

## Ohio EPA

### Division of Air Pollution Control

#### Engineering Guide #76

##### **Question:**

What is Ohio EPA's policy for incorporating MACT, NESHAP and NSPS requirements in Ohio air permits?

##### **Answer:**

The guidance below replaces and expands on previous Ohio EPA-DAPC guidance for incorporating MACT, NESHAP and NSPS requirements in Ohio air permits using Incorporation by Reference (**IBR**) following the recommendations of the Title V Task Force to the Clean Air Advisory Committee (CAAC). The use of IBR for incorporating MACT, NESHAP and NSPS requirements in permits is now required.

The guidance addresses the required use of IBR using the General Citation Approach for PTIs and the Detailed Citation Approach for Title Vs and PTIOs. Examples of each approach are contained in Appendices A and B of the guidance.

##### **How do I use IBR for PTIs, Title V and PTIOs?**

IBR is the required approach permit writers will use to specify MACT, NESHAP and NSPS requirements for all permit types (PTI, Title V and PTIO). The attachment of MACT, NESHAP and NSPS requirements to permits is no longer a permitting option regardless of whether the applicable requirements are included in whole or in part (e.g., specific MACT Tables or Equations) since STARS2 will not allow for attachments to permits. IBR is required for processing Renewal Title V permits where the MACT(s) was attached to the Initial Title V permit. The DO/LAA should discuss any questions or issues concerning IBR with their Central Office Permit Review (CO-PR) contact.

##### **PTIs**

Use the General Citation Approach IBR to include MACT, NESHAP and NSPS requirements in PTIs after the date of this guidance. PTIs that are "in process" and do not follow this approach will be issued as is prior to the transition to STARS2. Any exceptions to the General Citation Approach IBR for PTIs should be discussed with your CO-PR contact.

MACT, NESHAPS and NSPS Incorporation by Reference  
March 11, 2008

### **Title V and PTIOs**

Use the Detailed Citation Approach IBR to include MACT, NESHAP and NSPS requirements for most Title V and PTIO permits after the date of this guidance. The exception applies to Renewal Title V permits that had MACT, NESHAP and NSPS requirements incorporated in the body of the Initial Title V permit and upon renewal the same approach has been requested by the permittee. (Note that Renewal Title V permits are required to include Rule Authority Citations (RACs) for each T&C in the permit and, at a minimum, references to specific sections of MACT, NESHAP and NSPS requirements for each permit T&C will be needed for individual T&Cs when renewing the Title V permit.) Title Vs that are "in process" and do not follow this approach will be issued as is prior to the transition to STARS2.

### **How do I write permits using IBR?**

The permit writing approach to incorporating MACT, NESHAP and NSPS requirements by reference is to list specific 40 CFR Part 60, 61 or 63 rule citations for the respective Emission Limitations, Operational Restrictions (OR) and Monitoring, Record keeping, and Reporting (M/R/Rp) along with a description of the OR, M/R/Rp rather than including the specific terms and conditions (T&Cs) that detail these requirements in the body of the permit.

Examples of the General Citation Approach required for PTIs and the Detailed Citation Approach required for Title Vs and PTIOs are contained in Appendices A and B, respectively of this guidance.

### **Emissions Unit Description**

When using either approach it is very important to write the emissions unit description (either in the Operations/Property and/or Equipment section or as an Additional Term and Condition) that provides enough detail about the emissions unit such that a reasonably competent technical person (e.g., plant manager) reading the permit can quickly and easily determine whether the correct MACT, NESHAP or NSPS emission limitation or control measure has been included in the permit. Note that in the example permits the following information has been specified: the capacity of the cupola (100 tons/hr), the type of control equipment used (combustion chamber oxidizer and fabric filter) and a statement that the emissions unit is defined per 40 CFR Part 63, Subpart EEEEE as a "cupola metal melting furnace at an existing iron and steel foundry". By including this information in the emissions unit description the appropriate emission limitation/control measure and M/R/Rp can be determined for the emissions unit.

MACT, NESHAPS and NSPS Incorporation by Reference  
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### **General Citation Approach (for PTIs)**

The General Citation Approach for PTIs makes sense because it makes the MACT, NESHAP or NSPS standard enforceable and it is very quick. The T&C in Part II, Section A.1 of the example permit should be used to reference MACT, NESHAP or NSPS standards available on the internet (via the e-CFR website). Part III, Section A.1 includes the detailed emissions unit description, the specific MACT emission limits and also cites Table 1 of the MACT for the applicable Part 63 General Provisions. The ORs and M/R/Rp for the MACT are broadly cited in the permit.

### **Detailed Citation Approach (for Title V and PTIOs)**

The Detailed Citation Approach is used in operating permits to facilitate both facility inspections and enforcement of the permits. With the Detailed Citation Approach, our inspectors could take a copy of the MACT, NESHAP or NSPS standard on inspections, and with the Title V or PTIO permit they would know which requirements are applicable to each affected emissions unit. For the example permit, this approach also includes the detailed emissions unit description, the specific MACT emission limits and cites Table 1 of the MACT for the applicable General Provisions where these requirements are not cited in the permit. However, the ORs and M/R/Rp for the MACT are cited in greater detail. The Detailed Citation Approach should be specific down to at least the paragraph level for ORs and M/R/Rp in the MACT, NESHAP or NSPS standard.

The Title V or PTIO should specify the various compliance options that the MACT, NESHAP or NSPS standards themselves provide for switching among compliance options in order to avoid the need to modify the permit. (The exception would be where the company has requested that a specific compliance option(s) be specified in the permit). It is envisioned that most required MACT, NESHAP and NSPS reports will provide the DO/LAA with enough information to identify the compliance option that the company is using at any given time. Some MACT standards (e.g., 40 CFR Part 63, Subpart N, chromium electroplating) require that the compliance option be reported in each semiannual report and for each report include a "description of any changes in monitoring, processes or controls since the last reporting period".

