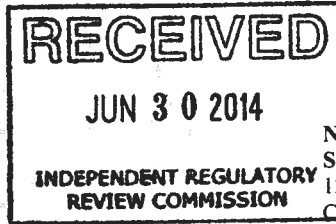
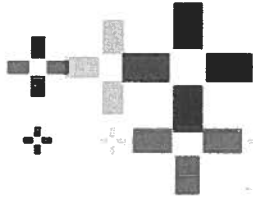




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June 30, 2014

Via Electronic Submittal: <http://www.ahs.dep.pa.gov/RegComments>

Environmental Quality Board (“Board”)
Pennsylvania Department of Environmental Protection (“Department”)
Rachel Carson State Office Building
400 Market Street, 16th Floor
Harrisburg, PA 17101-2301

Re: Comments to Proposed Rulemaking – Additional RACT Requirements for Major Sources of NOx and VOCs – 44 Pa.B. 2392-2404, April 19, 2014

Ladies and Gentlemen:

Please find below the comments of NRG Energy, Inc. (“NRG”) to the above-referenced proposed rulemaking (44 Pa.B. 2392-2404, April 19, 2014). NRG understands the impetus for the proposed rulemaking and appreciates the Department’s efforts to communicate its progress to the various stakeholders (e.g., presentation to the Air Quality Technical Advisory Committee on February 14, 2013). A separate single page summary of NRG’s comments is enclosed in this transmittal. NRG’s comments and detailed support are presented below.

In general, NRG supports the form and level of the presumptive emissions limits in the proposed rulemaking.

NRG Comments to proposed 25 Pa. Code §121.1 – Definitions

- NRG recommends that the Department include definitions that are consistent with those under related federal rules. To that end, NRG recommends the following:
- NRG recommends that the following definition of “capacity factor” be included in the final rule. The term is not included in the current definitions in §121.1 or in the proposed rulemaking:

Capacity factor means either:

- (1) The ratio of a unit's actual annual electric output (expressed in MWe/hr) to the unit's nameplate capacity (or maximum observed hourly gross load (in MWe/hr) if greater than the nameplate capacity) times 8760 hours; or
- (2) The ratio of a unit's annual heat input (in million British thermal units or equivalent units of measure) to the unit's maximum rated hourly heat input rate (in million British thermal units per hour or equivalent units of measure) times 8,760 hours.

NRG comment: The proposed rule includes a presumptive RACT requirement that is based on a unit's annual “capacity factor”, but this term is not currently defined. The aforementioned definition is verbatim from the federal regulations – see 40 CFR 72 Subpart A – Acid Rain Program General Provisions, §72.2.

- NRG also recommends that the following definition of “combustion turbine” be included in the final rule. The term is not included in the definitions currently under §121.1 or in the proposed rulemaking.

Combustion turbine means all equipment, including but not limited to the turbine, the fuel, air, lubrication and exhaust gas systems, control systems (except emissions control equipment), and any ancillary components and sub-components comprising any simple cycle combustion turbine, any regenerative/recuperative cycle combustion turbine, the combustion turbine portion of any cogeneration cycle combustion system, or the combustion turbine portion of any combined cycle steam/electric generating system.

NRG comment: The proposed rule includes presumptive RACT requirements for “combustion turbines,” but this term is not currently defined. The aforementioned definition is verbatim from the federal regulations – see 40 CFR 60 Subpart III – NSPS for Stationary Compression Ignition Internal Combustion Engines, §60.4219.

- NRG recommends that the definition of “stationary internal combustion engine” be amended as follows (amendment denoted by red bold font, same reference as noted above):

Stationary internal combustion engine—**[For purposes of § 129.203 (relating to stationary internal combustion engines), an] An internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one location to another and is not a mobile air contamination source. Stationary internal combustion engines (ICE) differ from mobile ICE in that a stationary internal combustion engine is not a nonroad engine as defined at 40 CFR 1068.30 (excluding paragraph (2)(ii) of that definition), and is not used to propel a motor vehicle, aircraft, or a vehicle used solely for competition. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines.**

NRG comment: Inclusion of the amended text would allow for consistency with the definitions under NSPS Subparts IIII and JJJJ and NESHAPS Subpart ZZZZ, and in turn would denote that portable temporary sources such as air compressors and generators, which are not “mobile air contamination sources” per §121.1, are also not stationary sources, and thus excluded from the proposed rulemaking.

