

NOTE TO: SEE BELOW

SUBJECT: January 25, 1995 Memorandum Regarding Potential to Emit

Recently, you received a memorandum entitled, "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)" dated January 25, 1995. Subsequently, it has come to our attention that there were two errors on page 9 of this memorandum as follows:

(1) In the sentence beginning "For this 2-year period such sources...", insert the words "(i.e., those emitting under the 50 percent threshold)"

(2) In the sentence beginning "To qualify...", insert the words "transition period" after the word "entire" and delete the phrase "as major sources and would not be required to obtain a permit that limits their potential to emit that would be considered to be adequate during this transition period."

Please include the corrected page 9 when distributing this memorandum.

If you have any questions or need further assistance, please contact Timothy Smith of my staff at 919-541-4718.

Robert G. Kellam
Acting Director
Information Transfer and
Planning Integration

Division

Attachment

Addressees:

Air Division Director, Regions I-X

delays in State adoption or EPA approval of programs or in their implementation. In order to ensure that such gaps do not create adverse consequences for States or for sources, EPA is announcing a transition policy for a period up to two years from the date of this memorandum. The EPA intends to make this transition policy available at the discretion of the State or local agency to the extent there are sources which the State believes can benefit from such a transition policy. The transition period will extend from now until the gaps in program implementation are filled, but no later than January 1997. Today's guidance, which EPA intends to codify through a notice and comment rulemaking, provides States discretion to use the following options for satisfying potential to emit requirements during this transition period.

1. Sources maintaining emissions below 50 percent of all applicable major source requirements. For sources that typically and consistently maintain emissions significantly below major source levels, relatively few benefits would be gained by making such sources subject to major source requirements under the Act. For this reason, many States are developing exclusionary rules and general permits to create simple, streamlined means to ensure that these sources are not considered major sources. To ease the burden on States' implementation of title V, and to ensure that delays in EPA's approval of these types of programs will not cause an administrative burden on the States, EPA is providing a 2-year transition period for sources that maintain their actual emissions, for every consecutive 12-month period (beginning with the 12 months immediately preceding the date of this memorandum), at levels that do not exceed 50 percent of any and all of the major stationary source thresholds applicable to that source. A source that exceeds the 50 percent threshold, without complying with major source requirements of the Act (or without otherwise limiting its potential to emit), could be subject to enforcement. For this 2-year period, such sources (i.e., those emitting under the 50 percent threshold) would not be treated as major sources and would not be required to obtain a permit that limits their potential to emit. To qualify under this transition policy, sources must maintain adequate records on site to demonstrate that emissions are maintained below these thresholds for the entire transition period. Consistent with the California approach, EPA believes it is appropriate for the amount of recordkeeping to vary according to the level of emissions (see paragraphs 1.2 and 4.2 of the attached rule).

2. Larger sources with State limits. For the 2-year transition period, restrictions contained in State permits issued to sources above the 50 percent threshold would be treated by EPA as acceptable limits on potential to emit, provided: (a) the permit is enforceable as a practical matter; (b) the source owner submits a written certification to EPA that it will comply with