6001
Magna, Utah 84044-6001

1. *( ) Initial variance (X) Renewal*

2. *The purpose of variance request (check one) :*

A. ( ) no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved.

B. ( ) compliance with the requirements from which variance is sought will require that measures, because of their extent of cost, must be spread over a long period of time.

C. (X) to relieve or prevent hardship of a kind other than provided for in 2A or 2B.

3. *State what the business or activity from which the variance is requested consists of. List all past, present, and future businesses and activities.*

Kennecott Utah Copper Corporation (KUCC) is a primary copper production company that includes mining, milling, concentrating, smelting and refining operations. The subject variance renewal request is specific to the mining operations at the Bingham Canyon Mine and the milling/concentrating operations at the Copperton Concentrator. The Bingham Canyon Mine is a world class open pit copper mine. Approximately 80% of the ore is milled and concentrated at the Copperton Concentrator (the remaining 20% is milled and concentrated at another facility outside the variance request area). The Copperton Concentrator produces a 28% copper concentrate that is slurried to the KUCC Smelter. In addition to the copper concentrate, the Copperton Concentrator produces molybdenum sulfide concentrate as a byproduct that is packaged and sold from the facility. The past and present activities at these sites are as described above. KUCC anticipates that future activities at these sites will continue to be mining, milling and concentrating.

4. *Describe the article, machine, equipment, or contrivance involved in the request.*

Not applicable

5. *State the rule(s) or approval order condition(s) from which the applicant seeks relief.*

Utah Administrative Code R307-415-3(2), definition of "major source" requiring mining operations to account for fugitive emissions in the major source determination, R307-415-5a [duty to apply for Title V application]

6. *State the specific time period(s) for which the variance is requested.*

A one-year renewal of a variance granted by the Air Quality Board on June 7, 2000, is requested. The renewal period is from July 10, 2001 through July 9, 2002.

7. *State why compliance with the rule or approval order from which variance is sought would produce serious hardship without equal or greater benefits to the public. If financial hardship, include itemized and total costs of compliance.*

Utah's Title V regulations currently require mining sources to include fugitive particulate matter emissions when determining whether they are "major" sources subject to the Title V Operating Permits Program. This requirement to include fugitive particulate matter emissions comes directly from EPA's regulations. EPA has acknowledged that the requirement for mining sources to include fugitive emissions is flawed in that it does not conform to requirements of the Clean Air Act. The requirement to include fugitive particulate emissions when making a Title V major source determination would, absent a variance, make it necessary for Kennecott Utah Copper Corporation ("KUCC") to submit an application for a Title V operating permit for KUCC's Bingham Canyon Mine/Copperton Concentrator source; if KUCC is not required to include fugitive particulate emissions, the Bingham Canyon Mine/Copperton Concentrator will not be considered a major source and will not be required to submit a Title V application.

EPA has acknowledged that so far as its regulations subject sources such as KUCC's Mine/Concentrator to Title V requirements, they are in error. Accordingly, EPA has proposed to amend its regulations to correct this error and to make clear that mining sources need not count fugitive particulate matter emissions when making major source determinations for Title V. Utah is expected to take corresponding rulemaking action following EPA's action. Upon completion of this rulemaking, KUCC's Mine/Concentrator source will not be subject to Title V requirements for major sources. See Attachment A for a detailed discussion of this matter, with citations.

Based on the foregoing, the Utah Air Quality Board granted KUCC a variance from the requirement to include fugitive emissions from mineral processing operations when making a Title V major source determination and thereby having to submit a Title V application. The variance was approved at the May 1, 1996, Air Quality Board Meeting for a one year period commencing July 10, 1996. At the time the variance was granted, it was anticipated (based on representations made by EPA) that Rulemaking by EPA to correct its error would take place well before the July 9, 1997, expiration date for the initial variance. However, EPA did not complete the necessary rulemaking in a timely manner. Accordingly, on June 4, 1997, the Air Quality Board renewed the variance until July 9, 1998. The Board again renewed the variance on July 1, 1998, until July 9, 1999; on June 2, 1999, until July 9, 2000; and on June 7, 2000, until July 9, 2001.

Unfortunately, EPA still has not completed the anticipated rulemaking. EPA's most recent Regulatory Agenda (dated May 14, 2001) states that EPA has decided to separate the definition of major source from the other, more contentious Part 70 revisions, and finalize the correction of the major source definition in April 2001, excluding fugitive dust emissions from mineral processing and other sources for purposes of determining major source status. Clearly this deadline, too, has slipped, but it appears that a final rule can be expected in the near future. Once EPA acts, the State will need time to adopt the change. Even if EPA acts tomorrow, State action cannot be completed by the date that KUCC's renewed variance will expire. Accordingly, KUCC requests a one-year extension of its variance. KUCC's renewal request is in essence a request for an additional extension to allow EPA and Utah additional time to correct their regulations. The requested variance is needed solely because of EPA's delay in correcting its error.

Absent a renewal of the current variance, KUCC will be required to expend considerable resources to assemble a Title V permit application -- an application that will never be acted upon following EPA's correction of its erroneous regulation. Preparation of a Title V

application is an arduous task for a source such as the Mine/Concentrator and would require KUCC to allocate considerable time, money and other resources to this task. The application requires an officer of KUCC to certify that the application is complete and accurate. If KUCC is required to submit an application, KUCC will file an application that meets the requirement of the officer's certification. KUCC estimates that it will cost $56,900 to prepare an application. Attachment "B" is an itemized estimate of the costs.

It is important to note that KUCC does not seek relief from any air emission or operating requirement. Accordingly, granting a renewal of the variance will not result in any disadvantage to the public.

KUCC would also like the Board to note that on October 10, 1995, KUCC filed Title V applications for its North Concentrator/Power Plant/Tailing Impoundment source and its Smelter/Refinery source. The Division of Air Quality issued the Title V Permit for the Smelter/Refinery on January 5, 2000, and that for the North Concentrator/Power Plant/Tailing Impoundment on February 25, 2000. This variance request concerns only the Bingham Canyon Mine/Copperton Concentrator source.

8. *List all possible alternatives in lieu of obtaining a variance Discuss the advantages and disadvantages of each alternative. A cost estimate for each alternative must be included.*

KUCC's only alternative is to prepare and file a Title V application at an estimated cost of $56,900 (an application that will not be acted on). An itemized cost estimate for preparing an application is set forth in Attachment "B."

9. *State the advantages and disadvantages to nearby Residents if the variance is granted.*

The variance renewal request does not seek relief from any applicable air requirements, hence there will be no disadvantages to nearby residents if the variance is granted.

10. *State how the applicant will reduce excess emissions to the maximum extent feasible during the period the variance is in effect.*

Not applicable (This variance request will not result in any emissions increase.)

11. *State the facts showing why operations under such variance are not likely to cause a nuisance, as defined in 76-10-803, Utah Code Annotated.*

Not applicable (This variance request will not result in any emissions increase.)

12. *The source is located in a:* *(X) non-attainment area*
( ) attainment area

If located in a non-attainment area, will emissions resulting from approval of the variance cause a

new violation of the National Ambient Air Quality Standards: Include all supporting data and calculations, such as emission estimates and modeling data. Give the exact location of the activity or business for which variance is sought. If located in an attainment area, give the exact location of the activity or business for which variance is sought.

Approval of the variance will not result in additional emissions or cause a NAAQS violation. The exact location of the source is as follows:

Bingham Canyon Mine: 40° 31' 15" North latitude
112° 9' 0" West longitude

Copperton Concentrator: 40° 34' 15" North latitude
112° 5' 3" West longitude

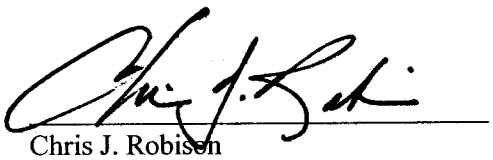
13. *Is the source located within a Class I area, as defined by R307-1-3.6.1.A, Utah Air Conservation Rules? ( )Yes (X) No*

If yes, has compliance with the requirements of and within the increments provided in Section 165 of the federal Clean Air Act, or in the case of nitrogen dioxide increments, with Title 40 of the Code of Federal Regulations, Section 51.66 been achieved: Include all supporting data and calculations.

14. *Is the variance request considered an emergency situation? ( )Yes (X)No If yes, explain in detail.*

15. *Are other regulatory agencies or permit authorities involved in the variance request? ( )Yes (X)No*

If yes, state the agency name(s), contact person(s), phone number(s), and reason for their involvement.



May 16, 2001
Date

Chris J. Robison
Vice President
General Manager, Mining and Concentrating

Signature of Responsible Person

ATTACHMENT "A"
KUCC Variance Renewal Request (May 2001)
Detailed Explanation of Variance Request

Only "major" sources are currently subject to Title V requirements. For Title V purposes, a major source is one that has the potential to emit 100 tons per year or more of a regulated air pollutant. In determining major source status, fugitive emissions are, as a general rule, ***not*** considered. This is because the benefits of regulating fugitive emissions are presumed to be outweighed by the cost of doing so. Accordingly, the Clean Air Act requires that EPA conduct a "302(j)" rulemaking before requiring fugitive emissions to be counted for purposes of making major source determinations for a particular source category.[1]

To date, pursuant to the 302(j) requirement, EPA has identified 26 source categories plus any source regulated under Section 111 (NSPS)[2] of the Clean Air Act ***as of August 7, 1980***. In promulgating its Title V regulations, however, EPA inexplicably deleted the August 7, 1980 qualification. Utah, patterning its regulations after EPA's, also excluded the August 7, 1980 date.

The absence of the August 7, 1980 date is important because some sources did not become subject to an NSPS until after this date. Inclusion of the August 7, 1980 qualification means that such sources need not account for fugitive emissions in determining major source status; however, without the August 7, 1980 qualification such sources must account for their fugitive emissions in determining major source status.

This is, in fact, precisely the predicament in which mining sources find themselves if they are subject to the NSPS requirement for metallic mineral processing plants, 40 CFR ∋ 60.380 -.386. The effective date of the NSPS for metallic mineral processing plants is August 24, 1982. Notwithstanding that EPA has not conducted a 302(j) rulemaking for metallic mineral processing plants, pursuant to Utah's current Title V program, a mining operation subject to this NSPS requirement must take fugitive emissions into account when making a Title V applicability determination. Without counting fugitive emissions, KUCC's Mine/Concentrator is not a major source for any pollutant. However, if fugitive emissions are counted, the Mine/Concentrator is a major source of PM_{10}.

In response to litigation and adverse comments to EPA's decision not to carry the August 7, 1980 qualification forward into the Title V regulations, EPA has reconsidered its position. Industry argued that before EPA could require post-August 7, 1980 NSPS sources to consider fugitive emissions in making

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[1] Section 302(j) of the Clean Air Act defines "major source." It provides, in part, that fugitive emissions may be considered in making major source determinations but only after EPA has conducted a rulemaking determining the need to do so for a particular source category. In the landmark case of Alabama Power Co. Inc. v. Costle, 636 F.2d 323, 368-70 (D.C. Cir. 1979) (Leventhal, J.), the court held that the ∋ 302(j) rulemaking provision generally applied to all uses of the term "major source" found in the Clean Air Act unless the Act expressly provided otherwise. The 302(j) rulemaking process is a two step process. First, EPA makes a determination that emissions from a particular category have a potential for significant air quality deterioration. The burden then shifts to industry to provide evidence that the social and economic costs of regulation would be unreasonable in comparison to the benefits.

[2] Section 111 of the Clean Air Act specifies requirements for "new source performance standards" ("NSPS"). NSPS's specify minimum air pollution control requirements for over 60 different categories of sources.

major source determinations, EPA must first conduct a 302(j) rulemaking. EPA conceded industry's position, acknowledging that the Title V major source definition, so far as it did not include the August 7, 1980 qualification, was legally indefensible: "EPA agrees that it did not follow the procedural steps necessary under section 302(j) to expand the scope of sources for which fugitives must be counted." See 59 Fed. Reg. 44460, 44514 (Aug. 29, 1994) (Attachment A-1).[3] Accordingly, EPA proposed to revise the regulations such that the August 7, 1980 qualification will carry forward for purposes of making a Title V major source determination.[4] See 59 Fed. Reg. 44460, 44514, 44527 (Aug. 29, 1994) (Attachment A-1).[5]

Unfortunately, EPA rulemaking action on its proposal has been delayed for reasons unrelated to the need for unlisted sources to count fugitive emissions.[6] EPA now has stated its intention to promulgate the corrected major source definition very soon.[7] Because EPA action (and conforming Utah regulatory amendments) is

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[3] EPA also issued guidance in March, 1994 clarifying that because EPA's rule is improper, states are not required to include fugitive emissions from metallic mineral processing in the major source determination. Memorandum from Lydia Wegman, Deputy Directory OAQPS to various EPA directors regarding "Consideration of Fugitive Emissions in Major Source Determinations" (March 8, 1994) (Attachment A-2).

[4] KUCC also notes that, in adopting the federal operating permits program (that is, the program that is to apply to states that do not have an EPA approved operating permits program), EPA adopted a "major source" definition that includes the August 7, 1980 qualification. See 40 C.F.R ∋ 71.2 (definition of "major source"). EPA explained its rationale as follows:

> [I]n order to avoid repeating a procedural mistake that occurred in the development of the first part 70 rule, EPA has concluded . . . that at this point it is most reasonable to promulgate a definition that is consistent with the major source definition contained in the current part 70 rule, except for the 27th category of sources listed pursuant to section 302(j). As EPA has already told States that they may receive interim approval of their State programs even if they do not literally match with current part 70's 27th category, due to EPA's concession that the Agency did not take the procedural steps necessary in part 70 to constitute a section 302(j) rulemaking, EPA believes it is reasonable to take this limited departure from part 70.

61 Fed. Reg. 34202, 34210 (July 1, 1996) (preamble accompanying promulgation of EPA's Federal Operating Permits Program).

[5] One year later, EPA proposed slightly different language, referring to the legal requirement that fugitive emissions are not to be counted absent a ∋302(j) rulemaking, rather than to the August 7, 1980 date. See 60 Fed. Reg. 45530, 45547, 45565 (Aug. 31, 1995) (Attachment A-3).

[6] In addition to the proposed changes to the operating permits regulations to correct the fugitive emissions issue, EPA has proposed making a number of additional amendments to the operating permit regulations. These involve more complex and controversial changes to the operating permit regulations. The delay in EPA's issuing the amendments is associated with these changes and not the fugitive emissions amendment. In May 1997 EPA released a draft of the final rule and preamble for public review (announced June 3, 1997, in 62 Fed. Reg. at 30289 (Attachment A-4)), but then decided that further changes were necessary, and asked the public to defer comments pending those changes (See 62 Fed. Reg. at 36039 (July 3, 1997) (Attachment A-5)). On March 25, 1998, EPA asked for public review and comment on sections of the May 1997 draft (See 63 Fed. Reg. at 14392 (Attachment A-6)), and then extended the comment period to May 26, 1998 (See 63 Fed. Reg. at 23254 (April 28, 1998) (Attachment A-7)).

[7] EPA's most recent semi-annual regulatory agenda (May 14,2001) indicates that the amendments are to be promulgated separately. The major source definition was to be finalized in April 2001, while the other, more contentious Part 70 revisions are to be reproposed in August 2001 and finalized in August 2002. See 66 Fed. Reg. at 26193 (major source definition, Attachment A-8) and 26149 (other Part 70 revisions, Attachment A-9). While the

not expected until after the expiration of the variance previously granted KUCC (July 10, 2001), a renewal of the variance is necessary. Absent being granted another renewal of the variance from the requirement to submit a Title V application for its Mine/Concentrator, KUCC will be required to expend considerable resources to assemble an application that will no longer be required following the completion of rulemaking by EPA and Utah.

This variance request is necessary solely because of EPA's delay in correcting an error that the agency acknowledged over seven years ago.

April 2001 date has not been met, a final rule revising the major source definition to comply with the law can be expected in the near future. Once EPA acts, the Division and Board will need time to revise the Utah rules accordingly.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL-5053-2]

Operating Permits Program Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is today proposing a number of revisions to the operating permits rule mandated by title V of the Clean Air Act (Act) as amended in 1990. That rule, codified in part 70 of chapter I of title 40 of the Code of Federal Regulations, was originally promulgated on July 21, 1992 (57 FR 32250). Part 70 requires each State to establish and administer a program for issuing to each covered source in the State an operating permit. Part 70 also sets forth the minimum elements of any State or local agency operating permits program. Today's notice proposes revisions to several of part 70's provisions establishing these elements. Most of the proposed revisions relate to those provisions that define when and how a permit must be revised to reflect changes at a permitted source. In addition, today's notice proposes numerous minor changes to part 70 to clarify its scope or effect or address issues that have surfaced in the course of its implementation. It also provides clarification of some regulatory provisions that do not require revision.

DATES: Comments on the proposed regulatory changes must be received by November 28, 1994. The EPA is unlikely to be able to extend the public comment period. The EPA will hold a public hearing at 9:00 a.m. (EDT) on October 19, 1994. Requests to present oral testimony must be received on or before October 5, 1994.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (LE-131), Attn: Docket No. A-93-50, room M-1500, Waterside Mall, 401 M Street SW, Washington, DC 20460. The public hearing will be held in the Waterside Mall auditorium at the EPA's Headquarters Office in Washington, DC.

Docket: Supporting information used in developing the proposed regulatory revisions is contained in Docket No. A-93-50, at the preceeding address. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m. Monday through Friday. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Michael Trutna (telephone 919/541-5345), mail drop 15, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Management Division, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Public Comments

If possible, comments should be sent in both paper and computerized form. Two paper copies of each set of comments are requested. Comments generated on computer should also be sent on an IBM-compatible, 3½ inch diskette and clearly labeled. Comments should refer to specific page numbers and regulatory section numbers whenever possible.

Table of Contents

The contents of today's preamble are in the following format:

I. Introduction

The provisions of title V of the Act and the implementing part 70 regulations are far-reaching in both scope and effect. By the terms of title V and part 70, every State must establish an operating permits program under which every major source of air pollution must obtain and abide by a permit that includes all of the requirements applicable to it under the Act. The operating permits program's potential consequences for air pollution control and for sources' ability to meet changing market demands have made the process of developing and implementing a program complex and controversial. Indeed, nearly 20 entities, including State and local governments, environmental groups, and industry associations, petitioned for judicial review of the part 70 regulations. Today's proposed revisions are the result of EPA's continuing efforts to ensure that part 70 is effective and workable. Many of the revisions stem from the Agency's discussions with the State and local agency, environmental, and industry group petitioners. Other revisions grow out of EPA and State and local agency experience in implementing part 70.

As required by the Act, many State and local agencies have already developed operating permits programs in accordance with the current part 70 and submitted the programs to EPA for approval. Others are well along in their efforts to develop and submit programs. The EPA has considered these circumstances in deciding whether and how to revise part 70. The Agency believes the revisions proposed today are necessary for the legal and policy reasons explained below. At the same time, EPA wants to minimize any disruption caused by these revisions. The Agency is thus proposing that State and local program approvals be governed by the version of part 70 in effect at the time of a program's submittal, except that programs submitted within 6 months after the publication date of the part 70 revisions will be judged by whichever version of part 70 the permitting authority chooses.

In light of ongoing discussions with petitioners in the part 70 litigation, EPA expects to propose several additional revisions to part 70 in the near future. The EPA is proposing revisions today in part because of agreements reached with petitioners and in part because several

is intended to facilitate the switch to non-ozone-depleting chemical substitutes. The EPA believes that this program cannot be implemented via operating permits because EPA is charged with judging the acceptability of non-ozone-depleting chemical substitutes. This function must be performed at the Federal level to provide for national consistency. However, operating permits may refer to the SNAP list of acceptable ODS alternatives in order to provide maximum flexibility under regulations promulgated under sections 608 and 609.

The EPA reserves the right to determine through future rulemaking that the applicable requirements of title VI it today proposes to not include in part 70 permits be included if evidence arises indicating that such applicable requirements should be contained in operating permits. Similarly, EPA may determine in future rulemaking that the applicable requirements of sections 608 and/or 609 need not be contained in operating permits.

2. Administrator.

In several places in part 70, a change is made where reference is made to the Administrator to reflect that the appropriate reference should be "his or her" instead of "his."

3. Deletion of "Section 502(b)(10) Change" Definition

The definition of "Section 502(b)(10) changes" is being deleted since the provisions using that term are being revised such that the term is no longer needed. Refer to the previous discussion of the revisions proposed to be made to the permit revision procedures in § 70.7.

4. Addition of Major NSR and Minor NSR Definitions

Definitions of "major new source review" and "minor new source review" are being added so they can be used in describing the proposed revised permit revision procedures. Since the various processes by which permits would be revised under the proposed four-track system often would depend on whether the change had been previously subject to major or minor NSR, it is critical to define these terms.

5. Major Source Definition

a. *SIC Codes for Hazardous Air Pollutants (HAP's) Sources.* Today's proposal would change the definition of major source in part 70 to conform to the definition in section 112(a) of the Act and implementing regulations governing HAP's sources recently promulgated in 40 CFR part 63. Under the current definition of "major source" in part 70, a stationary source or group of stationary sources located within a contiguous boundary and under common control would be considered to be a major source only if those stationary sources belong to the same two-digit SIC code. However, in section 112 of the Act and 40 CFR part 63 there is a somewhat broader definition of major source of HAP emissions (see 40 CFR 63.2). "Major source" is defined in part 63 as any stationary source or group of stationary sources located within a contiguous boundary and under common control that emits (or has the potential to emit, considering controls) above a threshold level of HAP's, regardless of SIC code commonality.