NRG comments to proposed 25 Pa. Code §129.97 - Presumptive RACT requirements, RACT emission limitations and petition for alternative compliance schedule

- NRG reiterates its support for the form and level of the presumptive emission limits included in the proposed rulemaking. NRG recommends the following minor changes to §129.97 to allow for consistency with current Department rules, and offers a comment in support of the presumptive emission limits:
- NRG recommends that §129.97 be revised as follows (amendment denoted by red font, deletions denoted by strikethrough and highlighting):

(c) The owner and operator of a source listed in this subsection located at a major NO_x emitting facility or major VOC emitting facility, or both, subject to § 129.96 shall comply with the following presumptive RACT requirement, which is the installation, maintenance and operation of the source in accordance with ~~the manufacturer's specifications and~~ good **engineering operating** practices:

NRG comment: The requested changes would allow for consistency with 25 Pa. Code §127.444.

* * * * *

(2) A combustion turbine with a rated ~~output less than 1000 bhp~~ heat input less than 10 million Btu/hr.

NRG comment: Combustion turbine ratings are typically listed on heat input basis. A unit rated at 10 MMBtu/hr heat input with a typical heat rate ~ 15,000 Btu/KWh would yield an energy output ~ 1000 bhp.

* * * * *

(d) The owner and operator of a combustion unit or other combustion source located at a major VOC emitting facility subject to § 129.96 shall comply with the presumptive RACT requirement of good **engineering operating** practices for the control of the VOC emissions from the combustion unit or other combustion source.

NRG comment: The requested changes would allow for consistency with 25 Pa. Code §127.444.

* * * * *

- NRG supports the form and level of the presumptive emissions limits proposed in §129.97(g)(1) for combustion units, process heaters, combustion turbines and stationary internal combustion engines. The Department's proposed presumptive NO_x RACT limits for coal-fired combustion units represent approximately a 20% reduction from the current RACT regulations and will require addition control measures and close operator supervision for many affected units. NRG understands that several environmental organizations have noted

that the Department’s proposed NOx RACT limits are “too lenient” (e.g., see [Pittsburgh Post-Gazette](http://www.post-gazette.com/local/region/2014/04/18/Pa-coal-emissions-plan-criticized-as-too-lenient/stories/201404180119), April 17, 2014, <http://www.post-gazette.com/local/region/2014/04/18/Pa-coal-emissions-plan-criticized-as-too-lenient/stories/201404180119>). In fact, the Department’s proposed presumptive NOx RACT limits are consistent with source-category presumptive NOx RACT limits applicable in neighboring Ohio and promulgated under the Ohio Administrative Code (OAC) Chapter 3745-110. The Ohio regulations became effective in December 2007; the Ohio Environmental Protection Agency completed a review of these rules in May and July 2013, and determined that no changes to the presumptive NOx RACT limits were required. A comparison of the Department’s presumptive NOx RACT limits with those promulgated under OAC 3745-110 is presented below:

Source Category Type	Source Category Throughput	Fuel Type	PA DEP Proposed Presumptive NOx RACT Limit	Ohio EPA Presumptive NOx RACT Limit
Combustion Unit or Process Heater	≥ 50 MMBtu/hr Heat input	Natural gas	0.08 lb/MMBtu	0.10 lb/MMBtu
		Distillate Oil	0.12 lb/MMBtu	0.12 lb/MMBtu
		Residual Oil	0.20 lb/MMBtu	0.23 lb/MMBtu
Combustion Unit	≥ 50 and < 250 MMBtu/hr Heat input	Coal	0.45 lb/MMBtu	0.30 lb/MMBtu
		Coal – circulating fluidized bed	0.20 lb/MMBtu	
	≥ 250 MMBtu/hr Heat input	Coal – tangentially-fired	0.35 lb/MMBtu	
		Coal – other	0.40 lb/MMBtu	
Combustion Turbine, combined-cycle or combined heat and power	≥ 1,000 BHp and < 180 MW	Natural gas or a noncommercial gaseous fuel	42 ppmvd @ 15% O2	42 ppmvd @ 15% O2
		Fuel Oil	75 ppmvd @ 15% O2	96 ppmvd @ 15% O2
Combustion Turbine, combined-cycle or combined heat and power	>180 MW	Natural gas or a noncommercial gaseous fuel	4 ppmvd @ 15% O2	42 ppmvd @ 15% O2
		Fuel Oil	8 ppmvd @ 15% O2	96 ppmvd @ 15% O2
Combustion Turbine, simple-cycle or regenerative cycle	≥ 1,000 BHp	Natural gas or a noncommercial gaseous fuel	42 ppmvd @ 15% O2	42 ppmvd @ 15% O2
		Fuel Oil	75 ppmvd @ 15% O2	96 ppmvd @ 15% O2
Stationary Internal Combustion Engine	Lean burn ≥ 500 BHp	Natural gas	3.0 g/BHp-hr	3.0 g/BHp-hr *
	≥ 500 BHp	Liquid fuel	8.0 g/BHp-hr	3.0 g/BHp-hr *
	Rich burn ≥ 500 BHp	Natural gas	2.0 g/BHP-hr	3.0 g/BHp-hr *

