UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
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MAR 0 7 2006

4APT-APB

Don R. Willard, Deputy Director
Air Quality
Land Use & Environmental Services
Mecklenburg County
700 N. Tryon Street, Suite 205
Charlotte, NC 28202-2236

Dear Mr. Willard:

This correspondence is being sent to provide you with an official final copy of the Environmental Protection Agency (EPA) Region 4 report, which was completed as a result of the EPA Title V and New Source Review (NSR) program evaluation conducted on September 12, 13 and 16, 2005 (see Enclosure). The purpose of this program review was to evaluate the status and the ability of the Mecklenburg County Land Use & Environmental Services Agency (LUESA) to carry out the duties and responsibilities required to effectively run the title V and NSR programs, as well as find out how EPA can best assist the LUESA in meeting these commitments.

We would like to take this opportunity to commend the LUESA staff for the effective implementation of both the title V and NSR programs. However, as a result of this evaluation, a significant concern was noted in the Mecklenburg County Air Quality (MCAQ) Division's ability to have rollover of title V funds from year to year. While this report details EPA findings, EPA will provide to you in a separate correspondence how this area of concern must be resolved. EPA Region 4 looks forward to continuing to work closely with LUESA to maintain high quality title V and NSR programs.

If you or your staff have any questions regarding the report, please do not hesitate to contact Randy Terry of the EPA Region 4 staff at (404) 562-9032.

Sincerely,

R. Douglas Neeley
Acting Director
Air, Pesticides and Toxics
Management Division

Enclosure

Mecklenburg County Land Use and Environmental Services Agency
Air Quality Department (MCAQ)
Title V and New Source Review Program Review

The U.S. Environmental Protection Agency (EPA) Region 4 committed to conduct detailed title V and New Source Review (NSR) program reviews for all state and local programs that have at least ten title V major sources within their jurisdiction. These evaluations also include a review of the title V fees collected and billed annually. This commitment results from an agreement between the EPA Office of Air and Radiation and the EPA Office of Inspector General, which required EPA to conduct title V program evaluations of all state and local programs. EPA Region 4 decided to use this opportunity to evaluate the NSR programs in addition to the title V programs at each of the state and local programs. The program reviews are to be completed by the end of Fiscal Year 2006. The Mecklenburg County Land Use and Environmental Services Agency, Air Quality Department (MCAQ) program review was conducted the dates of September 12, 13 and 16, 2005 in Charlotte, North Carolina. Prior to arrival, EPA emailed a list of five title V sources to MCAQ that EPA planned to review as part of the overall program review. Upon EPA's arrival at MCAQ, EPA spent the first day reviewing the title V files and discussing the title V questionnaire with MCAQ staff. The following day was allocated to completing the review of the permit files and conducting the NSR questionnaire. The following parties attended the title V questionnaire discussion: Randy Terry (EPA Region 4), Katy Forney (EPA Region 4), Scott Miller (EPA Region 4), James Purvis (EPA Region 4), Joan Liu (MCAQ), Henry Sutton (MCAQ), Randy Poole (MCAQ), and Donna Cavaliere (MCAQ).

Mecklenburg County Title V Program Review

1. Program Review

MCAQ's organizational structure for air permitting resides at the office in Charlotte, North Carolina. All title V permits for the MCAQ area are processed in the Charlotte office. MCAQ's title V permitting jurisdiction covers all of Mecklenburg County. Separate program evaluation reports will be written covering the North Carolina, and Forsyth County title V programs. No report will be written for the Western North Carolina title V program because they have fewer than 10 title V sources within their jurisdiction.

The headings in the title V portion of this report duplicate the headings in the title V program review questionnaire administered during the visit.

EPA appreciates MCAQ's efforts to aid the evaluation process by providing an answered copy of the program review questionnaire prior to the meeting. For many questionnaire items, the answers provided by MCAQ are more detailed than indicated in the summary discussion below. The answered questionnaire from MCAQ will be on file at EPA Region 4 for reference.

A. Title V Permit Preparation and Content

MCAQ has processed 100 percent of their initial title V applications. 80 percent of the applications submitted by the sources during the initial round of title V permit issuance contained enough information for the permit to be created without requesting additional information. Since the vast majority of the initial applications received did not require any additional information, MCAQ was able focus on processing the applications within the federal timeframes.