As currently written, part 70 requires some, but not all, sources considered major under part 63 to obtain a part 70 permit. Unless the part 70 definition is revised as proposed, there will likely be some sources that are major for purposes of part 63 but not major for purposes of part 70. These sources could be subject to a section 112 standard or other requirement, but under the current rule would not have to apply for and obtain a part 70 permit until required to do so by a specific section 112 standard. Section 501 of the Act defines major source for title V purposes as, among other things, major sources as defined in section 112 of the Act. Section 502(a) requires that all major sources obtain permits. Since EPA has defined section 112 major sources in part 63, there is no basis for a different definition in part 70. Moreover, EPA believes the implementation of section 112 will be enhanced if it is clear from the start that any source that would be major under part 63 must apply for a part 70 permit within 12 months (or a shorter time designated by the permitting authority) of becoming subject to the part 70 program. Therefore, today's notice proposes to change the definition of major source in part 70 to include all sources defined as major in part 63.

b. *Fugitive Emissions.* The current definition of "major source" in part 70 requires sources to count fugitive emissions in determining major source status for PSD and nonattainment NSR purposes, when the source is subject to a standard promulgated under section 111 or 112 of the Act, regardless of when the standard was established. In previous rulemaking under section 302(j), EPA has determined that fugitive emissions for purposes of NSR are to be counted for sources in categories subject to section 111 or 112 standards that were established prior to August 7, 1980. One petitioner asserts that EPA may not require that fugitives be counted in determining NSR major source status for sources in categories subject to section 111 or 112 standards promulgated on or after August 7, 1980 without conducting future rulemaking under section 302(j).

The EPA agrees that it did not follow the procedural steps necessary under section 302(j) to expand the scope of sources for which fugitives must be counted in making NSR major source determinations. Today's proposed revision would thus change paragraph (2)(xxvii) of the definition of "major source" such that only a source belonging to a source category subject to a section 111 or 112 standard issued prior to August 7, 1980 would be required to count fugitive emissions of the pollutant regulated by that standard in determining if it were major for NSR purposes. States would not be required to provide that a source belonging to source category subject to a section 111 or 112 standard promulgated after August 7, 1980 include fugitive emissions of the relevant pollutant in its calculation of NSR major source status, unless and until EPA conducts future section 302(j) rulemaking (except where such a source would qualify as a support facility; see discussion below).

With respect to determinations of major source status under section 112, EPA believes the Act requires that fugitive emissions, to the extent quantifiable, be counted. The section 112(a)(1) "major source" definition is distinguishable from the part C and part D definitions of major source in some important respects. Section 112(a)(1) uses the term "major source" as opposed to "major stationary source," and legislative history indicates an intent to treat this definition as distinct from the section 302(j) "major stationary source" definition. The Senate Committee Report states that "[t]he concept of 'major source' is not used in the current regulatory regime for hazardous air pollutants and, thus, a definition of 'major source' needs to be added to section 112. The definition established here will only apply in the context of this section and should not be confused with other meanings of the term 'major source' in [parts C and D] of the Act" (S. Rep. No. 228, 101st Cong., 1st Sess. 150–51 (1989)). Moreover, section 112 establishes a new regulatory program the focus of which is specific hazardous air pollutants at source categories to be determined by EPA. All this suggests that the section 302(j) rulemaking requirement does not apply in the context of section 112, and that fugitive emissions must therefore be included for purposes of determining

if at least 50 percent of the output of the support facility is dedicated to the source.

(1) * * *

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant (HAP) (including any fugitive emissions of such pollutant) which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants (including any fugitive emissions of such pollutants) or such lesser quantity as the Administrator may establish by rule. * * *

* * * * *

(2) A major stationary source of air pollutants or any group of stationary sources, as defined in section 302 of the Act, that directly emits, or has the potential to emit, 100 tpy or more of any air pollutant (including any fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act or for the purposes of paragraph (3) of this definition, unless the source belongs to one of the following categories of stationary source:

* * * * *

(xxvii) All other stationary source categories regulated by a standard promulgated as of August 7, 1980, under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

* * * * *

Minor new source review (minor NSR) means a title I program approved by EPA into a State's implementation plan under EPA regulations implementing section 110(a)(2) of title I of the Act for the preconstruction review of changes which are subject to review as new or modified sources and which do not qualify as new major stationary sources or major modifications under EPA regulations implementing parts C or D of title I of the Act.

* * * * *

Permit revision means any de minimis permit revision, minor permit revision, significant permit revision, or administrative permit amendment.

* * * * *

Responsible official * * *

(4) * * *

(i) The designated representative for all actions, standards, requirements, or prohibitions under title IV of the Act or the regulations promulgated thereunder; or

(ii) The designated representative or a person meeting provisions of paragraphs (1), (2), or (3) of this definition for any other purposes under part 70.

* * * * *

Title I modification or modification under any provision of title I of the Act means any modification under parts C and D of title I or sections 110(a)(2), 111(a)(4), 112(a)(5), or 112(g) of the Act; under regulations promulgated by EPA thereunder or in § 61.07 of part 61 of this chapter; or under State regulations approved by EPA to meet such requirements.

* * * * *

3. Section 70.3 is amended by revising paragraphs (a)(1) through (a)(3); by redesignating paragraphs (a)(4) and (a)(5) as (a)(5) and (a)(6) respectively; by adding a new paragraph (a)(4); and by revising paragraph (b)(2) to read as follows:

§ 70.3 Applicability.

(a) * * *

(1) Any major source, except that a source is not required to obtain a permit if it would be classified as a major source solely because it has the potential to emit major amounts of a pollutant listed pursuant to section 112(r)(3) of the Act and is not otherwise required to obtain a permit under this part;

(2) Any source, including an area source (i.e., a nonmajor source), subject to a standard, limitation, or other requirement under section 111 of the Act;

(3) Any source, including an area source (i.e., a nonmajor source), subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;

(4) Any source required to have a permit under parts C or D of title I of the Act;

* * * * *

(b) * * *

(2) In the case of nonmajor sources subject to a standard or other requirement under either section 111 or section 112 of the Act promulgated after July 21, 1992, the Administrator will determine whether to exempt any or all such sources from the requirement to obtain a part 70 permit at the time that the new standard is promulgated.

* * * * *

4. Section 70.4 is amended by:

a. Revising paragraphs (a) and (b)(3)(x);

b. Removing the last sentence from paragraph (b)(3)(xi);

c. Amending paragraph (b)(3)(xii) by replacing "90" in the first and third sentences with "125";

d. Amending paragraph (b)(11)(iii) by replacing "9" with "12";

e. Revising paragraphs (b)(12) through (14), (h), (i) introductory text and (i)(1);

f. Removing paragraph (b)(15) and redesignating paragraph (b)(16) as (b)(15);

g. Redesignating paragraphs (j) and (k) as (k) and (l), respectively; and by adding a new paragraph (j).

Additions and revisions are set out to read as follows:

§ 70.4 State program submittals and transition.

(a) *Date for submittal.* Not later than November 15, 1993, the Governor of each State shall submit to the Administrator for approval a proposed part 70 program, under State law or under an interstate compact, meeting the requirements.

(b) * * *

(3) * * *

(x) Provide an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the applicable public participation process provided pursuant to § 70.7 and any other person who could obtain judicial review of such actions under State laws.

* * * * *

(12) Provisions consistent with paragraphs (b)(12) (i) and (ii) of this section to allow changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions): *Provided that* the facility provides the Administrator and the permitting authority with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different time frame for emergencies. The source, permitting authority, and EPA shall attach each such notice to their copy of the relevant permit. The following provisions implement this requirement of an approvable part 70 permit program:

(i) *Trading under permitted emissions caps.* The program shall require the permitting authority to include in a permit an emissions cap, pursuant to a

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

MAR 8 1994

MEMORANDUM

SUBJECT: Consideration of Fugitive Emissions in Major Source Determinations

FROM: Lydia Wegman, Deputy 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, VII, IX, and X

This memorandum summarizes the Environmental Protection Agency's (EPA's) policy regarding the consideration of fugitive emissions for the purpose of determining whether a source is major under the Clean Air Act (Act). As explained below, EPA will revisit, in a future revision to the part 70 regulations ("Operating Permit Programs"), the requirement to consider fugitives from sources subject to national emission standard for hazardous air pollutants (NESHAP) and new source performance standards (NSPS) promulgated after August 7, 1980, when determining whether a source is major under section 302(j) of the Act. For the present time, State operating permits programs that do not require consideration of fugitives for these sources will be eligible for interim approval. States must require consideration of fugitives for purposes of determining whether a source is major under section 112, but need not require consideration of fugitives for purposes of the new major source definitions in part D of title I of the Act.

OPTIONAL FORM 99 (7-90)
FAX TRANSMITTAL # of pages ▶ 6
To NANCY Ketchum-Colvill From Kirt Cox
Dept./Agency / Phone # 919/541-5582

I. Background: Statutory and Regulatory Provisions Affected

A. Section 302(j) and Section 169(1)

The Act's primary definition of "major stationary source" and "major emitting facility" is found in section 302(j) in the general definitions portion of the Act. It reads:

> Except as otherwise provided, the terms "major stationary source" and "major emitting facility" mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, 100 tons per year (tpy) or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

The section 302(j) definition was added to the Act in 1977. Another definition of "major emitting facility" was added in 1977 in section 169(1). It sets a higher 250 tpy threshold for certain source categories for purposes of part C preconstruction review.

B. Lower Threshold Definitions Added by the 1990 Amendments to the Act

The 1990 Amendments added nine new definitions of "major source" or "major stationary source." Seven of these definitions appear in part D of title I and expand the set of "major stationary sources" of volatile organic compounds, particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10), and CO for nonattainment areas by lowering the tonnage threshold below the 100 tpy specified in section 302(j).[1]

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[1]These are, specifically: §182(c), "Serious Areas" for ozone nonattainment; §182(d), "Severe Areas" for ozone nonattainment; §182(e), "Extreme Areas" for ozone nonattainment; §182(b)(1)(A)(ii)(I), new source review in "moderate areas" for ozone nonattainment; §187(c), "Serious Areas" for carbon monoxide nonattainment; §184(b)(2), interstate ozone control; §189(b)(3), "Serious Areas" for PM-10 nonattainment.

The other two new definitions are found in section 112(a)(1) and title V.[2] Section 112 provides a definition of "major source" similar to the definition of "major stationary source" and "major emitting facility" in part D of title I only tailored to the new hazardous air pollutants (HAP) provisions. The title V definition incorporates by reference all of the other "major source" and "major stationary source" definitions.

C. "Major Source" Definitions in Part 70

The definition of "major source" in section 70.2 of the permits rule divides into three parts, corresponding to the section 112 definition, the section 302(j) definition, and the lower tpy thresholds in the title I nonattainment provisions, respectively. The second definition, corresponding to section 302(j), requires the counting of fugitive emissions only for certain listed source categories. The other two part 70 definitions are silent on the issue of when fugitive emissions must be considered.

The section 302(j) definition lists 27 categories of sources for which fugitive emissions must be considered in determining whether a source is major for purposes of section 302(j). The twenty-seventh category requires that fugitive emissions be considered for:

> All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

For present purposes, this should be contrasted with the corresponding provisions in the prevention of significant deterioration (PSD) and new source review (NSR) regulations (see, e.g., 40 CFR §51.165(a)(1)(iv)(C)), which refer to:

> Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

Regarding the first and third parts of the part 70 "major source" definition, the question of when fugitive emissions must be considered for applicability purposes was addressed directly

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[2]Section 501(a)(1) provides: The term "major source" means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following: (a) a major source as defined in section 112, and (b) a major stationary source as defined in section 302 or part D of title I.

in the response to comments document for the part 70 rulemaking. Section 3.5 of the response document states that the Act requires fugitives to be considered for purposes of determining whether a source is major under any of the part D or the section 112 definitions.

II. Summary of EPA Policy

In response to questions raised following promulgation of part 70, EPA has reconsidered the treatment of fugitives for purposes of making major source determinations. The EPA's decisions regarding the relevant provisions is summarized below in three parts.

A. Sources Subject to NSPS or NESHAP Standards Promulgated after August 7, 1980

The designation in the part 70 rules of sources subject to NSPS and NESHAP promulgated after August 7, 1980 as sources for which fugitives must be counted for purposes of major source determinations did not follow the procedural steps necessary for a proper rulemaking under section 302(j). As a result, EPA believes it would be inappropriate for the Agency to require States to count fugitives from these sources in making section 302(j) major source determinations. In the absence of a legally-sound Federal requirement, a State may choose to exercise its own legal authority to require that fugitives from sources subject to the post-1980 standards be considered in determining major source status under section 302(j). However, a State need not require that fugitives from these sources be so counted in order to obtain interim approval of its title V program.

The EPA intends to revisit this aspect of the rule in a revision to part 70 to occur sometime in 1994. The EPA believes that it may, in the mean time, grant interim approval to programs that do not require fugitives to be considered in determining the status of sources subject to post-1980 NSPS and NESHAP standards. However, until the rule is revised with respect to sources subject to the post-1980 standards, EPA may not grant full approval to a State program that does not include the post-1980 standards. Programs adhering to the language in the current rule will be eligible for full approval provided, as is the case for any element of part 70, the State has provided adequate legal authority for that element of its program.

Note that the policy articulated in section C below regarding the section 112 major source definition operates independently of a State's decision to list the post-1980 NESHAP standards for purposes of determining whether a source is major under the section 302(j) definition. Therefore, in determining whether a source is major for section 112 purposes, a source must

consider fugitive emissions of HAP listed pursuant to section 112(b) regardless of whether the source is in a category designated through rulemaking under section 302(j).

B. Definitions of "Major Stationary Source" in Part D of Title I

The EPA has revised its interpretation of the Act from that stated in the response to comments document. The EPA now believes the Act does not require fugitives to be considered for purposes of determining major source status in these nonattainment areas, except as provided pursuant to rulemaking under section 302(j). State programs that follow this revised interpretation will be eligible for full approval, as will programs that follow the more inclusive policy articulated in the response to comments document, provided the more inclusive program is supported by adequate State law authority.

The legal rationale for this position is that nothing in the statute or the legislative history of the Part D definitions indicates an intent to depart from the section 302(j) requirement that rulemaking be done before fugitives are included for applicability purposes in nonattainment areas. To the contrary, the explicit reference in most of these Part D definitions back to section 302(j), and the fact that these provisions address a broad universe of sources emitting a particular pollutant or class of pollutants, suggests that the section 302(j) rulemaking requirement carries over to these definitions. It is therefore permissible to read the Act not to require the consideration of fugitive emissions for these purposes.

C. Definition of "Major Source" in Section 111

The EPA continues to believe the Act requires that fugitive emissions, to the extent quantifiable, must be considered in determining major source status for all section 112 purposes. This policy applies to a source of any of the section 112(b) listed pollutants whether or not the source in question is in a category listed pursuant to section 112(c). The EPA expects States to comply with this policy in their operating permits program submittals.

The section 112 "major source" definition is distinguishable legally from the Part D definitions in some important respects. Section 112 uses the term "major source" as opposed to "major stationary source," and legislative history indicates an intent to treat this definition as distinct from the section 302(j) "major stationary source" definition. Moreover, section 112 establishes a new regulatory program wherein Congress has narrowed the regulatory concern to specific pollutants at

specific source categories to be determined by EPA. All of this suggests that the section 302(j) rulemaking requirement does not apply in the context of section 112, and that fugitive emissions must therefore be included for purposes of determining whether a source is major under section 112.

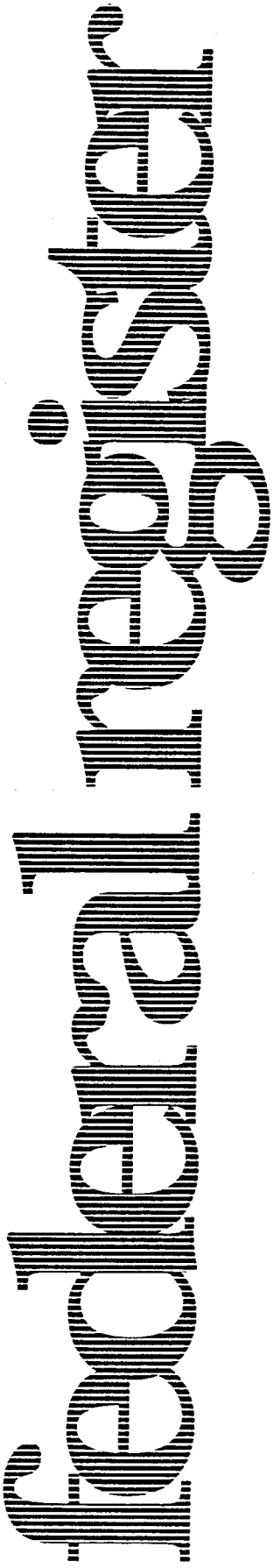
D. Collocation of Sources

Questions have also been raised regarding the treatment of fugitive emissions where sources in categories listed pursuant to section 302(j) are collocated with sources that are not in any of the listed categories. The EPA intends to follow the policies established in implementation of the PSD and NSR programs. Only the fugitive emissions from the listed source are required to be counted for purposes of determining major source status. Where there is a collocated source that is not on the source category list and where the nonlisted source is the primary activity at the site, fugitive emissions would not need to be counted from the collocated, nonlisted source. The EPA will issue case examples to help clarify application of this principle in the near future.

For further information, please contact Kirt Cox, Operating Permits Policy Section, at (919) 541-5399, or Adan Schwartz, Office of General Counsel, at (202) 260-7632.

cc: Air Branch Chief, Regions I-X
Regional Counsel, Regions I-X
M. Winer
M. Miller
K. Stein

Attachment A-3



Thursday
August 31, 1995

Part II

Environmental Protection Agency

40 CFR Part 51 et al.

Operating Permits Program and Federal Operating Permits Program; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 70, and 71

[FRL-5285-9]

RIN 2060-AF70

Operating Permits Program and Federal Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is today proposing new streamlined procedures for revising stationary source operating permits issued by State and local permitting authorities or EPA under title V of the Clean Air Act (Act). This proposal is a supplement to actions published in the **Federal Register** on August 29, 1994 and on April 27, 1995 as they relate to permit revisions. In addition, today's action proposes changes to the certification that responsible officials of permitted sources are required to submit and the emergency defense available for violations of permit terms. It also clarifies the application of title I and title V permitting requirements to non-major research and development (R&D) facilities that are located with sources that are major under the Act. Finally, it proposes to revise the procedural requirements applicable to minor new source review (NSR) permitting under title I of the Act to clarify the flexibility States possess in providing adequate process for minor NSR actions.

Several concerns over complexity and burden of the previously proposed permit revision system were raised in response to these actions. As a result, the Agency today is proposing to establish a system for revising operating permits that is simpler, more flexible, and easier to implement than that proposed in the prior notices.

Implementation of today's proposal would benefit the environment primarily through enhanced implementation of, and compliance with, air quality control requirements. The extent of benefit would be nationwide and could potentially include all requirements of the Act applicable to part 70 sources.

DATES: Comments on the proposed regulatory changes must be received by October 30, 1995. Comments on the revised Information Collection Request (ICR) for the revised part 70 must be received by October 30, 1995.

ADDRESSES: Comments on the proposed revisions to 40 CFR part 70 must be mailed (in duplicate if possible) to: EPA Air Docket (LE-131), Attn: Docket No. A-93-50, room M-1500, Waterside Mall, 401 M Street SW, Washington, DC 20460. Comments regarding the 40 CFR part 71 Federal operating permits program must be mailed to the same address, Attn: Docket No. A-93-51. Please identify comments as pertaining to today's proposal by date and FR cite. Comments on the draft ICR for the revised part 70 are to be submitted as per instructions in Section VI. E., *Paperwork Reduction Act*, of this preamble.

Docket: Supporting information used in developing the proposed regulatory revisions to part 70 and part 71 are contained in Docket Nos. A-93-50 and A-93-51 respectively, at the preceding address. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m. Monday through Friday. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Regarding proposed revisions to parts 51 and 70, Michael Trutna (919/541-5345), Ray Vogel (919/541-3153), or Roger Powell (919/541-5331), mail drop 12, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Information Transfer and Program Integration Division, Research Triangle Park, North Carolina 27711. Regarding proposed revisions to part 71, Candace Carraway (919/541-3189) or Kirt Cox (919/541-5399) at the same address.

SUPPLEMENTARY INFORMATION: Today's proposal reflects the principles articulated in the President's and the Vice President's March 16, 1995 report, "Reinventing Environmental Regulation." That report establishes as goals for environmental regulation building partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibilities to State and local agencies. The Agency believes that today's proposal meets the goals of the report.

Public Comments

If possible, comments should be sent in both paper and computerized form. Two paper copies of each set of comments are requested. Comments generated on computer should also be sent on an IBM-compatible, 3½-inch diskette and clearly labeled. Please identify comments as pertaining to today's proposal by date and FR cite.

Table of Contents

The contents of today's preamble are in the following format:

I. Background

A. Operating Permits Regulations

Title V requires that EPA develop regulations which set minimum standards for State operating permits programs. Those regulations, codified in part 70 of chapter I of title 40 of the Code of Federal Regulations, were originally promulgated on July 21, 1992 (57 FR 32250). On August 29, 1994, EPA proposed a number of revisions to the part 70 regulations as a result of negotiations with litigants who petitioned for review of part 70 after its promulgation. The August 1994 proposal included new provisions governing permit revision processes. Today's proposal supplements that part of the August 1994 proposal and defines a simpler approach to revising permits designed to build upon existing State permitting programs.

requires clarification in States without approved PSD programs, several situations are possible: (1) EPA issues the PSD permit as the issuing agency, (2) EPA signs the PSD permit in a PSD program partially delegated to the State, or (3) the State issues the permit acting as EPA's agent under a fully delegated, but not SIP-approved, PSD program.

A State with an approved part 70 program should always be able to enforce a PSD permit that is attached to a part 70 permit (even if the EPA issues the PSD permit). Where the PSD permit does not meet the requirements of part 70, the State may need to create a separate part 70 permit revision (EPA cannot revise the part 70 permit because it is not the part 70 permitting authority) to supply the terms necessary to meet the requirements of §§ 70.6(a) and (c). Other applicable requirements (e.g., MACT standards) that apply to the source but that are not included in the PSD permit would need to be included as well in the part 70 permit revision. Close coordination between the State and EPA could allow the part 70 permit revision and the PSD permit to be issued using the same public and EPA review process, if that is desired. Once the PSD permit is issued by EPA and the supplemental part 70 revision is completed by the State, the State would automatically incorporate both the PSD permit and the part 70 permit revision into the existing part 70 permit by attaching them to the existing part 70 permit.