MACT, NESHAPS and NSPS Incorporation by Reference  
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### **How do I use the STARS Library T&Cs?**

The STARS Library T&Cs for MACT, NESHAP and NSPS sources will continue to function as a valuable resource for both permit writers and agency inspectors in reviewing a sources compliance options and applicable requirements. In addition, MACT standards listed on the U.S. EPA Air Toxics website listed below include compliance assistance tools for facilities such as Fact Sheets that provide an overview of the standard and other implementation tools including Compliance/Inspection forms to distribute to our regulated customers.

<http://www.epa.state.oh.us/dapc/terms/termsintro.html>

<http://www.epa.gov/ttn/atw/mactfnlalph.html>

### **How does IBR affect Inspections, Reports and Enforcement?**

Incorporating MACT, NESHAP and NSPS requirements by reference rather than including specific T&Cs in permits could increase the risk of not discovering violations during a facility inspection and make inspections more difficult since the specific requirements would not be explicitly written into the permit. In addition, some companies may not be aware of their compliance obligations under MACT, NESHAP or NSPS without the requirements being contained in the permit, thus resulting in fewer self-reported violations and/or failure to submit required periodic reports. The DO/LAA should be aware of these potential drawbacks of IBR in a facility's permit when conducting inspections and reviewing compliance reports for these sources. It is recognized however that Ohio EPA can enforce the applicable MACT, NESHAP and NSPS requirements provided they are included in a permit and U.S. EPA can enforce the applicable requirements at all times.

### **How does IBR affect MACT Area Sources?**

Under the MACT regulations an "area source" is a source that is not a "major source" of HAPs. Many MACT Area Sources are located at non-Title V facilities. On December 19, 2005 U.S. EPA published in the Federal Register final permanent exemptions from the obligation to obtain Title V operating permits for the following five MACT categories: dry cleaners, halogenated solvent degreasers, chrome electroplaters, ethylene oxide (EO) sterilizers and secondary aluminum smelters. The STARS Library T&Cs for dry cleaners, solvent degreasers and chrome electroplaters as well as the tools on the U.S. EPA Air Toxics website can serve as compliance and inspection tools for the DO/LAA to use in assisting these regulated customers.

**Appendix A.....Example of IBR - General Citation Approach (used for PTIs)**



**EXAMPLE\*\*\*\*\*DRAFT PERMIT TO INSTALL\*\*\*\*\*  
IBR using General Citation Approach**

Application Number: 01-23456  
Facility ID: 0123456789  
Permit Fee: **To be entered upon final issuance**  
Name of Facility: Big Time Casting  
Person to Contact: Samuel P. Bush  
Address: Buckeye Boulevard  
Columbus, OH 43215

Location of proposed air contaminant source(s) [emissions unit(s)]:  
**Buckeye Boulevard  
Columbus, Ohio**

Description of proposed emissions unit(s):  
**Replacement of existing cupola systems by two (2) new East and West cupola systems to meet MACT standards.**

NOTE#1:  
The following applicable requirements (and associated terms and conditions) have been deleted from Section A.I.1 for purposes of this example: OAC rules 3745-31-05(A)(3), 3745-17-07(A)(1), 3745-17-07(B)(1), 3745-17-08(B), 3745-17-11(B)(1), 3745-18-06(E)(1), 3745-21-08(B) and 3745-31-05(C) [Synthetic Minor to avoid PSD and Nonattainment NSR]. Only terms and conditions relating to MACT EEEEE requirements have been retained for this example.

NOTE#2:  
Information sufficient to determine applicable requirements under MACT EEEEE is included as [bracketed] text in the Applicable Rules/Requirements section of the permit for emissions unit P420.

NOTE #3:  
The applicable MACT General Provisions to Subpart EEEEE (i.e., Table 1 to Subpart EEEEE) is listed as a separate applicable requirement using the IBR, General Citation Approach. The location of General Provisions within the subpart should always be specified.

NOTE #4:  
Field offices may elect to include certain MACT language in the permit where it makes sense to do so (e.g., initial performance testing requirements or monitoring of certain process parameters during initial performance testing) when using the IBR, General Citation Approach.

**Big Time Casting**

**PTI Application: 01-23456**

**Issued: To be entered upon final issuance**

**Facility ID: 0123456789**

## **Part II - FACILITY SPECIFIC TERMS AND CONDITIONS**

### **A. State and Federally Enforceable Permit To Install Facility Specific Terms and Conditions**

1. The following emissions units contained in this permit are subject to 40 CFR Part 63, Subpart EEEEE: P420, P423 and all fugitive emissions from foundry operations. The complete MACT requirements, including the MACT General Provisions may be accessed via the internet from the Electronic Code of Federal Regulations (e-CFR) website <http://ecfr.gpoaccess.gov> or by contacting the appropriate Ohio EPA District office or local air agency.
2. All of the emissions units located at this facility are subject to the facility-wide opacity limitation for fugitive emissions established in 40 CFR 63.7690(a)(7). However, the fugitive particulate emissions from individual emissions units at this facility are either subject to opacity limitations under BAT or opacity limitations per OAC rule 3745-17-07(B), both of which are more stringent than the opacity limitation from 40 CFR 63.7690(a)(7).

**Big Time Casting**

**PTI Application: 01-23456**

**Issued: To be entered upon final issuance**

**Facility ID: 0123456789**

**Emissions Unit ID: P420**

**Part III - SPECIAL TERMS AND CONDITIONS FOR SPECIFIC EMISSIONS UNIT(S)**

**A. State and Federally Enforceable Section**

**I. Applicable Emissions Limitations and/or Control Requirements**

1. The specific operations(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be specified in narrative form following the table.