In instances where a significant amount of time has passed between application submittal and drafting a permit, MCAQ does not require that the application be updated nor a new compliance certification be submitted. Instead, to ensure that a source is in compliance prior to permit issuance, MCAQ conducts annual inspections, reviews the emission inventory and reviews the source files, including legal and general correspondence. In cases where that facility is out of compliance, MCAQ delays permit issuance until the source attains compliance.

MCAQ has provided additional training for their staff in an effort to improve the quality of permit writing. Additionally, they have developed a permit condition menu and an application tracking time log to routinely track permit issuance on a periodic basis to determine permit issuance timeliness and proficiency. In order to ensure a quality product, once permits are drafted by the permit writers, they are reviewed by a supervisor, the title V coordinator and management.

MCAQ has made specific efforts to streamline their permit issuance by grouping similar units and listing the requirements of only the most stringent applicable requirement. This effort

reduces multiple, similar requirements on the same emission unit. When feasible, specific sections are typically referenced by federal register citation or rule within the permit, instead of placing the entire contents of the requirements for applicable regulations within the permit.

MCAQ prepares a statement of basis (SOB) for each title V permit processed, incorporating the requirements of 40 CFR part 70.7(a)(5). Mecklenburg's SOB contains all the justifications for the permit conditions. In order to ensure consistency in developing the SOB, MCAQ has provided on the job training to all permit writers detailing the necessary content of the engineering evaluation. MCAQ works to ensure that each SOB explains, at a minimum, the rationale for monitoring as well as applicability decisions and any exemptions.

In discussing the overall strengths and weakness of the format of title V permits, MCAQ believes that the requirement to contain all applicable regulations within the permit, thereby allowing the reviewer to quickly determine which regulations apply is a strength, and the weaknesses include the length of the permits of some of the larger sources and the inadequacy, in some cases, of detailing all necessary regulation content

B. General Permits

MCAQ does not issue general permits.

C. Monitoring

In order to ensure that its operating permits contain adequate monitoring, during permit issuance, MCAQ permit writers list specific monitoring requirements including criteria, range, and frequency in the monitoring conditions. Additionally Mecklenburg's permit writers attend and participate in training on monitoring to ensure that they are aware of the latest monitoring developments. MCAQ routinely adds monitoring for major sources, where not specifically required, to ensure verification of compliance with imposed limitations, as allowed under sufficient and/or periodic monitoring EPA guidance. MCAQ incorporates compliance assured monitoring (CAM) into its permits.

D. Public Participation and Affected State Review

As a local title V program, MCAQ utilizes the "Charlotte Observer" newspaper, which is the newspaper in their area with the largest circulation, to give general public notice of title V permitting actions. The cost of publishing public notices in the newspaper has averaged $400 and is paid for by MCAQ. In addition, MCAQ also utilizes a mailing list to provide notification of upcoming permitting actions. In order to help the public determine when the 60 day citizen petition clock begins, MCAQ has agreed to include language within all title V public notices referring the public to EPA Region 4's website.

MCAQ has not reached out to any specific communities beyond the traditional public notification process and has no opinion on the most effective avenues of public notification.

MCAQ has not noticed a significant difference in the response levels to any of the methods of notification. To further facilitate public participation, Mecklenburg's policy is to provide translation for any person requesting notice in a language other than English.

Upon request, copies of any additional information relative to the permit action are sent at a charge of 25 cents per page. Persons requesting to see additional information relative to a permitting action such as the application, deviation reports, compliance certifications, etc. during the public comment period must place a request for the appropriate files and they will be made available within three business days. Due to their ability to quickly meet requests for additional information, MCAQ has not needed to extend the comment period deadline.

MCAQ has never been requested by the public to extend the public comment period and received public comments on one of their initial title V permitting actions. With such a small sample size, MCAQ has not noticed any trend in the types of comments received. MCAQ works with the permittees prior to public notice in an effort to minimize permittee comments during the public notice period. On the occasions that MCAQ receives permittee comments, the comments tend to vary, but have had a limited impact on MCAQ's ability to issue timely permits.

MCAQ notifies all affected states and tribes of every public notice by email. MCAQ has never received comments from an affected state nor have they ever provided comments to a state or tribe as an affected state.

