

Critical Issues Presentations
STAPPA / APAPCO Enforcement
Workshop
Austin, Texas

June 13, 2006

Title V Implementation Experience as Presented to
the Clean Air Act Advisory Committee – April, 2006

Task Force Timeline

- Charge by CAAAC Permits Subcommittee May 2004
- 3 Public Hearings and 2 Conference calls held June 2004-February 2005
- Written comments accepted until March 31st, 2005
- Task force deliberations February 2005-March 2006
- Final Report to CAAAC April 2006
- Document location www.epa.gov/air/caaac

Task Force Members

<i>State/local Permitting Agencies</i>	
Rob Sliwinski and John Higgins	New York Department of Environmental Conservation (NY DEC)
Shelley Kaderly	Nebraska Department of Environmental Quality (NE DEQ)
Don van der Vaart	North Carolina Dept of Environmental Management (NC DEM)
Adan Schwartz	Bay Area Air Quality Management District (AQMD)
Bob Hodanbosi	Ohio Environmental Protection Agency (OH EPA)
Steve Hagle	Texas Council on Environmental Quality (TCEQ)
<i>Environmental Advocacy Groups</i>	
Karla Raettig Kelly Haragan	Environmental Integrity Project
Marcie Keever	Our Children's Earth
Bob Palzer	Sierra Club
Verena Owen	Lake Co. (IL) Conservation Alliance
Keri Powell	New York Public Interest Research Group (NYPIRG)
Richard Van Frank	Improving Kids' Environment
<i>Industry</i>	
Shannon Broome	Air Permitting Forum
Lauren Freeman	Utility Air Regulatory Group (UARG)
Bernie Paul	Eli Lilly and Company
Bob Morehouse	ExxonMobil
Mike Wood	Weyerhaeuser Company
David Golden	Eastman Chemical

Incorporation of Applicable Requirements

❖ *Issues*

- TF addressed how to record applicable *rule* requirements in the Title V permit, particularly MACT, e.g., restate verbatim, cite (general or detailed), or paraphrase/translate.
- TF addressed how applicable requirements from construction permits should be recorded.

❖ *Recommendation Topics*

- Majority supported citation approach for incorporating MACT (and other standards) into Title V permits.
- For construction permits, terms and conditions should be repeated in Title V permit; citation to construction permits should be used only if construction permit is available for review.

Monitoring

❖ *Issues*

- Is it permissible to add monitoring to Title V permits?
- Under what circumstances?
- Are states treating “periodic monitoring” as different from CAM? Is CAM being implemented?

❖ *Recommendation Topics*

- Very divisive issue, in part because of litigation surrounding rule requirements.
- Different legal interpretations gave rise to a series of recommendations.
- Ultimately, TF felt these issues will be resolved in litigation, although the discussion did advance the understanding of the concerns of all sides.

New Substantive Requirements

❖ *Issues*

- Some states imposing monitoring parameters as enforceable limits. Testimony cited instances where this led to more stringent limits than applicable rules.
- CAM interface.

❖ *Recommendation Topics*

- General agreement Title V does not authorize imposition of any new or more restrictive emission limitations.
- Majority supported recommendations relying on CAM rule & ensuring parameters (without agreeing that they are authorized) directly correlated with applicable limits. No double violations.
- Regardless of authority for new conditions, if conditions, were imposed in 1st round of permitting, majority supported replacing with applicable CAM rule requirements.

Permit Definitiveness

❖ *Issue*

- Generally scope of permit shield.
- Interplay between credible evidence rule and permit shield.

❖ *Recommendation Topics*

- No consensus but addressed
 - Credible Evidence Rule (rule, preamble and guidance) and relationship between the permit, the permit shield, and the compliance certification.
 - Language in 70.6 regarding “at a minimum” requirements in compliance certifications.
 - Potential amendments to 70.6 in this regard.

Compliance Certifications

❖ *Issues*

- What should the format of compliance certifications be?
- Wide ranging discussion on the pros and cons of the various forms:
 - Long form can obscure compliance issues for the regulators, company management and the public.
 - Some view long form as management tools.
 - Core recognition that identifying deviations is the key.

