

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460  
SEP 2 1992

OFFICE OF  
AIR AND RADIATION

MEMORANDUM

SUBJECT: Applicability of Policy on Limiting Potential to Emit to General Motors Morrain Assembly Plant, Dayton, Ohio.

FROM: John B. Rasnic, Director  
Stationary Source Compliance Division  
Office of Air Quality Planning and Standards

TO: David Kee, Director  
Air and Radiation Division  
Region V

This is in response to a memorandum dated August 31, 1992, from George Czerniak to Mamie Miller requesting an official written position from me on the issues involving the 1989 guidance on "Limiting Potential to Emit in New Source Permitting" as discussed by Clara Poffenberger and Bill MacDowell on August 27, 1992. The memorandum of August 31, 1992, correctly concludes that General Motors Morrain Assembly Plant in Dayton, Ohio (GM) must meet the federal policy requirements since the policy provides guidance as to EPA's views on the "federally enforceable" requirements of limiting potential to emit in all new source permitting.

A number of memoranda have addressed the issue of the 1989 guidance and we have regularly corresponded with you and your staff regarding the policy. We believe that the issue at this time is not how to apply the policy but whether the policy applies in this case. From the conversation between Bill MacDowell and Clara Poffenberger, we understand that GM challenges the applicability of the policy with the argument that they are neither subject to the major new source requirements nor are they subject to a federal program. Rather, they suggest that since the New Source Review program they are in fact avoiding is a SIP approved program, the federal policies do not apply. The program approved in the SIP incorporates by reference Appendix S of 40 CFR part 51. The definition of "potential to emit" as found in Appendix S is the same as in 40 CFR Section 52.21 and Section 51.165, and Section 51.166. The June 28, 1989 federal register notice [54 FR 27279] that addressed federal enforceability applied to all these sections and specifically amended each section as well as Appendix S. As stated in the August 31 memorandum, the definition contains a federal enforceability requirement,

"Any physical or operational limitation on the capacity of the source to emit a pollutant,...shall be treated as part of the design only if the limitation or the effect it would have on emissions is federally enforceable. Appendix S to Part 51 - Emission Offset Interpretative Ruling, II A.3.

We therefore concur with your office that GM must meet the requirements of the Federal policy.

The policy on Limiting Potential to Emit in New Source Permitting specifically addresses what is federally enforceable. To be federally enforceable, two criteria must be met: (1) the limitation must be contained in a permit that itself is federally enforceable (see p. 2 of the policy and the 1989 federal register notice) and (2) the limitation must be enforceable as a practical matter. Whether a specific limitation is enforceable as a practical matter has been the subject of various discussions with your staff. We concur with your staff that GM can satisfy the Federal policy requirements with either (1) a combination of operating restrictions, so long as the operating restrictions are independently enforceable or (2) limits on the VOC usage so long as the permit contains adequate recordkeeping and compliance demonstration requirements sufficient to determine that usage.

Lastly, we agree that the "Topcoat Protocol" which determines the pounds of VOC per gallon of applied solids, would be insufficient to limit the potential to emit, in this case.

If you have any questions regarding this matter, please contact Clara Poffenberger at 202-260-2842.

OFFICE OF THE GOVERNOR  
State of Ohio

August 27, 1992

Mr. Val Adamkus  
Regional Administrator  
Region V USEPA  
77 West Jackson Boulevard  
Chicago, IL 60604-3591

Dear Mr. Adamkus:

I am writing to ask for your personal assistance in the review of the application for a new source permit for the General Motors (GM), Moraine assembly plant. GM has proposed to upgrade the paint shop at the facility which produces light duty trucks and utility vehicles. The new paint shop would employ state of the art painting technology with emission limitations in the permit more restrictive than the federal New Source Performance Standards. This upgrade is necessary for GM to continue to produce vehicles with a quality that is needed in today's vehicle market.

On August 19, 1992, Ohio EPA issued a draft permit to install for this modernization project. A copy of the draft permit and application was provided to your technical staff. Region V, Ohio EPA, and GM have already met earlier this summer to discuss the details of this project. I would appreciate that any concerns be communicated to Ohio EPA as soon as possible and that you copy my office on any such concerns.

The installation of the new paint shop at the GM plant will preserve approximately 3,000 jobs, result in more restrictive emission limits, and not permit a significant increase in emissions. I want to work with you to resolve any issues in order to allow this project to be completed.