In the case where the State permitting authority must also issue its own preconstruction approval under minor NSR (e.g., to cover additional pollutants and/or requirements) before construction of a PSD source or modification can proceed, the permitting authority would have to develop any additional part 70 permit terms to meet part 70 and place these into the minor NSR permit. Most often, the minor NSR permit should also contain the provisions of the part 70 revision (previously described). Upon issuance, the State NSR permit could be automatically incorporated along with any independent PSD permit into the existing part 70 permit although the incorporation of these documents does not necessarily have to occur simultaneously.

The Agency solicits comment on this approach to accomplishing streamlined permit revisions for incorporation of PSD permits. In particular, EPA solicits comment on whether permitting authorities which do not have adequate authority to issue PSD permits directly should be afforded additional time to incorporate those permits satisfactorily into relevant part 70 permits.

I. Rulemaking Under Section 302(j)

The current definition of major source in part 70 requires sources to count fugitive emissions in determining major source status for PSD and nonattainment NSR purposes when the source category is subject to a standard promulgated under section 111 or 112 of the Act, regardless of when the standard was established. As discussed in the August 1994 proposal notice, EPA agrees that it did not follow the procedural steps necessary under section 302(j) to expand the scope of source categories in the current part 70 regulations for which fugitives must be counted in making NSR major source determinations (59 FR 44514). In that notice, EPA proposed to change paragraph (2)(xxvii) of the definition of major source such that only a source belonging to a source category subject to a section 111 or 112 standard promulgated as of August 7, 1980 would be required to count fugitive emissions of the pollutant regulated by that standard in determining if it were major for NSR purposes. The EPA no longer believes that revising this category as was proposed is the appropriate approach. Rather, EPA believes that this paragraph needs to be revised to allow for future affirmative actions under section 302(j) to avoid the need for subsequent revisions to State part 70 programs and to be consistent with the NSR program.

In a notice of proposed rulemaking to revise NSR regulations implementing parts C and D of title I of the Act that will be published in the near future, the Agency will solicit comment on amending the listed source categories for which fugitive emissions must be counted in determining whether a source is major. This rulemaking action is being taken to satisfy the requirements of section 302(j) which requires that fugitive emissions be included in major source determinations only ". . . as determined by rule by the Administrator."

Under EPA's longstanding interpretation, section 302(j) involves a two-step rulemaking process. The EPA will propose to list a source category if emissions from that category have a potential for significant air quality deterioration, and will make a final listing unless commenters demonstrate that the social and economic costs of regulation would be unreasonable in comparison to the benefits (see e.g., 49 FR 43202, 43208 (1984)). The EPA's interpretation has been upheld on judicial review (*NRDC* v. *EPA*, 937 F.2d 641, 643 (D.C. Cir. 1991)).

Because EPA will be undertaking the future section 302(j) rulemaking, EPA no longer believes that it would be appropriate for parts 70 and 71 to definitely refer to the August 7, 1980 date provided in the August 1994 part 70 proposal and the April 1995 part 71 proposal. Until EPA promulgates this future section 302(j) rulemaking, EPA believes that fugitives should not be counted for source categories subject to section 111 or 112 standards promulgated after August 7, 1980. Consequently, to facilitate ongoing consistency with whatever affirmative section 302(j) determination the Administrator has made at any point in time, EPA proposes to revise parts 70 and 71 to require that fugitive emissions be included for source categories subject to standards promulgated under sections 111 or 112 for which the Administrator has made an affirmative determination under section 302(j).

The result of this approach would be that source categories currently subject to section 111 or 112 standards promulgated after August 7, 1980 would not have to count fugitives unless and until EPA completes this section 302(j) rulemaking to require that fugitives for these source categories be counted. Moreover, once this section 302(j) rulemaking has been completed, this approach would result in fugitive emissions from any source categories listed through a section 302(j) determination being counted for purposes of the title V definition of major source as well.

Finally, when new section 111 or 112 standards are promulgated and contain affirmative section 302(j) determinations, those determinations would carry over for purposes of title V. This approach would ultimately avoid any need to revise parts 70 and 71 every time a new section 302(j) rulemaking is conducted and would relieve State and local agencies from having to submit revised part 70 programs for EPA approval solely because the Administrator has made an affirmative section 302(j) determination. The EPA solicits comment on this approach.

In addition, EPA is proposing to delete the language in paragraph (2)(xxvii) of the major source definition in the current part 70 regulations, the August 1994 part 70 proposal, and the April 1995 part 71 proposal which reads: ". . . but only with respect to those air pollutants that have been regulated for that category; . . ." The EPA believes that this revision is necessary to make the parts 70 and 71 definitions of major source consistent

"Proposed permit or proposed permit revision; revising paragraphs (1), (2)(viii), and (2)(xxvii) of the definition of "Major source;" and the introductory text of paragraph (5) of the definition of "Regulated air pollutant;" and

c. Adding definitions of "Advance NSR," "Alternative operating scenarios," "Emissions Cap permit," "Eligible Indian Tribe," "Indian Tribe," "Plantwide applicability limit (PAL)," "Research and development activities," "State review program," and "Title I modification" in alphabetical order.

§ 70.2 Definitions.

* * * * *

Advance NSR means terms or conditions in a part 70 permit setting forth requirements applicable to new units or modifications under applicable major or minor NSR programs or regulations implementing section 112(g) of the Act, so that such changes may be operated without having to obtain a part 70 permit revision.

* * * * *

Alternative operating scenarios means terms or conditions in a part 70 permit which assure compliance with different modes of operation for which a different applicable requirement applies and for which the source is designed to accommodate.

* * * * *

Draft permit or draft permit revision means the version of the permit or permit revision for which the permitting authority offers public participation as provided under § 70.7 of this part.

* * * * *

Eligible Indian Tribe means an Indian Tribe that EPA has determined to meet the requirements of section 301(d)(2) of the Act or 40 CFR part 49. [NOTE 40 CFR part 49 are proposed regulations (59 FR 43956 (August 25, 1994))]

Emissions Cap permit means a part 70 permit that contains one or more federally-enforceable emissions limitations that meets the requirement for permit content contained in § 70.4(b)(12) of this part, including a PAL and/or an advance NSR condition.

* * * * *

Indian Tribe has the meaning defined in section 302(r) of the Act.

Major source * * *

(1) * * *

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant (HAP) (including any fugitive emissions of such pollutant) which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants (including any fugitive emissions of such pollutants), or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence:

(A) Emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; and

(B) Research and development activities may be considered separately for purposes of determining whether a major source is present, and need not be aggregated with collocated stationary sources unless the research and development activities contribute to the product produced or service rendered by the collocated sources in a more than de minimis manner; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(2) * * *

(viii) Municipal incinerators (or combinations thereof) capable of charging more than 50 tons of refuse per day;

* * * * *

(xxvii) Any other stationary source category regulated under section 111 or 112 of the Act and for which the Administrator has made an affirmative determination under section 302(j) of the Act."

* * * * *

Part 70 program, State program, or *program* means a program approved by the Administrator under this part.

* * * * *

Plantwide applicability limit (PAL) means a federally-enforceable emissions limitation established for a source to limit its potential to emit for a particular pollutant to a level at or below which a particular applicable requirement would not apply.

* * * * *

Proposed permit or proposed permit revision means the version of a permit or permit revision that the permitting authority proposes to issue and forwards to the Administrator for review in compliance with § 70.8 of this part.

* * * * *

Regulated air pollutant * * *

(5) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g) and (j) of the Act, including the following:

* * * * *

Research and development activities means activities conducted to test more efficient production processes or methods for preventing or reducing adverse environmental impacts, provided that the activities do not include the production of an intermediate or final product for sale or exchange for commercial profit, and activities conducted at a research or laboratory facility that is operated under the close supervision of technically trained personnel the primary purpose of which is to conduct research and development into new processes and products and that is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

* * * * *

State review program means a program established under section 112(g) of the Act, parts C and D of the Act (i.e., major NSR), or section 110(a)(2)(C) of the Act (i.e., minor NSR) and any other State program approved by EPA as such. A State review program need not entail review and approval of all source changes subject to the program, but may regulate categories of source changes by means of general rules or general permits as appropriate.

* * * * *

Title I modification or modification under any provision of title I of the Act means any modification under parts C and D of title I or sections 111(a)(4), 112(a)(5), or 112(g) of the Act; under regulations promulgated by EPA thereunder or in § 61.07 of part 61 of this chapter; or under State regulations approved by EPA to meet such requirements.

* * * * *

3. Section 70.4 is amended us follows:

a. Revising the heading;

b. Adding introductory text after the heading;

c. Revising paragraphs (b) introductory text, (b)(3) introductory text, (b)(3)(x), (b)(6), (b)(11)(ii), (b)(12)(i), (d)(1), (d)(3)(iv), (e) introductory text, (e)(1), and (e)(2);

d. Adding a new paragraph (b)(3)(xiv);

e. Adding to the end of paragraph (a) the following sentence, "Indian Tribes are not required to submit part 70 programs to EPA for approval, but may elect to do so.";

f. Adding the phrase ", Tribal," after the words "copies of all applicable State" in the first sentence of paragraph (b)(2);

Proposed Rules

Federal Register
Vol. 62, No. 106
Tuesday, June 3, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 70

[FRL-5833-4]

Operating Permits Program

Notice of Availability of Draft Rules and Accompanying Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA has placed in the docket for public review and comment a draft of the regulations and accompanying preamble that would revise the operating permits regulations in part 70 of chapter I, title 40, of the Code of Federal Regulations, and requirements for "minor" new source review (NSR) permitting in part 51 of chapter I, title 40, of the Code of Federal Regulations. Revisions to part 70 were proposed on August 29, 1994 and August 31, 1995, and revisions to part 51 were proposed on August 31, 1995. The draft placed in the docket reflects EPA's consideration of comments on the 1994 and 1995 proposals and contains additional proposed regulatory revisions and accompanying preamble discussion on some aspects of parts 70 and 51 in response to those comments, in particular the procedures for "minor permit revisions." The draft placed in the docket is styled as a draft "final" rule because EPA does not anticipate substantial additional changes. However, EPA is accepting comments on revisions to the draft final rule that have changed since the earlier proposals. The Agency also has placed in the docket a memorandum of options relating to "minor permit revisions" that EPA is still considering for the final rule. The EPA is also accepting comment on these options.

DATES: Comments on the draft notice must be received by July 3, 1997.

ADDRESSES: The draft notice and accompanying information is available in EPA's Air Docket number A-93-50 as items VI-A-1, VI-A-2, and VI-A-3. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the address listed below. A reasonable fee may be charged for copying. The address of the EPA air docket is: EPA Air Docket (LE-131), Attention: Docket Number A-93-50, Room M-1500, Waterside Mall, 401 M Street SW, Washington, DC, 20460.

The draft notice and accompanying information may also be downloaded from the Internet at: http://134.67.104.12/html/caaa/t5pg.htm.

Comments on the materials referenced in today's notice must be mailed (in duplicate if possible) to: EPA Air Docket (LE-131), Attention: Docket No. A-93-50, at the above address. Please identify comments as pertaining to today's notice of availability of items VI-A-1, VI-A-2, and VI-A-3.

FOR FURTHER INFORMATION CONTACT: Ray Vogel (telephone 919-541-3153) or Roger Powell (telephone 919-541-5331), Mail Drop 12, EPA, Information Transfer and Program Integration Division, Research Triangle Park, North Carolina, 27711. Internet addresses are: vogel.ray@epamail.epa.gov and powell.roger@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The part 70 regulations were originally promulgated on July 21, 1992 (57 FR 32250). Revisions to part 70 were proposed on August 29, 1994 (59 FR 44460). Revisions to parts 51 and 70 were proposed on August 31, 1995 (60 FR 45530). Due to the length of time that has passed since the proposal notices, EPA has received numerous inquiries about the Agency's intended final action on those proposals. The Agency is making the draft notice available both for informational purposes and for purposes of considering any final comments from interested parties on the part 51 and part 70 revisions prior to final action.

Following EPA review of any additional comments on these materials, the Agency will prepare and publish a final rule that will constitute final action on the proposed revisions to parts 70 and 51.

As noted above, the draft notice reflects EPA's consideration of previously submitted comments, and includes further additional regulatory changes that might be finally adopted, along with accompanying preamble discussion. The EPA seeks comment only on revisions and options in materials referenced in today's notice that have changed since the earlier proposals, including in particular the following issues:

(1) The provisions for minor permit revisions; review by EPA, affected States, and the public; and eligibility criteria for de minimis permit revisions;

(2) The definition of potential to emit, in response to the vacatur and remand of the definition in *Clean Air Implementation Project, et al.* v. *EPA* following petitioners' challenge to the definition's Federal enforceability requirement;

(3) The absence of a mandate for emissions cap permits, including plantwide applicability limits and advance new source review, as a minimum element of State part 70 programs; and

(4) Review of EPA's interpretation of the collocation procedures for part 70 major sources as applied to unlisted sources of fugitive emissions.

With respect to this last issue, section 501 of the Clean Air Act states that a major source for purposes of title V includes any source that is a "major stationary source" as defined in section 302 or part D of title I. In defining a major source in the original part 70 rulemaking, EPA accordingly looked to the definitions of major sources in section 302 and part D of title I, with particular focus on the approach followed by EPA in the NSR program as a result of the *Alabama Power* litigation. The EPA concluded that aggregating sources by standard industrial classification (SIC) code at the source site to determine whether a source would be major is the approach intended by Congress (56 FR 21712, 21724). The EPA further concluded that aggregation by SIC code should be done in a manner consistent with established NSR procedures, including application of the collocation rules. The collocation rules applicable to NSR were promulgated on August 7, 1980 (45 FR 52695) and further clarified on November 28, 1989 (54 FR 48870).

The National Mining Association (formerly the American Mining Congress) and the American Forest and Paper Association petitioned for review of the original part 70 rule, in part, because of the Agency's interpretation

that the part 70 major source definition must encompass the established NSR collocation provisions. In particular, the petitioners asserted that the Agency's interpretation of its part 70 collocation provisions would have the effect of subjecting unlisted sources of fugitive emissions to part 70 without undertaking a section 302(j) rulemaking. While not conceding the merits of the petitioners' arguments, EPA sought and received from the United States Court of Appeals for the District of Columbia Circuit a voluntary remand in early 1995 to allow the Agency to reconsider its interpretation.[1] The Agency concluded that one aspect of that reconsideration should include review of whether application of the NSR approach to unlisted sources of fugitive emissions is appropriate for title V purposes.

Prior to the voluntary remand, EPA had clarified its decision to apply the NSR approach to major source determinations for purposes of title V in its August 1994 notice of proposed rulemaking revising the part 70 regulations. Specifically, EPA proposed to amend the definition of major source to make clear that the support facility test applied in NSR also applied in determining the scope of a source for title V. Several industry commenters expressed opposition to including the support facility concept in part 70 source determinations, while several State and local governments generally supported the clarification of the major source definition.

In responding to comments regarding the support facility test, it became apparent to EPA that the issue of whether the NSR approach should be applied to unlisted sources of fugitive emissions is closely connected with the more fundamental question of whether it is appropriate to apply the NSR approach (including the support facility concept) in part 70 source determinations generally. The Agency accordingly has reviewed the questions raised in the petitioners' challenge of the original part 70 regulations of whether the support facility test should be applied to unlisted sources of fugitive emissions or whether such sources constitute a special case requiring a 302(j) rulemaking. The EPA has also reviewed the broader question of whether EPA's approach to the collocation issues as applied to unlisted sources of fugitive emissions should be consistent with the Agency's approach in NSR. As explained in the draft part 70 preamble referenced herein, the Agency has determined at this time that in making major source determinations under title V, it is appropriate to apply the NSR approach and that there is no basis for excluding unlisted sources of fugitive emissions from this general approach.

Dated: May 22, 1997.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 97-14443 Filed 6-2-97; 8:45 am]

BILLING CODE 6560-50-P

[1] At the time of the remand, EPA anticipated that the relevant issues would be addressed in a new rulemaking. However, in comments submitted with respect to the supplemental proposal to amend the part 70 regulations (60 FR 45530, August 31, 1995), the National Mining Association requested that EPA clarify in the preamble to the final regulations the terms of the voluntary remand. The EPA now has determined that the current part 70 rulemaking is an appropriate vehicle for addressing all collocation issues that were the subject of the litigation.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX No. PA-4058b; FRL-5832-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_x RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing volatile organic compound (VOC) and nitrogen oxides (NO_x) reasonably available control technology (RACT) for five major sources located in Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by July 3, 1997.

ADDRESSES: Written comments on this action should be addressed to David Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 566-2196, at the EPA Region III office or via e-mail at campbell.dave@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to this action, VOC and NO_x RACT determinations for individual sources located in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: May 19, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 97-14440 Filed 6-2-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN67-1b; FRL-5827-4]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve a State

have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would affect only VA's processing of claims and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: June 25, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 19 is proposed to be amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In subpart A, § 19.9 is revised to read as follows:

§ 19.9 Remand for further development.

(a) *General.* If further evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, a Member or panel of Members of the Board shall remand the case to the agency of original jurisdiction, specifying the action to be undertaken. A remand is not required to clarify procedural matters before the Board, including appellant's choice of representative before the Board, the issues on appeal, and requests for hearings before the Board.

(b) *Scope.* This section does not apply to:

(1) The Board's requests for opinions under Rule 901 (§ 20.901 of this chapter);

(2) The Board's supplementation of the record with recognized medical treatises; and

(3) Matters over which the Board has original jurisdiction described in Rules 609 and 610 (§§ 20.609 and 20.610 of this chapter).

(Authority: 38 U.S.C. 7102, 7103(c), 7104(a))

[FR Doc. 97–17414 Filed 7–2–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–5852–8]

Operating Permits Program; Notice to Defer Comments on Draft Part 70 Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to defer comments.

SUMMARY: Today's document advises the public to defer comment on draft revisions to the operating permits regulations in part 70 of chapter I, title 40, of the Code of Federal Regulations and an accompanying memorandum of options. The draft regulatory revisions and accompanying memorandum were made available for public review on May 14, 1997. Availability of the draft revisions and a 30-day comment period was announced in the **Federal Register** on June 3, 1997. The regulatory revisions will be revised and reissued for review with a new comment period.

DATES: As specified in the June 3, 1997 notice, if comments on the May 14, 1997 draft part 70 revisions are submitted, they must still be received by July 3, 1997. However, a new draft will be issued at a future date with an accompanying 30-day period for review and comment.

ADDRESSES: The current draft part 70 revisions and accompanying memorandum are available in EPA's Air Docket number A–93–50 as items VI–A–1, VI–A–2, and VI–A–3. The future revised draft will also be placed in this docket and will be announced in a future notice of availability in the **Federal Register**. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday. A reasonable fee may be charged for copying. The address of the EPA air docket is: U.S. EPA, Air Docket Office (6102), Attention: Docket Number A–93–50, Room M–1500, Waterside Mall, 401 M Street Southwest, Washington, DC 20460.

The current draft regulatory revisions and accompanying memorandum (and the future revised draft) may also be downloaded from the Internet at: http://134.67.104.12/html/caaa/t5pg.htm or http://ttnwww.rtpnc.epa.gov.

FOR FURTHER INFORMATION CONTACT: Ray Vogel (telephone 919–541–3153) or Roger Powell (telephone 919–541–5331), U.S. EPA, Information Transfer and Program Integration Division (MD–12), Research Triangle Park, North Carolina 27711. Internet addresses are: vogel.ray@epamail.epa.gov and powell.roger@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On June 3, 1997, EPA announced in the **Federal Register** (62 FR 30289) availability for public review of a May 14, 1997 draft regulatory revisions package that, when published, will promulgate revisions to the part 70 operating permit regulations. The May 14, 1997 draft was made available on EPA's Technology Transfer Network computer bulletin board and was placed in the Agency's air docket number A–93–50. The EPA also made available a memorandum of options relating to "minor permit revisions" that are under consideration for the final revisions. The public was asked to submit comments on these draft regulatory revisions and the additional options by July 3, 1997. Today's notice defers comment on the draft part 70 regulatory revisions until a future draft is made available for review and comment.

Since May 14, 1997, the Agency has continued to address issues associated with the draft part 70 permit revisions and the accompanying options. When these issues are adequately addressed, the Agency will revise the draft part 70 regulations and provide an opportunity for public comment. Consequently, EPA advises the public to forgo comment on the May 14, 1997 draft revisions and accompanying options and wait until the revised draft provisions are made available for public review. The comment period for the revised draft will be published in a future **Federal Register** notice.

Dated: June 18, 1997.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 97–17477 Filed 7–2–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[FHWA Docket No. MC–94–22; FHWA–97–2252]

RIN 2125–AC–71

Safety Fitness Procedure; Safety Ratings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Proposed rule; additional comments.

2. On page 67784, § 1.409(a)(9)–1 is corrected as set out in the following table:

Section	Location	Incorrect language	Corrected language
1.409(a)(9)–1	Q&A D–7, column 1, paragraph (a) of A., line 4.	"(b)(4) of D–5A of this section for".	"(b)(4) of D–5 of this section for"
1.409(a)(9)–1	Q&A D–7, column 1, paragraph (a) introductory text of A., last line of the paragraph.	"(2) of this D–7A:"	"(2) of this D–7:"
1.409(a)(9)–1	Q&A D–7, column 1, paragraph (a)(2)(ii) of A., line 5.	"and (3) of D–5A of this section are".	"and (3) of D–5 of this section are"
1.409(a)(9)–1	Q&A D–7, column 1, paragraph (b)(1) of A., second line from the bottom of the column.	"paragraph (b)(1), (2), and (3) of D–5A of".	"paragraph (b)(1), (2) and (3) of D–5 of"
1.409(a)(9)–1	Q&A D–7, column 2, paragraph (c)(1) of A., line 6.	"(a)(1), (a)(2), or (b) of this D–7A, a plan".	"(a)(1), (a)(2), or (b) of this D–7, a plan"
1.409(a)(9)–1	Q&A D–7, column 2, paragraph (c)(1) of A., line 10 from the bottom of the paragraph.	"requirements of paragraph (b) of D–5A".	"requirements of paragraph (b) of D–5"

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–7671 Filed 3–24–98; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–5985–5]

Operating Permits Program; Notice of Availability of Draft Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: The EPA is allowing public review and comment on the draft preamble and sections of the draft revisions to the operating permits regulations in 40 CFR part 70. The regulatory sections available for comment include those dealing with definitions, applicability, permit programs, permit applications, and permit content, among others, but do not include those associated with permit revisions or permit review by EPA, affected States, and the public. The draft revised sections being made available for review are the same as those contained in the May 14, 1997 draft preamble and regulatory revisions, which were announced as available for review in a June 3, 1997 **Federal Register** notice. The EPA is making these sections available for comment now so that any public comments may be considered before the close of stakeholder discussions. Draft revisions to the sections on permit revisions and permit review by EPA, affected States, and the public will be made available in the future.