❖ *Recommendation Topics*

- Majority of TF recommends short form.
- Remainder of TF split among three options from a modified short form to the full long form.
- Consensus on several “nagging” issues re certification forms:
 - should provide space for permittee to clarify or explain in its certification.
 - should not require certification for requirements that don't impose an obligation on the source.
 - should include space to indicate where permittee relies on monitoring not specified in the permit in cases when permit specifies a particular method.

Startup, Shutdown & Malfunction

❖ *Issues*

- Whether startup, shutdown, & malfunction (SSM) defenses both in SIPs and federal rules create enforcement and compliance problems.

❖ *Recommendation Topics*

- Differing views among TF
- Of 5 offered recommendations, only 1 reached consensus – that the Title V permit should be clear as to what limits are subject to the emergency defense.
- Majority supported recommendation that if a rule does not adequately address SSM, rules should be revised rather than address on a permit-by-permit basis.

Incorporation of Applicable Requirements

Recommendation #1

Citation Approach. Permitting authorities should use a citation approach to incorporate applicable requirements in MACT and other regulations into Title V permits.

In Favor (13)*: Broome, Palzer, Golden, Paul, Freeman, Hagle, Schwartz, Morehouse, Owen, Raettig, Hodanbosi, Wood, Van Frank

Opposed (2)*: van der Vaart, Sliwinski

Abstentions (3)*: Kaderly, Powell, Keever

Clarifications: Within the citation approach, some members prefer a general citation and others a detailed citation. Task Force members voted for each sub-recommendation that they deemed acceptable (which may have been both).

**Note: Number in parentheses () is the total number of Task Force members voting for this position.*

Recommendation #1(a)

General Citation Approach. Permitting authorities should use general citations as an acceptable way for incorporating MACT and other rules as applicable requirements in Title V permits. A general citation example is:

Source P001, Coke Oven Battery No. 1 – 40 CFR Subpart CCCCC (§§63.7280-63.7352), National Emission Standards for Hazardous Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks. This by-product coke oven battery with vertical flues was constructed prior to July 3, 2001 and is an existing affected source.

This approach provides for efficiencies in permit development and minimizes confusion without sacrificing enforceability since there is sufficient information to determine applicable requirements. This approach also ensures that the permitting authority does not inadvertently change the standard by rephrasing it or putting it into “plain English,” which has led to alteration of MACT requirements in some Title V permits according to submitted comments.

In Favor (12): Broome, Golden, Paul, Kaderly, Freeman, Hagle, Schwartz, Morehouse, Hodanbosi, Wood, Van Frank, Palzer

Opposed (5): van der Vaart, Sliwinski, Powell, Kever, Raettig

Abstentions (1): Owen

Clarifications:

Recommendation #1(b)

- Permitting authorities should use detailed citations as an acceptable way for incorporating MACT and other rules as applicable requirements in Title V permits. A detailed citation example is:
 - **Pollutants:** Hazardous Air Pollutants regulated pursuant to Section 112 of the Clean Air Act.
 - **Emission Unit:** Auto MACT (includes list of emission units covered)
 - **Limitations:** On and after the compliance date(s) specified in 40 CFR § 63.3083, for emission units in the Auto MACT Emission Unit, the permittee shall comply with the applicable emission limitations, operating limitations and work practice standards of the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks, 40 CFR Part 63, Subpart IIII. Please refer to the following sections of the rule:
 - **Emission limitations:** 40 CFR § 63.3091 and 40 CFR § 63.3092.
 - **Operating limitations:** 40 CFR § 63.3093.
 - **Work Practice Standards:** 40 CFR § 63.3094.
 - **Compliance Demonstration:** On and after the compliance date(s) specified in 40 CFR § 63.3083, for emission units in the Flexible Group Auto MACT, the permittee shall comply with the applicable compliance demonstration requirements of the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks, 40 CFR Part 63, Subpart IIII. Please refer to the following sections of the rule:
 - **General Compliance Requirements:** 40 CFR § 63.3100.
 - **Applicable Parts of the General Provisions:** 40 CFR § 63.3101.
 - **Initial Compliance Demonstration and Performance Tests:** 40 CFR §§ 63.3150-3152; 40 CFR §§ 63.3160-3161, 40 CFR §§ 63.3163-3168, 40 CFR §§ 63.3170-3171.
 - **Notifications:** 40 CFR § 63.3110.
 - **Reports:** 40 CFR § 63.3020.