E. Permit Issuance/ Revision/ Renewal

MCAQ has issued 100 percent of their initial title V permits. Although MCAQ has been able to process title V revisions within the time frames allotted by Part 70, they continually look for ways to further streamline the permit issuance process. One mechanism MCAQ has implemented to streamline the permit issuance process is the use a permit tracking system to pinpoint the location of the permit as it moves through the system. A standardized computer data system is utilized to indicate receipt of application, status of applications, and permit issuance status.

MCAQ has issued five renewal title V permits and is working to issue all of their renewal permits within the time allotted in part 70. MCAQ has found the renewal process to be easier than the "original" permits. To ensure timely submittals, Mecklenburg included the renewal application submittal date within the initial permit, and they remind the source contact of the renewal deadline during the year, including during their annual inspections. At the time of the program evaluation, MCAQ had received eight title V renewal applications and has found the vast majority of them to be timely and complete. MCAQ believes that they will have all of their renewal permits issued within the part 70 allocated timeframe.

F. Compliance

MCAQ requires any deviations as specified in the permit conditions and/or required by applicable regulations to be reported prior to the semi-annual monitoring report. Deviations are not necessarily considered as violations. Each deviation report must contain the probable cause of the deviation, corrective actions taken, and the magnitude and duration of the deviation. Following the receipt of a deviation report, MCAQ reviews the report and evaluates a course of action on a case-by-case basis. MCAQ reviews 100 percent of all deviation reports, semi-annual monitoring reports, and annual compliance certifications. Upon receipt of a semi-annual monitoring report or an annual compliance certification, MCAQ staff reviews the report and then a supervisor reviews the staff report and determines if enforcement action for the identified violations should be pursued.

G. Resources and Internal Management Support

MCAQ establishes its title V fee based on an annual fee of $6,000.00 per source and an application fee of $9,000.00 for each new title V application or significant modification and an emission fee of $37.00 per ton. Title V revenues are processed and posted under the title V activity code within the MCAQ County bank account. This system allows for financial reports for management oversight and accurately accounts for title V revenue as well as expenditures; however, the MCAQ County funds account does not allow for rollover of funds as allowed in 40 CFR part 70. Consequently, at the end of each fiscal year, the title V program either has a surplus which is then transferred to the general funds and spent (not allowed under part 70) or has a shortage and is required to pull funds from the general account to cover this shortage which indicates that MCAQ is not charging sufficient title V fees to cover all title V expenses required under part 70.

MCAQ has authorization to employ six air hygienists to write permits, as well as conduct compliance and enforcement. Additionally, they employ two senior air hygienists and an air quality systems analyst. MCAQ's accounting procedures allow for the individual tracking of both title V and non-title V activities by the completion of an annual certification form at the beginning of each year. Included within this certification is the projected time MCAQ employees will spend working on title V (10 percent) and non-title V (90 percent) activities. At the time of the evaluation, MCAQ had one senior air hygienist position vacant and the remaining positions filled. Over the past few years MCAQ has experienced a minimal turnover rate of approximately 10 percent.

MCAQ has not developed a career ladder for all of their air hygienists, but do have a limited ability to hire employees in at a competitive salary. All engineers and staff, including permit writers, are afforded opportunities for EPA, State and Metro4 training. Training courses include online courses, telecourses, classroom courses, and self-instructional courses. Training provided includes how to develop periodic and sufficiency monitoring in permits, enforceable permit terms and conditions as a practical matter and writing a SOB.

MCAQ does not have an Environmental Justice (EJ) policy or EJ coordinator, nor do they consider EJ issues during the issuance of a permit. Although MCAQ air hygienists have access to the County's GIS information, demographics, cumulative effects and pre-existing burdens are not routinely evaluated as part of their permitting process. MCAQ was open to incorporating EJ activities in their daily operation and expressed interest in participating in EPA (and other sources) training to further their knowledge in environmental justice. EPA offered MCAQ assistance with obtaining demographic information for their projects when needed.

