

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF AIR RESOURCES
AIR POLLUTION CONTROL REGULATION NO. 29**

OPERATING PERMITS

29.3 Emissions Caps

29.3.1 Any stationary source with potential emissions in excess of any of the applicability thresholds for this regulation, but with actual emissions less than those thresholds, may apply to the Director for an emissions cap, at or below that threshold level. An emissions cap relieves the stationary source from the requirement to obtain an operating permit under this regulation.

29.3.2 The following stationary sources are not eligible to apply for an emissions cap:

- (a) Any nonmajor source required to obtain a permit pursuant to Section 29.2 by the Administrator, regardless of emissions level.
- (b) Any major source subject to one or more of the following regulations:
 - (1) Air Pollution Control Regulation No. 15 "Control of Organic Solvent Emissions";
 - (2) Air Pollution Control Regulation No. 19 "Control of Volatile Organic Compounds from Surface Coating Operations";
 - (3) Air Pollution Control Regulation No. 21 "Control of Volatile Organic Compound Emissions from Printing Operations";
 - (4) Air Pollution Control Regulation No. 26 "Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products";

- (5) Air Pollution Control Regulation No. 27 "Control of Nitrogen Oxides Emissions", except Subsection 27.4.2(c);

The above restrictions on eligibility for an emissions cap do not apply to any major source that had previously been exempted from Air Pollution Control Regulation Nos. 15, 19, 21, 26 or 27 through an enforceable document issued by the Director.

- (c) Any stationary source, including an area source, subject to a Maximum Achievable Control Technology (MACT) standard promulgated by EPA pursuant to Section 112(e) of the Act, whose actual emissions exceed the applicability threshold of the standard on or after the date the standard is promulgated.
- (d) Any stationary source, including an area source, subject to a Maximum Achievable Control Technology (MACT) standard determined by the Division pursuant to Section 112(j) of the Act, whose actual emissions exceed the applicability threshold of the standard on or after the date 18 months after the deadline for promulgation of the standard issued pursuant to Section 112(e) of the Act.

29.3.3 Application for an emissions cap can be made at any time after 18 May 1995, including at permit renewal. Any stationary source applying for an emissions cap must submit an application at least six (6) months prior to:

- (a) the date by which a timely and complete initial operating permit application must be submitted to the Division; or,
- (b) the date of permit expiration if applying at permit renewal.

29.3.4 Application for an emissions cap shall:

- (a) Be made on forms obtained from the Division or by other means prescribed by the Division.
- (b) Be submitted in duplicate and signed by a responsible official.

- (c) Include documentation of actual annual emissions for each of the three previous calendar years.
- (d) Include sufficient information to document the proposed restriction.

29.3.5 An emissions cap issued by the Division shall:

- (a) Be issued for a term not to exceed five (5) years.
- (b) Be federally enforceable and include some combination of production and /or operational limitations to ensure that emissions are limited by quantifiable and enforceable means including short-term emission limits or operational restrictions.
- (c) Include requirements to maintain records sufficient to demonstrate that the limitations imposed in the emissions cap are followed and that the emissions have not exceeded those allowed by the emissions cap.

All emissions limitations, controls and other requirements imposed by the emissions cap will be at least as stringent as any applicable requirement and the emissions cap will not waive or make less stringent any applicable requirement.

29.3.6 All emissions caps shall be processed according to the following procedures:

- (a) Following receipt of a complete application the Division shall review each application and shall either:
 - (1) Deny the application for an emissions cap and notify the applicant and EPA of the denial; or,
 - (2) Give public notice of its intention to issue an emissions cap.
- (b) The draft emissions cap, including all supporting documentation, shall be made available for public comment. Public notice shall be published in a newspaper of general circulation in the area in which the source is located. Public notice may also include any

other means the Division finds is necessary to assure adequate notice to the affected public of the opportunity for public comment.

- (c) At a minimum, a copy of the public notice shall be sent to:
 - (1) The applicant for the emissions cap.
 - (2) The Regional Administrator of the USEPA or his authorized representative.
 - (3) The chief executives of the city or town where the source is located.
 - (4) Persons on a mailing list developed by the Division, including those who request in writing to be on the list.

- (d) A public hearing for interested persons to appear and submit written or oral comments on the emissions cap shall be held if requested by ten (10) or more persons, or by a governmental subdivision or agency or by an association having not less than ten (10) members. The Director shall also hold a hearing, whenever he or she believes there is a significant degree of public interest in the proposed action. If held, a hearing shall take place no earlier than thirty (30) days nor later than sixty (60) days following initial public notice. Comments from the applicant and/or any interested persons shall be recorded at the public hearing. Written comments, to be considered part of the record, must be submitted during the public comment period. The public comment period shall commence on the date of initial public notice. The public comment period shall close thirty (30) days later, if no hearing is held. If a public hearing is held, the public comment period shall close at the close of the public comment hearing or on a date set by the Division.

- (e) After the close of the public comment period, the Division shall prepare a final determination concerning the request for an emissions cap and notify the applicant of its determination. The Division shall provide a written

response to each substantive public comment. A copy of all emissions caps will be forwarded to the EPA. The Division shall maintain a record of the commenters and also of the issues raised during the public participation process. Such records shall be available to the public upon request.

29.3.7 Applications for an emissions cap renewal shall be made at least six (6) months prior to the date of expiration of the emissions cap. If the Division fails to issue or deny the emissions cap renewal before the end of the term of the previous emissions cap, then the emissions cap shall not expire until the renewal emissions cap has been issued or denied.

29.3.8 If the application for an emissions cap is not approved, the applicant will be notified, by certified mail, of:

- (a) the reasons the application for an emissions cap was not approved; and,
- (b) the date by which a timely and complete operating permit application must be submitted to the Division.

29.3.9 Except as provided in subsections 29.4.6, 29.10.2 and 29.10.3, no source may operate after the time it is required to submit a timely and complete application under the operating permit program except in compliance with either:

- (a) A permit issued under this regulation; or,
- (b) An emissions cap issued under this regulation.