- **Reference Test Methods, Recordkeeping and Monitoring:** On and after the compliance date(s) specified in 40 CFR § 63.3083, for emission units in the Flexible Group Auto MACT, the permittee shall comply with the applicable requirements for reference test methods, recordkeeping and monitoring of the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks, 40 CFR Part 63, Subpart IIII. Please refer to the following sections of the rule:
- **Initial Compliance Demonstration and Performance Tests:** 40 CFR §§ 63.3150-3152; 40 CFR §§ 63.3160-3161, 40 CFR §§ 63.3163-3168, 40 CFR §§ 63.3170-3171.
- **Records:** 40 CFR § 63.3130 and 40 CFR § 63.3131.
- This detailed citation enhances understanding of the applicability of the rule by citing the particular portions of the rule directly applicable to the particular emission unit, but preserves compliance options that are available under the standard.
- Although all of the MACT rules are readily accessible electronically, it is also recommended that the permitting authority make the rule available, upon request, for those who may not have electronic access.
- Permitting authorities, the public or the permittee may desire a translation of the technical language in the rule so that they can better understand how the rule applies to the particular facility. This translation can be included as additional narrative in the Technical Support Document or Statement of Basis for the permit, but should not be included in the permit itself, because of the risk of inaccuracies that may inadvertently change applicable requirements. A citation approach does not preclude the source from requesting clarification in the permit of a particular provision of the rule that may be ambiguous. Such a clarification would be focused on a particular provision rather than expending resources to recast an entire MACT rule.

In Favor (14): Broome, Palzer, Golden, Paul, Freeman, Hagle, Schwartz, Morehouse, Owen, Raettig, Hodanbosi, Wood, Kever, Van Frank

Opposed (3): van der Vaart, Sliwinski, Powell

Abstentions (1): Kaderly

Clarifications: Powell clarifies that she would not oppose this approach if the permit specified which of the standard's options are applicable at permit issuance and then required notice if changes are made. Kever joins Powell's clarification

Recommendation #2

Paraphrasing Approach. MACT and other rules should be incorporated into the Title V permit using a narrative approach that paraphrases the requirements and explains to the public and the permittee how the standard applies to the particular source. If several options are presented in a standard, the source should be required to state which are applicable at permit issuance and then provide notice if changes are made.

In Favor (3): van der Vaart, Sliwinski, Powell

Opposed (14): Broome, Palzer, Golden, Freeman, Hagle, Schwartz, Morehouse, Owen, Raettig, Hodanbosi, Wood, Keever, Kaderly, Van Frank

Abstentions (1): Paul

Clarifications:

Recommendation #3

Permitting authorities should incorporate currently applicable requirements from construction permits into the Title V permit by restating the terms of those permits in the Title V permit document. The source can request a permit shield (under Section 70.6(f)(1)(ii)) for nonapplicability of any terms of a construction permit not included in the Title V permit. The Title I/Title V Interface Paper contains discussion and recommendations on “cleaning up” obsolete construction permit terms. The only situation in which terms in a construction permit should be included in a Title V permit using a citation approach is if the construction permit is readily available to the public.

In Favor (17): Broome, Palzer, Golden, Freeman, Hagle, Schwartz, Morehouse, Paul, Owen, Hodanbosi, Wood, Keever, Kaderly, van der Vaart, Sliwinski, Van Frank

Opposed (1): Powell, Raettig

Abstentions:

Clarifications: Powell clarifies that she supports the first two sentences of this recommendation, but opposes the last sentence because she does not believe it is ever appropriate to use a citation approach for incorporating construction permit requirements into a Title V permit. Raettig joins Powell’s clarification.

Monitoring

Recommendation #1 (a)

EPA should proceed expeditiously by rulemaking to address monitoring inadequacies that may exist in underlying federal standards.

In Favor (17)*: Morehouse, Freeman, Van Frank, Palzer, Owen, Keever, Haragan, Powell, Schwartz, Golden, Paul, Hagle, Sliwinski, Broome, Wood, van der Vaart, Hodanbosi

Opposed:

Abstentions:

Clarifications:

**Note: Number in parentheses () is the total number of Task Force members voting for this position.*

Recommendation #1(b)

States should proceed expeditiously by rulemaking to address monitoring inadequacies that may exist in underlying SIP standards.