H. Title V Benefits

MCAQ believes that they have gained significant benefits as a result of the title V program. MCAQ believes that since they began to implement the title V program, the title V staff has gained a better understanding of the stationary source requirements in the State Implementation Plan and a better understanding of how to write enforceable permit terms. Other benefits of the title V program and the title V fee revenue include a better stationary source emission inventory and a stable funding source despite fluctuations in other state programs. Additionally, MCAQ believes one of the major benefits of the title V program is the one stop document of the title V program. Having all source requirements in a single document makes it very user friendly for the facility and the inspection officer.

Program Highlights

1. MCAQ has issued 100 percent of their initial title V permits and at the time of the program evaluation had processed five out of eight renewal applications received.

2. MCAQ's commitment to maintaining a quality staff with minimum turnover as evidenced by their turnover rate of approximately 10 percent a year.

3. MCAQ's development of a "condition menu" to ensure consistency and adequacy of all permitting actions.

Suggested Improvements

1. EPA suggests that MCAQ incorporate into their title V public notice an email address to allow for the submission of electronic comments.

2. EPA recommends that MCAQ consider providing more details in their public notice when processing a significant modification. Failure to specifically cite which portion of the permit is being revised and thus reopened for comment may lead to comments on a portion of the permit, which is unchanged and has previously undergone public comment.

3. EPA suggests that MCAQ become more aware of EJ issues and begin looking for opportunities for their staff to obtain training.

4. EPA has serious concerns about the MCAQ's co-mingling of funds between the title V funds and other funds including general treasury funds. Specifically with MCAQ having no ability to rollover title V funds, each year the title V program either loses a surplus of title V funds to the general treasury or a shortfall in title V revenue is covered by obtaining funds from the general treasury both of which are in direct conflict with the requirements of 40 CFR part 70.

2. Permit Reviews

Staff reviewed 5 title V permit files which included final title V permits, title V SOBs, submitted monitoring reports required under title V permit conditions, deviation/upset/malfunction reports, and enforcement actions. The files also contained preconstruction permitting actions that had taken place at each facility. The facility permits were chosen based on the variety of industrial source categories representative of the title V facility universe in Mecklenburg County.

The permit files are neatly and uniformly labeled per section by content. Staff focused primarily on reviewing final permits with monitoring reports to see the use of title V permit conditions and their associated monitoring conditions to validate compliance with applicable requirements in each facility permit. Without exception, each semiannual monitoring report and annual compliance certification contained adequate emission rate calculations, emission factors (and emission factor substantiation where necessary), permit condition cites, and other data to determine compliance with the underlying applicable requirement. Title V deviation reports are submitted on a semiannual basis along with the semiannual monitoring reports. The MCAQ permits have a useful summary chart that lists all reporting requirements and the individual report elements for each permit condition that requires a report to be submitted. Staff commends MCAQ staff for going through the extra effort to summarize required content of reporting requirements in one location of the permit.

Where a monitoring submittal provided information that demonstrated noncompliance or a question arises from monitoring information submitted, the files indicate that a timely follow-up action was taken by a MCAQ staff member. All observed instances of noncompliance were rectified by MCAQ staff on a timely basis through either enforcement or follow-up with the facility.

One issue noted with respect to reporting requirements was the frequency with which title V deviation reports are submitted. General permit conditions and underlying regulations governing submittal of deviation reports (found at MCAPCO 1.5508(f)(2)) require title V deviation reports to be made by the day following a deviation event. Facilities are submitting deviation reports on a semiannual basis. While the current approach represents a departure from the title V regulatory requirements, staff notes that such an approach has been approved by EPA in the past in other title V programs. Staff notes that the State of North Carolina is developing an amendment to this Regulation that allows quarterly deviation reports to be submitted as a replacement to the next-day deviation report requirements. MCAQ staff indicated that the Department would be

adopting this newly-revised Rule once the State DENR adopts it. In the interim, EPA staff suggested that facilities be required to submit next-day deviation reports per the final title V general permit conditions and underlying regulation found at MCAPCO 1.5508(f)(2).

Mecklenburg County Land Use and Environmental Services Agency
Air Quality Department (MCAQ)
New Source Review (NSR) Program Review

On September 12, 2005, the Region 4 office of the U.S. Environmental Protection Agency (EPA) conducted a review of the Mecklenburg County Land Use and Environmental Services Agency Air Quality Department (MCAQ) new source review (NSR) permit program. The NSR program review consisted of administering a questionnaire developed for EPA's national NSR program review project. Region 4 has reviewed all of MCAQ major NSR permits in recent years; no major NSR permits were evaluated as part of the on-site review.

