

March 5, 1996

FACT SHEET

WHITE PAPER NUMBER 2 - GUIDANCE FOR IMPROVING IMPLEMENTATION OF THE OPERATING PERMITS PROGRAM

TODAY'S ACTION...

- ◆ The Environmental Protection Agency (EPA) is today issuing a guidance document, known as the "White Paper Number 2", that will provide important opportunities for State and local agencies to further simplify and streamline Clean Air Act operating permit program requirements.
- ◆ Simplifying the operating permits program was part of President Clinton's Regulatory Reinvention initiative announced last year. EPA's "White Paper Number 2" is an important step in a series of initiatives to streamline the operating permits program. The "White Paper Number 2" represents a long awaited opportunity to reconcile redundant or conflicting Clean Air Act permitting requirements on a particular facility into a single set of requirements. This will significantly clarify and simplify facilities' permitting requirements, including reduced recordkeeping and reporting, while assuring the same level of environmental protection.
- ◆ EPA developed the "White Paper Number 2" with extensive input from major stakeholders, including the California Title V Implementation Working Group (comprised of the California Air Resources Board and several California air districts and industries), other state and local agencies, and representatives from industry and environmental groups.

BACKGROUND

- ◆ Under Title V of the Clean Air Act and EPA's operating permit program regulations (part 70), States and local agencies have developed operating permit programs that meet the minimum requirements set out in EPA's July 1992 operating permits regulation.
- ◆ As of March 1996, EPA has received operating permit program submittals from all States and local agencies, including 56 States and territories and 60 local programs. EPA has approved 34 State and 51 local programs and disapproved one State program.
- ◆ Last year, as businesses prepared permit applications to

submit to the various States, uncertainties arose regarding the type and quantity of information needed to draft a complete permit application. Therefore, in July 1995, EPA issued its first "White Paper" to clarify EPA's view of the minimum Federal requirements under the current regulation for permit applications. This guidance enabled States to immediately implement several streamlining actions to reduce the size and costs of permit applications.

- ◆ EPA took additional steps to improve the operating permits program in August 1995 by issuing a supplemental notice proposing revisions to the operating permits regulation. The supplemental proposal, which was developed with extensive input from representatives from industry, States, and environmental groups, will significantly simplify and streamline the process for revising operating permits as well as other provisions of the operating permits program.
- ◆ Today's action is intended to build upon EPA's first "White Paper" by further streamlining the content of operating permit applications and permits and removing unintended administrative costs. EPA's second "White Paper" significantly lowers the burden for industry and States and improves implementation of the operating permits program in several ways.

WHAT ARE THE MAIN COMPONENTS OF EPA'S "WHITE PAPER NUMBER 2?"

- ◆ Many facilities, such as chemical plants, industrial processing plants, and refineries, emit air pollution from hundreds of different emissions points. Furthermore, emissions from many facilities can contribute to a variety of different air pollution problems, such as smog, toxic air pollution, or acid rain. As a result, it is often the case that a variety of different Federal, State or local regulations apply to the same emissions points at a facility. Many of these requirements may overlap and require costly parallel monitoring, recordkeeping, and reporting.
- ◆ EPA's "White Paper Number 2" is intended to address this problem by generally allowing States and facilities to comply with multiple, applicable Clean Air Act requirements by assuring compliance with only the most stringent of the requirements. This alleviates a substantial burden on facilities by not requiring them to spend the time, effort, and money to demonstrate compliance with all of the overlapping requirements.

- ◆ This streamlining initiative will lead to substantial reductions in paperwork, staff time, and other permitting burdens. In particular, various monitoring, recordkeeping, and reporting requirements that are not critical to assuring compliance with the streamlined or consolidated emissions limit will be eliminated.
- ◆ EPA's "White Paper Number 2" also:
 - defines a strategy where regulatory authorities and the regulated community can reduce the confusion and cost that results when locally adopted rules differ from the EPA-approved State implementation plan.
 - provides for the streamlined treatment of certain applicable requirements that regulate relatively small amounts of emissions, including streamlined treatment of obligations to monitor and/or certify compliance. This addresses current concerns that resources will be unnecessarily consumed by matters of trivial environmental importance.
 - reduces the level of information required to support applicability decisions when sources stipulate to their applicability and/or major source status.
 - streamlines the content of operating permit applications and permits by allowing the business to reference many types of existing information, rather than include all of that information in the permit itself.
- ◆ States can begin implementing the policies outlined in "White Paper Number 2" immediately, unless precluded by any State law. EPA encourages all States to implement this guidance wherever feasible.