*: Engines > 2,000 BHp

NRG Comments to proposed 25 Pa. Code §129.98 – Facility-wide or system-wide NO_x emissions averaging RACT operating permit modification general requirements

- NRG reiterates its support for the option to allow for facility-wide or system-wide emissions averaging, with compliance based on a rolling 30-day basis. NRG recommends the following minor changes to §129.98:
- NRG recommends that §129.98 be revised as follows (amendments denoted by red bold font, deletions denoted by strikethrough and highlighting):

- (a) The owner or operator of a major NO_x emitting facility subject to § 129.96 (relating to applicability) that includes an air contamination source subject to a NO_x RACT requirement or NO_x RACT emission limitation in § 129.97 (relating to presumptive RACT requirements, RACT emission limitations and petition for alternative compliance schedule) ~~that cannot meet the applicable NO_x RACT requirement or NO_x RACT emission limitation~~ may elect to meet the applicable NO_x RACT requirement or NO_x RACT emission limitation in § 129.97 by averaging NO_x emissions on either a facility-wide or system-wide basis using a 30-day rolling average. System-wide emissions averaging must be among sources under common control of the same owner or operator in this Commonwealth

NRG comment: As proposed, this condition prohibits a source owner or operator from developing a compliant NO_x RACT averaging plan, and in effect eliminates the option for emissions averaging on a facility-wide or system-wide basis. The emissions from a specific source(s) that cannot meet the applicable NO_x RACT requirement or NO_x RACT emission limitation needs for its emissions to be averaged (or aggregated with, see condition (d) below) with source(s) whose emissions can meet its applicable NO_x RACT requirement or NO_x RACT emission limitation. Consequently, the text denoted above need to be removed from the rule.

- (b) The owner or operator of each facility that elects to comply with subsection (a) shall submit a **demonstration of a compliant plan** ~~an operating permit modification~~ that incorporates the requirements of this section for averaging NO_x emissions on either a facility-wide or system-wide basis using a 30-day rolling average to the Department or appropriate approved local air pollution control agency by the applicable date as follows:

NRG comment: An operating permit modification (and efforts by the Department to process the application) **is not necessary** for source owners or operators who elect to include applicable emission sources in a facility-wide or system-wide NO_x emissions averaging plan. U.S. EPA White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program (March 5, 1996) notes that if compliance options are available to the permittee, then the relevant permit simply needs to incorporate by reference the applicable regulation that includes appropriate record keeping and reporting. Supporting pages from EPA White Paper No. 2 are attached for reference to this letter as Attachment 1. Furthermore, the as-proposed requirement is inconsistent

with the Department’s intent as noted in the preamble to the proposed rule as evidenced by the language below:

Emission limitations established by regulation will not require the submission of applications for amendments to existing operating permits. [25 Pa.B 2396, April 19, 2014]

The demonstration (e.g., similar to those submitted under the Acid Rain Program – NOx Averaging Plan per 40 CFR 76.11) would become effective upon submittal by the permittee to the Department.

* * * * *

- (d) The ~~operating permit modification~~ demonstration for averaging NOx emissions on either a facility-wide or system-wide basis using a 30-day rolling average submitted under subsection (b) must demonstrate that the aggregate NOx emissions emitted by the air contamination sources included in the facility-wide or system-wide NOx emissions averaging ~~RACT operating permit modification~~ using a 30-day rolling average plan are not greater than 90% of the sum of the NOx emissions that would be emitted by the group of included sources if each source complied with the applicable NOx RACT requirement or NOx RACT emission limitation in § 129.97 on a source-specific basis.