The primary EPA staff person conducting the review was Katy Forney from Region 4's Air Permits Section. Another EPA representative present during the review was Randy Terry. MCAQ's primary participant was Joan Liu from the permitting program.

MCAQ has a SIP-approved NSR program with its own NSR rules. MCAQ therefore has authority to issue both major and minor NSR permits. Mecklenburg County is currently designated as nonattainment for ozone (8-hour). The applicable major NSR permitting regulations are the regulations for prevention of significant deterioration (PSD) and the regulations for nonattainment areas. However, MCAQ has not had to process any major nonattainment NSR permits under past nonattainment designations. Additionally, it has been approximately 7 years since MCAQ has issued a major source PSD permit. The vast majority of construction permits issued by MCAQ are for minor sources.

MCAQ's organizational structure for air permitting resides in Charlotte with all major and minor NSR permits processed there. MCAQ's NSR permitting jurisdiction covers all of Mecklenburg County, North Carolina.

The headings in the following report duplicate the headings in the NSR program review questionnaire administered during the visit.

As an appreciated aid to EPA, MCAQ provided a copy of the program review questionnaire annotated with MCAQ's answers. For many questionnaire items, the answers provided by MCAQ are more detailed than indicated in the summary discussion below. The answered questionnaire from MCAQ will be on file at EPA Region 4 for reference if needed.

Common Program Requirements (PSD and Nonattainment NSR)

A. Netting

MCAQ follows netting procedures that are generally consistent with EPA policy and guidance. Like the State of North Carolina, Mecklenburg County has a seven year contemporaneous time period incorporated into their federally approved regulation. When an application for a modification of an existing major source is received, to assess the creditability of the emission reductions, MCAQ reviews all available information in the file history including, the current and previous applications, agency reviews, and the current permit. Credits used to net out of PSD are documented in the Agency's review.

B. Routine Maintenance, Repair and Replacement (RMRR)

MCAQ is aware of the RMRR exemption available in the NSR regulations, but has not made any RMRR determinations in recent years. MCAQ has agreed to consult with EPA if a source requests the use of the RMRR exemption.

C. Synthetic Minor Limits

MCAQ identifies in their permits which conditions are being used to avoid PSD. The permittee requested limits are reviewed and verified by the Agency before they are included as enforceable conditions in the permit. MCAQ has a scaled set of reporting requirements that are used to ensure the synthetic minor permit limits are met. For instance, if the actual emissions level is less than 50% of the major source threshold, only annual reporting is required; however, if the actual emissions level is between 50% and 75% of the major source threshold, quarterly reporting is required.

MCAQ does not require modeling from minor source applicants and MCAQ has not performed modeling for minor sources in recent years. Although modeling is not required for minor source permitting, EPA reiterated to MCAQ that minor sources still consume PSD increment and can cause or contribute to violations of the national ambient air quality standards (NAAQS).

MCAQ maintains a permits database which includes synthetic minor sources. An updated report of synthetic minor sources can be created upon request by the public or EPA. Compliance with the synthetic minor limits is tracked through the required periodic reporting as well as periodic inspections of the facilities.

D. Pollution Control Projects (PCP) Exclusion

MCAQ is aware of the PCP exclusion available in the NSR regulations, but has not made any PCP determinations in recent years. MCAQ has agreed to consult with EPA if a source requests the use of the PCP exclusion. Region 4 discussed the most recent court decision regarding the legality of PCP exclusions with MCAQ and advised the Agency that if they were to grant any

future PCP exclusions, they would be doing so at their own and the facility's risk. Until EPA provides further guidance on this topic, MCAQ does not intend to grant any future PCP exclusions. Region 4 will keep MCAQ informed of any further guidance and in particular, any decisions regarding the future of previously issued construction permits that relied on a PCP exclusion to avoid PSD permitting.

E. Fugitive Emissions

MCAQ's definition corresponds to the federal rule definition of fugitive emissions. Fugitive emissions are considered in NSR applicability assessments for both new sources and modifications of existing sources. MCAQ would not allow reductions in fugitive emissions to be creditable in a netting analysis. MCAQ's permits include conditions consistent with BACT requirements to control fugitive emissions, usually in the form of work practice standards.