**Operations, Property, and/or Equipment: P420 - East Cupola (Kuttner) 100 tons iron/hr for production of gray and nodular iron. A combustion chamber oxidizer will control emissions of carbon monoxide (CO), volatile organic compounds (VOC) and volatile organic hazardous air pollutants (VOHAPs) and a 65,000 dscfm fabric filter will control particulate emissions (PE), particulate matter less than 10 microns (PM<sub>10</sub>) and metal hazardous air pollutants (metal HAPs).**

<b>Applicable Rules/Requirements</b>	<b>Applicable Emissions Limitations/Control Measures</b>
40 CFR Part 63, Subpart EEEEE (40 CFR 63.7680-7765)  [In accordance with 40 CFR 63.7690(a)(2), this emissions unit is a cupola metal melting furnace at an existing iron and steel foundry subject to the emissions limitations/control measures specified in this section.]	Comply with either limit: 0.006 gr/dscf of PM; or 0.0005 gr/dscf of total metal HAP. [40 CFR 63.7690(a)(2)]  Volatile organic hazardous air pollutants (VOHAPs) from this emissions unit shall not exceed 20 parts per million by volume (ppmv) corrected to 10 percent oxygen. See A.I.2.b below. [40 CFR 63.7690(a)(8) and 63.7690(b)]
40 CFR 63.1-15 (40 CFR 63.7760)	Table 1 to Subpart EEEEE of 40 CFR Part 63 - Applicability of General Provisions to Subpart EEEEE shows which parts of the General Provisions in 40 CFR 63.1-15 apply.

**2. Additional Terms and Conditions**

- 2.b CO, VOC and VOHAP gases generated during the operation of this emissions unit shall be combusted such that the 15-minute average combustion zone temperature does not fall below 1,300 degrees Fahrenheit for 0.3 second or greater in a direct-flame afterburner, oxidizer or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level. Periods when the cupola is off blast and for 15 minutes after going on blast from an off blast condition are not included in the 15-minute average.

**Big Time Casting**

**PTI Application: 01-23456**

**Issued: To be entered upon final issuance**

**Facility ID: 0123456789**

**Emissions Unit ID: P420**

## **II. Operational Restrictions**

1. See 40 CFR Part 63, Subpart EEEEE (40 CFR 63.7680-7765).

## **III. Monitoring and/or Recordkeeping Requirements**

1. See 40 CFR Part 63, Subpart EEEEE (40 CFR 63.7680-7765).

## **IV. Reporting Requirements**

1. See 40 CFR Part 63, Subpart EEEEE (40 CFR 63.7680-7765).

## **V. Testing Requirements**

1. Compliance with the emission limitations in Section A.I.1 of these terms and conditions shall be determined in accordance with the following method(s):

- a. Emission Limitations:  
0.006 gr/dscf of PM; or comply with 0.0005 gr/dscf of total metal HAP

Applicable Compliance Method:

If required, compliance shall be determined through emission testing using U.S. EPA Methods 1 through 5 of 40 CFR Part 60, Appendix A for particulate emissions and 1 through 4 and 29 of 40 CFR Part 60, Appendix A for total metal HAPs.

- j. Emission Limitation:  
Volatile organic hazardous air pollutants (VOHAPs) from this emissions unit shall not exceed 20 parts per million by volume (ppmv) corrected to 10 percent oxygen.

Applicable Compliance Method:

If required, compliance shall be determined through emission testing using U.S. EPA Methods 1 through 4 and 18 of 40 CFR Part 60, Appendix A. Alternatively, Methods 25 or 25A of 40 CFR Part 60, Appendix A can be used in accordance with 40 CFR Part 63, Subpart EEEEE.

2. The permittee shall conduct, or have conducted, emission testing for this emissions unit in accordance with the following requirements:

The emission testing specified below shall be conducted within six months after beginning full-time operation of the emissions unit. Visible emission observations of facility-wide opacity shall be performed in accordance with U.S. EPA Method 9 at least once every six months.

**Big Time Casting**

**PTI Application: 01-23456**

**Issued: To be entered upon final issuance**

**Facility ID: 0123456789**

Emissions Unit ID: P420

The emission testing shall be conducted to demonstrate compliance with the allowable particulate or metal HAPs, lead, opacity (stack and fugitive), SO<sub>2</sub>, NO<sub>x</sub>, CO, VOC, and VOHAPs emission limitations.

The following test methods shall be employed..... {REMOVED list of test methods}

The test(s) shall be conducted while the emissions unit is operating at or near its maximum capacity, unless otherwise specified or approved by the appropriate Ohio EPA District office or local air agency. Sampling shall occur only during times when the cupola is on blast. The minimum sample volume collected during each run shall be 60 dscf. The combustion temperature of the afterburner shall be monitored and recorded during each test run. The stack test shall be performed in accordance with the requirements established in 40 CFR 63.7732.

{REMOVED remaining testing language}

**VI. Miscellaneous Requirements**

None

**Appendix B.....Example of IBR - Detailed Citation Approach (used for Title V and PTIO)**

1. The following information is provided for the purpose of illustrating the detailed citation approach for Title V and PTIO. This information is not intended to be used as a model for actual citations. The information is provided for the purpose of illustrating the detailed citation approach for Title V and PTIO. This information is not intended to be used as a model for actual citations.



**Title V**  
**Terms and Conditions**

**Issue Date: To be entered upon final issuance**  
**Effective Date: To be entered upon final issuance**

**\*\*\*\*\*EXAMPLE Title V permit T&Cs\*\*\*\*\***  
**IBR using Detailed Citation Approach**

Facility ID: 0123456789

Name of Facility: Big Time Casting

Person to Contact: Samuel P. Bush

Address: Buckeye Boulevard  
Columbus, OH 43215

**NOTE#1:**

The following applicable requirements (and associated terms and conditions) have been deleted from Section A.I.1 for purposes of this example: OAC rules 3745-31-05(A)(3), 3745-17-07(A)(1), 3745-17-07(B)(1), 3745-17-08(B), 3745-17-11(B)(1), 3745-18-06(E)(1), 3745-21-08(B) and 3745-31-05(C) [Synthetic Minor to avoid PSD and Nonattainment NSR]. Only terms and conditions relating to MACT EEEEE requirements have been retained for this example.

**NOTE#2:**

Information sufficient to determine applicable requirements under MACT EEEEE is included as [bracketed] text in the Applicable Rules/Requirements section of the permit for emissions unit P420.