NRG Comment: NRG recommends the deletion of the 10 percent "haircut" applicable to units that participate in a facility-wide or system-wide NOx averaging plan from the proposed rulemaking. In the proposed rulemaking and accompanying submittals to the Board, the Department has not discussed its rationale for the 10 percent. This percent haircut is not appropriate because ground-level ozone is a regional and not a local pollutant unlike other pollutants such as lead or sulfur dioxide (i.e., there are no localized "hot spots" of ground-level ozone). This observation is based on ambient air ozone concentration data collected and certified by the Department, as demonstrated by the accompanying plots from the three most recent calendar years. In generating these summaries, NRG

- Extracted the daily 8-hour maximum ozone concentration measured at each Department monitoring site;
- For each monitoring day, averaged the values obtained above from the monitoring stations located within each of the six Department regions; and
- Plotted each of those six averages

These plots clearly show that ground-level ozone concentrations not only track closely throughout the Commonwealth, but are also essentially the same concentration. By contrast, the annual stationary source emissions of the ground-level ozone precursor pollutants, NOx and VOCs, are non-uniformly emitted throughout the Commonwealth – please see the plots (emissions data for CY 2013 were not available). Consequently, because NOx is one of the precursor pollutants to ground-level ozone, NOx emission reductions that occur anywhere in the Commonwealth are expected to result in reductions in ground-level ozone throughout the Commonwealth.

(e) The owner or operator shall calculate the alternative facility-wide or system-wide NOx RACT emissions limitation using a 30-day rolling average for the air contamination sources included in the operating permit modification submitted under subsection (b) by using the following equation to sum the emissions for all of the sources included in the **operating permit modification plan**:

$$\sum_{i=1}^n (R_i) \text{ actual} * H_i \leq \sum_{i=1}^n (R_i) \text{ allowable} * H_i * 0.9$$

Where:

(R_i) actual = The daily actual NOx emission rate for air contamination source i, lb/mmbtu, using a 30-day rolling average

(R_i) allowable = The applicable NOx emission rate limitation for air contamination source i, lb/mmbtu, specified in §129.97

(H_i) = The daily actual heat input for air contamination source i, mmbtu, using a 30-day rolling average

$$\sum_{i=1}^n (NOx)_i \text{ actual} \leq \sum_{i=1}^n (NOx)_i \text{ allowable}$$

Where:

(NOx)_i actual = The daily NOx emissions (lb) for air contamination source i, with the sum expressed as a 30-day rolling average

(NOx)_i allowable = The applicable NOx emissions limitation (lb) for air contamination source i, calculated as the product of the applicable NOx emission rate limitation specified in §129.97 and the actual heat input or process throughput

n = The number of air contamination sources included in the **operating permit modification NOx RACT averaging plan**

0.9 = The 90% limit specified under subsection (d)

NRG Comment: The equation as proposed is inconsistent with the requirements under subsection (d), which requires the permittee to demonstrate that the aggregate (i.e., mass emissions sum) of NOx emissions emitted by the air contamination sources included in the facility-wide or system-wide plan are not greater than the sum of the NOx emissions (i.e., mass emissions) that would be emitted by the group of included sources if each source complied with the applicable NOx RACT requirement or NOx RACT emission limitation in § 129.97 on a source-specific basis. The requested change in the equation also accounts for the various forms of the presumptive NOx RACT emission limits (e.g., lb/MMBtu, lb/bhp-hr) that are applicable to units that may participate in an averaging plan.

NRG comments to proposed § 129.100 - Compliance demonstration and recordkeeping requirements.

➤ NRG recommends that §129.100 be modified as follows (amendment denoted by red bold font):

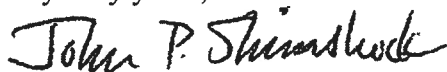
- (e) **Beginning with the compliance date specified in § 129.97(a)**, the owner or operator of an air contamination source claiming that the air contamination source is exempt from the applicable NOx emission rate threshold specified in § 129.99(b) and the requirements of § 129.97 based on the air contamination source's potential to emit shall maintain records that demonstrate to the Department or appropriate approved local air pollution control agency that the air contamination source is not subject to the specified emission rate threshold.
- (f) **Beginning with the compliance date specified in § 129.97(a)**, the owner or operator of an air contamination source claiming that the air contamination source is exempt from the applicable VOC emission rate threshold specified in § 129.99(c) and the requirements of § 129.97 based on the air contamination source's potential to emit shall maintain records that demonstrate to the Department or appropriate approved local air pollution control agency that the air contamination source is not subject to the specified emission rate threshold.

NRG Comment: The requested changes would allow source owners or operators subject to one or more presumptive NOx RACT limits to eliminate their applicability to those limits by becoming a minor source of NOx and/or VOC emissions.

.....