In Favor (15): Morehouse, Freeman, Palzer, Owen, Keever, Haragan, Powell, Schwartz, Paul, Hagle, Sliwinski, Broome, Wood, Golden, Hodanbosi

Opposed (2): van der Vaart, Van Frank

Abstentions:

Clarifications: Freeman, Golden, Broome, Morehouse voted in favor of this recommendation with the understanding that there will be clarification that CAM satisfies periodic monitoring requirements. Van Frank was opposed to this recommendation on the basis that this activity cannot or will not be undertaken with the resources currently available to state and local permitting authorities.

Recommendation #1(c)(i)

Before any such rulemakings, permitting authorities would not have authority to supplement on a case-by-case basis, in the permit review process, monitoring in standards that already contain periodic monitoring requirements. States would proceed with gap-filling monitoring for standards that do not have periodic monitoring requirements, to the extent authorized by the rules and with compliance assurance monitoring.

In Favor (7): Morehouse, Freeman, Schwartz, Paul, Broome, Wood, Golden

Opposed (10): Palzer, Owen, Keever, Haragan, Powell, Hagle, van der Vaart, Van Frank, Sliwinski, Hodanbosi

Abstentions:

Clarifications: Freeman voted in favor of this recommendation with the understanding that periodic monitoring will be limited to a reasonable frequency for the specific reference method test.

Recommendation #1(c)(ii)

Before any such rulemakings, permitting authorities must conduct case-by-case reviews of all applicable requirements and supplement monitoring to assure compliance.

In Favor (6): Palzer, Owen, Keever, Haragan, Powell, Hagle

Opposed (11): Broome, Morehouse, Freeman, Golden, Wood, van der Vaart, Paul, Van Frank, Schwartz, Sliwinski, Hodanbosi

Abstentions:

Clarifications: Hagle voted in favor of this recommendation but would change to the opposed position if the courts determine that case-by-case reviews are not required.

Recommendation #1(d)(i)

After a rulemaking, the rule would be a final indication of the monitoring required for a standard, and that may not be supplemented or changed in the permitting process. Anyone who objects to the monitoring in a final rule would be required to challenge that rule in the courts but not in individual permit proceedings.

In Favor (8): Broome, Morehouse, Freeman, Golden, Wood, van der Vaart, Paul, Sliwinski

Opposed (7): Van Frank, Palzer, Owen, Keever, Haragan, Powell, Hodanbosi

Abstentions (1): Hagle

Clarifications:

Recommendation #1(d)(ii)

After a rulemaking, provided such rulemaking expressly address the adequacy, pursuant to Title V, of monitoring in the underlying standard, that monitoring is presumptively adequate to meet Title V requirements, but must be supplemented on a case-by-case basis if necessary to assure compliance.

In Favor (7): Palzer, Owen, Keever, Haragan, Powell, Hagle, Van Frank

Opposed (10): Broome, Morehouse, Freeman, Golden, van der Vaart, Paul, Schwartz, Sliwinski, Wood, Hodanbosi

Abstentions:

Clarifications:

Recommendation #2

Unless EPA lifts the 2004 prohibition on case-by-case supplemental monitoring, EPA must review the adequacy of monitoring in SIP rules and issue a SIP call for those that are inadequate. EPA should provide funding to the states for SIP revision costs.

In Favor (6): Palzer, Owen, Keever, Haragan, Powell, Van Frank

Opposed (10): Broome, Morehouse, Freeman, Golden, van der Vaart, Schwartz, Hagle, Sliwinski, Wood, Hodanbosi

Abstentions (1): Paul

Clarifications:

Recommendation #3

EPA's rulemaking regarding gap-filling monitoring should promote consistency among permitting authorities and include consideration of several factors, such as cost, technical feasibility, monitoring currently in place at the unit, monitoring currently available or being used at similar units, the data upon which the standard was set, size of the unit/emissions levels, margin of compliance, compliance history, likelihood of a violation, and emissions variability.

In Favor (17): Broome, Morehouse, Freeman, Golden, van der Vaart, Schwartz, Hagle, Palzer, Owen, Keever, Haragan, Powell, Van Frank, Sliwinski, Paul, Wood, Hodanbosi

Opposed:

Abstentions:

Clarifications: Haragan, Owen, Powell, Palzer, Van Frank, and Keever, who voted in favor of this recommendation, do not agree that the data upon which the standard was set should be included as a factor. Freeman, Broome, Morehouse, Golden, Wood, and Paul who voted in favor of this recommendation add that monitoring should be consistent with the existing test methods.