**NOTE #3:**

The applicable MACT General Provisions to Subpart EEEEE (i.e., Table 1 to Subpart EEEEE) is listed as a separate applicable requirement using the IBR, Detailed Citation Approach. The location of General Provisions within the subpart should always be specified.

**NOTE #4:**

Monitoring, record keeping and reporting requirements using the IBR Detailed Citation Approach should always be specified to at least the paragraph level.

**Part II - FACILITY SPECIFIC TERMS AND CONDITIONS**

**A. State and Federally Enforceable Permit To Install Facility Specific Terms and Conditions**

1. The following emissions units contained in this permit are subject to 40 CFR Part 63, Subpart EEEEE: P420, P423 and all fugitive emissions from foundry operations. The complete MACT requirements, including the MACT General Provisions may be accessed via the internet from the Electronic Code of Federal Regulations (e-CFR) website <http://ecfr.gpoaccess.gov> or by contacting the appropriate Ohio EPA District office or local air agency.
2. All of the emissions units located at this facility are subject to the facility-wide opacity limitation for fugitive emissions established in 40 CFR 63.7690(a)(7). However, the fugitive particulate emissions from individual emissions units at this facility are either subject to opacity limitations under BAT or opacity limitations per OAC rule 3745-17-07(B), both of which are more stringent than the opacity limitation from 40 CFR 63.7690(a)(7).

**Part III - SPECIAL TERMS AND CONDITIONS FOR SPECIFIC EMISSIONS UNIT(S)**

**A. State and Federally Enforceable Section**

**I. Applicable Emissions Limitations and/or Control Requirements**

1. The specific operations(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be specified in narrative form following the table.

**Operations, Property, and/or Equipment: P420 - East Cupola (Kuttner) 100 tons iron/hr for production of gray and nodular iron. A combustion chamber oxidizer will control emissions of carbon monoxide (CO), volatile organic compounds (VOC) and volatile organic hazardous air pollutants (VOHAPs) and a 65,000 dscfm fabric filter will control particulate emissions (PE), particulate matter less than 10 microns (PM<sub>10</sub>) and metal hazardous air pollutants (metal HAPs).**

<b>Applicable Rules/Requirements</b>	<b>Applicable Emissions Limitations/Control Measures</b>
<p>40 CFR Part 63, Subpart EEEEE (40 CFR 63.7680-7765)</p> <p>[In accordance with 40 CFR 63.7690(a)(2), this emissions unit is a cupola metal melting furnace at an existing iron and steel foundry subject to the emissions limitations/control measures specified in this section.]</p>	<p>Comply with either limit: 0.006 gr/dscf of PM; or 0.0005 gr/dscf of total metal HAP. [40 CFR 63.7690(a)(2)]</p> <p>Volatile organic hazardous air pollutants (VOHAPs) from this emissions unit shall not exceed 20 parts per million by volume (ppmv) corrected to 10 percent oxygen. See A.I.2.b below. [40 CFR 63.7690(a)(8) and 63.7690(b)]</p>
<p>40 CFR 63.1-15 (40 CFR 63.7760)</p>	<p>Table 1 to Subpart EEEEE of 40 CFR Part 63 - Applicability of General Provisions to Subpart EEEEE shows which parts of the General Provisions in 40 CFR 63.1-15 apply.</p>

**2. Additional Terms and Conditions**

- 2.b CO, VOC and VOHAP gases generated during the operation of this emissions unit shall be combusted such that the 15-minute average combustion zone temperature does not fall below 1,300 degrees Fahrenheit for 0.3 second or greater in a direct-flame afterburner, oxidizer or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level. Periods when the cupola is off blast and for 15 minutes after going on blast from an off blast condition are not included in the 15-minute average.

- 2.d** This emissions unit and its associated air pollution control system(s) shall be maintained regularly in accordance with the Operation, Maintenance, and Monitoring Plan required under 40 CFR Part 63, Subpart EEEEE in order to minimize air contaminant emissions.

**II. Operational Restrictions**

6. The permittee shall comply with the applicable restrictions required under 40 CFR Part 63, Subpart EEEEE, including the following sections:

63.7690(b)(1)	capture and collection system
63.7690(b)(3)	temperature for oxidizer for cupola
63.7700(a)	scrap material usage
63.7710(a), (b)(1) through (5)	operation and maintenance plan (including bag leak detection system)
63.7720(c)	startup, shutdown, and malfunction plan
63.7733(a), (e), and (f)	site specific operating limits for capture system

7. The certification or the scrap management plan requirements of 63.7700 shall be met. Use of scrap that may contain organic contaminants, plastics and HAP metals shall be minimized or eliminated. Accessible lead components and mercury switches shall be removed from any automotive bodies by suppliers.

**III. Monitoring and/or Recordkeeping Requirements**

4. The permittee shall comply with the applicable monitoring and record keeping requirements required under 40 CFR Part 63, Subpart EEEEE, including the following sections:

63.7740(a)	capture system - maintain a CPMS
63.7740(b)	bag leak detection system for baghouse
63.7740(d)	monitor combustion zone temperature for oxidizer on cupola
63.7741(a)	capture system - install, operate, and maintain CPMS
63.7741(b)	install, operate, and maintain bag leak detection system
63.7741(d)	install and maintain a CPMS to measure and record the combustion zone temperature for the oxidizer
63.7741(f)	operate each CPMS per (f)(1) through (f)(3)

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**Issued: To be entered upon final issuance**

**Facility ID: 0123456789**  
**Emissions Unit ID: P420**

63.7742	monitor continuously except for monitoring malfunctions, associated repairs and required quality control
63.7743(b)	monitor and record capture system data
63.7743(c)	bag leak detection system - maintain records
63.7743(e)	record data for combustion zone temperature
63.7744(a)	maintain records of continuous compliance with certification requirements for scrap collection
63.7745(a)	records for continuous compliance for capture system and each control device
63.7745(b)	maintain current copy of operation and maintenance plans
63.7752(a) and (c)	required overall records that should be maintained

