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To

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Subject

Response to Community
Environmental Working Group
Questions

Mr. Bartlit: Below are responses to questions posed by Community Environmental Working Group. Feel free to contact us if you have any additional questions.

1. What differences are there between a major source (Title V) permit and minor source permit as to who oversees the permit, that is, the EPA vs. the New Mexico Environment Department (NMED)?

I would like to clarify the air permitting programs. The permitting program is explained on the Region 6 public website at http://yosemite1.epa.gov/r6/Apermit.nsf/AirP . More detailed information on the 1990 Clean Air Act Amendments for permits is also available on the EPA website at: http://www.epa.gov/oar/oaqps/peg_caa/pegcaa02.html#topic2a . For New Mexico, the State has both the major and minor NSR permits as well as the Title V permit approved in the States Implementation Plan (SIP). The NSR permits can be for major source as defined in 40 CFR § 52.21(b)(1) and interpreted into the NMED State Implementation Plan (SIP), under 20.2.70.7.Q NMAC (New Mexico Air Code).

R6 EPA has oversight on the Title V programs for five States. EPA does not review every Title V permit for these States. The State is responsible for compliance with the approved SIP provisions for administration of the Title V program. If the facility is located on Indian lands, EPA will write the Title V and any other Federally Enforceable Permits.

Title V permits, by definition are for major sources (major stationary sources), which are defined in 40 CFR § 70.3(a) and

interpreted into the NMED State Implementation Plan (SIP), under 20.2.70.7.Q NMAC (New Mexico Air Code). Sources that do not meet these definitions are considered minor sources, and generally are not subject to Title V permits unless specifically required under a specific source category requirement. I have to assume you are referring to minor source construction permits under the New Source Review (NSR) program, as laid out in 40 CFR § 51, Subpart I and § 52.21, and in the NM SIP 20.2.72 NMAC. Under this program, all sources must demonstrate they will not interfere with applicable State air plans and Rules, and Federal air standards (National Air Ambient Quality Standards – NAAQS), regardless of size. In these cases, both the NMED and EPA jointly oversee the Federally enforceable conditions of the permit during compliance inspections, dependant on whether or not the source is major or minor, while the State will exclusively oversee the State only conditions. The State has primary permitting authority for this program.

One group of sources that would also fall under the minor source category for permitting purposes, are those that have the potential to meet the major source definition, but have taken federally enforceable limits to keep them below the emissions of a major source. As with all NSR permits, per the NMED SIP for NSR permitting, both the State and EPA have the ability to enforce the permits, but the State is the primary permitting authority.

2. What monitoring can be required by a major source (Title V) permit for a semiconductor facility vs. a minor source permit? What are the most significant differences in the monitoring that can be required?

Monitoring is highly variable, dependant on the pollutant under consideration, the potential to emit, and the regulatory category for the industry. You ask about the semiconductor industry, and according to the preamble to the MACT Rule (40 CFR § 63, Subpart BBBBB); there is only one existing major source in the country, subject to the regulatory requirements under the Rule. This Rule can be found on the web at http://www.epa.gov/ttn/atw/semicon/semiconpg.html . The Title V permit is also required for a source that has emissions of a listed CAA Section 112 Hazardous Air Pollutant (HAP) equal to or greater than 10 tons/year, or cumulative HAP greater than 25 tons/year. Monitoring is required for this type facility based on the regulatory requirements that cover this industry, per the Title V requirements of 40 CFR § 70.6(a)(3)(i). Monitoring for minor sources that do not require a Title V permit is set up in 20.2.72 NMAC.

3. Was a semiconductor MACT ever promulgated?

The “National Emission Standards for Hazardous Air Pollutants: Semiconductor Manufacturing: Final Rule”, 40 CFR § 63, Subpart

BBBBB, was promulgated on May 22, 2003, with an amendment to the Rule proposed on October 19, 2006. You may view the Rule and proposed amendment Federal Register notice packages at: http://www.epa.gov/ttn/atw/semicon/semiconpg.html

4. Which permit, major or minor, has, or can have, lower emission limits?

This is a rather ambiguous question, since you have not specified any particular pollutant. Major HAP sources will have higher emission rates of HAP only and not necessarily for other pollutants. You will have to be more specific in your question for me to give you a clear answer.

5. Are there any semiconductor facilities in the U.S. with a major source permit? If so, where?

According to 40 CFR § 63, Subpart BBBBB, as cited in the FR /Vol. 68, No. 99/Preamble, Section VIII, page 27922, the MACT Rule for the semiconductor industry, there is only one major source operating in the country. This is the Eastman Kodak facility located in Rochester, NY.

6. What, if any, differences does the kind of permit make in emission averaging times, namely, short-term (say, hourly) vs. long-term (say, annual)? Does the difference, if any, imply differences in required monitoring?

The State normally operates the minor NSR program and can have both short-term and long-term average limits to meet the NAAQS. Sources having a PTE of a major source (including synthetic minors) must have, per the requirements of 40 CFR § 70.6(a)(1), limitations and standards that assure compliance with all applicable requirements of the permit at the time of permit issuance, which could include both short-term limits to protect the NAAQS and long-term limits to quantify the major source PTE. For the Title V program and major NSR sources, the State meets the Federal guidelines, as referenced in the EPA approved SIP. The State SIP for both Title V and NSR reference Federal requirements, along with case-by-case determinations. Differences in required monitoring is determined primarily by the regulatory requirements.

7. Some people believe the EPA reviewed and approved Intel's minor source permit issued by NMED in March 2000. Is this correct? If so, can we get a copy of the approval document?

EPA Region 6 reviewed the “draft Minor New Source Review permit” for Intel Corporation in Rio Rancho, New Mexico and noted no items of concern in that draft in a letter to NMED, dated April 19, 2000. The letter specifically noted that ‘Intel Corporation’s use

of a 12 month annual rolling average is consistent with permits issued for similar facilities in the semiconductor industry and is consistent with the 1992 Environmental Protection Agency guidance memorandum entitled “Use of Long Term Rolling Averages to Limit Potential to Emit”’. The letter is attached.

(See attached file: Goodyear New Mexico Letter.pdf)

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