NRG appreciates the opportunity to provide comments to the proposed rulemaking. Please contact Mr. Keith Schmidt (724-597-8193, Keith.Schmidt@nrgenergy.com) or me via telephone or email as listed above with any questions or concerns regarding these comments.

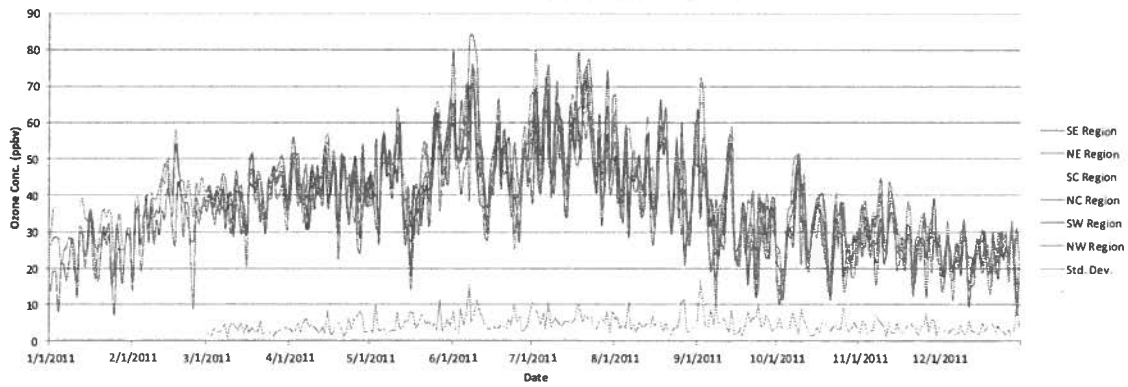
Very truly yours,



John P. Shimshock
Sr. Air Environmental Specialist

Daily 8-Hour Maximum Ozone Concentration - CY 2011 by PA DEP Region

Reference: http://www.epa.gov/airdata/ad_rep_mon.html

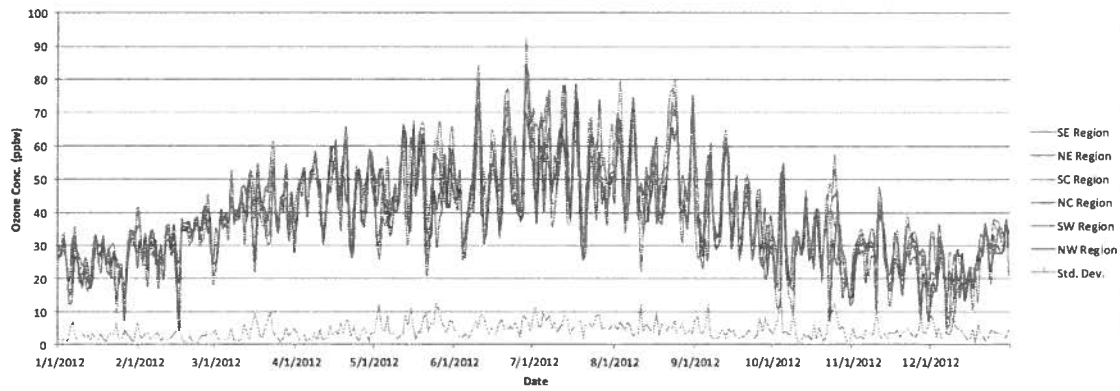


Region	2011 Emissions (tons)	
	NOx	VOC
Nomistown (SE)	9,596	3,137
Wilkes-Barre (NE)	11,425	2,720
Harrisburg (SC)	35,759	6,513
Williamsport (NC)	22,667	1,847
Southwestern (SW)	102,157	2,480
Meadville (NW)	10,682	3,645