#### IV. Reporting Requirements

5. The permittee shall submit semiannual reports and such other notifications and reports to the appropriate Ohio EPA District office or local air agency as are required pursuant to 40 CFR Part 63, Subpart EEEEE, per the following sections:

63.7751(a)	semi-annual compliance report
63.7751(b)	content of compliance reports
63.7751(c)	startup, shutdown, malfunction report
63.7751(d)	Title V monitoring report allowance
63.7746(a)	submission of deviation reports

#### V. Testing Requirements

1. Compliance with the emission limitations in Section A.I.1 of these terms and conditions shall be determined in accordance with the following method(s):

- a. Emission Limitations:  
0.006 gr/dscf of PM; or comply with 0.0005 gr/dscf of total metal HAP

Applicable Compliance Method:

If required, compliance shall be determined through emission testing using U.S. EPA Methods 1 through 5 of 40 CFR Part 60, Appendix A for particulate emissions and 1 through 4 and 29 of 40 CFR Part 60, Appendix A for total metal HAPs.

- j. Emission Limitation:

Volatile organic hazardous air pollutants (VOHAPs) from this emissions unit shall not exceed 20 parts per million by volume (ppmv) corrected to 10 percent oxygen.

Applicable Compliance Method:

If required, compliance shall be determined through emission testing using U.S. EPA Methods 1 through 4 and 18 of 40 CFR Part 60, Appendix A. Alternatively, Methods 25 or 25A of 40 CFR Part 60, Appendix A can be used in accordance with 40 CFR Part 63, Subpart EEEEE.

2. The permittee shall conduct, or have conducted, emission testing for this emissions unit in accordance with the following requirements:

The emission testing specified below shall be conducted within six months prior to permit expiration. Visible emission observations of facility-wide opacity shall be performed in accordance with U.S. EPA Method 9 at least once every six months.

The emission testing shall be conducted to demonstrate compliance with the allowable particulate or metal HAPs, lead, opacity (stack and fugitive), SO<sub>2</sub>, NO<sub>x</sub>, CO, VOC, and VOHAPs emission limitations.

The following test methods shall be employed..... {REMOVED list of test methods}

The test(s) shall be conducted while the emissions unit is operating at or near its maximum capacity, unless otherwise specified or approved by the appropriate Ohio EPA District office or local air agency. Sampling shall occur only during times when the cupola is on blast. The minimum sample volume collected during each run shall be 60 dscf. The combustion temperature of the afterburner shall be monitored and recorded during each test run. The stack test shall be performed in accordance with the requirements established in 40 CFR 63.7732.

{REMOVED remaining testing language}

## **VI. Miscellaneous Requirements**

None

<b>Appendix C</b> .....	Background to DAPC-MACT Incorporation in Title V Permits
<b>Appendix C</b> .....	Current Guidance for Incorporating MACT Requirements in Permits
<b>Appendix C</b> .....	Title V Task Force Report Recommendation: MACT-IBR
<b>Appendix C</b> .....	Effects of IBR on the Ohio EPA/U.S. EPA MACT Memorandum of Agreement (MOA) and NSPS Delegation of Authority

1. **Background to DAPC - MACT Incorporation in Title V permits**

Ohio's initial round of Title V permitting (completed in November, 2004) resulted in many issued permits with one or more MACTs attached wholesale to the permit in order to meet the deadlines in the Ohio EPA Title V commitment schedule to U.S. EPA. MACT requirements were incorporated into the STARS T&Cs and also PTIs following the guidance at the time. Some permittees during the Draft and PPP stages of the Title V process identified which sections of the MACT applied and for sections of the MACT that did not apply, the MACT language was removed and the following or similar language added: {Language intentionally removed} A primary goal of the Title V program was (and still is) to specify all of a facility's applicable CAA requirements in one permit document.

2. **Current Guidance for Incorporating MACT Requirements in Permits**

See **Appendix D** for the current DAPC guidance for incorporating MACT in permits. The current guidance conflicts with the Title V Task Force report recommendation in that:

- “Numerous commenters indicated the need to protect the flexibility that is promulgated in underlying applicable requirements, like MACT standards, when including the standard in a Title V permit. Commenters indicated that the standards themselves provide procedures for changing among compliance options and included several examples of the types of flexibility and procedures provided for in the rules. Commenters also indicated that *some permit writers were requiring selection of a compliance or monitoring option at permit issuance and that a permit revision was required to make any changes*. They indicated that the requirement to implement both the MACT procedures and a separate Title V revision could negatively impact their operations. They also stated that *the procedures associated with compliance options had been part of the MACT rulemaking and that limiting these options constituted a new substantive limit on their operations which was not allowed under Title V.*” [Emphasis added] p. 36.

3. **Title V Task Force Report Recommendation: MACT-IBR**

See Section 4.1, pp. 34-40 of the report in for a full discussion of the General Citation Approach in Recommendation #1(a) and the Detailed Citation Approach in Recommendation #1(b). The complete Title V Task Force report and supplemental information can be found at the following web pages:

[http://www.epa.gov/oar/caaac/tvtaskforce/title5\\_taskforce\\_finalreport\\_20060405.pdf](http://www.epa.gov/oar/caaac/tvtaskforce/title5_taskforce_finalreport_20060405.pdf)

<http://www.epa.gov/oar/caaac/titlev.html>

Key points from the report include the following statements:

- “In an attempt to avoid excluding an applicable requirement, some permitting authorities attach the entire MACT rule to the permit, which leads to permits with *excessive length, undue complexity, and a drain on resources in permitting time and copying expense.*”  
[Emphasis added] p. 34.
- “With respect to the incorporation of Federally promulgated MACT standards, most commenters indicated that MACT requirements should be incorporated by citation to applicable requirements, *although there was recognition that reference solely to a subpart might not be specific enough to identify the applicable requirements.*”  
[Emphasis added] p. 34.
- “Commenters also recognized that inspectors and members of the public have an interest in understanding how a MACT standard applies to a particular facility. Commenters noted that *informing the public and aiding inspectors are both worthwhile goals but objected to using the permit document itself to achieve them. They noted that the permit is a legally enforceable document with which the source must certify compliance; it is not an educational tool.*”  
[Emphasis added] p. 35.
- “MACT standards became a focus of discussion because they typically are the most recent and *most voluminous standards incorporated into Title V permits.* Not surprisingly, incorporation of MACT standards was the subject of much of the public input on this issue. *The Task Force recognized, however, that the approach for including applicable rules in permits raises the same issues whether the rule is a MACT or an NSPS or any other rule-based standard.*”  
[Emphasis added] p. 36.
- “Some Task Force members were also concerned about the *extensive resources that are required to review every permit term containing translated MACT language* to ensure that a purposeful or inadvertent change had not been inserted. They believed that such review is one reason permit issuance has been delayed.”  
[Emphasis added] p. 37.