F. Modeling

MCAQ follows the modeling procedures in 40 CFR Part 51, Appendix W. To date, MCAQ has not required modeling of minor sources. Modeling of minor sources is discussed in more detail later in this report.

MCAQ requests applicants to submit a modeling protocol for PSD permit applications. This protocol is provided to EPA and the Federal Land Manager for review. The most recent five years of Meteorological data is required to be used for modeling. To date, MCAQ has not yet had to evaluate a cumulative NAAQS or PSD increment compliance assessment and therefore, have never had to identify sources or create an emission inventory for an applicant. EPA explained that in the event that a cumulative assessment is performed, the complete list of initial sources, any eliminated sources, and the reasons for elimination should be available to EPA and the public for comment during the permitting process. According to MCAQ, all the above information is available upon request by EPA or the public.

MCAQ maintains a database of increment consumption and expansion. MCAQ reviews all modeling demonstrations by verifying model inputs and that the appropriate procedures were followed. MCAQ has never encountered a case where the modeling revealed a violation of the NAAQS or PSD increment. If such a case occurred, MCAQ would work with the applicant to resolve the violation before a permit was issued.

G. Stationary Source Determinations

MCAQ defines stationary source the same as in federal regulations. MCAQ has never had to make a single source determination based on whether emission units were contiguous or adjacent; however, if the situation occurred, MCAQ would conduct a case-by-case determination using the factors identified in EPA guidance. MCAQ assesses the facilities financial, personnel, and contractual relationship when determining common ownership or control. MCAQ utilizes the first two-digits of the facilities' primary SIC codes when identifying potential separate

stationary sources.

H. Debottlenecking and Increased Utilization

For NSR applicability purposes, MCAQ follows EPA policy and guidance on inclusion of debottlenecking and increased utilization emissions and regularly consults with Region 4 staff for further guidance. MCAQ trains staff on these concepts as they relate to determining if a modification is major for NSR.

I. Relaxation of Limits Taken to Avoid Major NSR

MCAQ is aware of the "relaxation" provisions in 40 CFR 52.21(r)(4), but has not had any sources subject to these provisions in recent years. MCAQ has agreed to consult with EPA if a source triggers the "relaxation" provisions of 52.21(r)(4).

J. Circumvention/Aggregation Issues

In general, MCAQ follows EPA policy and guidance with respect to identifying attempts at circumvention. MCAQ reviews the past 7 years of permitting history when conducting an application review to ensure no circumvention is occurring.

Prevention of Significant Deterioration (PSD)

A. Program Benefits Quantification

MCAQ believes that the PSD program acts as an incentive for sources to reduce emissions below the major source levels, allows them to implement emission-reducing programs more quickly than rulemaking, and improves monitoring, reporting and notice to communities utilizing the PSD program as a mechanism to improving air quality. However, MCAQ does not believe that PSD permits have been used as the authority to implement other priorities such as toxic emission reductions. Overall, MCAQ believes that the PSD program has contributed to sustaining good air quality.

B. Best Available Control Technology (BACT)

MCAQ does mandate use of the top-down BACT evaluation procedure. MCAQ does not use sources beyond the RACT/BACT/LAER Clearinghouse (RBLC). EPA discussed the need to use additional sources of information with MCAQ, including the National Combustion Turbine Database, the California Air Resources Board website, and previous BACT determinations from Region 4 as well as other EPA Regions. MCAQ has not had a case recently where BACT was rejected based on an economic rationale; however, if the situation arose, MCAQ would provide detailed BACT analyses (including cost) as part of their public record. MCAQ has not had to consider combination of controls or regrouping of emission units during the BACT analysis, but would not be opposed to including such in a BACT analysis if appropriate. The permits contain

federally enforceable conditions consistent with the basis and averaging time of the selected BACT options.

As mentioned above, MCAQ has not had to evaluate a BACT economic evaluation since the most recent PSD applicant (1998) chose to install the top add-on controls. In general, MCAQ will follow EPA guidance when evaluating/conducting a BACT economic analysis and would consult with EPA during the review process if questions arose.