http://www.ahs.dep.pa.gov/eFACTSWeb/criteria_emiissionssummary.aspx

Daily 8-Hour Maximum Ozone Concentration - CY 2012 by PA DEP Region

Reference: http://www.epa.gov/airdata/ad_rep_mon.html

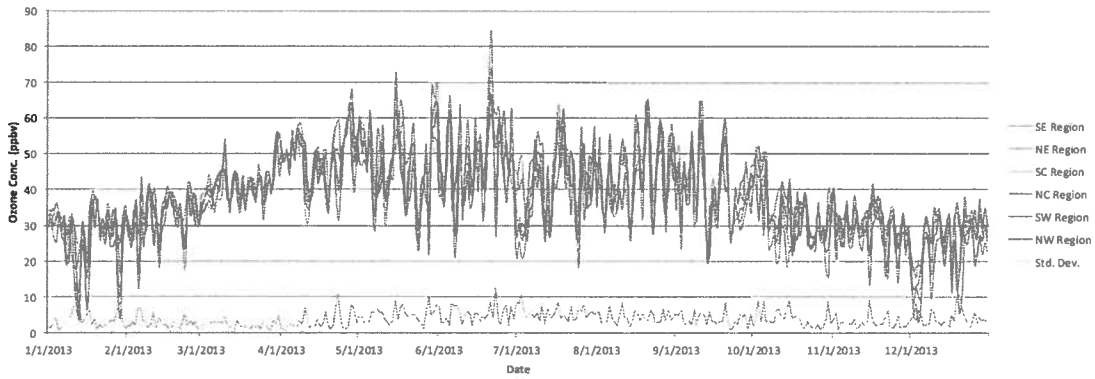


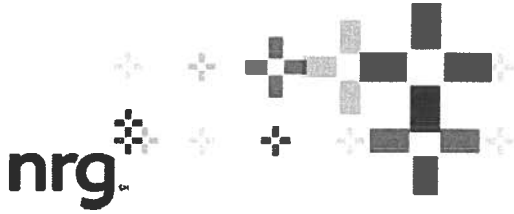
Region	2012 Emissions (tons)	
	NOx	VOC
Norristown (SE)	6,184	2,193
Wilkes-Barre (NE)	9,879	2,654
Harrisburg (SC)	26,625	6,626
Williamsport (NC)	22,314	1,735
Southwestern (SW)	90,670	2,645
Meadville (NW)	10,099	3,340

http://www.ahs.dep.pa.gov/eFACTSWeb/criteria_emissionssummary.aspx

Daily 8-Hour Maximum Ozone Concentration - CY 2013 by PA DEP Region

Reference: http://www.epa.gov/airdata/ad_rep_mon.html





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*Comments to Proposed Rulemaking –
Additional RACT Requirements for Major Sources of NOx and VOCs –
44 Pa.B. 2392-2404, April 19, 2014*

Attachment 1 to NRG Comments

Selected pages from U.S. EPA
White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program
(March 5, 1996)

WHITE PAPER NUMBER 2 FOR IMPROVED IMPLEMENTATION
OF THE PART 70 OPERATING PERMITS PROGRAM

U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF AIR QUALITY PLANNING AND STANDARDS

March 5, 1996

Contacts: Michael A. Trutna (919) 541-5345
Ginger Vagenas (415) 744-1252
Roger Powell (919) 541-5331

application. However, the applicant must provide sufficient information to allow the permitting authority to impose the applicable requirement. In addition, the resulting application streamlining would not relieve the applicant from submitting, or the permitting authority from reviewing, emissions or other data for part 70 purposes other than determining applicability.

In the case where there is no dispute that a stationary source is subject to part 70, and the applicant stipulates that the source is a part 70 source in the application, no further information would be required for applicability determination. An example would be a source which is currently operating under a prevention of significant deterioration permit because it is major for PM-10. Both the source and the permitting authority agree that the source is subject to the State's part 70 program.

A source may also streamline the part 70 permit process by stipulating that specific applicable requirements apply. This does not relieve the source of its obligation to identify all applicable requirements or preclude the permitting authority from requesting additional information, including information pertaining to the applicability of requirements not covered in the stipulation. For example, a stationary source may stipulate it is subject to a SIP rule. However, the permitting authority may suspect that the source is also subject to a New Source Performance Standard (NSPS), but may need more information for confirmation. In this case, the permitting authority would request additional information related to the applicability of the NSPS.

Similarly, an applicant may stipulate that it is subject to only portions of an applicable requirement and state that it is not subject to other portions. In such case, the permitting authority may request the applicant to provide additional information to demonstrate that it is not subject to requirements in question. However, if a source requests a permit shield, additional information to demonstrate the non-applicability of these requirements must be submitted.

E. Referencing Of Existing Information In Part 70 Permit Applications And Permits.

1. Issue.

Can an applicant in its permit application, and can the permit itself, reference existing information that is available at the permitting authority? Also, can the permit application and the permit reference applicable requirements through citation rather than by a complete reprinting of the requirements themselves in the part 70 permit application or permit?

2. Guidance.

a. General. Information that would be cited or cross referenced in the permit application and incorporated by reference into the issued permit must first be currently applicable and available to the permitting authority and public²³. The information need not be restated in the part 70 application. Standardized citation formats should be established by the permitting authority to facilitate appropriate use of this mechanism.