**The Report’s Recommendations (pp. 38-40) are:**

**Recommendation #1** - Permitting authorities should use a citation approach to incorporate applicable requirements in MACT and other regulations into Title V permits.

**Recommendation #1(a)** - Permitting authorities should use general citations as an acceptable way for incorporating MACT and other rules as applicable

requirements in Title V permits.

**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.

**Recommendation #2** - 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.

**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.

Recommendation #2 was opposed by the majority of the Task Force members and therefore, is not considered in this guidance. The use of paraphrasing however is recommended for use in the facility's Statement of Basis (SOB) as an acceptable way to describe how the MACT requirements apply. Ohio currently follows Recommendation #3 by incorporating PTI requirements in Title V permits.

Section 4.1, p. 35 of the report addresses several problems associated with approaches that are not citation-based:

- *"Lack of time and experience to "translate" a standard:* MACT standards are complex and apply to complex facilities. EPA technical experts have spent considerable time crafting MACT rule language, and it is not reasonable to expect a permit writer to translate or rephrase such a requirement and do so accurately without changing the meaning of the rule."
- *"Workload for permittees and State permitting authorities:* Checking to make sure requirements have been accurately transferred to the permit when rewritten verbatim or when rephrased has been extremely resource intensive and has delayed permit issuance. Recreating the MACT in the permit has also been time consuming for State permitting authorities."
- *"A risk of error which would create unintended conflicts between the requirements of the permit and the underlying rule."*
- *"Enforcement risk:* When a permit conflicts with an underlying rule, sources risk enforcement jeopardy if they comply with the permit instead of the rule (or the rule instead of the permit)."
- *"Extremely lengthy permit that is not easily understood:* Even though the goal of putting detail into the permit is often to make it more easily understood, the shear

bulk of the permit with every element of a MACT rule included can make the permit difficult to follow and understand. In addition, when a CFR or Federal Register section are added to the permit, it does little to aid understanding of the permit requirements and creates an extremely cumbersome document.”

4. **Effects of IBR on the Ohio EPA/U.S. EPA MACT Memorandum of Agreement (MOA) and NSPS Delegation of Authority**

There are not expected to be any conflicts with the April 10, 2002 MOA for MACT by implementing IBR. Through the MOA, Ohio EPA received “delegation of responsibilities for implementation and enforcement of all emission standards and other requirements promulgated under Section 112 to implement the MACT standards with the exception of the Coke Oven standard (40 CFR Part 63, Subpart L).” Several conditions specified in the MOA lead to this conclusion:

“Ohio EPA will enforce Section 112 standards applicable only to the Part 70 sources by including such Section 112 standards in Title V permits, federally enforceable state operating permits and federally enforceable new source review permits when they are issued or updated”

“Ohio EPA shall implement Section 112 standards pursuant to this MOA through the Title V permit, federally enforceable state operating permit and new source review permit programs”

“Ohio EPA shall include applicable Section 112 requirements in Title V permits for existing sources and in new source review permits for new sources”

“U.S. EPA at all times retains its authority to enforce all provisions of Section 112 standards and requirements.”

Therefore, MACT-IBR is a viable permitting option since the MOA does not specify how the Ohio EPA must include applicable Section 112 requirements in Title V and new source review permits. In addition, the MOA provides that both Ohio EPA and U.S. EPA can enforce the Section 112 standards and requirements.

The Delegation of Authority Agreement for NSPS of June 1, 1988 includes similar requirements to the MACT MOA and several items specific to the NSPS including:

“item #12: The State of Ohio must, at a minimum, require reporting of all excess emissions from any NSPS facility in accordance with 40 CFR 60.7(c)

“item#13: Alternatives to NSPS continuous monitoring procedures or reporting requirements, as allowed pursuant to 40 CFR 60.13(i), may be approved by the State with the prior consultation of U.S. EPA.

**Appendix D.....Current Guidance for Incorporating MACT Requirements in permits**

OPTION 1- the applicable MACT requirements have been incorporated into Part II or PartIII of the Title V permit

OPTION 2- the applicable MACT requirements have been incorporated into Part II or PartIII of the Title V permit but certain tables and/or equations can not be incorporated into STARS

Part II - A.1

*The table(s) and equation(s) referenced in 40 CFR Part 63, Subpart (specify subpart) could not be incorporated directly into this permit. Therefore, the table(s) and equation(s) are included in Attachment 1 hereto, and are hereby incorporated into this permit as if fully rewritten.*

OR

Part III - to be included in the appropriate section of the emissions unit terms that the table(s) and/or equation(s) are associated with

*The table(s) and equation(s) referenced in 40 CFR Part 63, Subpart (specify subpart) could not be incorporated directly into this term. Therefore, the table(s) and equation(s) are included in Attachment 1 hereto, and are hereby incorporated into this term as if fully rewritten.*

OPTION 3 - the entire MACT subpart is incorporated by reference into Part II or PartIII of the Title V permit

**When multiple emissions units at the facility are subject to the MACT requirements, the MACT subpart may be incorporated by reference in Part II of the permit using the following language:**

