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From: Mike.Gansner@erm.com

Sent: Wednesday, June 28, 2006 10:32 AM

To: RegComments@state.pa.us

Subject: Comments on proposed rulemaking General Provisions/ Construction and Modification of Sources

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Environmental Resources Management (ERM) appreciates the opportunity to provide comments on the proposed Non- Attainment New Source Review (NSR) rules. Below are our comments for your consideration:

1. Limiting the facilities to a five year look-back period (versus the Federally proposed 10-year look-back) is unduly burdensome particularly to facilities that have a business cycle that is greater than 5 years. For instance, many chemical facilities and refineries conduct "turn-arounds" every 7 to 10 years under normal operations just to get the facility back to normal peak operating efficiency. If the facilities only have a 5 year look back period they would be subject to the NSR requirements just to get back to normal operating levels.
2. The proposed rules indicate that BAT will be required for PALs. This takes away the operating flexibility of creating a PAL. In order for a PAL system to be a desirable permitting process to industry they need to be allowed the flexibility to operate under their PAL cap without BAT evaluations for each change.
3. The proposed NSR process is based upon comparison of actual emissions to projected actual emissions versus the current comparison of potential emissions to potential emissions in the severe non-attainment areas. Even with the inclusion of the unused capacity/increased utilization provisions the proposed rules are more stringent than the existing potential to potential test. Additionally, there is no regulatory precedence for facilities that exceed their projected future actual emissions.
4. Overall the rule is particularly burdensome to facilities in the severe non-attainment areas because the Department is: 1) requiring them to remain in a severe non-attainment mode for ozone (even though they are considered moderate by EPA), 2) the Department is proposing to reduce the 10 year lookback to a five year period, 3) the look back period is proposed for current actual to projected future actuals instead of potential to potential tests., and 4) the Department has added a test for a 15 year look back for increases and decreases of emissions.

Please feel free to contact me at 610-524-3870 with any questions related to these comments.

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