C. Class I Area Protection for PSD Sources

In general, MCAQ follows EPA policy and guidance with respect to Class I areas. MCAQ notifies the federal land manager (FLM) of the permitting application and encourages communication between the applicant and the FLM. If a predicted Class I area increment violation was predicted, which to date has never happened, MCAQ would conduct a case-by-case analysis to correct the problem.

D. Additional Impacts - Soils, Vegetation, Visibility, Growth

MCAQ does not require the applicant to submit additional impact analysis information with the PSD application; however, the applicant must submit sufficient information for MCAQ to complete the analysis. MCAQ does not generally allow the argument that protection of the NAAQS will assure protection of vegetation. MCAQ has not had any additional impacts that have been a cause for concern in recent years.

E. Pre-construction Monitoring

In general, MCAQ follows EPA policy and guidance with respect to pre-construction monitoring, but have never required pre-construction monitoring. MCAQ does not have any formal procedures in place for requiring pre-construction monitoring. MCAQ provides ambient monitoring data in lieu of requiring applicants to perform pre-construction monitoring.

F. Increment Tracking Procedures

MCAQ has established both major and minor baseline dates for the county. MCAQ tracks increment consumption as part of the review process for all permit modifications (major and minor). Increment consumption data is tracked in an electronic database.

MCAQ does not perform modeling of increment consumption on a scheduled basis. Rather, increment consumption is performed when needed for a new permit application.

G. Endangered Species Act (ESA)

MCAQ has a SIP-approved NSR permitting program. ESA requirements are not applicable.

Nonattainment NSR

Although Mecklenburg County is currently classified as nonattainment for ozone, MCAQ has not had to process a major NSR permit since before 1990. Hence, even though the nonattainment NSR section of the questionnaire is still applicable, MCAQ answers are not based on recent experience.

Program Benefits

MCAQ believes that the NSR program acts as an incentive for sources to reduce emissions below the major source levels, allows them to implement emission-reducing programs more quickly than rulemaking, and improves monitoring, reporting and notice to communities utilizing the NSR program as a mechanism to improving air quality. However, MCAQ does not believe that NSR permits have been used as the authority to implement other priorities such as toxic emission reductions. Overall, MCAQ believes that the NSR has contributed to sustaining good air quality.

NSR Offsets

MCAQ does not have a banking program for NSR offsets. Reporting records and actual emission calculations are used to quantify the amount of creditable emission reductions that can be used as offsets. Stack tests and facility records are used to verify offsets aren't surplus. Applications and past permits are reviewed to verify that the reductions were not used in previously issued permits. MCAQ does not require a "net air quality benefit" modeling analysis as long as the offset ratio is met and the reductions are in the same nonattainment area as the emissions increases.

LAER Determinations

MCAQ requires the applicant to meet the lowest achievable emissions rate and does not use a top-down approach to determine the most stringent control option. MCAQ uses the CARB database in addition to the RBLC as a source of LAER information. MCAQ provides a technical support document that details the rationale for the LAER analysis. Specific emission limits that result from a LAER determination are included as enforceable emission limits with the lowest enforceable averaging period according to EPA policy.

Alternative Analysis

MCAQ has not required an alternative analysis for any nonattainment NSR permit action, including the pre-1990 NSR permits.

Compliance of Other Sources in the State

MCAQ does not require a permit applicant to demonstrate that all of their major stationary sources throughout the State are in compliance.

Minor NSR Programs

A. NAAQS/Increment Protection

MCAQ uses modeling to ensure that minor sources and minor modifications do not violate the NAAQS. As mentioned above, MCAQ uses a database to track the increment consumption of minor sources but does not model minor sources for PSD increment consumption routinely. A list of sources that affect the PSD increment is available from the State of North Carolina to the public upon request.

B. Control Requirements

MCAQ's Local Implementation Plan does not require any level of BACT or similar requirement for minor modifications. However, MCAQ does require monitoring and reporting requirements to be included in any permit and requires minor sources to report compliance with all permit limits established by federally applicable regulations (i.e., MACT, NSPS, or NESHAP.)

C. Tracking Synthetic Minor NSR Permits

MCAQ does have an established procedure for tracking synthetic minor permits. The information is maintained in their database and is updated whenever a facility undergoes a modification that changes their major/minor source status. MCAQ is working on a definition of prompt deviation and currently includes reporting requirements in their synthetic minor permits, especially if the facility's emissions are close to the permit limit.