DATES: Comments on the draft preamble and regulatory revisions must be received by April 24, 1998.

ADDRESSES: The draft preamble and regulatory revisions are available in EPA's Air Docket number A–93–50 as items VI–A–4 and VI–A–5, respectively. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the address listed below. A reasonable fee may be charged for copying. The address of the EPA air docket is: EPA Air Docket (6102), Attention: Docket Number A–93–50, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC, 20460.

The drafts may also be downloaded from the Internet at: http://www.epa.gov/ttn/oarpg/t5pgm.html.

Comments on the materials referenced in today's notice must be mailed (in duplicate if possible) to: EPA Air Docket (6102), Attention: Docket No. A–93–50, at the above address. Please identify comments as concerning today's notice of availability of items VI–A–4 and VI–A–5.

FOR FURTHER INFORMATION CONTACT: Ray Vogel (telephone 919–541–3153) or Roger Powell (telephone 919–541–5331), Mail Drop 12, EPA, Information Transfer and Program Integration Division, Research Triangle Park, North Carolina, 27711. Internet addresses are: vogel.ray@epa.gov and powell.roger@epa.gov.

SUPPLEMENTARY INFORMATION: The part 70 operating permits regulations were originally promulgated on July 21, 1992 (57 FR 32250). Revisions to part 70 were proposed on August 29, 1994 (59 FR 44460) and August 31, 1995 (60 FR 45530). On May 13, 1997, the Agency released a draft of the final preamble and regulatory revision rulemaking that would revise part 70 for purposes of considering any final comments from interested parties before final action. The draft rulemaking reflected EPA's consideration of comments on the 1994 and 1995 proposals, and included additional regulatory changes that EPA believed appropriate based on comments. Availability of the May 13, 1997 draft and a 30-day public comment period was announced in a June 3, 1997 **Federal Register** notice (62 FR 30289).

Subsequently, after discussing the draft rulemaking with industry, environmental, and State/local permitting agency representatives ("stakeholders"), EPA decided that additional changes were necessary, particularly to the section on permit revision procedures. Consequently, EPA announced in a July 3, 1997 notice (62 FR 36039) that the public should withhold comment on the May 1997 draft until a new draft was prepared.

Since May 1997, EPA has discussed with stakeholders alternative approaches to the permit revision system contained in the May draft. While the discussions with stakeholders to date have involved the provisions of §§ 70.7 and 70.8, EPA also wants to discuss with the stakeholders any concerns with the remaining sections. To prepare for those discussions, it is important to be aware of concerns from the public at large on the remaining sections. Therefore, this notice announces availability of the remaining sections of part 70 for public review. The preamble and regulatory revisions related to §§ 70.7 and 70.8 will be made available in a future **Federal Register** notice of availability.

Items VI–A–4 and VI–A–5 in docket A–93–50 contain the portions of the preamble and regulations for the revisions that may be made to §§ 70.2 through 70.6 and §§ 70.9 through 70.11 of the part 70 regulations. That material is also available on the Internet at the address noted above. As in the June 3, 1997 notice, EPA seeks comment only on regulatory revisions that have changed since the August 1994 and

August 1995 proposals. The changes since the proposals are addressed in the preamble discussions on the relevant sections of part 70 (e.g. § 70.2).

Please send comments directly to Docket A–93–50 at the address previously provided and specify that they are in response to this document. Comments will be forwarded from the Air Docket to the Operating Permits Group of EPA.

Dated: March 17, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–7765 Filed 3–24–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Parts 1003, 1005 and 1006

RIN 0991–AA90

Health Care Programs: Fraud and Abuse; Revised OIG Civil Money Penalties Resulting From the Health Insurance Portability and Accountability Act of 1996

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of proposed rulemaing.

SUMMARY: This proposed rule would revise the OIG's civil money penalty (CMP) authorities, in conjunction with new and revised provisions set forth in the Health Insurance Portability and Accountability Act of 1996. Among other provisions, this proposed rulemaking would codify new CMPs for: Excluded individuals retaining ownership or control interest in an entity; upcoding and claims for medically unnecessary services; offering inducements to beneficiaries; and false certification of eligibility for home health services. This rule would also codify a number of technical and conforming changes consistent with the OIG's existing sanction authorities.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on May 26, 1998.

ADDRESSES: Pleas mail or deliver your written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG–25–P, Room 5527 Cohen Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–25–P.

Comments will be available for public inspection April 8, 1998 in Room 5524 of the Office of Inspector General at 330 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8 a.m. to 4:30 p.m., (202) 619–0089.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619–0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview of the OIG Civil Money Penalty Authorities

In 1981, Congress enacted the civil money penalty (CMP) statute, section 1128A of the Social Security Act (the Act) (42 U.S.C. 1320a–7a), as one of several administrative remedies to combat increases in health care fraud and abuse. The CMP law authorized the Secretary and the inspector General to impose CMPs, assessment and program exclusions on individuals and entities whose wrongdoing caused injury to Department programs or their beneficiaries. The statutory penalty and assessment amounts under section 1128A generally provided for a penalty of no more than $2,000 for each item or service at issue, and an assessment in lieu of damages of not more than twice the amount claimed.

Since 1981, Congress has greatly expanded the CMP provisions to apply to numerous types of fraudulent and abusive activities related to Medicare and State health care programs. Specifically, new statutory provisions provided the Secretary and the OIG with the authority to sanction such improper practices as: (1) Hospitals paying physicians to reduce or limit services provided to program beneficiaries; (2) health maintenance organizations (HMOs) failing to provide medically necessary items and services; (3) individuals and entities engaging in certain misleading or fraudulent practices with respect to the marketing and selling of supplemental (Medigap) insurance policies; and (4) hospitals failing to examine and treat, or to properly transfer, emergency room patients (patient dumping).

In 1987, the Medicare and Medicaid Patient and Program Protection Act (MMPPPA), Public Law 100–93, was enacted to improve the ability of the Department "to protect the Medicare and Medicaid programs from fraud and abuse, and to protect the beneficiaries of these programs from incompetent practitioners and from inappropriate and inadequate care." The MMPPPA significantly revised and expanded the OIG's CMP and exclusion sanction authorities. Final OIG regulations addressing amendments to out exclusion and CMP authorities resulting from Public Law 100–93 were published in the **Federal Register** on January 29, 1992 (57 FR 3298).

B. The Health Insurance Portability and Accountability Act of 1996

In the first significant amendments to the OIG's sanction authorities since MMPPPA, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104–191, sets forth a number of important improvements to the OIG's authorities intended to curtail and eliminate health care fraud and abuse. With regard to the sanction authorities, HIPAA expanded the scope of certain basic fraud authorities by extending the application of current CMP provisions beyond those funded by the Department to include all Federal health care programs. The HIPAA also significantly revised and strengthened the OIG's existing CMP authorities pertaining to violations under Medicare and the State health care programs.

Among other provisions related to our CMP authority, HIPAA (1) increases the maximum penalty amounts per false claim from $2,000 to $10,000; (2) allows CMPs to be assessed for incorrect coding, medically unnecessary services, and persons offering remuneration to induce a program beneficiary to order from a particular provider or supplier receiving Medicare or State health care funds; and (3) establishes a new CMP for the false certification of eligibility for Medicare-covered home health services.

While the majority of these revisions to the OIG's CMP authorities under section 1128A of the Act are effective on January 1, 1997,[1] these provisions do allow the Department some policy discretion in their implementation. As a result, we are developing this proposed rulemaking to address these HIPAA penalty provisions, along with other technical revisions and conforming policy changes to the OIG's sanction authorities codified in 42 CFR parts 1003, 1005, and 1006.

[1] Section 232 of HIPAA applies to certifications made on or after August 21, 1996, the enactment date of the statute.

entities, but instead is continuing an exemption from a requirement, which makes it less restrictive and less burdensome.

Therefore, the Administrator certifies that this proposed rule will not have a significant impact on a substantial number of small entities, and that a regulatory flexibility analysis is not necessary in connection with this proposed rule.

XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 544 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

XII. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate with estimated costs to the private sector of $100 million or more, or to state, local, or tribal governments of $100 million or more in the aggregate. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this proposed rule imposes no new federal requirements and does not include any federal mandate with costs to the private sector or to state, local, or tribal governments. Therefore, the Administrator certifies that this proposed rule does not require a budgetary impact statement.

List of Subjects

40 CFR Part 69

Air pollution control, Alaska.

40 CFR Part 80

Environmental protection, Diesel fuel, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: April 14, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 69—SPECIAL EXEMPTIONS FROM REQUIREMENTS OF THE CLEAN AIR ACT

1. The authority citation for part 69 is revised to read as follows:

Authority: 42 U.S.C. 7545(1) and (g), 7625–1.

2. Subpart E consisting of § 69.51 is added to read as follows:

Subpart E—Alaska

Sec.
69.51 Exemptions.

Subpart E—Alaska

§ 69.51 Exemptions.

(a) Persons in the state of Alaska, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers may manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply, or transport diesel fuel, which fails to meet the sulfur concentration or dye requirements of 40 CFR 80.29, in the state of Alaska if the fuel is used only in the state of Alaska.

(b) Persons outside the state of Alaska, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers may manufacture, introduce into commerce, sell, offer for sale, supply, offer for supply, or transport diesel fuel, which fails to meet the sulfur concentration or dye requirements of § 80.29, outside the state of Alaska if the fuel is:

(1) Used only in the state of Alaska; and

(2) Accompanied by supporting documentation that clearly substantiates the fuel is for use only in the state of Alaska and does not comply with the Federal sulfur standard applicable to motor vehicle diesel fuel.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sec. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.29 is amended by revising paragraph (a)(1) introductory text to read as follows:

§ 80.29 Controls and prohibitions on diesel fuel quality.

(a) *Prohibited activities.* (1) Beginning October 1, 1993, no person, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers, shall manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply or transport any diesel fuel for use in motor vehicles, except as provided in 40 CFR 69.51, unless the diesel fuel:

* * * * *

[FR Doc. 98–10710 Filed 4–27–98; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–6005–1]

Operating Permits Program; Notice of Availability of Draft Rules; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period for notice of availability of draft rules.

SUMMARY: On March 25, 1998, EPA published a notice in the **Federal Register** announcing opportunity for public review and comment on portions of the draft preamble and all but two sections of draft revisions to the operating permits regulations in 40 CFR part 70. (The remaining portions of the preamble and regulations will be made available at a later date.) The public review period for that notice ends April 24, 1998. This action extends the public review period for that notice until May 26, 1998.

DATES: Comments on the draft preamble and regulatory revisions must be received by May 26, 1998.

ADDRESSES: The draft preamble and regulatory revisions are available in EPA's Air Docket number A–93–50 as items VI–A–5 and VI–A–4, respectively. This docket is available for public inspection and copying between 8:30 a.m. and 5:30 p.m., Monday through Friday, at the address listed below. A reasonable fee may be charged for copying. The address of the EPA air docket is: EPA Air Docket (6102), Attention: Docket Number A–93–50, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC, 20460. Requests for material may be made by telephone at 202–260–7548.

The drafts may also be downloaded from the Internet at: http://www.epa.gov/ttn/oarpg/t5pgm.html.

Comments on the materials referenced in today's notice must be mailed (in duplicate if possible) to: EPA Air Docket (6102), Attention: Docket No. A–93–50, at the above address. Please identify comments as concerning today's notice of availability of items VI–A–4 and VI–A–5.

FOR FURTHER INFORMATION CONTACT: Ray Vogel (telephone 919–541–3153) or Roger Powell (telephone 919–541–5331), Mail Drop 12, EPA, Information Transfer and Program Integration Division, Research Triangle Park, North Carolina, 27711. Internet addresses are: vogel.ray@epa.gov and powell.roger@epa.gov.

SUPPLEMENTARY INFORMATION: The part 70 operating permits regulations were originally promulgated on July 21, 1992 (57 FR 32250). Revisions to part 70 were proposed on August 29, 1994 (59 FR 44460) and August 31, 1995 (60 FR 45530). On May 13, 1997, the Agency released a draft of the final preamble and regulatory revision rulemaking that would revise part 70 for purposes of considering any final comments from interested parties before final action. The draft rulemaking reflected EPA's consideration of comments on the 1994 and 1995 proposals, and included additional regulatory changes that EPA believed appropriate based on comments. Availability of the May 13, 1997 draft and a 30-day public review period were announced in a June 3, 1997 **Federal Register** notice (62 FR 30289).

Subsequently, after discussing the draft rulemaking with industry, environmental, and State/local permitting agency representatives ("stakeholders"), EPA decided that additional changes were necessary, particularly to the section on permit revision procedures. Consequently, EPA announced in a July 3, 1997 notice (62 FR 36039) that the public should withhold comment on the May 1997 draft until a new draft was prepared.

Since May 1997, EPA has discussed with stakeholders alternative approaches to the permit revision system contained in the May draft. While the discussions with stakeholders to date have involved the provisions of §§ 70.7 and 70.8, EPA also wants to discuss with the stakeholders any concerns with the remaining sections. To prepare for those discussions, it is important to be aware of concerns from the public at large on the remaining sections. Therefore, the March 25, 1998 notice (63 FR 14392) announced availability of the remaining sections of part 70 for public review and provided for a period until April 25, 1998 for the public to submit any comments. The preamble and regulatory revisions related to §§ 70.7 and 70.8 will be made available in a future **Federal Register** notice of availability.

Items VI–A–4 and VI–A–5 in docket A–93–50 contain the portions of the preamble and regulations for the revisions that may be made to §§ 70.2 through 70.6 and §§ 70.9 through 70.11 of the part 70 regulations. That material is also available on the Internet at the address noted above. As in the June 3, 1997 notice, EPA seeks comment only on regulatory revisions that have changed since the August 1994 and August 1995 proposals. The changes since the proposals are addressed in the preamble discussions on the relevant sections of part 70 (e.g. § 70.2).

This action extends the comment submittal period until May 26, 1998. Please send comments directly to Docket A–93–50 at the address previously provided and specify that they are in response to this notice. Comments will be forwarded from the Air Docket to the Operating Permits Group of EPA.

Dated: April 21, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–11264 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–6005–2]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Draft Tier 2 Study and Fuel Sulfur Paper Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of document availability.

SUMMARY: The Clean Air Act requires EPA to prepare a study and submit a report to Congress regarding whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required. EPA has performed the required study, called the "Tier 2 Study." Today EPA is releasing a draft of the study for public comment prior to submitting it to Congress.

In the very near future, EPA will also be releasing a related document titled "EPA Staff Paper on Gasoline Sulfur Issues" and encourages public comment on this document as well.

DATES: EPA requests that comments on the draft Tier 2 Study be submitted by June 12, 1998. A public meeting to discuss the gasoline sulfur issues and the Gasoline Sulfur Staff Paper will be held on May 12, 1998 from 10:00 a.m. to 5:30 p.m.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–97–10 which may be found at 401 M Street, SW., Washington, DC 20460 and may be viewed in room M1500 between 8:00 a.m. and 5:30 p.m., Monday through Friday. The telephone number is (202) 260–7548 and the fax number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material.

The Draft Tier 2 Study is also available electronically from the EPA Office of Mobile Sources World Wide Web site at http://www.epa.gov/omswww/tr2home/htm. The Gasoline Sulfur Staff Paper will also be available on this Web site upon its release.

Comments should be sent to Docket No. A–97–10 at the above address. EPA requests that a copy of comments also be sent to Tad Wysor, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105 or to the Tier 2 E-mailbox "tier2-study@epamail.epa.gov."

The public meeting will be held at Quality Hotel, 1200 N. Courthouse Rd., Arlington, VA 22201 (Telephone: (703) 524–4000).

FOR FURTHER INFORMATION CONTACT: Ms. Delores Frank, U.S. EPA, Fuels and Energy Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone 734–668–4295.

SUPPLEMENTARY INFORMATION: The 1990 revisions to the Clean Air Act set specific exhaust emission standards for light-duty vehicles or LDVs (passenger cars) and light-duty trucks or LDTs (including sport-utility vehicles, minivans, and pickup trucks) beginning in the 1994 model year. These "Tier 1" standards were required by Sections 202(g) and (h) of the Clean Air Act as revised ("the Act"). Section 202(i) of the Act requires EPA to "study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required...." The Act required EPA to examine three specific issues related to that question: (1) the need for further emission reductions in order to attain or maintain compliance with the National Ambient Air Quality Standards (NAAQS); (2) the technological feasibility of meeting more stringent standards by the 2004 model year; and (3) the cost-effectiveness of such further reductions as compared to alternate means of reducing emissions. The Study was to be submitted to Congress by June 1, 1997. EPA has recently entered into a draft consent decree to sign a letter transmitting the Study by July 31, 1998.

Section 202(i) of the Act also requires that EPA provide a reasonable opportunity for public comment on the Tier 2 study prior to its formal submittal to Congress. In response to this

3370. • PORTLAND CEMENT MANUFACTURING INDUSTRY NESHAP: AMENDMENTS TO RULE

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 63.1340 to 63.1359

Legal Deadline: None

Abstract: The Portland Cement Manufacturing Industry NESHAP was promulgated June 14, 1999. The rule is codified in 40 CFR 63, Subpart LLL. This rule is being revised to reflect a pending settlement agreement with the American Portland Cement Alliance. The rule changes will be minor, and mostly will help to clarify requirements, provide monitoring alternatives and/or remove minor monitoring requirements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4524

Sectors Affected: 32731 Cement Manufacturing

Agency Contact: Joseph Wood, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5446
Fax: 919 541-5600
Email: wood.joe@epa.gov

James Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

RIN: 2060–AJ57

3371. • MODIFICATION OF THE ANTI-DUMPING BASELINE DATE CUT-OFF LIMIT FOR DATA USED IN DEVELOPMENT OF AN INDIVIDUAL BASELINE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7521(l); 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.91(b)(1)(i); 40 CFR 80.93(a)

Legal Deadline: None

Abstract: The goal of the anti-dumping program is to maintain gasoline quality throughout the country. Without the program, as refiners produce cleaner, reformulated gasoline for certain localities under the Clean Air Act, they could take the chemicals removed and "dump" them into supplies of "ordinary" non-reformulated gasoline as a cost-saving measure. The anti-dumping program prohibits this. This rule amends the existing anti-dumping program to accommodate certain refiners with unusual data problems.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4528

Agency Contact: Christine Brunner, Environmental Protection Agency, Air and Radiation, AAATC, Ann Arbor, MI 48105
Phone: 734 214-4287
Fax: 734 214-4051
Email: brunner.christine@epa.gov

Patrice Simms, Environmental Protection Agency, Air and Radiation, 2344, Washington, DC 20460
Phone: 202 564-5593
Fax: 202 564-5603
Email: simms.patrice@epa.gov

RIN: 2060–AJ59

3372. • CHANGE IN DEFINITION OF "MAJOR SOURCE" FOR OPERATING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 70.2

Legal Deadline: None

Abstract: This action would remove the requirement for sources to count fugitive emissions (such as equipment leaks) when determining major source status if they are in categories subject to standards under section 111 or 112 promulgated after August 7, 1980. Making this change removes impediments to full approval of permit programs in several States and facilitates compliance with a settlement agreement with environmental groups. This action was proposed in 1994 and reproposed in 1995, after which work was stopped due to other priorities. It is now being re-tiered because so much time has elapsed since proposal.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM	08/31/95	60 FR 45529
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4529

Agency Contact: Ray Vogel, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-3153
Email: vogel.ray@epa.gov

RIN: 2060–AJ60

3373. • NESHAP: FERROALLOY PRODUCTION: FERROMANGANESE AND SILICOMANGANESE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA 112; 44 USC 350 et seq (PRA); 5 USC 605

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that two plants in the ferroalloy production industry are major sources for one or more hazardous air pollutants. As a consequence, production facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4544

Split from RIN 2060-AF29.

3238. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(a)(2)(b); 42 USC 7511(a)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3262

Agency Contact: Buddy Polovick, Environmental Protection Agency, Air and Radiation, Washington, DC 20460
Phone: 734 214-4928
Fax: 734 214-4052
Email: polovick.buddy@epa.gov

RIN: 2060–AE22

3239. OPERATING PERMITS: REVISIONS (PART 70)

Priority: Other Significant

Legal Authority: 42 USC 7661 et seq

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70

Legal Deadline: None

Abstract: In response to litigation on the operating permits rule regulations, 40 CFR part 70, to provide more effective implementation of part 70, and to address comments provided in response to notices of proposed rulemaking, parts 70, 51 and 52 are being revised. The changes streamline the procedures for revising stationary-source operating permits issued by State and local permitting authorities under title V of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
Supplemental NPRM Part 71	04/27/95	60 FR 20804
Supplemental NPRM Part 70	08/31/95	60 FR 45530
Direct Final Interim Approval Extension	07/27/98	63 FR 40054
NPRM Interim Approval Extension	07/27/98	63 FR 40053
NPRM	08/00/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 3412

Agency Contact: Ray Vogel, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-3153
Email: vogel.ray@epa.gov

RIN: 2060–AF70

3240. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, June 15, 2001.