Part II - A.1

*The permittee is subject to the applicable emission limitation(s) and/or control measures, operational restrictions, monitoring and/or record keeping requirements, reporting requirements, testing requirements and the general and/or other requirements specified in 40 CFR Part 63, Subpart (specify subpart), in accordance with 40 CFR Parts (specify subpart sections) (including the Table(s) and Appendix(ices) referenced in Subpart (specify subpart)), which are included in the text of Attachment 1 hereto, and are hereby incorporated into this permit as if fully rewritten.*

*Ordinarily, these requirements would be incorporated into Part II of this Title V permit; however, incorporating Subpart (specify subpart) into Part II of this Title V permit was not practical due to technical incompatibilities and the limitations of the STARS program. In addition, numerous difficulties were encountered in attempting to copy and paste the Subpart's tables and/or equations into STARS format.*

*The following emissions unit(s) in this permit is (are) subject to the aforementioned*

*requirements: emissions unit(s) (specify emissions units)*

Part III - A.I.1 - for each affected emissions unit

Operations, Property, and/or Equipment	Applicable Rules/Requirements	Applicable Emission Limitations/Control Measures
	<i>40 CFR Part 63, Subpart (specify subpart)</i>	<i>See Attachment 1 of this permit.</i>

\*\*\*\*\*

**When only one emissions unit at the facility is subject to the MACT requirements or where the field office or permittee would like the MACT requirements specified in the emissions unit terms, the MACT subpart may be incorporated by reference in Part III of the permit using the following language:**

Part II - A.1

*This facility is subject to the applicable provisions specified in 40 CFR Part 63, Subpart (specify subpart).*

Part III - A.I.1 - for each affected emissions unit

Operations, Property, and/or Equipment	Applicable Rules/Requirements	Applicable Emission Limitations/Control Measures
	<i>40 CFR Part 63, Subpart (specify subpart)</i>	<i>See Attachment 1 of this permit.</i>

Additional Terms and Conditions

- 2.a *The permittee is subject to the applicable emission limitation(s) and/or control measures, operational restrictions, monitoring and/or record keeping requirements, reporting requirements, testing requirements and the general and/or other requirements specified in 40 CFR Part 63, Subpart (specify subpart), in accordance with 40 CFR Parts (specify subpart sections) (including the Table(s) and Appendix(ices) referenced in Subpart (specify subpart)), which are included in the text of Attachment 1 hereto, and are hereby incorporated into this permit as if fully rewritten.*

*Ordinarily, these requirements would be incorporated into Part III of this Title V*

*permit; however, incorporating Subpart (specify subpart) into Part III of this Title V permit was not practical due to technical incompatibilities and the limitations of the STARS program. In addition, numerous difficulties were encountered in attempting to copy and paste the Subpart's tables and/or equations into STARS format.*

**Appendix E.....Title V Task Force Report Recommendation/Members**

## TITLE V TASK FORCE MEMBERS

### State/local Permitting Agencies

Rob Sliwinski	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)

### Environmental Advocates

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

### Industry

Shannon Broome	Air Permitting Forum
Lauren Freeman	Utility Air Regulatory Group (UARG)
Bernie Paul	Eli Lilly
Bob Morehouse	ExxonMobil
Mike Wood	Weyerhaeuser
David Golden	Eastman Chemical

June 15, 2004

## **4. CONTENT ISSUES**

### **4.1 TOPIC: INCORPORATION OF APPLICABLE REQUIREMENTS**

#### **Issue/Observation Description**

One of the issues raised by the public, the regulated community and permitting authorities is the level of detail that must be included about applicable requirements in the Title V permit, particularly with respect to inclusion of complex Federal MACT standards. Some permitting authorities have been advised by EPA that the MACT rules cannot be incorporated by reference. Instead, the specific language from the rule must be included in the permit. In an attempt to avoid excluding an applicable requirement, some permitting authorities attach the entire MACT rule to the permit, which leads to permits with excessive length, undue complexity, and a drain of resources in permitting time and copying expense. In addition, some permitting authorities have incorporated MACT requirements by paraphrasing the rule in an attempt to simplify and clarify the applicable requirements. Permittees are concerned that such paraphrasing inappropriately and unintentionally constrains the flexibility and reduces the compliance options provided in the rule. The public and some regulatory representatives are concerned that paraphrasing MACT requirements could lead to the incorporation of incorrect requirements into a permit.

Another issue arises from the incorporation of minor or major new source permits into the Title V permits. Many States have a history of issuing construction permits dating back to the early 1970s. Many terms and conditions of these preconstruction permits became applicable requirements under Title V. Rather than incorporating each applicable term and condition from these preconstruction permits, some permitting authorities have simply referenced the preconstruction permits by number in the Title V permit without identifying which specific terms or conditions remain applicable. Older preconstruction permits are often difficult to locate, because of the length of time passed since the permits were issued.

#### **Testimony and Comments Received**

A large number of comments were received regarding the incorporation of applicable requirements.

With respect to the incorporation of Federally promulgated MACT standards, most commenters indicated that MACT requirements should be incorporated by citation to applicable requirements, although there was recognition that reference solely to a subpart might not be specific enough to identify the applicable requirements. Three commenters noted that in some cases a source may seek to clarify how a particular rule requirement applies to a particular unit but these commenters also endorsed a citation-based incorporation of MACT standards.

Commenters also recognized that inspectors and members of the public have an interest in understanding how a MACT standard applies to a particular facility. Commenters noted that informing the public and aiding inspectors are both worthwhile goals but objected to using the permit document itself to achieve them. They noted that the permit is a legally enforceable document with which the source must certify compliance; it is not an educational tool. Commenters suggested using documents that are not a part of the permit to achieve these goals, such as the statement of basis or an enforcement checklist that is developed during the permit issuance process. They noted that this approach would ensure that a high level description is available to the public regarding source obligations and would allow for guidance that an inspector could follow to review the facility operations.

