

July 3, 1995

MEMORANDUM

SUBJECT : Initial Operating Permit Application Compliance
Certification Policy

FROM : Kathie A. Stein, Director /s/
Air Enforcement Division, OECA (2242A)

Lydia N. Wegman, Deputy Director /s/
Office of Air Quality Planning and Standards (MD-10)

TO : See Addressees

In response to the inquiries and concerns expressed by permitting authorities, regulated sources, and other stakeholders in the title V process, the Office of Air and Radiation (OAR) and the Office of Enforcement and Compliance Assurance (OECA) have collaborated on the development of an Environmental Protection Agency (EPA) policy on a source's compliance certification to accompany the initial title V permit applications. The questions focused principally on the compliance certification requirements under 40 CFR 70.5(c)(9) and (d). In an effort to gather more information, OECA and OAR recently talked with industry representatives, Regions, and State and local agencies about their experience with the certification requirement. This information was helpful in developing the policy.

Sources are required to review current major and minor new source review permits and other permits containing Federal requirements, State implementation plans and other documents, and other Federal requirements in order to determine applicable requirements for emission units. The EPA and State and local permitting authorities may request additional information concerning a source's emissions as part of the title V application process. Companies are not federally required to reconsider previous applicability determinations as part of their inquiry in preparing title V permit applications. However, the EPA expects companies to rectify past noncompliance as it is discovered. Companies remain subject to enforcement actions for any past noncompliance with requirements to obtain a permit or meet air pollution control obligations. In addition, the title V permit shield is not

available for noncompliance with applicable

requirements that occurred prior to or continues after submission of the application.

We anticipate that implementation of this policy will simplify the permit application process, while maintaining the compliance and flexibility benefits that the operating permits program will provide. Should you require further information concerning this policy, please contact Julie Domike of OECA at (202) 564-6577 or Barrett Parker of OAR at (919) 541-5635.

Addressees:

Director, Air Pesticides, and Toxics Management Division,
Regions I & 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 Divisions, Regions VII, VIII, IX, and X

cc: Alan Eckert
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