Public Participation

A. Public Notification

MCAQ provides public notice (30 days) for major NSR permits and provides a 15-day public notice for synthetic minor source permits, netting permits, and minor source permits. Notifications are made by newspaper (Charlotte Observer), website, and are included in their monthly Air Quality Commission (AQC) agenda, which is distributed via mailing list to public officials and interested citizens. Affected permitting authorities (North Carolina, South Carolina, Forsyth County, NC, and the Catawba Indian Tribe) are notified of permitting actions via email.

MCAQ utilizes the AQC mailing list to notify interested parties. The initial public comment period can be extended upon request, but this has never been requested. MCAQ has considered late comments in past permitting actions. MCAQ can also extend the public comment period

following a public hearing. All public comments received during the public comment period are reviewed. MCAQ follows their Administrative Procedures Act when determining if a second draft permit should be issued with additional opportunity for public comment.

A public hearing will be held on a draft permit if MCAQ receives a specific request to hold one. Notification of a public hearing is published in a newspaper, the AQC agenda, and on a website at least 30 days in advance of the hearing.

B. Environmental Justice (EJ)

Environmental Justice considerations for Mecklenburg County projects are discussed in the title V program review section elsewhere in this report.

Program Staffing and Training Issues

As of the time of the review, MCAQ has six air hygienists, two senior air hygienists, and an air quality systems analyst who spend a portion of their time working on the NSR program (major and minor sources). NSR staff utilizes EPA workshops, policy and guidance documents to maintain their knowledge of NSR permitting updates and issues. MCAQ expressed interest in training on PSD applicability, especially with regards to the NSR Reform regulations.

General NSR Program Issues

MCAQ requires the facility to start with the most conservative emission factors and if something else is used, they must justify use of those emission factors (including AP-42 factors.)

During the preceding year, MCAQ issued zero PSD construction permits and zero nonattainment NSR permits. MCAQ's most recent PSD construction permit was issued (along with the Title V permit) to Ameristeel in April 1999.

MCAQ estimates that the average time to issue a PSD permit (from the time an application is deemed complete) is about one year.

MCAQ considers condensible particulate matter (PM_{10}) for NSR applicability assessments, and specifies a test method to be used for PM_{10} condensibles.

Effective Construction Permits

Based on EPA Region 4's experience in reviewing MCAQ's most recent PSD permit (Ameristeel), MCAQ creates effective construction permits with appropriate permit conditions.

Suggested Improvements

EPA recommends that MCAQ contact EPA if a request is received to make a determination

regarding the RMRR or PCP exemptions allowed by the NSR regulations. Similarly, we recommend MCAQ contact EPA if an existing permit holder triggers NSR relaxation described in 40 CFR 52.21(r)(4).

EPA recommends that MCAQ include additional permitting information (i.e., draft permits and preliminarily determinations) on their website, especially information regarding documents out for public comment. Providing information via the internet will increase the public's awareness of the permitting activities in Mecklenburg County and allow the public quicker and more efficient access to appropriate documents during public comment periods.

EPA recommends that MCAQ use additional sources of BACT information beyond that found in the RBLC. Examples of additional sources of information include the National Combustion Turbine Database, the California Air Resources Board website, and previous BACT determinations from Region 4 as well as other EPA Regions. Examples and the location of such information can be forwarded to MCAQ upon request.

Conclusion

At the conclusion of the onsite portion of the Title V and NSR program reviews, Region 4 personnel met with key MCAQ officials to conduct an exit interview. During this exit interview Region 4 shared the findings of the review and laid out a timeframe for when the final report would be completed. Personnel in attendance from EPA Region 4 were Randy Terry, Katy Forney, Scott Miller and James Purvis. Gregg Worley and Kay Prince of EPA Region 4 participated in the exit interview via telephone. MCAQ officials in attendance included Randy Poole, Henry Sutton, Donna Cavaliere and Don Willard.

Overall, EPA believes that MCAQ is operating both the title V and NSR programs at a high level of proficiency but needs to resolve the fiscal accounting procedures for title V and non-title V funds. EPA looks forward to working with the MCAQ in the future.