Abstract: The determination of volatile organic compounds (VOCs) content of a surface coating by reference Method 24 involves determination of its water content and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring VOC content of water-based coatings. This amendment will improve the precision of Method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3649

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, MD-19, Washington, DC 20460
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Bill Lamason, Environmental Protection Agency, Air and Radiation, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-5374
Fax: 919 541-1039

RIN: 2060–AF72

3241. SERVICE INFORMATION AVAILABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule will require manufacturers of automobiles to provide necessary information needed to make use of emission control diagnostic systems as well as that needed to make emission-related diagnosis and repairs by any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. This will allow independent service repair garages, individual owners, parts manufacturers, etc., to have access to emission control information to better service automobiles and ensure clean air compliance requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3741

Agency Contact: Holly Pugliese, Environmental Protection Agency, Air and Radiation, Ann Arbor, MI 48105
Phone: 734 214-4288
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Email: pugliese.holly@epa.gov

RIN: 2060–AG13

ATTACHMENT "B"
KUCC Variance Request
Itemized Cost Estimate for Preparation of Title V Application

!	Consultant Services/Engineering -	300 hours @ $60/hr	$18,000
!	Drafting/Secretarial Services -	100 hours @ $45/hr	$ 4,500
!	KUCC Environmental Staff -		
	-Secretarial	120 hours @ $20/hr	$ 2,400
	-Intern	480 hours @ $20/hr	$ 9,600
	-Engineers	240 hours @ $60/hr	$14,400
	-Managers	96 hours @ $75/hr	$ 7,200
!	KUCC Legal Review -	8 hours @ $100/hr	$ 800
	TOTAL (estimated)		$56,900

Note: This estimate is based on the time and costs that KUCC incurred to prepare two other Title V applications that KUCC submitted in October 1995 for the Smelter/Refinery and North Concentrator/Power Plant/Tailings Impoundment major sources. This estimate has not been adjusted for inflation since 1995.

Michael O. Leavitt
Governor
Dianne R. Nielson, Ph.D.
Executive Director
Richard W. Sprott
Director

State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

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MEMORANDUM

TO: Air Quality Board DAQ-052-01

THROUGH: Richard W. Sprott, Executive Secretary

FROM: Mike M. Beheshti, Environmental Engineer

DATE: May 29, 2001

SUBJECT: Propose for Public Comment: R307-220-4 and Designated Facilities Plan Section III, Small Municipal Waste Combustion Units, and R307-223, Small Municipal Waste Units

As required by Section 129 of the Clean Air Act (CAA), on December 6, 2000, EPA issued emission standards (40 CFR 60, Subpart AAAA) and emission guidelines (40 CFR 60, Subpart BBBB). Subpart AAAA provides emission standards for municipal waste combustor units built after August 30, 1999. Subpart BBBB provides emission guidelines and compliance times for municipal waste combustors built before August 30, 1999. The guidelines and the standards provide stringent emission limits for dioxins/furans, cadmium, lead, mercury, hydrogen chloride, sulfur dioxide, nitrogen oxides, and particulate matter.

The only known source in Utah is Wasatch Energy Systems (WES) in Davis County, which was constructed before August 30, 1999. It is, therefore, subject to 40 CFR 60, Subpart BBBB. The plan is written to fit any general source in the case that an additional source might be found. The plan includes the compliance date for WES found in the Stipulation and Consent Order approved by the Air Quality Board and signed by WES and the State of Utah on March 27, 2000.

In accordance with Sections 111(d)129 of the CAA, 40 CFR 60, Subpart BBBB, requires the states to submit to the EPA, no later than September 5, 2001, a state plan that implements the emission guidelines contained in the subpart. Among other requirements, Subpart BBBB also requires that the state plan should receive a public review before it is submitted to the EPA for its approval.

Recommendation: The staff recommends that the plan and the rules be proposed for public comment.

R307. Environmental Quality, Air Quality.
R307-220. Emission Standards: Plan for Designated Facilities.
R307-220-1. Incorporation by Reference.

(1) Pursuant to 42 U.S.C. 7411(d), the Federal Clean Air Act Section 111(d), the following sections hereby incorporate by reference the Utah plan for designated facilities. Copies of the plan are available at the Division of Air Quality and the Division of Administrative Rules.

(2) Definitions. The following additional definitions apply to R307-220:

"Designated Facility" means any existing source which emits a designated pollutant and which would be subject to a standard of performance for a new source if construction of the designated facility had begun after the effective date of the standard of performance issued under 40 CFR Part 60.

"Designated Pollutant" means any air contaminant, the emission of which:

(a) is subject to a standard of performance for a new source; and

(b) is not subject to a National Ambient Air Quality Standard; and

(c) is not a hazardous air pollutant as defined in R307-101-2.

R307-220-2. Section I, Municipal Waste Landfills.

Section I, Municipal Solid Waste Landfills, as most recently adopted by the Air Quality Board on September 3, 1997, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-220-3. Section II, Hospital, Medical, Infectious Waste Incinerators.

Section II, Hospital, Medical, Infectious Waste Incinerators, as most recently adopted by the Air Quality Board on November 12, 1998, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-220-4. Section III, Small Municipal Waste Combustion Units.

Section III, Small Municipal Waste Combustion Units, as most recently adopted by the Air Quality Board on September 5, 2001, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, landfills, environmental protection, incinerators*
[~~November 25, 1998~~]2001 **19-2-104**

R307. Environmental Quality, Air Quality.

R307-223. Emission Standards: Existing Small Municipal Waste Combustion Units.

R307-223-1. Purpose and Applicability.

(1) R307-223 regulates emissions from existing small municipal waste combustion units. The purpose of R307-223 is to reduce the emissions of particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and furans from small municipal waste combustion units. Reductions are required by 42 U.S.C. 7411(d) and 7429 and 40 CFR Part 60, subpart BBBB, published at 63 FR 76378, December 6, 2000, and by the Plan for Existing Small Municipal Waste Combustion Units that is incorporated by reference at R307-220-4.

(2) R307-223 applies to each existing small municipal waste combustion unit that has the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel and commenced construction on or before August 30, 1999. A list of facilities not subject to R307-223 is found in 40 CFR 60.1555(a) through (k), and is hereby adopted and incorporated by reference.

(3) If an owner or operator of a municipal waste combustion unit makes physical or operational changes to an existing municipal waste combustion unit primarily to comply with the Plan for Existing Small Municipal Waste Combustion Units that is incorporated by reference at R307-220-4, then R307-210 does not apply to that unit. Such changes do not constitute modifications or reconstructions under R307-210.

(4) The owner or operator of any source subject to R307-223 also is required to submit an application for an operating permit under R307-415 and must notify the executive secretary that the source is subject to CFR Part 60, Subpart BBBB no later than January 1, 2002.

R307-223-2. Definitions and Equations.

(1) The following definitions apply only to R307-223. Definitions found in 40 CFR 60.1940, effective February 5, 2001, and published at 65 FR 76378, are adopted and incorporated by reference, with the following substitutions.

(a) Substitute "executive secretary" for all federal regulation references to "Administrator" or "EPA Administrator."

(b) Substitute "State of Utah" for all federal regulation references to "State," "State agency" or "State regulatory agency."

© "State plan" means the Plan for Existing Small Municipal Waste Combustion Units that is incorporated by reference at R307-220-4.

(d) "You" means the owner or operator of a small municipal waste combustion unit.

(e) Substitute "Rule R307-223" for all references to "this subpart."

(f) Substitute "40 CFR Part 60" for all references to "this part."

(g) Substitute "40 CFR" for all references to "This title."

(2) Equations found in 40 CFR 60.1935, effective February 5, 2001, and published at 65 FR 76378, are adopted and incorporated by reference.

R307-223-3. Requirements.

(1) Each incinerator owner or operator subject to R307-223 must comply with the requirements of 40 CFR 60.1540 and 60.1585 through 60.1905, and with the requirements and schedules set forth in Tables 2 through 8 that are found following 40 CFR 60.1940 for operator training and certification, operating requirements, emission limits, continuous emission monitoring, stack testing, other monitoring requirements, record keeping, and reporting. These provisions and table are adopted and incorporated by reference with the exceptions listed below.

(a) In 40 CFR 60.1650(a), delete "or state."

(b) In 40 CFR 60.1675(a), delete "or a current provisional operator certification from your State certification program."

© In 40 CFR 1675 (c), change "three" to "two," and delete 40 CFR 1675(c)(3).

(2) Compliance dates. Each incinerator must be in compliance with the dates in Section III of the Plan.

KEY: air pollution, municipal waste incinerator*, waste to energy plant*

2001

19-2-104

UTAH STATE PLAN

FOR

IMPLEMENTATION OF EMISSION CONTROLS FOR

EXISTING DESIGNATED FACILITIES

SECTION III, PLAN FOR

Small Municipal Waste Combustion Units

Draft

Implementation of 40 CFR 60
Subpart BBBB (60.1500 - 60.1940)

Adopted by the Air Quality Board
September 5, 2001

Contents

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I. INTRODUCTION AND DEFINITIONS

The Act of Congress: The Congress of the United States authorized EPA to develop standards and guidelines to govern the operation of new and existing incinerators that burn municipal waste materials, and the States to develop a Plan to implement the guidelines. See the Clean Air Act, sections 111(d) and 129 (42 U.S.C. 7411(d) and 7429).

The EPA's Action: On December 6, 2000, EPA promulgated a set of guidelines to govern the operation of small existing combustion units that burn municipal solid waste; the guidelines are codified in 40 CFR 60 Subpart BBBB.. Two classes of "Small" have been specified. Class I units are small municipal waste combustors located at plants with an aggregate plant capacity greater than 250 tons per day of municipal solid waste. If aggregate plant capacity is less than or equal to 250 tons per day, the plant is identified as Class II.

Applicability: Only one municipal waste incineration facility is known to exist in Utah, Wasatch Energy System (WES) operating in Layton, in Davis County. WES is a Class I facility and is subject to the Class I provisions of 40 CFR 60, Subpart BBBB, as well as to this Plan and R307-223.

WES's compliance date for meeting the emission limits in R307-223 and this Plan are specified in the Stipulation and Consent Order between WES and the State of Utah, dated March 27, 2000. Compliance dates for WES for other components of R307-223 and this Plan are as specified in R307-223-3 unless a more stringent requirement is specified in the Stipulation and Consent Order or Approval Order DAQE-516-00.

Regulated Pollutants The guidelines regulate emissions of pollutants that the EPA has considered to be carcinogenic, toxic, or have pulmonary adverse effects following exposure at sufficient concentrations. The regulated pollutants specified in the guidelines are:

Particulate Matter [PM]	Cadmium [Cd]
Sulfur Dioxide [SO_2]	Mercury [Hg]
Hydrogen Chloride [HCl]	Dioxin [total mass basis]
Oxides of Nitrogen [NO_x]	Furan [total mass basis]
Carbon Monoxide [CO]	Fugitive ash emissions
Lead [Pb]	Opacity

The emission limits specified for the above pollutants [see Tables in Appendix A] are adopted from incinerators that have already achieved these limits in their operations. The emission limits are achieved through the application of maximum achievable control technology (MACT) available at the present state of knowledge.

Definitions
[40 CFR Part 60, Sec. 1940]

Terms used but not defined in this section are defined in the CAA and in Subparts A and B of 40 CFR Part 60.

Administrator means the Executive Secretary of the Air Quality Board.

Air curtain incinerator means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

Batch municipal waste combustion unit means a municipal waste combustion unit designed so it cannot combust municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed during combustion.

Calendar quarter means three consecutive months (non-overlapping) beginning on: January 1, April 1, July 1, or October 1.

Draft

Calendar year means 365 (or 366 consecutive days in leap years) consecutive days starting on January 1 and ending on December 31.

Chief facility operator means the person in direct charge and control of the operation of a municipal waste combustion unit. That person is responsible for daily onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit.

Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition in this section of "municipal waste combustion plant capacity" for specification of which units at a plant site are included in the aggregate capacity calculation.

Class II units mean small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition in this section of "municipal waste combustion plant capacity" for specification of which units at a plant site are included in the aggregate capacity calculation.

Clean wood means untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include two items:

(1) "Yard waste," which is defined elsewhere in this section.

(2) Construction, renovation, or demolition wastes (for example, railroad ties and telephone poles) that are exempt from the definition of "municipal solid waste" in this section.

Co-fired combustion unit means a unit that combusts municipal solid waste with non-municipal solid waste fuel (for example, coal, industrial process waste). To be considered a co-fired combustion unit, the unit must be subject to a federally enforceable permit that limits it to combusting a fuel feed stream which is 30 percent or less (by weight) municipal solid waste as measured each calendar quarter.

Continuous burning means the continuous, semi-continuous, or batch feeding of municipal solid waste to dispose of the waste, produce energy, or provide heat to the combustion system in preparation for waste disposal or energy production. Continuous burning does not mean the use of municipal solid waste solely to thermally protect the grate or hearth during the startup period when municipal solid waste is not fed to the grate or hearth.

Continuous emission monitoring system means a monitoring system that continuously measures the emissions of a pollutant from a municipal waste combustion unit.

Draft

Dioxins/furans mean tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

Effective date of State plan approval means the effective date that the EPA approves the State plan. The Federal Register specifies the date in the notice that announces EPA's approval of the State plan.

Eight-hour block average means the average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of three 8-hour periods of time:

(1) 12:00 midnight to 8:00 a.m.
(2) 8:00 a.m. to 4:00 p.m.
(3) 4:00 p.m. to 12:00 midnight.

Federally enforceable means all limits and conditions the Executive Secretary can enforce (including the requirements of 40 CFR parts 60, 61, and 63), requirements in a State's implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.18 and 40 CFR 51.24.

First calendar half means the period that starts on January 1 and ends on June 30 in any year.

Fluidized bed combustion unit means a unit where municipal waste is combusted in a fluidized bed of material. The fluidized bed material may remain in the primary combustion zone or may be carried out of the primary combustion zone and returned through a recirculation loop.

Four-hour block average or 4-hour block average means the average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of six 4-hour periods:

(1) 12:00 midnight to 4:00 a.m.
(2) 4:00 a.m. to 8:00 a.m.
(3) 8:00 a.m. to 12:00 noon.
(4) 12:00 noon to 4:00 p.m.
(5) 4:00 p.m. to 8:00 p.m.
(6) 8:00 p.m. to 12:00 midnight.

Mass burn refractory municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, that includes municipal waste combustion units with a cylindrical rotary refractory wall furnace.

Draft

Mass burn rotary water-wall municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a cylindrical rotary water-wall furnace.

Mass burn water-wall municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a water-wall furnace.

Maximum demonstrated load of a municipal waste combustion unit means the highest 4-hour block arithmetic average municipal waste combustion unit load achieved during 4 consecutive hours in the course of the most recent dioxin/furan stack test that demonstrates compliance with the applicable emission limit for dioxin/furan specified in this subpart.

Maximum demonstrated temperature of the particulate matter control device means the highest 4-hour block arithmetic average flue gas temperature measured at the inlet of the particulate matter control device during 4 consecutive hours in the course of the most recent stack test for dioxin/furan emissions that demonstrates compliance with the limits specified in this subpart.

Medical/infectious waste means any waste meeting the definition of "medical/infectious waste" in 40 CFR 60.51c.

Mixed fuel-fired (pulverized coal/refuse-derived fuel) combustion unit means a combustion unit that combusts coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is combusted in suspension. That includes both conventional pulverized coal and micro-pulverized coal.

Modification or modified municipal waste combustion unit means a municipal waste combustion unit you have changed after June 6, 2001, and that meets one of two following criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the unit (not including the cost of land) updated to current costs.

(2) Any physical change in the municipal waste combustion unit or change in the method of operating it that increases the emission level of any air pollutant for which new source performance standards have been established under section 129 or section 111 of the CAA. Increases in the emission level of any air pollutant are determined when the municipal waste combustion unit operates at 100 percent of its physical load capability and are measured downstream of all air pollution control devices. Load restrictions based on permits or other nonphysical operational restrictions cannot be considered in the determination.

Modular excess-air municipal waste combustion unit means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

Modular starved-air municipal waste combustion unit means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at below-stoichiometric conditions.

Municipal solid waste or municipal-type solid waste means household, commercial/retail, or institutional waste. Household waste includes material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, non-manufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, by hospitals (non-medical), by non-manufacturing activities at prisons and government facilities, and other similar establishments or facilities. Household, commercial/retail, and institutional waste does include yard waste and refuse-derived fuel. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which include railroad

ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

Municipal waste combustion plant means one or more municipal waste combustion units at the same location as specified under Applicability of State Plans (40 CFR 60.1550(a)).

Municipal waste combustion plant capacity means the aggregate municipal waste combustion capacity of all municipal waste combustion units at the plant that are not subject to Subparts Ea, Eb, or AAAA of 40 CFR Part 60.

Municipal waste combustion unit means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular combustion units (starved-air or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define municipal waste combustion units:

(1) Municipal waste combustion units do not include pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under Applicability of State Plans (§60.1555(h) and (i). Municipal waste combustion units do not include cement kilns that combust municipal solid waste as specified under Applicability of State Plans (§60.1555(j)). Municipal waste combustion units also do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(2) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(i) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(ii) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(iii) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or super-heater.

Particulate matter means total particulate matter emitted from municipal waste combustion units as measured using EPA Reference Method 5 in appendix A of 40 CFR Part 60 and the procedures specified in 40 CFR 60.1790.

Plastics or rubber recycling unit means an integrated processing unit for which plastics, rubber, or rubber tires are the only feed materials (incidental contaminants may be in the feed materials). The feed materials are processed and marketed to become input feed stock for chemical plants or petroleum refineries. The following three criteria further define a plastics or rubber recycling unit:

(1) Each calendar quarter, the combined weight of the feed stock that a plastics or rubber recycling unit produces must be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires that recycling unit processes.

(2) The plastics, rubber, or rubber tires fed to the recycling unit may originate from separating or diverting plastics, rubber, or rubber tires from municipal or industrial solid waste. The feed materials may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards.

(3) The plastics, rubber, and rubber tires fed to the recycling unit may contain incidental contaminants (for example, paper labels on plastic bottles or metal rings on plastic bottle caps).

Draft

Potential hydrogen chloride emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without emission controls for acid gases.

Potential mercury emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without controls for mercury emissions.

Potential sulfur dioxide emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without emission controls for acid gases.

Pyrolysis/combustion unit means a unit that produces gases, liquids, or solids by heating municipal solid waste. The gases, liquids, or solids produced are combusted and the emissions vented to the atmosphere.

Reconstruction means rebuilding a municipal waste combustion unit and meeting two criteria:

(1) The reconstruction begins after June 6, 2001;

(2) The cumulative cost of the construction over the life of the unit exceeds 50 percent of the original cost of building and installing the municipal waste combustion unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the municipal waste combustion unit used to calculate the costs, see the definition in this section of "municipal waste combustion unit."

Refractory unit or refractory wall furnace means a municipal waste combustion unit that has no energy recovery (such as through a waterwall) in the furnace of the municipal waste combustion unit.

Refuse-derived fuel means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. That includes all classes of refuse-derived fuel including two fuels:

(1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.
(2) Pelletized refuse-derived fuel.

Same location means the same or contiguous properties under common ownership or control, including those separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof. Entities may include a municipality, other governmental unit, or any quasi-governmental authority (for example, a public utility district or regional authority for waste disposal).

Second calendar half means the period that starts on July 1 and ends on December 31 in any year.

Shift supervisor means the person who is in direct charge and control of operating a municipal waste combustion unit and who is responsible for onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit during an assigned shift.

Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel) combustion unit means a municipal waste combustion unit that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

Standard conditions when referring to units of measure mean a temperature of 20°C and a pressure of 101.3 kilo-pascals.

Startup period means the period when a municipal waste combustion unit begins the continuous combustion of municipal solid waste. It does not include any warmup period during which the

municipal waste combustion unit combusts fossil fuel or other solid waste fuel but receives no municipal solid waste.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to sections 111(d) and 129(b)(2) of the CAA (42 U.S.C. 7411(d) and 7429(b)(2) and subpart B of 40 CFR Part 60, that implements and enforces this subpart.

Stoker (refuse-derived fuel) combustion unit means a steam generating unit that combusts refuse-derived fuel in a semi-suspension combusting mode, using air-fed distributors.

Total mass dioxin/furan or total mass means the total mass of tetra- through octa-chlorinated dibenzo-p-dioxin and dibenzofurans as determined using EPA Reference Method 23 in appendix A of this part and the procedures specified in §60.1790.

Twenty-four hour daily average or 24-hour daily average means either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the municipal waste combustion unit operates and combusts municipal solid waste measured during the 24 hours between 12:00 midnight and the following midnight.

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Untreated lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, penta-chloro-phenol, and creosote.

Water-wall furnace means a municipal waste combustion unit that has energy (heat) recovery in the furnace (for example, radiant heat transfer section) of the combustion unit.

Yard waste means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(1) Construction, renovation, and demolition wastes that are exempt from the definition of "municipal solid waste" in this section.

(2) Clean wood that is exempt from the definition of "municipal solid waste" in this section.

II Responsibilities

A. The States. Under 40 CFR 60.1505, each state is required to prepare a plan to implement the federal requirements. States also are responsible for ensuring that the affected facilities within their borders

meet the requirements established in 40 CFR Part 60, Subpart BBBB. Finally, the State of Utah commits to submit annual reports on Plan enforcement to EPA as required under 40 CFR 60.25(e)

B. The EPA: Section 129 of the 1990 Clean Air Act Amendments authorizes EPA to review, approve, or reject the State's Plan. Under 40 CFR 60.27, EPA is expected to approve or reject the Plan within four months after the date on which the state must submit the Plan to EPA. The EPA also provides appropriate information to assist the states and local agencies to develop a complete and acceptable plan. If the State is unable or unwilling to submit a Plan that meets EPA's approval, 40 CFR 60.27 requires EPA to write and enforce a federal Plan.

III. COMPLIANCE SCHEDULE.

(a) Compliance dates for Wasatch Energy Systems (WES) are as specified in this Plan, and in the Stipulation and Consent Order between WES and the State of Utah, dated March 27, 2000. That Stipulation and Consent order specifies that WES will complete certain intermediate steps within specified periods after the issuance of a new Approval Order. The new Approval Order was issued on September 6, 2000. The intermediate deadlines set by the Stipulation and Consent Order are measured from the date the Approval Order was issued:

(1) Equipment procurement shall be complete within 6 months (March 6, 2001).
(2) Construction of the retrofit shall be complete within 16 months (January 6, 2002.
(3) Performance testing shall begin within 19 months (April 6, 2002).
(4) WES shall be in final compliance within 25 months (October 6, 2002).

(b) There are no other Class I or Class II units located within Utah. However, if any such unit is identified later, its final compliance date would be one year after the effective date of EPA approval of this Plan.

IV. OPERATOR TRAINING: GOOD COMBUSTION PRACTICES

§60.1645 What types of training must I do?

There are two types of required training:

(a) Training of operators of municipal waste combustion units using the EPA or a State-approved training course.

(b) Training of plant personnel using a plant-specific training course.

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§60.1650 Who must complete the operator training course? By when?