FOR FURTHER INFORMATION...

- ◆ With a computer and a modem this guidance document can be downloaded from the Clean Air Act Amendments bulletin board under "Title V - Policy and Guidance" of EPA's electronic Technology Transfer Network by calling (919) 541-5742. For further information about how to access the board, call (919) 541-5384. For further information about the "White Paper Number 2", contact Mike Trutna of EPA's Office of Air Quality Planning and Standards at (919) 541-5345.

ADDENDUM - TECHNICAL SUMMARY

EPA'S "WHITE PAPER NUMBER 2"

Streamlining Multiple Applicable Requirements on the Same Emissions Unit(s)

- o Today's guidance describes how a source may propose streamlining to distill or "streamline" multiple overlapping requirements into one set that will assure compliance with all requirements. According to the guidance, multiple emissions limits may be streamlined into one limit (except acid rain requirements) if that limit is at least as stringent as the most stringent limit. If no one requirement is unambiguously more stringent than the others, the applicant may synthesize the conditions of all the applicable requirements into a single new permit term that will assure compliance with all requirements. The streamlined monitoring, recordkeeping, and reporting requirements would generally be those associated with the most stringent emissions limit, providing they would assure compliance to the same extent as any subsumed monitoring. Monitoring, recordkeeping, or reporting to determine compliance with subsumed limits would not be required where the source implements the streamlined approach.

It is important to emphasize that while streamlining may be initiated by either the applicant or the permitting authority, it can only be implemented where the permit applicant consents to its use.

Development of Applications and Permits for Outdated SIP Requirements

- o This section of the guidance largely addresses the problem by authorizing permitting authorities and their sources to base permit applications on State and local rules that have been submitted for SIP approval, rather than on the potentially obsolete approved SIP provisions that they would replace. Such reliance on pending State and local rules is proper when the permitting authority has concluded that the

pending rule will probably be approved, or when the source believes it can show that the pending rule is more stringent than the rule it would replace. However, if the pending rule is not more stringent than the rule it would replace, the permit cannot be issued until the pending rule is approved.

Treatment of Insignificant Emissions Unit(s)

- o The guidance clarifies that the permitting authority has broad discretion to tailor the permit application and permit for small equipment and activities as long as compliance with Federal requirements is assured. For both the permit application and the permit, information on IEU's may be generically grouped and listed without emissions estimates, unless emissions estimates are needed for another purpose such as determining the amount of permit fees that are calculated using total source emissions. This approach would utilize standard permit conditions with minimal or no reference to any specific emissions unit or activity, provided that the scope of the requirement and its enforcement are clear. The EPA also believes that for IEU's, a responsible official's initial compliance certification may be based on available information and the latest cycle of required information. The guidance further provides that the permitting authority can use broad discretion in determining the nature of any required periodic monitoring.

Use of Major Source and Applicable Requirement Stipulation

- o There have been concerns expressed that extensive new emissions data would be needed to verify major source status or the applicability of Federal requirements. White Paper Number 2 clarifies that for applicability purposes, a source familiar to the permitting authority may simply stipulate in its application that it is major or that Federal requirements apply as specified in the application. The paper clarifies that there is no need to prepare and submit extensive information about the source that "proves" it is subject to any requirements that it stipulates are applicable. This does not affect the requirement to provide information that is otherwise required by part 70.

Referencing Of Existing Information In Part 70 Permit Application and Permits

- o Concerns have been raised that a source must re-prepare and resubmit information that is readily available, or that the permitting authority already has, to complete part 70 permit applications. In addition, similar concerns have been voiced regarding the large and potentially unnecessary

burden of developing permits which repeat rather than reference certain types of regulatory requirements that apply to the source (e.g., monitoring and testing protocols). The guidance clarifies that, in general, the permitting authority may allow information to be cited or cross-referenced in both permits and applications if the information is current and readily available to the permitting agency and to the public. The citations and references must be clear and unambiguous and be enforceable from a practical standpoint. After permits specify which emissions limits apply to identified emissions units, cross-referencing can be authorized for other requirements (e.g., monitoring, recordkeeping, and reporting).