Sincerely,

George V. Voinovich  
Governor

REGION 5  
AIR AND RADIATION DIVISION  
ISSUE PAPER

Date August 19, 1992

Issue/Topic:

Proposed Paint Shop for GM Truck & Bus Group-Moraine Assembly Plant, Dayton, Ohio

Background/Current Status:

On March 19, 1992, the USEPA was informed by the Ohio Environmental Protection Agency (OEPA) that GM Truck & Bus Group was planning to submit an application to net a new paint shop out of major modification requirements. Sensing that there would be great pressure to quickly review the application and issue a permit, USEPA met with GM, OEPA, and the Regional Air Pollution Control Association (RAPCA) on June 16, 1992, to obtain detailed information on the project and to discuss applicable Federal regulations and policy. The only matter of contention during the meeting was the issue of the required time period for limiting potential to emit. GM felt that since it would be very difficult to measure daily coating usage, an annual limit rolled monthly was appropriate. However, USEPA stated that policy prohibited any type of annual rolling limits in this situation since the automobile industry does not experience "substantial and unpredictable annual variation in production."

On August 13, 1992, the USEPA was informed by OEPA that a permit would be drafted shortly and would contain annual limits rolled monthly. In addition, the USEPA received a copy of a letter from GM to RAPCA in which GM questions the validity of USEPA policy on limiting potential to emit which has not gone through notice and comment, and states that OEPA does not have the authority under its nonattainment area SIP to apply USEPA policy. GM also states that the project will not be built if monthly limits are imposed.

After conferring with Headquarters, Region 5 has determined that rolling annual limits would be justified in this case, but that annual limits should be rolled daily unless the company provides justification to why it is infeasible to monitor the limiting parameter daily. Our position was made clear to OEPA and RAPCA during a conference call on August 18, 1992. However, it appears that annual limits rolled daily would be feasible because daily determinations of emissions from the proposed topcoat operation would be required by RACT. (Note: Since determinations of daily emissions would be required by RACT, it would not create any additional burden for the company to use this information to demonstrate compliance with an annual limit rolled daily for limiting the potential to emit of this facility.)

Finally, note that a full review of the proposed project has not been completed since the draft permit was just issued yesterday. When a final review of the draft permit is performed additional issues may arise.

Contact

Steven Pak at 886-1497.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

DATE: August 31, 1992

SUBJECT: Applicability of Policy on Limiting Potential to Emit

FROM: George T. Czerniak, Chief  
Air Enforcement Branch  
Air and Radiation Division  
Region 5

TO: Mamie Miller, Chief  
Compliance Monitoring Branch  
Stationary Source Compliance Division  
Office of Air Quality Planning and Standards

This memorandum is in regard to a telephone conversation that Bill MacDowell of my staff had with Clara Poffenberger of your staff on August 27, 1992. The subject of the conversation was the applicability of EPA policy on limiting potential to emit in new source permitting (EPA guidance memorandum dated June 13, 1989) to a proposed paint shop for the General Motors (GM) Morraine assembly plant in Dayton, Ohio.

The proposed modification for GM will be located in an ozone nonattainment area. The company is attempting to avoid the requirements of Ohio's conditionally approved nonattainment area SIP for new source review, which incorporates Appendix S, by using netting credits and by limiting their potential to emit with emission limitations. The draft permit does not contain any limitations on production or operation as required by EPA policy on limiting potential to emit (with the exception of the add-on control system which is required to achieve a 90 percent destruction efficiency).

In a letter to the Regional Air Pollution Control Agency (Dayton), the company questions whether EPA is even authorized to apply the June 13, 1989, policy. We feel that since the definition of potential to emit in Appendix S includes the requirement of Federal enforceability, and EPA policy on limiting potential to emit explains what EPA views as Federally enforceable in new source permitting, EPA's policy does apply to GM. Furthermore, because of the definition of potential to emit [40 CFR Sections 52.21(b) (4), 51.165(a)(1)(iii), 51.166(b) (4)] contains the requirement for Federal enforceability, we feel that this policy applies to all sources trying to limit potential to emit whether the permit review program is part of an approved SIP or a delegated program.

Finally, we believe that GM can satisfy Federal policy requirements with a combination of operating restrictions (e.g., temperature requirements) on control equipment and either (1) limits on VOC content in coatings used and limits on coating/solvent usage, or (2) limits on VOC usage so long as the permit contains recordkeeping and compliance demonstration requirements sufficient to determine that usage. This latter approach offers the source more operating flexibility. The Agency's "Topcoat Protocol," which is referenced in the draft permit,

could not alone be used for compliance determination. That protocol determines the pounds of VOC per gallon of applied solids. This would be insufficient to limit potential to emit without some restriction also on solids applied per unit time.

While we feel that your office agrees with our conclusions, I request your official written position under John Rasnic's signature on these issues. If you have any questions, please contact me at 312/886-2008 or Bill MacDowell of my staff at 312/886-6798.