(a) Three types of employees must complete the EPA or State-approved operator training course:

(1) Chief facility operators.
(2) Shift supervisors.
(3) Control room operators.

(b) Those employees must complete the operator training course by the later of three dates:

(1) One year after the effective date of State plan approval.
(2) Six months after your municipal waste combustion unit starts up.
(3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(c) The requirement in paragraph (a) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the effective date of State plan approval.

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(d) You may request that the Executive Secretary waive the requirement in paragraph (a) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the effective date of State plan approval.

§60.1655 Who must complete the plant-specific training course?

All employees with responsibilities that affect how a municipal waste combustion unit operates must complete the plant-specific training course. Include at least six types of employees:

(a) Chief facility operators.
(b) Shift supervisors.
(c) Control room operators.
(d) Ash handlers.
(e) Maintenance personnel.
(f) Crane or load handlers.

§60.1660 What plant-specific training must I provide?

For plant-specific training, you must do four things:

(a) For training at a particular plant, develop a specific operating manual for that plant by the later of two dates:

(1) Six months after your municipal waste combustion unit starts up.
(2) One year after the effective date of State plan approval.

(b) Establish a program to review the plant-specific operating manual with people whose responsibilities affect the operation of your municipal waste combustion unit. Complete the initial review by the later of three dates:

(1) One year after the effective date of State plan approval.
(2) Six months after your municipal waste combustion unit starts up.
(3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(c) Update your manual annually.

(d) Review your manual with staff annually.

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§60.1665 What information must I include in the plant-specific operating manual?

You must include 11 items in the operating manual for your plant:

(a) A summary of all applicable requirements in this Plan.

(b) A description of the basic combustion principles that apply to municipal waste combustion units.

(c) Procedures for receiving, handling, and feeding municipal solid waste.

(d) Procedures to be followed during periods of startup, shutdown, and malfunction of the municipal waste combustion unit.

(e) Procedures for maintaining a proper level of combustion air supply.

(f) Procedures for operating the municipal waste combustion unit in compliance with the requirements contained in this Plan.

(g) Procedures for responding to periodic upset or off-specification conditions.

(h) Procedures for minimizing carryover of particulate matter.

(i) Procedures for handling ash.

(j) Procedures for monitoring emissions from the municipal waste combustion unit.

(k) Procedures for record-keeping and reporting.

§60.1670 Where must I keep the plant-specific operating manual?

You must keep your operating manual in an easily accessible location at your plant. It must be available for review or inspection by all employees who must review it and by the Executive Secretary.

V. OPERATOR CERTIFICATION: GOOD COMBUSTION PRACTICES:

§60.1675 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?

(a) Each chief facility operator and shift supervisor must obtain and keep a current provisional operator certification from the American Society of Mechanical Engineers (QRO-1-1994 – Qualification and Certification of Resource recovery Facility Operators, which are incorporated by reference in 40 CFR 60, §60.17.)

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(b) Each chief facility operator and shift supervisor must obtain a provisional certification by the later of three dates:

(1) For Class I units, 12 months after the effective date of State plan approval. For Class II units, 18 months after the effective date of State plan approval.
(2) Six months after the municipal waste combustion unit starts up.
(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

(c) Each chief facility operator and shift supervisor must take one of two actions:

(1) Obtain a full certification from the American Society of Mechanical Engineers or a State certification program in your State.
(2) Schedule a full certification exam with the American Society of Mechanical Engineers (QRO-1-1994) (incorporated by reference in §60.17).

(d) The chief facility operator and shift supervisor must obtain the full certification or be scheduled to take the certification exam by the later of the following dates:

(1) For Class I units, 12 months after the effective date of State plan approval. For Class II units, 18 months after the effective date of State plan approval.

(2) Six months after the municipal waste combustion unit starts up.

(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

§60.1680 After the required date for operator certification, who may operate the municipal waste combustion unit?

After the required date for full or provisional certification, you must not operate your municipal waste combustion unit unless one of four employees is on duty:

(a) A fully certified chief facility operator.

(b) A provisionally certified chief facility operator who is scheduled to take the full certification exam.

(c) A fully certified shift supervisor.

(d) A provisionally certified shift supervisor who is scheduled to take the full certification exam.

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§60.1685 What if all the certified operators must be temporarily offsite?

If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustion unit may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, you must meet one of three criteria:

(a) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Executive Secretary.

(b) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Executive Secretary. However, you must record the periods when the certified chief facility operator and certified shift supervisor are offsite and include the information in the annual report as specified under §60.1885(l).

(c) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks, and no other certified operator is onsite, the provisionally certified

control room operator may perform those duties without notice to, or approval by, the Executive Secretary. However, you must take two actions:

(1) Notify the Executive Secretary in writing. In the notice, state what caused the absence and what you are doing to ensure that a certified chief facility operator or certified shift supervisor is onsite.

(2) Submit a status report and corrective action summary to the Executive Secretary every 4 weeks following the initial notification. If the Executive Secretary notifies you that your status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the Executive Secretary withdraws the disapproval, municipal waste combustion unit operation may continue.

VI. OPERATING REQUIREMENTS: GOOD COMBUSTION PRACTICES:

§60.1690 What are the operating practice requirements for my municipal waste combustion unit?

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(a) You must not operate your municipal waste combustion unit at loads greater than 110 percent of the maximum demonstrated load of the municipal waste combustion unit (4-hour block average), as specified under "Definitions" in Section I of this Plan.

(b) You must not operate your municipal waste combustion unit so that the temperature at the inlet of the particulate matter control device exceeds 17ºC above the maximum demonstrated temperature of the particulate matter control device (4-hour block average), as specified under "Definitions" in Section I of this Plan. ~~See the list of definition in this Plan.~~

(c) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must maintain an 8-hour block average carbon feed rate at or above the highest average level established during the most recent dioxins/furans or mercury test.

(d) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must evaluate total carbon usage for each calendar quarter. The total amount of carbon purchased and delivered to your municipal waste combustion plant must be at or above the required quarterly usage of carbon. At your option, you may choose to evaluate required quarterly carbon usage on a municipal waste combustion unit basis for each individual municipal waste combustion unit at your plant. Calculate the required quarterly usage of carbon using equation 4 or 5 in Appendix B of this Plan.

(e) Your municipal waste combustion unit is exempt from limits on load level, temperature at the inlet of the particulate matter control device, and carbon feed rate during any of five situations:

(1) During your annual tests for dioxins/furans.
(2) During your annual mercury tests (for carbon feed rate requirements only).
(3) During the 2 weeks preceding your annual tests for dioxins/furans.
(4) During the 2 weeks preceding your annual mercury tests (for carbon feed rate requirements only).
(5) Whenever the Executive Secretary permits you to do any of five activities:

(i) Evaluate system performance.
(ii) Test new technology or control technologies.
(iii) Perform diagnostic testing.
(iv) Perform other activities to improve the performance of your municipal waste combustion unit.
(v) Perform other activities to advance the state of the art for emission controls for your municipal waste combustion unit.

§60.1695 What happens to the operating requirements during periods of startup, shutdown, and malfunction?

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(a) The operating requirements of this Plan apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

VII. EMISSION LIMITS

§60.1700 What pollutants are regulated by this Plan?

Eleven pollutants, in four groupings, are regulated:
(a) Organics. Dioxins/furans.
(b) Metals.
  (1) Cadmium.
  (2) Lead.
  (3) Mercury.
  (4) Opacity.
  (5) Particulate matter.
(c) Acid gases.
  (1) Hydrogen chloride.
  (2) Nitrogen oxides.
  (3) Sulfur dioxide.
(d) Other.
  (1) Carbon monoxide.
  (2) Fugitive ash.

§60.1705 What emission limits must I meet? By when?

(a) After the date the initial stack test and continuous emission monitoring system evaluation are required or completed (whichever is earlier), you must meet the applicable emission limits specified in the Tables in Appendix A.

(b) If your Class I municipal waste combustion unit began construction, reconstruction, or modification after June 26, 1987, then you must comply with the dioxins/furans and mercury emission limits specified in Table 2 in Appendix A of this Plan one year after the effective date of State plan approval.

§60.1710 What happens to the emission limits during periods of startup, shutdown, and malfunction?

(a) The emission limits of this Plan apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours

(c) A maximum of 3 hours of test data can be dismissed from compliance calculations during periods of startup, shutdown, or malfunction.

(d) During startup, shutdown, or malfunction periods longer than 3 hours, emissions data cannot be discarded from compliance calculations and all provisions under 40 CFR 60.11(d) apply.

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XIII. CONTINUOUS EMISSION MONITORING

§60.1715 What types of continuous emission monitoring must I perform?

To continuously monitor emissions, you must perform four tasks:

(a) Install continuous emission monitoring systems for certain gaseous pollutants.
(b) Make sure your continuous emission monitoring systems are operating correctly.
(c) Make sure you obtain the minimum amount of monitoring data.
(d) Install a continuous opacity monitoring system.

§60.1720 What continuous emission monitoring systems must I install for gaseous pollutants?

(a) You must install, calibrate, maintain, and operate continuous emission monitoring systems for oxygen (or carbon dioxide), sulfur dioxide, and carbon monoxide. If you operate a Class I municipal waste combustion unit, also install, calibrate, maintain, and operate a continuous emission monitoring system for nitrogen oxides. Install the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(b) You must install, evaluate, and operate each continuous emission monitoring system according to the "Monitoring Requirements" in 40 CFR 60.13, and Utah Rule R307-170.
(c) You must monitor the oxygen (or carbon dioxide) concentration at each location where you monitor sulfur dioxide and carbon monoxide. Additionally, if you operate a Class I municipal waste combustion unit, you must also monitor the oxygen (or carbon dioxide) concentration at the location where you monitor nitrogen oxides.

(d) You may choose to monitor carbon dioxide instead of oxygen as a diluent gas. If you choose to monitor carbon dioxide, then an oxygen monitor is not required and you must follow the requirements in §60.1745 below.

(e) If you choose to demonstrate compliance by monitoring the percent reduction of sulfur dioxide, you must also install continuous emission monitoring systems for sulfur dioxide and oxygen (or carbon dioxide) at the inlet of the air pollution control device.

(f) If you prefer to use an alternative sulfur dioxide monitoring method, such as parametric monitoring, or cannot monitor emissions at the inlet of the air pollution control device to determine percent reduction, you can apply to the Executive Secretary for approval to use an alternative monitoring method under 40 CFR 60.13(i).

§60.1725 How are the data from the continuous emission monitoring systems used?

You must use data from the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and carbon monoxide to demonstrate continuous compliance with the applicable emission limits specified in the Tables of this Plan. To demonstrate compliance for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, see §60.1780 below.

§60.1740 What is my schedule for evaluating continuous emission monitoring systems?

(a) Conduct annual evaluations of your continuous emission monitoring systems no more than 13 months after the previous evaluation was conducted.

(b) Evaluate your continuous emission monitoring systems daily and quarterly as specified in 40 CFR 60, Appendix F.

§60.1745 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?

You must establish the relationship between oxygen and carbon dioxide during the initial evaluation of your continuous emission monitoring systems. You may reestablish the relationship during annual evaluations. To establish the relationship use three procedures:

(a) Use EPA Reference Method 3A or 3B in 40 CFR 60, Appendix A to determine oxygen concentration at the location of your carbon dioxide monitor.

(b) Conduct at least three test runs for oxygen. Make sure each test run represents a 1-hour average and that sampling continues for at least 30 minutes in each hour.

(c) Use the fuel-factor equation in EPA Reference Method 3B in 40 CFR 60, Appendix A to determine the relationship between oxygen and carbon dioxide.

§60.1750 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems and is the data collection requirement enforceable?

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(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide are in parts per million by dry volume at 7 percent oxygen (or the equivalent carbon dioxide level). Use the 1-hour averages of oxygen (or carbon dioxide) data from your continuous emission monitoring system to determine the actual oxygen (or carbon dioxide) level and to calculate emissions at 7 percent oxygen (or the equivalent carbon dioxide level).

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average. 40 CFR 60.13(e)(2) requires your continuous emission monitoring systems to complete at least one cycle of operation (sampling, analyzing, and data recording) for each 15-minute period.

(c) Obtain valid 1-hour averages for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you are in violation of the data collection requirement regardless of the emission level monitored, and you must notify the Executive Secretary according to 40 CFR 60.1885(e).

(e) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you must still use all valid data from the continuous emission monitoring systems in calculating emission concentrations and percent reductions in accordance with 40 CFR 60.1755.

§60.1755 How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?

(a) Use the equation in 40 CFR 60.1935(a) to calculate emissions at 7 percent oxygen.

(b) Use EPA Reference Method 19 in 40 CFR 60, Appendix A [section 4.3] to calculate the daily geometric average concentrations of sulfur dioxide emissions. If you are monitoring the percent reduction of sulfur dioxide, use EPA Reference Method 19 in 40 CFR 60, Appendix A [section 5.4] to determine the daily geometric average percent reduction of potential sulfur dioxide emissions.

(c) If you operate a Class I municipal waste combustion unit, use EPA Reference Method 19 in 40 CFR 60, Appendix A [section 4.1] to calculate the daily arithmetic average for concentrations of nitrogen oxides.

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(d) Use EPA Reference Method 19 in 40 CFR 60, Appendix A [section 4.1] to calculate the 4-hour or 24-hour daily block averages (as applicable) for concentrations of carbon monoxide.

§60.1760 What is required for my continuous opacity monitoring system and how are the data used?

(a) Install, calibrate, maintain, and operate a continuous opacity monitoring system.

(b) Install, evaluate, and operate each continuous opacity monitoring system according to 40 CFR§60.13.

(c) Complete an initial evaluation of your continuous opacity monitoring system according to Performance Specification 1 in 40 CFR 60, Appendix B. Complete the evaluation by 180 days after your final compliance date.

(d) Complete each annual evaluation of your continuous opacity monitoring system no more than 13 months after the previous evaluation.

(e) Use tests conducted according to EPA Reference Method 9 in 40 CFR 60, Appendix A, and as specified in §60.1790 below, to determine compliance with the opacity limit in Table

2 or 4 in Appendix A of this Plan. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the opacity limit.

§60.1765 What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?

Use the required span values and applicable performance specifications in Table 8 in Appendix A of this Plan.

§60.1770 What must I do if any of my continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements?

Refer to Table 8 in Appendix A of this Plan. It shows alternate methods for collecting data when systems malfunction or when repairs, calibration checks, or zero and span checks keep you from collecting the minimum amount of data.

X. STACK TESTING

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§60.1775 What types of stack tests must I conduct?

Conduct initial and annual stack tests to measure the emission levels of dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

§60.1780 How are the stack test data used?

You must use results of stack tests for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash to demonstrate compliance with the applicable emission limits in the Tables of this Plan. To demonstrate compliance for carbon monoxide, nitrogen oxides, and sulfur dioxide, see 40 CFR 60.1725.

§60.1785 What schedule must I follow for the stack testing?

(a) Conduct initial stack tests for the pollutants listed in 40 CFR 60.1775 by 180 days after your final compliance date.

(b) Conduct annual stack tests for the same pollutants after the initial stack test. Conduct each annual stack test no later than 13 months after the previous stack test.

§60.1790 What test methods must I use to stack test?

(a) Follow Table 8 in Appendix A of this Plan to establish the sampling location and to determine pollutant concentrations, number of traverse points, individual test methods, and other specific testing requirements for the different pollutants.

(b) Make sure that stack tests for all the pollutants consist of at least three test runs, as specified in 40 CFR §60.8. Use the average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits in Tables 2 and 4 of this Plan.

(c) Obtain an oxygen (or carbon dioxide) measurement at the same time as your pollutant measurements to determine diluent gas levels, as specified in §60.1720 above.

(d) Use the equations in §60.1935(a) below to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis), the percent reduction in potential hydrogen chloride emissions, and the reduction efficiency for mercury emissions. See the individual test methods in Table 6 in Appendix A of this Plan for other required equations.

(e) You can apply to the Executive Secretary for approval under 40 CFR 60.8(b) to use a reference method with minor changes in methodology, use an equivalent method, use an alternative method the results of which the Executive Secretary has determined are adequate for demonstrating compliance, waive the requirement for a performance test because you have demonstrated by other means that you are in compliance, or use a shorter sampling time or smaller sampling volume.

§60.1795 May I conduct stack testing less often?

(a) You may test less often if you own or operate a Class II municipal waste combustion unit and if all stack tests for a given pollutant over 3 consecutive years show you comply with the emission limit. In that case, you are not required to conduct a stack test for that pollutant for the next 2 years. However, you must conduct another stack test within 36 months of the anniversary date of the third consecutive stack test that shows you comply with the emission limit. Thereafter, you must perform stack tests every 3rd year but no later than 36 months following the previous stack tests. If a stack test shows noncompliance with an emission limit, you must conduct annual stack tests for that pollutant until all stack tests over 3 consecutive years show compliance with the emission limit for that pollutant. The provision applies to all pollutants subject to stack testing requirements: dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

(b) You can test less often for dioxins/furans emissions if you own or operate a municipal waste combustion plant that meets two conditions. First, you have multiple municipal waste combustion units onsite that are subject to this Plan. Second, all those municipal waste combustion units have demonstrated levels of dioxins/furans emissions less than or equal to

15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for 2 consecutive years. In that case, you may choose to conduct annual stack tests on only one municipal waste combustion unit per year at your plant. The provision only applies to stack testing for dioxins/furans emissions.

(1) Conduct the stack test no more than 13 months following a stack test on any municipal waste combustion unit subject to this Plan at your plant. Each year, test a different municipal waste combustion unit subject to this Plan and test all municipal waste combustion units subject to this Plan in a sequence that you determine. Once you determine a testing sequence, it must not be changed without approval by the Executive Secretary.

(2) If each annual stack test shows levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, you may continue stack tests on only one municipal waste combustion unit subject to this Plan per year.

(3) If any annual stack test indicates levels of dioxins/furans emissions greater than 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, conduct subsequent annual stack tests on all municipal waste combustion units subject to this Plan at your plant. You may return to testing one municipal waste combustion unit subject to this Plan per year if you can demonstrate dioxins/furans emissions levels less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for all municipal waste combustion units at your plant subject to this Plan for 2 consecutive years.

§60.1800 May I deviate from the 13-month testing schedule if unforeseen circumstances arise?

You may not deviate from the 13-month testing schedules specified in §§60.1785(b) and 60.1795(b)(1) above, unless you apply to the Executive Secretary for an alternative schedule, and the Executive Secretary approves your request for alternate scheduling prior to the date on which you would otherwise have been required to conduct the next stack test.

XI. OTHER MONITORING REQUIREMENTS

§60.1805 Must I meet other requirements for continuous monitoring?

You must also monitor three operating parameters:

(a) Load level of each municipal waste combustion unit.

(b) Temperature of flue gases at the inlet of your particulate matter air pollution control device.

(c) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

§60.1810 How do I monitor the load of my municipal waste combustion unit?

(a) If your municipal waste combustion unit generates steam, you must install, calibrate, maintain, and operate a steam flow-meter or a feed water flowmeter and meet five requirements:

(1) Continuously measure and record the measurements of steam (or feed water) in kilograms (or pounds) per hour.

(2) Calculate your steam (or feed water) flow in 4-hour block averages.

(3) Calculate the steam (or feed water) flow rate using the method in "American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1--1964 (R1991)," section 4 (incorporated by reference in 40 CFR §60.17).

(4) Design, construct, install, calibrate, and use nozzles or orifices for flow rate measurements, using the recommendations in "American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters," 6th Edition (1971), chapter 4 (incorporated by reference in 40 CFR §60.17).

(5) Before each dioxins/furans stack test, or at least once a year, calibrate all signal conversion elements associated with steam (or feed water) flow measurements according to the manufacturer instructions.

(b) If your municipal waste combustion units do not generate steam, or, if your municipal waste combustion units have shared steam systems and steam load cannot be estimated per unit, you must determine, to the satisfaction of the Executive Secretary, one or more operating parameters that can be used to continuously estimate load level (for example, the feed rate of municipal solid waste or refuse-derived fuel). You must continuously monitor the selected parameters.

§60.1815 How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?

You must install, calibrate, maintain, and operate a device to continuously measure the temperature of the flue gas stream at the inlet of each particulate matter control device.

§60.1820 How do I monitor the injection rate of activated carbon?

If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must meet three requirements:

(a) Select a carbon injection system operating parameter that can be used to calculate carbon feed rate (for example, screw feeder speed).

(b) During each dioxins/furans and mercury stack test, determine the average carbon feed rate in kilograms (or pounds) per hour. Also, determine the average operating parameter level that correlates to the carbon feed rate. Establish a relationship between the operating parameter and the carbon feed rate in order to calculate the carbon feed rate based on the operating parameter level.

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(c) Continuously monitor the selected operating parameter during all periods when the municipal waste combustion unit is operating and combusting waste and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. When calculating the 8-hour block average, do two things:

(1) Exclude hours when the municipal waste combustion unit is not operating.

(2) Include hours when the municipal waste combustion unit is operating but the carbon feed system is not working correctly.

§60.1825 What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems and is the data collection requirement enforceable?

(a) Where continuous parameter monitoring systems are used, obtain 1-hour arithmetic averages for three parameters:

(1) Load level of the municipal waste combustion unit.

(2) Temperature of the flue gases at the inlet of your particulate matter control device.

(3) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Obtain valid 1-hour averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you are in violation of the data collection requirement, and you must notify the Executive Secretary according to §60.1885(e) below.

XII. RECORD-KEEPING

§60.1830 What records must I keep?

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You must keep four types of records:

(a) Operator training and certification.
(b) Stack tests.
(c) Continuously monitored pollutants and parameters.
(d) Carbon feed rate.

§60.1835 Where must I keep my records and for how long?

(a) Keep all records onsite in paper copy or electronic format unless the Executive Secretary approves another format.

(b) Keep all records on each municipal waste combustion unit for at least 5 years.

(c) Make all records available for submittal to the Executive Secretary, or for onsite review by an inspector.

§60.1840 What records must I keep for operator training and certification?

You must keep records of six items:

(a) Records of provisional certifications. Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are provisionally certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program.

(2) Dates of the initial provisional certifications.

(3) Documentation showing current provisional certifications.

(b) Records of full certifications. Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are fully certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program.

(2) Dates of initial and renewal full certifications.