Recommendation #4

EPA's rulemaking should clarify the relationship between the CAM rule and periodic monitoring, such that CAM satisfies Periodic Monitoring.

In Favor (9): Freeman, Morehouse, Paul, Golden, Schwartz, Hagle, Broome, Wood, Hodanbosi

Opposed (8): Van Frank, Keever, Owen, Haragan, Powell, van der Vaart, Sliwinski, Palzer

Abstentions:

Clarifications:

Related Topics:

New Substantive Requirements, Definitiveness of Permit

New Substantive Requirements

Recommendation #1

Based on the principle that Title V does not authorize imposition of any new or more restrictive emission limitations, any permit terms not in underlying emission standards:

- (1) should be based on the CAM rule and the CAM submission by the facility or developed with the agreement of the facility after consultation, or
- (2) must be based on adequate technical data to ensure that they do not result in operational restrictions that limit emissions more than the underlying requirement.

In Favor (12)*: Hodanbosi, Kaderly, Schwartz, Sliwinski, Hagle, Broome, Morehouse, Wood, Golden, Paul, van der Vaart, Freeman

Opposed (6)*: Powell, Raettig, Owen, Van Frank, Palzer, Keever

Abstentions:

Clarifications: Powell clarifies that while she agrees with using adequate technical data for monitoring, she opposes the CAM rule, believing sources must monitor directly their emissions whenever possible, and when not possible use parametric monitoring. Owen, Van Frank, Palzer, and Keever join Powell's clarification.

**Note: Number in parentheses () is the total number of Task Force members voting for this position.*

Recommendation #2

Based on the principle that Title V does not authorize imposition of any new or more restrictive emission limitations, in situations where parameter monitoring has not been correlated with the emission limit, such parameter monitoring conditions must not be treated as separately enforceable conditions from the emission limitations, but only as indicators of a potential compliance issue.

In Favor (11): Hodanbosi, Kaderly, Schwartz, Sliwinski, Hagle, Broome, Morehouse, Wood, Golden, Paul, Freeman

Opposed (7): van der Vaart, Powell, Raettig, Owen, Van Frank, Palzer, Kever

Abstentions:

Clarifications: Powell clarifies that her opposition is not to correlating monitoring with limits but is based on the view that direct emission or determinative parametric monitoring is required by Title V. Owen, Van Frank, Palzer, and Kever join Powell's clarification.

Recommendation #3

Regardless of whether there is authority for new conditions, because CAM meets enhanced monitoring requirements, development of CAM plans for Title V renewals should replace any operational restrictions that were included in the initial Title V permit for the corresponding emission limits and units.

In Favor (11): Hodanbosi, Kaderly, Schwartz, Sliwinski, Hagle, Broome, Morehouse, Wood, Golden, Paul, Freeman

Opposed (7): van der Vaart, Powell, Raettig, Owen, Van Frank, Palzer, Keever

Abstentions:

Clarifications: Powell opposes this recommendation because she disagrees with the premise of the recommendation that the CAM rule's approach is sufficient to assure compliance. Owen, Van Frank, Palzer, and Keever join Powell's clarification.

Related Topics:

Monitoring, Definitiveness of the Permit

Permit Definitiveness

Recommendation #1

The EPA should recognize that the Credible Evidence Rule (rule, preamble and guidance) has raised questions about the relationship between the permit, the permit shield, and the compliance certification. This has resulted in confusion among permitting agencies, sources and the public.

In Favor (9)*: Sliwinski, van der Vaart, Broome, Wood, Hagle, Freeman, Paul, Hodanbosi, Golden

Opposed (6)*: Raettig, Van Frank, Owen, Powell, Keever, Palzer

Abstentions (1)*: Morehouse

Clarifications: Broome, Golden, Wood, Paul, and Freeman clarify that because the Court of Appeals never ruled on the substance of the credible evidence rule, there remain questions about its overall legality and that the problem goes beyond confusion. They further clarify that the recommendation should not be interpreted simply as a request for additional guidance, which they do not believe would resolve the real issue.

**Note: Number in parentheses () is the total number of Task Force members voting for this position.*

Recommendation #2

The EPA should recognize that the phrase “at a minimum” in 40 CFR 70.6(c)(5)(iii)(B) when referring to the methods and means required under 70.6(a)(3) information used to determine the compliance status undermines the purpose of the permit shield to the extent it suggests that additional information must be considered in compliance certifications.