The commenters also noted several problems associated with approaches that are not citation-based:

- *Lack of time and experience to “translate” a standard:* MACT standards are complex and apply to complex facilities. EPA technical experts have spent considerable time crafting MACT rule language, and it is not reasonable to expect a permit writer to translate or rephrase such a requirement and do so accurately without changing the meaning of the rule.
- *Workload for permittees and State permitting authorities:* Checking to make sure requirements have been accurately transferred to the permit when rewritten verbatim or when rephrased has been extremely resource intensive and has delayed permit issuance. Recreating the MACT in the permit has also been time consuming for State permitting authorities.
- *A risk of error which would create unintended conflicts between the requirements of the permit and the underlying rule.*
- *Enforcement risk:* When a permit conflicts with an underlying rule, sources risk enforcement jeopardy if they comply with the permit instead of the rule (or the rule instead of the permit).
- *Extremely lengthy permit that is not easily understood:* Even though the goal of putting detail into the permit is often to make it more easily understood, the sheer bulk of the permit with every element of a MACT rule included can make the permit difficult to follow and understand. In addition, when a CFR or Federal Register section are added to the permit, it does little to aid understanding of the permit requirements and creates an extremely cumbersome document.

One commenter pointed to the Part 75 regulations as an example of how citation-based permit writing has worked in another context, noting that, like MACT standards, these rules (1) contain voluminous and complex regulations for emissions monitoring requirements for the Acid Rain and NO<sub>x</sub> Budget Trading programs, (2) include multiple compliance options that can be used by an affected source at its option, and (3) have been subject to frequent revision (promulgated in 1993; revised in 1995, 1998, 1999, and 2002 to date). The commenter noted that virtually all permitting authorities use a citation approach to include Part 75 requirements in Title V permits and that no problems have been reported from use of the citation approach.

Numerous commenters indicated the need to protect the flexibility that is promulgated in underlying applicable requirements, like MACT standards, when including the standard in a Title V permit. Commenters indicated that the standards themselves provide procedures for changing among compliance options and included several examples of the types of flexibility and procedures provided for in the rules. Commenters also indicated that some permit writers were requiring selection of a compliance or monitoring option at permit issuance and that a permit revision was required to make any changes. They indicated that the requirement to implement both the MACT procedures and a separate Title V revision could negatively impact their operations. They also stated that the procedures associated with compliance options had been part of the MACT rulemaking and that limiting these options constituted a new substantive limit on their operations which was not allowed under Title V.

With respect to incorporation of requirements contained in preconstruction permits, oral testimony indicated that some States are using citations to incorporate applicable requirements from the permits. Commenters were concerned with this approach because, unlike promulgated rules where the documents can be readily obtained, the construction permits may not be available to the public. Thus, commenters recommended that applicable requirements embodied in construction permits be directly transferred into the Title V permit. The construction permit would still be cited as the authority for the term as required by 40 CFR 70.6(b), but the actual requirement would be reflected in the permit.

Overall, commenters favored a more streamlined method for incorporating applicable requirements that would preserve their compliance flexibility, but they did not object to utilizing other documents to enhance public awareness and facilitate compliance inspections.

## **Discussion**

***Incorporation of MACT and Other Rules:*** The Task Force spent considerable time discussing the best way to incorporate applicable requirements, with a particular focus on those contained in MACT standards and construction permits. MACT standards became a focus of discussion because they typically are the most recent and most voluminous standards incorporated into Title V permits. Not surprisingly, incorporation of MACT standards was the subject of much of the public input on this issue. The Task Force recognized, however, that the approach for including applicable rules in permits raises the same issues whether the rule is a MACT or an NSPS or any other rule-based standard. Some members of the Task Force indicated that this issue may not have been as important with NSPS simply because they are so much less detailed than the MACT standards and contain fewer references to other subparts than the MACT rules contain.

Industry, environmental group, and State representatives on the Task Force all raised concerns regarding the potential for paraphrasing a standard in a permit to change the regulatory requirements. One State representative, however, expressed a strong view that it was important for the State and the facility to agree on what a particular MACT means

at that facility. Others believed that it can be helpful to an understanding of the permit overall if the permitting authority provides a plain language explanation of the MACT requirements at a facility but thought that this explanation should be in a supporting document, such as the statement of basis, rather than in the permit itself. These members were concerned that paraphrasing in the permit could inadvertently create new legal obligations that do not exist in the rule (which could be either more or less stringent than the rule) and that making a rule understandable to interested parties is a different goal than ensuring that the permit is accurate.

Some Task Force members were also concerned about the extensive resources that are required to review every permit term containing translated MACT language to ensure that a purposeful or inadvertent change had not been inserted. They believed that such review is one reason permit issuance has been delayed. Since a significant number of MACT standards have recently been issued and will be incorporated into Title V permits for the first time, concern was expressed that continued paraphrasing of MACTs could result in worsening the problem of delayed issuance. These members viewed the simplification of incorporating MACTs and other standards in permit by using a high level citation-based approach as a potential streamlining method in States that have previously used the paraphrasing approach.

***Incorporation of Construction Permit Requirements:*** The discussion on this topic was focused primarily on States that have used citations to construction (SIP) permits to establish the applicable requirement in Title V permits. The problem with this approach is that many of the older construction permits are not easily accessible to the public and in some cases are difficult to locate at all. Therefore, there was general agreement that the best approach is to include the currently applicable terms of construction permits directly into the Title V permit without using citations. Some Task Force members believed that citations should be allowed if the construction permits are readily available (which could be true with more recent construction permits).

### **Recommendations**

#### ***Incorporation of MACT and Other Rules:***

##### **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, Keever, 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 III. 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 III. Please refer to the following sections of the rule:

*(Recommendation continued on next page)*

(Recommendation #1(b) continued)

**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, Keever, 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. Keever 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:**

**Old Construction Permits:** One of the larger obstacles that permitting authorities faced for the initial round of Title V permits was locating and incorporating all of the construction permits issued over 20 plus years into the Title V permit. Since nearly all of the initial Title V permits have been issued, and this problem has been addressed in one fashion or another, this issue may be of less importance.

### **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 (16):** Broome, Palzer, Golden, Freeman, Hagle, Schwartz, Morehouse, Paul, Owen, Hodanbosi, Wood, Keever, Kaderly, van der Vaart, Sliwinski, Van Frank

**Opposed (2):** 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.