(3) Documentation showing current full certifications.

(c) Records showing completion of the operator training course. Include three items:

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(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who have completed the EPA or State municipal waste combustion operator training course.

(2) Dates of completion of the operator training course.

(3) Documentation showing completion of operator training course.

(d) Records of reviews for plant-specific operating manuals. Include three items:

(1) Names of persons who have reviewed the operating manual.
(2) Date of the initial review.
(3) Dates of subsequent annual reviews.

(e) Records of when a certified operator is temporarily offsite. Include two main items:

(1) If the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, record the dates that the certified chief facility operator and certified shift supervisor were offsite.

(2) When all certified chief facility operators and certified shift supervisors are offsite for more than 2 weeks and no other certified operator is onsite, keep records of four items:

(i) Your notice that all certified persons are offsite.
(ii) The conditions that cause those people to be offsite.
(iii) The corrective actions you are taking to ensure a certified chief facility operator or certified shift supervisor is onsite.
(iv) Copies of the written reports submitted every 4 weeks that summarize the actions taken to ensure that a certified chief facility operator or certified shift supervisor will be onsite.

(f) Records of calendar dates. Include the calendar date on each record.

§60.1845 What records must I keep for stack tests?

For stack tests required under §60.1775 above, you must keep records of four items:

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(a) The results of the stack tests for eight pollutants or parameters recorded in the appropriate units of measure specified in Table 2 or 4 in Appendix A of this Plan:

(1) Dioxins/furans.
(2) Cadmium.
(3) Lead.
(4) Mercury.
(5) Opacity.
(6) Particulate matter.
(7) Hydrogen chloride.
(8) Fugitive ash.

(b) Test reports including supporting calculations that document the results of all stack tests.

(c) The maximum demonstrated load of your municipal waste combustion units and maximum temperature at the inlet of your particulate matter control device during all stack tests for dioxins/furans emissions.

(d) The calendar date of each record.

§60.1850 What records must I keep for continuously monitored pollutants or parameters?

You must keep records of eight items.

(a) Records of monitoring data. Document six parameters measured using continuous monitoring systems:

(1) All 6-minute average levels of opacity.
(2) All 1-hour average concentrations of sulfur dioxide emissions.
(3) For Class I municipal waste combustion units only, all 1-hour average concentrations of nitrogen oxides emissions.
(4) All 1-hour average concentrations of carbon monoxide emissions.
(5) All 1-hour average load levels of your municipal waste combustion unit.
(6) All 1-hour average flue gas temperatures at the inlet of the particulate matter control device.

(b) Records of average concentrations and percent reductions. Document five parameters:

(1) All 24-hour daily block geometric average concentrations of sulfur dioxide emissions or average percent reductions of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, all 24-hour daily arithmetic average concentrations of nitrogen oxides emissions.

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(3) All 4-hour block or 24-hour daily block arithmetic average concentrations of carbon monoxide emissions.

(4) All 4-hour block arithmetic average load levels of your municipal waste combustion unit.

(5) All 4-hour block arithmetic average flue gas temperatures at the inlet of the particulate matter control device.

(c) Records of exceedances. Document three items:

(1) Calendar dates whenever any of the five pollutant or parameter levels recorded in paragraph (b) of this section or the opacity level recorded in paragraph (a)(1) of this section did not meet the emission limits or operating levels specified in this Plan.

(2) Reasons you exceeded the applicable emission limits or operating levels.

(3) Corrective actions you took, or are taking, to meet the emission limits or operating levels.

(d) Records of minimum data. Document three items:

(1) Calendar dates for which you did not collect the minimum amount of data required under §§60.1750 and 60.1825 above. Record those dates for five types of pollutants and parameters:

(i) Sulfur dioxide emissions.
(ii) For Class I municipal waste combustion units only, nitrogen oxides emissions.
(iii) Carbon monoxide emissions.
(iv) Load levels of your municipal waste combustion unit.
(v) Temperatures of the flue gases at the inlet of the particulate matter control device.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took or are taking to obtain the required amount of data.

(e) Records of exclusions. Document each time you have excluded data from your calculation of averages for any of the following five pollutants or parameters and the reasons the data were excluded:

(1) Sulfur dioxide emissions.
(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.
(3) Carbon monoxide emissions.
(4) Load levels of your municipal waste combustion unit.
(5) Temperatures of the flue gases at the inlet of the particulate matter control device.

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(f) Records of drift and accuracy. Document the results of your daily drift tests and quarterly accuracy determinations according to Procedure 1 of appendix F of 40 CFR Part 60. Keep those records for the sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide continuous emissions monitoring systems.

(g) Records of the relationship between oxygen and carbon dioxide. If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in §60.1745 above.

(h) Records of calendar dates. Include the calendar date on each record.

§60.1855 What records must I keep for municipal waste combustion units that use activated carbon?

For municipal waste combustion units that use activated carbon to control dioxins/furans or mercury emissions, you must keep records of five items:

(a) Records of average carbon feed rate. Document five items:

(1) Average carbon feed rate in kilograms (or pounds) per hour during all stack tests for dioxins/furans and mercury emissions. Include supporting calculations in the records.

(2) For the operating parameter chosen to monitor carbon feed rate, average operating level during all stack tests for dioxins/furans and mercury emissions. Include supporting data that document the relationship between the operating parameter and the carbon feed rate.

(3) All 8-hour block average carbon feed rates in kilograms (or pounds) per hour calculated from the monitored operating parameter.

(4) Total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include supporting documentation.

(5) Required quarterly usage of carbon for the municipal waste combustion plant, calculated using equation 4 or 5 in §60.1935(f) below. If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at your plant. Include supporting calculations.

(b) Records of low carbon feed rates. Document three items:

(1) The calendar dates when the average carbon feed rate over an 8-hour block was less than the average carbon feed rates determined during the most recent stack test for dioxins/furans or mercury emissions (whichever has a higher feed rate).

(2) Reasons for the low carbon feed rates.

(3) Corrective actions you took or are taking to meet the 8-hour average carbon feed rate requirement.

(c) Records of minimum carbon feed rate data. Document three items:

(1) Calendar dates for which you did not collect the minimum amount of carbon feed rate data required under §60.1825 above.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took or are taking to get the required amount of data.

(d) Records of exclusions. Document each time you have excluded data from your calculation of average carbon feed rates and the reasons the data were excluded.

(e) Records of calendar dates. Include the calendar date on each record.

XIII. REPORTING

§60.1860 What reports must I submit and in what form?

(a) Submit an initial report and annual reports, plus semiannual reports for any emission or parameter level that does not meet the limits specified in this Plan.

(b) Submit all reports on paper, postmarked on or before the submittal dates in §§60.1870, 60.1880, and 60.1895 below. If the Executive Secretary agrees, you may submit electronic reports.

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(c) Keep a copy of all reports required by §§60.1875, 60.1885, and 60.1900 below onsite for 5 years.

§60.1865 What are the appropriate units of measurement for reporting my data?

See Tables 2, 3, 4 and 5 in Appendix A of this Plan for appropriate units of measurement.

§60.1870 When must I submit the initial report?

As specified in 40 CFR 60.7(c), submit your initial report by 180 days after your final compliance date.

§60.1875 What must I include in my initial report?

You must include seven items:

(a) The emission levels measured on the date of the initial evaluation of your continuous emission monitoring systems for all of the following five pollutants or parameters as recorded in accordance with §60.1850(b) above.

(1) The 24-hour daily geometric average concentration of sulfur dioxide emissions or the 24-hour daily geometric percent reduction of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, the 24-hour daily arithmetic average concentration of nitrogen oxides emissions.

(3) The 4-hour block or 24-hour daily arithmetic average concentration of carbon monoxide emissions.

(4) The 4-hour block arithmetic average load level of your municipal waste combustion unit.

(5) The 4-hour block arithmetic average flue gas temperature at the inlet of the particulate matter control device.

(b) The results of the initial stack tests for eight pollutants or parameters (use appropriate units as specified in Table 2 or 4 in Appendix A of this Plan):

(1) Dioxins/furans.
(2) Cadmium.
(3) Lead.
(4) Mercury.
(5) Opacity.
(6) Particulate matter.
(7) Hydrogen chloride.
(8) Fugitive ash.

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(c) The test report that documents the initial stack tests including supporting calculations.

(d) The initial performance evaluation of your continuous emissions monitoring systems. Use the applicable performance specifications in appendix B of 40 CFR Part 60 in conducting the evaluation.

(e) The maximum demonstrated load of your municipal waste combustion unit and the maximum demonstrated temperature of the flue gases at the inlet of the particulate matter control device. Use values established during your initial stack test for dioxins/furans emissions and include supporting calculations.

(f) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, the average carbon feed rates that you recorded during the initial stack tests for dioxins/furans and mercury emissions. Include supporting calculations as specified in §60.1855(a)(1) and (2) above.

(g) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in §60.1745 above.

§60.1880 When must I submit the annual report?

Submit the annual report no later than February 1 of each year that follows the calendar year in which you collected the data. If you have an operating permit for any unit under title V of the CAA, the permit may require you to submit semiannual reports. Parts 70 and 71 of this chapter contain program requirements for permits.

§60.1885 What must I include in my annual report?

Summarize data collected for all pollutants and parameters regulated under this Plan. Your summary must include twelve items:

(a) The results of the annual stack test, using appropriate units, for eight pollutants, as recorded under §60.1845(a) above:

(1) Dioxins/furans.
(2) Cadmium.
(3) Lead
(4) Mercury.
(5) Opacity.
(6) Particulate matter.
(7) Hydrogen chloride.
(8) Fugitive ash.

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(b) A list of the highest average levels recorded, in the appropriate units. List those values for five pollutants or parameters:

(1) Sulfur dioxide emissions.
(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.
(3) Carbon monoxide emissions.
(4) Load level of the municipal waste combustion unit.
(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device (4-hour block average).

(c) The highest 6-minute opacity level measured. Base the value on all 6-minute average opacity levels recorded by your continuous opacity monitoring system (§60.1850(a)(1) above).

(d) For municipal waste combustion units that use activated carbon for controlling dioxins/furans or mercury emissions, include four records:

(1) The average carbon feed rates recorded during the most recent dioxins/furans and mercury stack tests.

(2) The lowest 8-hour block average carbon feed rate recorded during the year.

(3) The total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant.

(4) The required quarterly carbon usage of your municipal waste combustion plant calculated using equation 4 or 5 in §60.1935(f) below. If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at your plant.

(e) The total number of days that you did not obtain the minimum number of hours of data for six pollutants or parameters. Include the reasons you did not obtain the data and corrective actions that you have taken to obtain the data in the future. Include data on:

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(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) Carbon feed rate.

(f) The number of hours you have excluded data from the calculation of average levels (include the reasons for excluding it). Include data for six pollutants or parameters:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) Carbon feed rate.

(g) A notice of your intent to begin a reduced stack testing schedule for dioxins/furans emissions during the following calendar year if you are eligible for alternative scheduling (§60.1795(a) or (b) above).

(h) A notice of your intent to begin a reduced stack testing schedule for other pollutants during the following calendar year if you are eligible for alternative scheduling (§60.1795(a) above).

(i) A summary of any emission or parameter level that did not meet the limits specified in this Plan.

(j) A summary of the data in paragraphs (a) through (d) of this section from the year preceding the reporting year which gives the Executive Secretary a summary of the performance of the municipal waste combustion unit over a 2-year period.

(k) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in §60.1745 above.

(l) Documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

§60.1890 What must I do if I am out of compliance with the requirements of this Plan?

You must submit a semiannual report on any recorded emission or parameter level that does not meet the requirements specified in this Plan.

§60.1895 If a semiannual report is required, when must I submit it?

(a) For data collected during the first half of a calendar year, submit your semiannual report by August 1 of that year.

(b) For data you collected during the second half of the calendar year, submit your semiannual report by February 1 of the following year.

§60.1900 What must I include in the semiannual out-of-compliance reports?

You must include three items in the semiannual report:

(a) For any of the following six pollutants or parameters that exceeded the limits specified in this Plan, include the calendar date they exceeded the limits, the averaged and recorded data for that date, the reasons for exceeding the limits, and your corrective actions:

(1) Concentration or percent reduction of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, concentration of nitrogen oxides emissions.

(3) Concentration of carbon monoxide emissions.

(4) Load level of your municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of your particulate matter air pollution control device.

(6) Average 6-minute opacity level. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the limit on opacity emissions.

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(b) If the results of your annual stack tests (as recorded in §60.1845(a) above) show emissions above the limits specified in Table 2 or 4 in Appendix A of this Plan as applicable for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, include a copy of the test report that documents the emission levels and your corrective actions.

(c) For municipal waste combustion units that apply activated carbon to control dioxins/furans or mercury emissions, include two items:

(1) Documentation of all dates when the 8-hour block average carbon feed rate (calculated from the carbon injection system operating parameter) is less than the highest carbon feed rate established during the most recent mercury and dioxins/furans stack test (as specified in §60.1855(a)(1) above). Include four items:

(i) Eight-hour average carbon feed rate.
(ii) Reasons for occurrences of low carbon feed rates.
(iii) The corrective actions you have taken to meet the carbon feed rate requirement.
(iv) The calendar date.

(2) Documentation of each quarter when total carbon purchased and delivered to the municipal waste combustion plant is less than the total required quarterly usage of carbon. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include five items:

(i) Amount of carbon purchased and delivered to the plant.
(ii) Required quarterly usage of carbon.
(iii) Reasons for not meeting the required quarterly usage of carbon.
(iv) The corrective actions you have taken to meet the required quarterly usage of carbon.
(v) The calendar date.

§60.1905 Can reporting dates be changed?

(a) If the Executive Secretary agrees, you may change the semiannual or annual reporting dates.
(b) See 40 CFR 60.19(c) for procedures to seek approval to change your reporting date.

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Appendix A

Table 1. Compliance Schedules and Increments of Progress

Affected units	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin onsite construction)	Increment 4 (Complete onsite construction)	Increment 5 (Final compliance)
All Class I Units					
A. Wasatch Energy Systems		_____	_____	December 1, 2001	September 22, 2002
No other Class I and no Class II Units have been identified.	Not Applicable	Not applicable	Not applicable	Not applicable	One year after EPA's approval of the Plan

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Table 2. Emission Limits for Existing Class I Small Municipal Waste Combustion Units[a]

For the following pollutants	You must meet the following emission limits[b]	Using the following averaging times	Determine Compliance by the following methods
1. Organic substance			
Dioxins/Furans (total mass basis)	30 nanograms per dry standard cubic meter for municipal waste combustion units that do not employ an electrostatic precipitator-based emission control system -or- 60 nanograms per dry standard cubic meter for municipal waste combustion units that employ an electrostatic precipitator-based emission control system	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals			
Cadmium	0.040 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Lead	0.490 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Mercury	0.080 milligrams per dry standard cubic meter -or- 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
Opacity	10 percent	Thirty 6-minute averages	Stack test
Particulate Matter	27 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
3. Acid Gases			
Hydrogen Chloride	31 parts per million by dry volume -or- 95 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test
Sulfur Dioxide	31 parts per million by dry volume -or- 75 percent reduction of potential sulfur dioxide emissions	24-hour daily block geometric average concentration -or- percent reduction	Continuous emission monitoring system
4. Other			
Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

[a]Class I units mean small municipal waste combustion units subject to this Plan that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §60.1940 for definitions.

[b] All emission limits (except for opacity) are measured at 7 percent oxygen.

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Table 3. Class I Nitrogen Oxides Emission Limits for Existing Small Municipal Waste Combustion Units[a,b,c]

Municipal Waste Combustion Technology		Limits for Class I Municipal Waste Combustion Units
1.	Mass burn water-wall	200
2.	Mass burn rotary water-wall	170
3.	Refuse-derived fuel	250
4.	Fluidized bed	220
5.	Mass burn refractory	350
6.	Modular excess air	190
7.	Modular starved air	380

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §60.1940 for definitions.

[b] Nitrogen oxides limits are corrected to 7 percent oxygen, dry basis.

[c] All limits are 24-hour daily block arithmetic average concentration. Compliance is determined for Class I units by continuous emission monitoring systems.

Table 4. Class II Emission Limits for Existing Small Municipal Waste Combustion Units[a]

For the following pollutants		You must meet the following emission limits[b]	Using the following averaging times	And determine compliance by the following methods
1. Organics				
	Dioxins/Furans (total mass basis)	125 nanograms per dry standard cubic meter	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals				
	Cadmium	0.10 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
	Lead	1.6 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test

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	Mercury	0.080 milligrams per dry standard cubic meter -or- 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
	Opacity	10 percent	Thirty 6-minute averages	Stack test
	Particulate Matter	70 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
3. Acid Gases				
	Hydrogen Chloride	250 parts per million by volume -or- 50 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test
	Nitrogen Oxides	500 parts per million by dry volume	See footnote c	See footnote c
	Sulfur Dioxide	77 parts per million by dry volume -or- 50 percent reduction of potential sulfur dioxides emissions	24-hour daily block geometric average concentration -or- percent reduction	Continuous emission monitoring system
4. Other				
	Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

[a] Class II units mean all small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §60.1940 for definitions.

[b] All emission limits (except for opacity) are measured at 7 percent oxygen.

[c] No monitoring, testing, record-keeping or reporting is required to demonstrate compliance with the nitrogen oxides limit for Class II units.

Table 5. Emission Limits for Existing Small Municipal Waste Combustion Units

For the following municipal waste combustion units	You must meet the following carbon monoxide limits[a]	Using the following averaging times[b]

1. Fluidized bed	100 parts per million by dry volume	4-hour
2. Fluidized bed, mixed fuel, (wood/refuse-derived fuel)	200 parts per million by dry volume	24-hour[c]
3. Mass burn rotary refractory	100 parts per million by dry volume	4-hour
4. Mass burn rotary waterwall	250 parts per million by dry volume	24-hour
5. Mass burn water-wall and refractory	100 parts per million by dry volume	4-hour
6. Mixed fuel-fired, (pulverized coal/refuse-derived fuel)	150 parts per million by dry volume	4-hour
7. Modular starved-air and excess air	50 parts per million by dry volume	4-hour
8. Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel)	200 parts per million by dry volume	24-hour daily
9. Stoker, refuse-derived fuel	200 parts per million by dry volume	24-hour daily

[a] All emission limits (except for opacity) are measured at 7 percent oxygen. Compliance is determined by continuous emission monitoring systems.
[b] Block averages, arithmetic mean. See §60.1940 for definitions.
[c] 24-hour block average, geometric mean.

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Table 6. Requirements for Validating Continuous Emission Monitoring Systems (CEMS)

For the following continuous emission monitoring systems	Use the following methods in appendix A of 40 CFR Part 60 to validate pollutant concentration levels	Use the following methods in appendix A of 40 CFR Part 60 to measure oxygen (or carbon dioxide)
1. Nitrogen Oxides (Class I units only)[a]	Method 7, 7A, 7B, 7C, 7D, or 7E	Method 3 or 3A
2. Sulfur Dioxide	Method 6 or 6C	Method 3 or 3A
3. Carbon Monoxide	Method 10, 10A, or 10B	Method 3 or 3A

[a] Class I units mean small municipal waste combustion units subject to this Plan that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §60.1940 for definitions.

Table 7. Requirements for Continuous Emission Monitoring Systems (CEMS)

For the following pollutants	Use the following span values for your CEMS	Use the following performance specifications in 40 CFR 60, Appendix B for your CEMS	If needed to meet minimum data requirements, use the following alternate methods in 40 CFR 60, Appendix A to collect data
1. Opacity	100 percent opacity	P.S. 1	Method 9
2. Nitrogen Oxides (Class I units only)	**Control device outlet:** 125 percent of the maximum expected hourly potential nitrogen oxides emissions of the municipal waste combustion unit	P.S. 2	Method 7E
3. Sulfur Dioxide	**Inlet to control device:** 125 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit **Control device outlet:** 50 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit	P.S. 2	Method 6C
4. Carbon Monoxide	125 percent of the maximum expected hourly potential carbon monoxide emissions of the municipal waste combustion unit	P.S. 4A	Method 10 with alternative interference trap
5. Oxygen or Carbon Dioxide	25 percent oxygen or 25 percent carbon dioxide	P.S. 3	Method 3A or 3B

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Table 8. Requirements for Stack Tests

To measure the following pollutants	Use the following methods in 40 CFR 60, Appendix A to determine the sampling location	Use the following methods in appendix A of 40 CFR Part 60 to measure pollutant concentration	Also note the following additional information
1. Organics			
Dioxins /Furans	Method 1	Method 23[a]	The minimum sampling time must be 4 hours per test run while the municipal waste combustion unit is operating at full load.
2. Metals			
Cadmium	Method 1	Method 29[a]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Lead	Method 1	Method 29[a]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Mercury	Method 1	Method 29[a]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Opacity	Method 9	Method 9	Use Method 9 to determine compliance with opacity limits. 3-hour observation period (thirty 6-minute averages).
Particulate Matter	Method 1	Method 5 or 29[a]	The minimum sample volume must be 1.0 cubic meters. The probe and filter holder heating systems in the sample train must be set to provide a gas temperature no greater than 160 +14 °C. The minimum sampling time is 1 hour.
3. Acid Gases[b]			
Hydrogen Chloride	Method 1	Method 26 or 26A[a]	Test runs must be at least 1 hour long while the municipal waste combustion unit is operating at full load.
4. Other[b]			
Fugitive Ash	Not applicable	Method 22 (visible emissions)	The three 1-hour observation period must include periods when the facility transfers fugitive ash from the municipal waste combustion unit to the area where the fugitive ash is stored or loaded into containers or trucks.

[a] Must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B in appendix A of 40 CFR Part 60

[b] Use CEMS to test sulfur dioxide, nitrogen oxide, and carbon monoxide. Stack tests are not required except for Appendix F quality assurance requirements.

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Appendix B.

EQUATIONS

§60.1935 What equations must I use?

(a) Concentration correction to 7 percent oxygen. Correct any pollutant concentration to 7 percent oxygen using equation 1 of this section:

$$C_{7\%} = C_{unc} * (13.9) * [1/(20.9 - CO_2)] \quad \text{(Eq.1)}$$

Where:

$C_{7\%}$=concentration corrected to 7 percent oxygen.

C_{unc}=uncorrected pollutant concentration.