Referenced documents must also be specifically identified. Descriptive information such as the title or number of the document and the date of the document must be included so that there is no ambiguity as to which version of which document is being referenced. Citations, cross references, and incorporations by reference must be detailed enough that the manner in which any referenced material applies to a facility is clear and is not reasonably subject to misinterpretation. Where only a portion of the referenced document applies, applications and permits must specify the relevant section of the document. Any information cited, cross referenced, or incorporated by reference must be accompanied by a description or identification of the current activities, requirements, or equipment for which the information is referenced.

b. Permit Applications. The applicant and the permitting authority should work together to determine the extent to which part 70 permit applications may cross reference agency-issued rules, regulations, permits, and published protocols, and existing information generated by the applicant. To facilitate referencing existing information, permitting authorities should identify the general types of information available for this purpose. To the extent that such information exists and is readily available to the public, the following types of information may be cited or cross referenced (as allowed by the permitting authority)²⁴:

²³Referenced documents must be made available (1) as part of the public docket on the permit action or (2) as information available in publicly accessible files located at the permitting authority, unless they are published or are readily available (e.g., regulations printed in the Code of Federal Regulations or its State equivalent).

²⁴Use of cross-referencing does not shift any burden of reproducing or otherwise acquiring information to the permitting authority.

- o Rules, regulations, and published protocols.
- o Criteria pollutant and HAP emission inventories and supporting calculations.
- o Emission monitoring reports, compliance reports, and source tests.
- o Annual emissions statements.
- o Process and abatement equipment lists and descriptions.
- o Current operating and preconstruction permit terms.
- o Permit application materials previously submitted.
- o Other materials with the approval of the permitting authority.

Applicants are obligated to correct and supplement inaccurate or incomplete permitting authority records relied upon for the purposes of part 70 permit applications. The responsible official must certify, consistent with § 70.5(d), to the truth, accuracy, and completeness of all information referenced.

c. Permits. Incorporation by reference in permits may be appropriate and useful under several circumstances. Appropriate use of incorporation by reference in permits includes referencing of test method procedures, inspection and maintenance plans, and calculation methods for determining compliance. One of the key objectives Congress hoped to achieve in creating title V, however, was the issuance of comprehensive permits that clarify how sources must comply with applicable requirements. Permitting authorities should therefore balance the streamlining benefits achieved through use of incorporation by reference with the need to issue comprehensive, unambiguous permits useful to all affected parties, including those engaged in field inspections.

Permitting authorities may, after listing all applicable emissions limits for all applicable emissions units in the part 70 permit, provide for referencing the details of those limits, rather than reprinting them in permits to the extent that (1) applicability issues and compliance obligations are clear, and (2) the permit includes any additional terms and conditions sufficient to assure compliance with all applicable requirements²⁵.

²⁵In the case of a merged permit program, i.e., where a State has merged its NSR and operating permits programs, previous

Where the cited applicable requirement provides for different and independent compliance options (e.g., boilers subject to an NSPS promulgated under section 111 may comply by use of low sulfur fuel or through add-on of a control device), the permitting authority generally should require that the part 70 permit contain (or incorporate by reference) the specific option(s) selected by the source. Alternatively, the permit could incorporate by reference the entire applicable requirement provided that (1) such reference is unambiguous in its applicability and requirements, (2) the permit contains obligations to certify compliance and report compliance monitoring data reflecting the chosen control approach, and (3) the permitting authority determines that the relevant purposes of title V would be met through such referencing. The alternative approach would not be allowable if changing from one compliance option to another would trigger the need for a prior review by the permitting authority or EPA (e.g. NSR), unless prior approval is incorporated into the part 70 permit (i.e., advance NSR).

The EPA does not recommend that permitting authorities incorporate into part 70 permits certain other types of information such as the part 70 permit application (see first White Paper).

3. Discussion.

Title V and part 70 do not define when citation or cross-referencing in permit applications would be appropriate, although it obviously would not be allowed where such citations or cross-references would not support subsequent development of the part 70 permit. The EPA's first White Paper states that a permitting authority may streamline part 70 applications by allowing the applicant to cross-reference a variety of documents including permits and Federal, State, and local rules. This guidance further provides that where an emissions estimate is needed for part 70 purposes but is otherwise available (e.g., recent submittal of emissions inventory) the permitting authority can allow the source to cross-reference this information for part 70 purposes.