In Favor (4): Sliwinski, van der Vaart, Hodanbosi, Golden

Opposed (6): Raettig, Van Frank, Owen, Powell, Keever, Palzer

Abstentions (6): Broome, Freeman, Hagle, Morehouse, Paul, Wood

Clarifications:

Recommendation #3

EPA should pursue rulemaking to propose the following change in 70.6(c)(5)(iii)(B):

(B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under paragraph (a)(3) of this section. In cases where the permit is shield under 70.6(f)(1)(i) is included in the permit, the basis of the compliance certification shall be the results of monitoring under 70.6(a)(3).

In favor (3): Sliwinski, van der Vaart, Hodanbosi

Opposed (11): Broome, Wood, Raeittig, Van Frank, Freeman, Owen, Powell, Kever, Hagle, Paul, Palzer

Abstentions (2): Morehouse, Golden

Clarifications: Broome and Freeman oppose based on substantive concerns as well as because they do not believe the Task Force should promote specific regulatory language. Golden clarifies that he is in favor of achieving the general goal of definitiveness in the permit, but due to the complexity of the issue, he is unsure that the proposed language addresses all of the issues and does not want to promote exact regulatory language.

Related Topics:

Monitoring, New Substantive Requirements

Compliance Certification

Recommendation #1

Most of the Task Force endorsed an approach akin to the “short form” certification, believing that a line-by-line listing of permit requirements is not required and imposes burdens without additional compliance benefit. Under this approach, the compliance certification form would include a statement that the source was in continuous compliance with permit terms and conditions with the exception of noted deviations and periods of intermittent compliance. Although the permittee would cross-reference the permit for methods of compliance, in situations where the permit specifies a particular monitoring method but the permittee is relying on different monitoring, testing or other evidence to support its certification of compliance, that reliance should be specifically identified in the certification and briefly explained. An example of such a case would be where the permit requires continuous temperature records to verify compliance with a minimum temperature requirement. If the chart recorder data was not recorded for one hour during the reporting period because it ran out of ink, and the source relies on the facts that the data before and after the hour shows temperature above the requirement minimum and that the alarm system which sounds if temperature falls below setpoint was functioning and did not alarm during the hour, these two items would be noted as the data upon which the source relies for certifying continuous compliance with the minimum temperature requirement.

In Favor (10)*: Schwartz, Hodanbosi, Hagle, Kaderly, Broome, Freeman, Paul, Morehouse, Wood, Golden

Opposed (4)*: Keever, Owen, Palzer, Powell

Abstentions:

Clarifications

**Note: Number in parentheses () is the total number of Task Force members voting for this position*

Recommendation #2

Others on the Task Force believed that more detail than is included in the short form is needed in the compliance certification to assure source accountability and the enforceability of the certification. These members viewed at least one of the following options as acceptable (some members accepting any, while others accepting only one or two):

1. The use of a form that allows sources to use some cross-referencing to identify the permit term or condition to which compliance was certified. Cross-referencing would only be allowed where the permit itself clearly numbers or letters each specific permit term or condition, clearly identifies required monitoring, and does not itself include cross-referencing beyond detailed citations to publicly accessible regulations. The compliance certification could then cite to the number of a permit condition, or possibly the numbers for a group of conditions, and note the compliance status for that permit condition and the method used for determining compliance. In the case of permit conditions that are not specifically numbered or lettered, the form would use text to identify the requirement for which the permittee is certifying.
2. Use of the long form.
3. Use of the permit itself as the compliance certification form with spaces included to identify whether compliance with each condition was continuous or intermittent and information regarding deviations attached.

In Favor of This Range of Approaches (8): Sliwinski, van der Vaart, Haragan, Keever, Palzer, Owen, Powell, Van Frank

Opposed (10): Schwartz, Hodanbosi, Hagle, Kaderly, Broome, Freeman, Paul, Morehouse, Wood, Golden

Abstentions:

Clarifications: van der Vaart favors option 2 but believes Option 3 is also supportable. Haragan and Owen favor Option 3. Powell, Palzer, and Van Frank favor Options 1 and 3.