CO_2=concentration of oxygen (percent).

(b) Percent reduction in potential mercury emissions. Calculate the percent reduction in potential mercury emissions ($\%P_{Hg}$) using equation 2 of this section:

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$$\%P_{Hg} = (E_i - E_o) * (100/E_i) \quad \text{(Eq.2)}$$

Where:

$\%P_{Hg}$ = percent reduction of potential mercury emissions

E_i = mercury emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = mercury emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(c) Percent reduction in potential hydrogen chloride emissions. Calculate the percent reduction in potential hydrogen chloride emissions ($\%P_{HCl}$) using equation 3 of this section:

$$\%P_{HCl} = (E_i - E_o) * (100/E_i) \quad \text{(Eq.3)}$$

Where:

$\%P_{HCl}$ = percent reduction of the potential hydrogen chloride emissions

E_i = hydrogen chloride emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = hydrogen chloride emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(d) Capacity of a municipal waste combustion unit. For a municipal waste combustion unit that can operate continuously for 24-hour periods, calculate the municipal waste combustion unit capacity based on 24 hours of operation at the maximum charge rate. To determine the maximum charge rate, use one of two methods:

(1) For municipal waste combustion units with a design based on heat input capacity, calculate the maximum charging rate based on the maximum heat input capacity and one of two heating values:

(i) If your municipal waste combustion unit combusts refuse-derived fuel, use a heating value of 12,800 kilojoules per kilogram (5,500 British thermal units per pound).
(ii) If your municipal waste combustion unit combusts municipal solid waste, use a heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound).

(2) For municipal waste combustion units with a design not based on heat input capacity, use the maximum designed charging rate.

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(e) Capacity of a batch municipal waste combustion unit. Calculate the capacity of a batch municipal waste combustion unit as the maximum design amount of municipal solid waste they can charge per batch multiplied by the maximum number of batches they can process in 24 hours. Calculate the maximum number of batches by dividing 24 by the number of hours needed to process one batch. Retain fractional batches in the calculation. For example, if one batch requires 16 hours, the municipal waste combustion unit can combust 24/16, or 1.5 batches, in 24 hours.

(f) Quarterly carbon usage. If you use activated carbon to comply with the dioxins/furans or mercury limits, calculate the required quarterly usage of carbon using equation 4 of this section for plant basis or equation 5 of this section for unit basis:

(1) Plant basis.

$$C = \sum_{i=1}^{n} f_i * h_i \qquad \text{(Eq. 4)}$$

Req
uire
d quarterly carbon usage for the plant in kilograms (or pounds).

f_i = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h_i = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).
n = number of municipal waste combustion units, i, located at your plant.

(2) Unit basis.

$C = f * h$ (Eq.5)

Where:

C = required quarterly carbon usage for the unit in kilograms (or pounds).
f = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).
h = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).

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Appendix C

Wasatch Energy System's 2000 Emission Inventory
Emission are in Tons per Year

Wasatch Energy System submitted its initial inventory on time, by April 15, 2001.

PM_{10}	$PM_{2.5}$	SO_x	NO_x	VOC	CO	Comments
16.904	12.631	80.774	319.110	1.994	52.485	

The following emissions are estimated from stack test values. They are in units of pounds per year.

2, 3, 7, 8 tetra-chloro-dibenzo dioxin	0.000916
Ammonia	26, 300
Antimony compounds	16.8
Arsenic compounds	5.1
Cadmium compounds	53.5
Chromium compounds	8.8
Cobalt compounds	1.4
Formaldehyde [CAS number 50,000]	248
HCl [CAS number 7647010]	394,000
HF [CAS number 7664393]	22,300
TEQ Dioxin	0.00631
Lead compounds	558
Mercury compounds	188
Manganese compounds	12.0
Nickel compounds	9.4
Poly-chlorinated dibezo-dioxin/ furan	0.276
Selenium compounds	4.7
TRIPC 246	2.0

Draft

State of Utah
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

Michael O. Leavitt
Governor
Dianne R. Nielson, Ph.D.
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DAQE-421-01

MEMORANDUM

TO: Air Quality Board

THROUGH: Richard W. Sprott, Executive Secretary

FROM: John T. Hadley, Environmental Engineer

DATE: May 30, 2001

SUBJECT: Approval Order Modification: Salt Lake County Public Works Department

Salt Lake County Public Works Department, Welby Pit, is listed in the Salt Lake County portion of the PM_{10} SIP (Section IX, Part H, Subpart 2.b.RR). They are requesting a modification to the Approval Order (DAQE-199-00 dated April 7, 2000), to modify operating hours and production limits.

Salt Lake County Public Works Department, Welby Pit, must go to the Board for the approval of any modifications to this site. The following changes were requested to the Welby Pit:

- Modify Operating Hours from 7 hours 5 days per week to 10 hours 4 days per week
- Modify Production Limits for Cedar Rapids Screen from 120,000 tpy to 240,000 tpy

These changes will have the following impact on the quantity of emissions from Salt Lake County Public Works Department, Welby Pit site:

Pollutant	Current Emissions tons/year	Emission Increases tons/year	Total Emissions tons/year
PM_{10}	28.30	0.00*	28.30
SO_2	0.60	1.50	2.10
NO_x	12.80	3.23	16.03
CO	3.04	4.70	7.74
VOC	1.80	0.45	2.25
Aldehyde	0.09	0.06	0.15

* Due to low actual PM_{10} emissions, the potential to emit was not increased.

A 30-day public comment period ended on May 01, 2001, for these changes. No significant comments were received.

As any changes to the conditions imposed by the SIP must be approved by the Air Quality Board, as required by R307-305-2, UAC, the staff recommends that document DAQE-308-01 be issued for final approval.

RWS:JH:re

State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

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MEMORANDUM

TO: Air Quality Board DAQC-734-2001

FROM: Richard W. Sprott, Executive Secretary

DATE: May 2001

SUBJECT: COMPLIANCE ACTIVITIES - April 2001

Annual Inspections Conducted:
- A 4
- SM 9
- B 14

Initial Compliance Inspections Conducted:
- A 0
- SM 0
- B 0

On-Site stack test audits conducted: 3
Stack test report reviews: 9

On-site CEM audits conducted: 1
Emission reports reviewed: 14

Oxy fuels inspections conducted: 1

* Miscellaneous inspections conducted: 10

Complaints received: 33

VOC inspections:
- Tankers 1
- Degreasers 4
- Paint Booths 6

* Miscellaneous inspections include, e.g., surveillance, level I inspections, complaints, onsite training, tanker vapor certifications, dust patrol, smoke patrol, open burning, etc.

Source Compliance Action Notice issued 1

Notices of Violation issued 3

Settlement Agreements resolved 5

Penalties Collected $19,017

Notices of Violations issued to:

Heber Light and Power Co.
Kennecott Utah Copper Corp.
Wasatch Energy Systems

Settlement Agreements Reached:

Pacificorp-Gadsby	$600
Engineered Structures	$2,000
Inland Refining	$5,917
Primary Children's Medical Center	$4,000
Nephi Sandstone	$6,500

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MEMORANDUM

TO: Utah Air Quality Board DAQH-0307-01

FROM: Richard W. Sprott, Executive Secretary

DATE: May 21, 2001

SUBJECT: Hazardous Air Pollutant Section Compliance Activities - April, 2001

	3/01	4/01
Asbestos Demolition/Renovation Inspections	13	10
Asbestos in Schools Inspections	4	2
MACT Compliance Inspections	1	2
Other NESHAP Inspections	2	3
State Rules (Only) Inspections	0	0
Asbestos Notifications Approved	64	64
Asbestos Phone Calls Answered	300	268
Asbestos Individual Certifications: Approved/Disapproved	38	45
Company Certifications/Re-certifications	4/1	4/0
Alternate Asbestos Work Practices: Approved/Disapproved	0	1/0
Lead Based Paint (LBP) Inspections	0	0
LBP Notifications Approved	0	0
LBP Phone Calls Answered	121	121
LBP Letters prepared and mailed	31	44
LBP Courses Received/Approved	0/0	0/0
LBP Course Audits	0	0
LBP Certifications Approved/Disapproved	11/0	1/0
LBP Company Certifications	5	0
Notices of Violation Issued	0	0
Notices of Noncompliance (NON)	1	0
SCANS (warning letters) Issued	1	1
Settlement Agreements Finalized	2	0
Penalties Agreed to	$618,500	$0

Notice of Violation issued to:

Settlement Agreements Reached:

UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter

2001 April

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	Moab	NProvo	NProvo-X	NSL	NSL-X	Ogden
04/01	6	14	27						32		
04/02		16	21						32		
04/03		23	31						24		
04/04	23	26	16	21	12		18		33		
04/05		17	16						24		
04/06		11	5						13		
04/07	8	12	7	6		11	5	5	16	16	
04/08		5	3						6		
04/09		10	17						25		
04/10	16	10	16	15	13		11		28		
04/11		13	14						34		
04/12		6	7						7		
04/13	13	17	18	10	10	21	20	19	25	26	
04/14		42	39						44		
04/15		49	50						55		
04/16	63	73	74	68	61		64		96		
04/17		45	47						76		
04/18		70	47						24		
04/19	56	48	38			13	34	34	70	73	
04/20		23	40	13					32		
04/21		11	9						11		
04/22	6	7	13	8	156		15		8		
04/23			18								
04/24		21	21						29		
04/25	26	29	31	30	20		24	22	49	51	
04/26		32	40						71		
04/27		23	32						66		
04/28	34	25	23	43	41		20		38		
04/29		25	37						25		
04/30			29						38		

Arith Mean	25	25	26	24	45	15	24	20	35	41
Max 24-hr Avg	63	73	74	68	156	21	64	34	96	73
Std. Dev	20	18	16	20	53	5	17	12	22	25
Days of Data	10	28	30	9	7	3	9	4	29	4
Days >150					1					
Yearly Avg	33	33	33	32	29	21	29	28	47	49

UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter

2001 May

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	Moab	NProvo	NProvo-X	NSL	NSL-X	Ogden
05/01	52		79	45	105		69	68	153	154	
05/02			33						64		
05/03		11	17						74		
05/04	11	11	27	17	11		19		44		
05/05		22	29						25		
05/06		21	27						28		
05/07	31	18	40	28		18	25	25	42	45	
05/08		25	47		25				52		
05/09		30	44						56		
05/10	39	27	38	35			39		52		
05/11		34	57						64		
05/12		43	51		42				51		
05/13	37	22	26	28		26	25	24	66	69	
05/14		32	24		18				35		
05/15		23	25						39		
05/16	19	38	23	11	11		22		35		
05/17		16	25						25		
05/18		24	23						38		
05/19	24	16	20	20		7	22	21	35	28	
05/20		30	37						46		
05/21		8							38		
05/22	26	22		20					46		
05/23		22							52		
05/24		26							60		
05/25	28	30								47	
05/26		29							75		
05/27		18							32		
05/28		23							26		
05/29											
05/30											
05/31											
Arith Mean	30	24	35	26	35	17	32	34	50	68	
Max 24-hr Avg	52	43	79	45	105	26	69	68	153	154	
Std. Dev	12	8	15	11	36	9	18	22	25	50	
Days of Data	9	26	20	8	6	3	7	4	27	5	
Days >150									1	1	
Yearly Avg	33	32	33	32	29	21	29	29	47	51	

UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter

2001 April

Date	BR	BT	BX	CW	GV	HE	HW	HG	HV	LN	LX	L4	NP	N2	OG	SF	WT	WX	WV	VX
04/01	2.9	3.6	3.3	3.8		3.1		4.0	3.4	6.3	6.5	3.6	5.1	4.8			5.4	4.8	3.6	3.5
04/02							5.7			4.7										
04/03							9.1			11.3										
04/04	9.2	17.7			9.3	12.1	14.4	8.1	11.8	12.4			9.8	15.4			12.7		11.2	
04/05							12.5			14.2										
04/06							6.0			4.3										
04/07	3.0	3.8	4.1		2.9	2.7	4.1	4.9	3.2	5.3	4.9	4.8	6.0	7.5		3.7	4.8	5.6	3.7	5.1
04/08							2.9			3.1										
04/09							4.5			9.7										
04/10	4.0	3.7			3.1	4.0	3.5	6.8	0.8	6.4			9.4	6.7		7.6	5.8		4.7	
04/11							5.1			6.6										
04/12							3.4			6.4										
04/13	3.3	4.7	4.6	5.9	2.9	3.6	5.2	5.7	0.8	9.4	9.1		8.7	6.9		5.2	4.1	4.3	6.9	6.6
04/14							10.0			11.2										
04/15							11.3			13.9										
04/16	13.4	19.8		18.3	12.9	14.9	15.0	20.0	5.1	19.5		20.9	18.4	19.8		21.4	18.3		18.1	
04/17							10.1			13.0										
04/18							7.8			9.3										
04/19	4.3	6.6	5.8	7.5	3.2	4.0	5.7	7.8	5.7	6.8	5.9		6.5	7.8		6.4	6.7	5.8	5.5	5.8
04/20							3.6			4.8		4.8								
04/21							4.3			5.4										
04/22	3.2	2.9		3.1	2.0	1.9	2.9	2.9	0.5	4.0		6.3	4.4	2.9		3.1	2.9		3.3	
04/23							3.8			5.2										
04/24							5.5			6.3										
04/25	6.0	7.5		8.2	4.3	6.2	8.0	6.8		7.3	8.0	9.1	6.9	12.6		7.8	7.8	8.1	9.3	8.7
04/26							7.5		6.5	7.8										
04/27							5.5			6.7										
04/28	5.7	5.8		6.1	4.3	5.2	5.4	8.2	6.0	6.7		7.8	6.6	8.4		5.5	6.4		6.8	
04/29			7.1				4.9			5.4										
04/30										5.5										
Arith Mean	5.5	7.6	5.0	7.5	5.0	5.8	6.7	7.5	4.4	8.1	6.9	8.2	8.2	9.3		7.6	7.5	5.7	7.3	5.9
Max 24-hr Avg	13.4	19.8	7.1	18.3	12.9	14.9	15.0	20.0	11.8	19.5	9.1	20.9	18.4	19.8		21.4	18.3	8.1	18.1	8.7
Std. Dev	3.4	6.1	1.5	5.1	3.7	4.3	3.4	4.7	3.5	3.7	1.7	5.9	4.0	5.1		5.8	4.6	1.5	4.6	1.9
Days of Data	10	10	5	7	9	10	28	10	10	31	5	7	10	10		8	10	5	10	5
Yearly Mean	11.4	11.7	11.2	15.9	9.3	10.2	16.0	11.1	12.3	13.5	11.8	17.6	13.3	17.0		10.6	10.3	11.0	14.8	14.3

UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter

2001 May

Date	BR	BT	BX	CW	GV	HE	HW	HG	HV	LN	LX	L4	NP	N2	OG	SF	WT	WX	WV	VX
05/01	4.8	6.9	8.9	6.4	4.6	5.4	5.3	8.5	4.7	6.2	6.1	8.5		9.3		5.9	7.6	7.0	5.9	5.5
05/02							3.9			4.2										
05/03							3.0			3.4										
05/04	3.3	4.5		4.8	4.3	4.0	4.9	5.8	3.6	8.1		5.0		7.5		6.3	5.0		5.8	
05/05							6.7			6.0										
05/06							6.8			6.7										
05/07	8.2	7.2	7.6	9.6	7.2			6.8	8.3	6.8	7.5	10.6	7.8	10.9		7.9	9.6	9.7	9.8	9.2
05/08										6.5										
05/09							5.6			6.3										
05/10	7.3	7.1		8.7	7.0	7.1		9.5	7.0			8.5	9.3	11.0		8.0	7.8		9.7	
05/11										7.8										
05/12										11.7										
05/13	6.2	6.7	6.8	8.0	5.6	5.3		6.1	6.5	10.6	6.5	6.7	6.4	10.1		7.3	8.1	7.7	7.2	7.1
05/14										5.7										
05/15										3.7										
05/16	3.2	3.5		5.0		3.7		4.8	7.3	4.9		3.7	5.2	6.5		4.6			4.2	
05/17							5.7			7.5										
05/18							7.4			8.2										
05/19	5.8	6.9	6.4	8.3		5.9	7.0	6.8	6.3	7.0	7.1	6.6	7.8	8.5		6.5	8.1	8.1		7.8
05/20							4.2													
05/21							3.5													
05/22	4.0	4.5		5.5		4.5	4.7	4.6				4.7		8.8		4.1			5.8	
05/23							5.3													
05/24							5.5													
05/25		6.8	8.2	7.0		4.4	6.2	5.9						9.0						
05/26							5.8													
05/27							5.3													
05/28						5.6	6.7	6.0						7.4						
05/29																				
05/30																				
05/31																				

Arith Mean	5.4	6.0	7.6	7.0	5.7	5.1	5.5	6.5	6.3	6.7	6.8	6.8	7.3	8.9		6.3	7.7	8.1	6.9	7.4
Max 24-hr Avg	8.2	7.2	8.9	9.6	7.2	7.1	7.4	9.5	8.3	11.7	7.5	10.6	9.3	11.0		8.0	9.6	9.7	9.8	9.2
Std. Dev	1.9	1.4	1.0	1.7	1.3	1.1	1.2	1.5	1.6	2.1	0.6	2.3	1.5	1.5		1.4	1.5	1.1	2.1	1.5
Days of Data	8	9	5	9	5	9	19	10	7	19	4	8	5	10		8	6	4	7	4
Yearly Mean	10.9	11.2	10.8	15.0	9.1	9.6	15.4	10.7	11.6	13.0	11.4	16.6	12.9	16.2		10.2	10.1	10.7	14.2	13.8

STATUS OF STATE IMPLEMENTATION PLANS, MAINTENANCE PLANS, REDESIGNATION REQUESTS, AND RULES CHANGES

June 5, 2001

Changes from previous month are ***in bold/italics.***

POLLUTANT	AREA	STATUS	MAINTENANCE PLAN APPROVAL DATE
Ozone	Salt Lake and Davis Counties	Attainment	Published July 18, 97; effective August 18, 97
Carbon Monoxide	Salt Lake City	Attainment	Published Jan 21, 99; effective March 22, 99
	Ogden	Attainment	Published March 9, 01; effective May 8, 01
	Provo	Nonattainment	
PM10	Salt Lake County	Nonattainment	
	Utah County	Nonattainment	
Sulfur Dioxide	Salt Lake & east Tooele Counties	Nonattainment	

SUBJECT	AREA	ITEM	DAQ in progress	Submit to EPA	EPA Approve Date
Ozone	Salt Lake and Davis County	Revoke 1-hour standard			June 5, 1998
		Reinstate 1-hour standard			Fed Reg Jul 20, 00; eff Oct 18, 00
		Inventory rule, R307-1-3.5		Feb 21, 97	
		NOx, VOC RACT provisions added to plan, rules.		Jun 28, 94	Part Approved July 18, 97 Eff Aug 18, 97
Carbon Monoxide	Provo	Require 2.7% oxygen content in gasoline	Drafting rule change		
		Revise Basic I/M plan (Fed Highway Act submittal Mar 25, 1996). Documentation to EPA May 27, 99.	***Comment 6/1/01***		
		Revise I/M program	Complete	Oct 18, 95	
		SIP revisions, revise oxyfuel rule, add woodburning program		July 13, 94	

* If no date is noted, no action has been taken

SUBJECT	AREA	ITEM	DAQ in progress	Submit to EPA	EPA Approve Date
PM10	Ogden (Weber County)	Inventory and monitored data to be submitted to demonstrate attainment date by Dec 31, 01.	***AQB action expected July 01***		
	Salt Lake and Utah Counties	Road salting and contingency measures update	Complete	Feb 3, 95	Withdrew submittal Nov 98
		SL County attained PM10 standard on Dec31, 95 Utah County attained PM10 standard on Dec 31. 96	Extensions requested	May 11, 95 Mar 27, 96	Published Fed Reg Sept 21, 00 for public comment
	Salt Lake County	Update SIP and emission limits	Complete	Jul 11, 96	
		Update contingency measures		Oct 6, 94	Withdrew submittal Nov 98
	Utah County	Update SIP and emission limits	Complete	June 2, 97	
	Other Areas	Add PM10 increments in the PSD rule	Complete	Feb 3, 95	
Visibility	Statewide	SIP review due	Public comment		
Regional Haze	Statewide	Final rule published Jul 1, 99. Annex submitted Oct 1, 2000; SIP due Dec 31, 2003.			
General Conformity	All nonattainment areas	Incorporate by reference federal requirements	Complete	Oct 12, 1995	Fed Reg Nov 19, 99; effective Jan 18, 00
Transpor-tation Conformity	All nonattainment areas	Third Round of Amendments Finalized by EPA - must be incorporated into draft rules by State, adopted by the AQB, and submitted to EPA. Sanction Clock will be forthcoming for non-submittal.	Retracted		

* If no date is noted, no action has been taken

SUBJECT	AREA	ITEM	DAQ in progress	Submit to EPA	EPA Approve Date
All criteria pollutants	Statewide	Streamline permit process for small sources	Complete	Oct 9, 98	
		Correct small source permit rule	Effective Sept 2, 97	Oct 9, 98	
		Amend dispersion modeling rule for criteria pollutants		Dec 3, 96	
		Reduce inventory reporting requirements for small sources		Sept 9, 96	
		Break up R307-1-4 into 4 additional rules		Feb 16, 96	
		Expand R307-2 to create one section for each major SIP component.		Feb 16, 96	
		Cleanup required by Legislature		Jan 30, 95	
		Renumbering SIP components		June 28, 94	
		Revise used oil exemption		Feb 5, 97	
		Revise inventory rule to require submittal every 3rd year for large sources, small sources every 6th year	Effective Feb 5, 98	July 9, 98	

* If no date is noted, no action has been taken

Public Hearings

June 21, 2001, DEQ Bldg Room 201

1:30 pm I/M SIPs for Salt Lake and Utah Counties, and to postpone implementation of OBD-II (R307-110-31, 33, 34)
Staff: Bill Colbert

3:00 pm WEPCO rules, R307-101-2 and R307-405
Staff: Colleen Delaney

July 17, 6:30 pm, Layton City Hall
447 N. Wasatch Drive, Layton

State Plan for Small Municipal Waste Combustion Units
R307-220-4 and R307-223
Staff: Mike Beheshti