



## North Carolina Department of Environment and Natural Resources

DIVISION OF AIR QUALITY

Michael F. Easley, Governor

William G. Ross, Jr., Secretary  
Alan W. Klimek, P.E., Director

May 8, 2002

### MEMORANDUM:

To: Regional Supervisors  
Section Chiefs

From: Alan Klimek

Subject: Definition of Deviation for Title V Reporting

Based in part on inquiries from the regulated community and discussions with DAQ staff members, it has become apparent that some clarification is needed regarding the use of the term "deviation" in Title V permits. This memorandum will serve as a policy statement for the Division to ensure future consistency in the interpretation of this term and to reflect what should be expected from permitted facilities.

Preventive inspection/maintenance activities that are performed as part of the Title V monitoring requirements for control devices need not be reported as deviations under Part 70. There is specific language in the permit requiring these activities that states in part: "To assure compliance, the Permittee shall perform inspections and maintenance as recommended, if any. As a minimum, the inspection and maintenance program shall include . . ." When performing these maintenance activities the Permittee is, in fact, complying with the permit. It would not be reasonable to consider such activities as deviations.

When conducting regular inspections as part of the Title V monitoring, problems may be discovered that could result in an increase in emissions. It is expected that these problems will be corrected during the maintenance event or as soon thereafter as practicable. As long as the increased emissions do not exceed applicable limits or significance thresholds, these corrective measures are also not considered deviations. If, on the other hand, problems are discovered during a regular inspection and emissions exceed a limit, the incident should be reported as a deviation. We recognize that there will be times when it is difficult to comfortably determine if emissions are exceeding a limitation. In those instances, the facility should be advised to report them as deviations with a caveat that a violation of the standard did not necessarily occur.

If a problem is discovered during an inspection and is not corrected in a timely manner, then the failure to take that corrective action should be reported as a deviation (*since the expectation is that problems will be corrected*). Timely means as soon as reasonably possible, but no later than the next regular inspection (monitoring period).

While the maintenance and repair activities noted above are not considered deviations if conducted according to the specifications of the permit, DAQ is considering conditions that would make them separately reportable. This is in response to the fact that EPA is requiring changes in our inspection targeting, scheduling and compliance determinations. In order to satisfy this requirement, it may be necessary to document maintenance and repair activities. If such reporting is required, DAQ will develop specific guidelines, including examples, for use by the regional offices as well as regulated facilities.

Please note that in discussing corrective actions, we mean routine activities like bag replacements. Major breakdowns are a different matter and facilities should discuss these with the appropriate regional office. In fact, circumstances may exist where a control device is discovered to have problems that are so severe that any reasonable person would recognize that a substantial emissions increase had occurred. Such circumstances would include things like complete water supply failure to a scrubber, a large percentage of failed bags in a bagfilter, or thermal breakdown of scrubber packing. Such occurrences should be treated as potential emissions violations and you should expect them to be reported in accordance with 15A NCAC 2D .0535(f) or the appropriate NSPS or NESHAP subpart.

Title V permits have the repeated statement that failure to meet a testing or monitoring condition will be considered noncompliance with the underlying standard and therefore a violation. This is an "excess emission" and reportable under the requirements of General Condition I.A. of the permit. For example, if a facility fails to perform the minimum monthly requirement for external inspection of a cyclone and if there is an emission standard associated with the source, the source is considered to be operating in excess of that standard. Such an occurrence should be reported to the DAQ regional office as soon as the failure is realized or discovered according to the timetable established in Condition I.A.

We recognize that there are some permit conditions (especially in older Title V permits) that do not yet specify that failure to meet a testing or monitoring requirement constitutes a violation of the underlying standard. Nevertheless, you should encourage facilities to blanket apply this concept to all permit conditions as they compile reports. This should reduce the likelihood of requirements being overlooked.

Title V requirements notwithstanding, there is a general duty to correct physical or operational problems with process equipment and control devices as expeditiously as possible once the problems are identified. There is a state-enforceable-only requirement (General Condition F.) in all Title V permits that states, "The facility shall be properly operated and maintained at all times in a manner that will effect an overall reduction in air pollution. Unless otherwise specified by this permit, no emission source may be operated without the concurrent operation of its associated air pollution control device(s) and appurtenances."

If inspection and maintenance activities are carried out as discussed, there should be very few if any instances, other than failure to submit a permit required report, that we will consider deviations.

AK/MYA

cc: Keith Overcash  
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