

## FACT SHEET

### Request for Public Comments to Help Improve Compliance Monitoring Required in Clean Air Operating Permits

#### ACTION

- On February 9, 2005 the Environmental Protection Agency (EPA) issued an Advance Notice of Proposed Rulemaking (ANPR) requesting public input to help the Agency improve emissions monitoring required under the Clean Air Act (Act).
- Specifically, this action asks for public comments to identify monitoring in emission control standards and rules (“applicable requirements”) that may not fully satisfy the monitoring requirements under the Clean Air Act’s Operating Permits Program (title V of the Act). In addition, this notice asks for public comments on the best approaches to make the necessary changes – such as amending existing rules.
- As a starting point for comments, today’s notice includes a list developed by EPA, showing categories of monitoring that may be inadequate.
- EPA will accept public comment for 60 days following publication of this notice in the *Federal Register*.
- This notice is related to a final rule published in the *Federal Register* January 22, 2004, known as the “umbrella monitoring rule,” where EPA explained its interpretation of the umbrella monitoring provisions of the operating permits rules (parts 70 and 71).
- In the January 2004 rule, EPA explained that the correct interpretation of the umbrella monitoring rules is that they should not be used to establish monitoring in operating permits that would be different from monitoring required under the “periodic monitoring” rules. In addition, the umbrella monitoring rule explains that permits must contain all monitoring required by the periodic monitoring rules and monitoring required by applicable requirements, such as monitoring required by New Source Performance Standards, National Emissions Standards for Hazardous Air Pollutants, compliance assurance monitoring (CAM) rules, and federal, state and tribal implementation plans.
- Also in the umbrella monitoring rule, EPA stated that it would be less burdensome, more equitable, and more efficient to make monitoring improvements in the applicable requirements directly, through rulemaking, rather than by requiring states to fix monitoring through case-by-case reviews during the clean air permitting process. EPA then outlined a multi-step strategy for improving monitoring. This notice is an important step of that strategy.

## **BACKGROUND**

- In 1990, Congress amended the Clean Air Act to require all states to develop operating permit programs. These programs require an operating permit for each industrial facility that is a “major source” of air pollution. These permits clarify which air pollution control regulations (known as “applicable requirements”) apply to the facility, and requires the facility to share in tracking its compliance with meeting the requirements.
- Under this operating permits program, a facility is considered a major source when it emits minimum levels of a specific air pollutant. This can be a little as 10 tons per year.
- The applicable requirements that go into operating permits come from other parts of the Clean Air Act and EPA’s regulations. These regulations typically:
  - ▶ limit the amount of air pollution the facility can emit,
  - ▶ require the facility to construct and operate specific pollution control equipment,
  - ▶ require specific work practices to be performed to reduce emissions, and
  - ▶ require monitoring and recordkeeping for the facility to determine its compliance with the limits, pollution controls, and work practices mentioned above.
- The “periodic monitoring” rules apply where the monitoring in the applicable requirement lacks periodic testing or monitoring. If the periodic monitoring rules apply, the permitting authority must use EPA’s periodic monitoring rules to establish periodic monitoring in the operating permit.
- In the umbrella monitoring rule, EPA committed to several other steps, in addition to this ANPR. These steps include:
  - ▶ Guidance associated with EPA’s forthcoming fine particle pollution implementation rule. The guidance will encourage states to improve monitoring requirements in their state implementation plan rules;
  - ▶ A proposal identifying the types of monitoring deficiencies that are subject to the periodic monitoring rule, and once that rule applies, how to create monitoring that satisfies the rule’s criteria.

## **FOR MORE INFORMATION**

- To download the text of today’s rulemaking actions, go to EPA’s World Wide Web site at the following address: <http://www.epa.gov/ttn/oarpg/t5pfpr.html>.
- For general information on this action, contact Jeff Herring of EPA’s Office of Air Quality Planning and Standards at (919) 541-3195.