

July 27, 2000

To: Permit Engineers
Regional Supervisors
Regional Permit Coordinators
Regional Compliance Coordinators
DAQ Webpage

From: Laura S. Butler, P.E.
Chief, Permits Section

Through: B. Keith Overcash
Deputy Director

Re: Implementing Insignificant Activities Rule

Background

On December 1, 1999 the Environmental Management Commission (EMC) passed a revised rule, 2Q .0503(7) & (8), to address insignificant activities at Title V facilities. Prior to this change, the rule addressing insignificant and exempt activities was contained in 15A NCAC 2Q .0102 "Activities Exempt for Permit Requirements." This rule (2Q .0102) listed activities by two major groupings, category or size, that were not required to obtain an air quality permit. This exemption list was available for all fee classifications (e.g. Small, Synthetic, & Title V). Pursuant to EPA Region IV oversight of our Title V permitting program, the EPA commented that under Title V no emission sources could be exempted from permitting. In response to this comment the Division proposed and the EMC adopted a separate rule specifically for Title V facilities to address insignificant activities. (See 15A NCAC 2Q .0503(7) and (8)).

New Procedures

Non-Title V facilities (i.e. Small, Prohibitory Small, and Synthetic) will continue to use 2Q .0102 to determine what activities require a permit.

Facilities classified as Title V, regardless of whether the facility has actually been issued a Title V permit, can no longer use 2Q .0102 "Activities Exempt for Permit Requirements." These facilities now are required to use 2Q .0503(7) and (8) to determine what activities at their facilities are considered "insignificant" for permitting purposes. There are two important differences between 2Q .0102 and 2Q .0503(8).

First, 2Q .0503 does not have any of the exclusions, otherwise known as the "filters" under the 2Q .0102 rule. Therefore, regardless of whether an emission source is NSPS affected or subject

to air toxics, the unit may still be considered insignificant under the rule as long as the unit's potential-to-emit (PTE) does not exceed 5 tpy for the criteria pollutants and 1,000 lb/year for any listed HAP. Second, 2Q .0503 does not state how an emissions source that qualifies as "insignificant" should be permitted.

Therefore, through this memorandum the Division is establishing procedures directing how these "insignificant" activities will be permitted, remembering that all emission sources at a Title V facility must be permitted. Insignificant activities will either be permitted by reference in the Title V permit general conditions, or be permitted explicitly with specific conditions under the permit (Title V or 2Q .0300). In order to determine how to permit an "insignificant" activity, the Division will use the same criteria as contained under 15A NCAC 2Q .0102(b)(1-7).¹ In other words, if an emission source is considered "insignificant" but cannot pass through the 2Q .0102(b)(1-7) filters, the applicant is required to apply for and receive a permit prior to construction and operation of the source. This type of emission source should be permitted explicitly in the permit (Title V or .0300). However, if the emission source is considered "insignificant" under 2Q .0503 and can pass through the 2Q .0102(b)(1-7) filters, the applicant is not required to apply for a permit. The activity will be permitted either in the Title V permit through the general condition or under a 2Q .0300 permit through the insignificant activities attachment. The following examples help clarify this procedure:

- If the emission source meets the criteria under 2Q .0503 to be considered insignificant but is subject to one of the seven exclusionary criteria listed in 2Q .0102(b)(1-7), then the unit should be specifically listed in the permit and specific conditions should be included as necessary. For example, if a Title V facility adds a NSPS Subpart Kb tank (with more than just the 40 CFR §60.116b record keeping requirement) and the unit's PTE is less than 5 tpy, the source may be considered "insignificant" but the unit would still be specifically listed in the permit with appropriate specific conditions.
- Alternatively, if the emission source meets the criteria under 2Q .0503 to be considered insignificant and is not subject to any of the exclusionary criteria as contained in 2Q .0102(b)(1-7), then the source should be permitted through a reference in the Title V general condition. Under this procedure, the Division satisfies the EPA requirement that the source be permitted; but there is no need to specifically list the emission source in the permit or include any specific conditions.

As a transition from 2Q .0102 to 2Q .0503 for Title V facilities, there is a rebuttable presumption that activities currently exempt under 2Q .0102 meet the "insignificant activities" criteria under 2Q .0503. As permits are revised, the permit attachments that currently list exempt activities will be updated to correctly cite 2Q .0503. If an inspector identifies an emission source as possibly not meeting the new 2Q .0503 insignificant criteria, the Division should require the facility to provide documentation to demonstrate that the source meets the criteria.

A commonly asked question is whether a Title V facility that wants to construct and operate an emission source that qualifies as an "insignificant activity" under 2Q .0503 needs to apply for and receive an air quality permit prior to construction and operation. Under the regulations and procedures set forth in this memorandum as long as an emission source meets the 2Q .0503 criteria and is not subject to any of the exclusions under 2Q .0102(b)(1-7), the facility is not required to apply for and obtain a permit.² However, if the source meets the criteria to be considered insignificant under 2Q .0503 but is subject to one of the exclusions listed under 2Q .0102, the facility must apply for and obtain a permit prior to construction and operation.

¹ Formerly 2Q .0102(a)(1-7) prior to the adoption of the temporary rule.

² It should be noted that Title V permits are written such that all "insignificant activities" are permitted. This is achieved through a general condition contained in the Title V permit that references any activity that qualifies under 2Q .0503. The remaining question is whether such an emissions unit needs to submit an application. Through this guidance, an application is required for this source only if it is subject to a 2Q .0102(b)(1-7) condition.