Recommendation #3

Where the permit specifies a particular monitoring or compliance method and the source is relying on other information, that information should be separately specified on the certification form;

In Favor (18): Sliwinski, van der Vaart, Haragan, Keever, Palzer, Owen, Powell, Van Frank, Schwartz, Hodanbosi, Hagle, Kaderly, Broome, Freeman, Paul, Morehouse, Wood, Golden

Opposed:

Abstentions:

Clarifications:

Recommendation #4

Where a permit term does not impose an affirmative obligation on the source, the form should not require a compliance certification; *e.g.*, where the permit states that it does not convey property rights or that the permitting authority is to undertake some activity such as provide public notice of a revision.

In Favor (18): Sliwinski, van der Vaart, Haragan, Keever, Palzer, Owen, Powell, Van Frank, Schwartz, Hodanbosi, Hagle, Kaderly, Broome, Freeman, Paul, Morehouse, Wood, Golden

Opposed:

Abstentions:

Clarifications:

Recommendation #5

All forms should provide space for the permittee to provide additional explanation regarding its compliance status and any deviations identified during the reporting period.

In Favor (18): Sliwinski, van der Vaart, Haragan, Keever, Palzer, Owen, Powell, Van Frank, Schwartz, Hodanbosi, Hagle, Kaderly, Broome, Freeman, Paul, Morehouse, Wood, Golden

Opposed:

Abstentions:

Clarifications:

Related Topics:

Definitiveness of the Permit; Incorporation of Applicable Requirements

Startup, Shutdown, Malfunction

Recommendation #1

Where the applicable requirements use vague terms (*e.g.*, “minimize emissions during SSM events”), the Title V permit should include conditions sufficient to verify how that applies to the source.

In Favor (8)*: Palzer, Powell, Owen, Keever, Raettig, Sliwinski, Kaderly, Van Frank

Opposed (10)*: Paul, Wood, Hodanbosi, Morehouse, Hagle, Freeman, Schwartz, van der Vaart, Golden, Broome

Abstentions:

Clarifications:

**Note: Number in parentheses () is the total number of Task Force members voting for this position.*

Recommendation #2

To the extent EPA or a state believes a rule inadequately describes the applicability of SSM provisions, the rule should be revised rather than addressing this in case-by-case permit proceedings.

In Favor (11): Broome, Paul, Hodanbosi, Wood, Morehouse, Hagle, Freeman, Schwartz, van der Vaart, Kaderly, Golden

Opposed (7): Sliwinski, Palzer, Powell, Owen, Keever, Raettig, Van Frank

Abstentions:

Clarifications: Sliwinski opposes based on “rather than.” Kaderly joins in Sliwinski’s clarification.

Recommendation #3

Title V permits should be clear as to which limits are subject to the part 70 emergency defense (*e.g.*, under the current rule, technology based limits).

In Favor (18): Broome, Freeman, Hagle, Hodanbosi, Keever, Morehouse, Owen, Palzer, Paul, Powell, Raettig, Schwartz, Sliwinski, van der Vaart, Wood, Kaderly, Golden, Van Frank

Opposed:

Abstentions:

Clarifications: Freeman and Broome clarify that a permit's failure to be clear on applicability would not prevent a source from asserting the defense.

Recommendation #4

The emergency defense should cover all limits in the Title V permit that are based on being achieved through the application of technology.

In Favor (9): Broome, Paul, Wood, Freeman, van der Vaart, Hodanbosi, Sliwinski, Morehouse, Golden

Opposed (5): Schwartz, Powell, Keever, Palzer, Van Frank

Abstentions (4): Hagle, Raettig, Owen, Kaderly

Clarifications: Schwartz opposes in that he views this as a new substantive requirement which Title V was not to create.

Recommendation #5

Where a permit includes an affirmative defense for startups and shutdowns, or the emission limits do not apply during those events, the permit should define what constitutes startup and shutdown if it is anticipated that emissions during such events would exceed the limits in the relevant standard.

In Favor (6): Powell, Owen, Keever, Raettig, Van Frank, Palzer

Opposed (12): van der Vaart, Hagle, Broome, Sliwinski, Paul, Wood, Hodanbosi, Morehouse, Freeman, Schwartz, Kaderly, Golden

Abstentions:

Clarifications: Schwartz, Sliwinski, and Kaderly clarify that it should be done where practical.

Related Topics:

Monitoring, Definitiveness Of Permit, New Substantive Requirements/Definitiveness Of Permit