Permitting authorities' files and databases often include information submitted by the applicant which can also be required by part 70. Development and review of part 70 permit applications could be streamlined if information already held by

NSR permits expire. This leaves the part 70 permit as the sole repository of the relevant prior terms and conditions of the NSR permit. Under these circumstances, it is not possible to incorporate by reference the expired NSR permits.

the permitting authority and the public is referenced or cited in part 70 permit applications rather than restated in its entirety. Similarly, specific citations to regulations that are unambiguous in their applicability and requirements as they apply to a particular source will reduce the burden associated with application development.

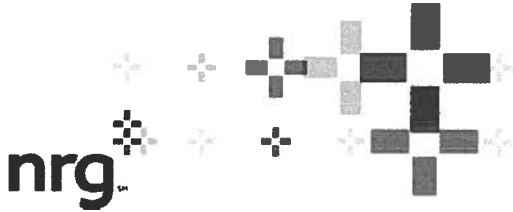
Incorporation by reference can be similarly effective in streamlining the content of part 70 permits. The potential benefits of permit development based on an incorporation by reference approach include reduced cost and administrative complexity, and continued compliance flexibility as enforceably allowed by the underlying applicable requirements.

Expectations for referencing with respect to permit content are somewhat better defined than for permit applications. Section 504(a) states that each permit "shall include enforceable emissions limitations and standards" and "such other conditions as are necessary to assure compliance with the applicable requirements." In addition, section 504(c) requires each permit to "set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions." Analogous provisions are contained in §§ 70.6(a)(1) and (3). The EPA interprets these provisions to place limits on the type of information that may be referenced in permits. Although this material may be incorporated into the permit by reference, that may only be done to the extent that its manner of application is clear.

Accordingly, after all applicable emissions limits are placed in the part 70 permit and attached to the emissions unit to which they apply, the permitting authority may allow referencing where it is specific enough to define how the applicable requirement applies and where using this approach assures compliance with all applicable requirements. This approach is a desirable option where the referenced material is unambiguous in how it applies to the permitted facility, and it provides for enforceability from a practical standpoint. On the other hand, it is generally not acceptable to use a combination of referencing certain provisions of an applicable requirement while paraphrasing other provisions of that same applicable requirement. Such a practice, particularly if coupled with a permit shield, could create dual requirements and potential confusion.

Even where the referenced requirement allows for compliance options, the permitting authority may issue the permit with incorporation of the applicable requirement provided that the compliance options of the source are enforceably defined under available control options, appropriate records are kept and

reports made, and any required revisions to update the permit with respect to specific performance levels are made. This treatment would be analogous to the flexibility provided to sources through the use of alternative scenarios.



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***Summary of NRG Comments to Proposed Rulemaking –
Additional RACT Requirements for Major Sources of NOx and VOCs –
44 Pa.B. 2392-2404, April 19, 2014***

1. NRG supports the form and level of the presumptive emission limits included in the proposed rule.
2. NRG supports the option to allow for facility-wide or system-wide emissions averaging, with compliance based on a rolling 30-day basis. To allow for an effective averaging plan, NRG recommends that the Department modify the proposed rule as follows:
 - a. Clarify that any applicable emissions source is eligible to be included in an averaging plan (emissions from sources that cannot comply with their presumptive NOx RACT rate need to be averaged with emissions from sources that can comply with their presumptive NOx RACT rate).
 - b. Eliminate the requirement for the permittee to seek a permit modification to establish a NOx RACT averaging plan. This requirement is unnecessary and inconsistent with U.S. EPA guidance.
 - c. Eliminate the 10 percent "haircut" applicable to units that participate in a facility-wide or system-wide NOx averaging plan. In the proposed rulemaking and accompanying submittals to the Board, the Department has not discussed its rationale for the 10 percent. This percent haircut is not appropriate because ground-level ozone is a regional and not a local pollutant unlike other pollutants such as lead or sulfur dioxide (i.e., there are no localized "hot spots" of ground-level ozone).
 - d. Revise the mathematical equation presented in §129.98(e) as outlined in NRG's comments. As proposed, the equation is inconsistent with the requirements under subsection (d), which requires the permittee to demonstrate that the aggregate (i.e., mass emissions sum) of NOx emissions emitted by the air contamination sources included in the facility-wide or system-wide plan are not greater than the sum of the NOx emissions (i.e., mass emissions) that would be emitted by the group of included sources if each source complied with the applicable NOx RACT requirement or NOx RACT emission limitation in § 129.97 on a source-specific basis.