



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 2**  
**290 BROADWAY**  
**NEW YORK, NY 10007-1866**

NOV - 1 2001

Mr. Don Gowin  
Environmental Director  
Philadelphia Furniture Manufacturing Co., LLC  
100 Rochester Street  
Salamanca, New York 14779

**Re: Final Title V Permit for Philadelphia Furniture Manufacturing Company (PFMC)**

Dear Mr. Gowin:

On May 9, 2001, the U.S. Environmental Protection Agency (EPA) issued a draft Title V permit to PFMC pursuant to 40 CFR Part 71. EPA received the comments on this draft permit only from the PFMC during the public comment period which ended on July 6, 2001. PFMC asked that the draft Title V permit conditions limiting PFMC's VOC emissions to 50 tons per year and the conditions pertaining to all monitoring requirements be removed. In the final Title V permit that is being issued today, EPA removed the 50 tons per year VOC emission limit but maintains appropriate monitoring requirements. EPA's rationale for these changes are explained in the enclosed Responsiveness Summary document. The final permit and the revised Statement of Basis documents are also enclosed. This final permit contains applicable conditions pursuant to the federal New Source Performance Standards, National Emission Standards for the Hazardous Air Pollutants and Section 184 of the Clean Air Act which pertains to the Ozone Transport Region.

This final permit decision may be challenged under the permitting regulations, codified at 40 CFR Part 71.11, that apply to EPA's processing of this permit decision. Specifically, 40 CFR §71.11 establishes the following procedures for administrative appeal of the final Operating Permit decision. Any person who filed a comment on the draft permit may petition the Environmental Appeals Board in Washington, D.C. for review. In addition, any person who failed to file a comment on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit or other new grounds that were not reasonably foreseeable during the public comment period on the draft permit. Any petition for review under this part must be made within thirty (30) days of the service of notice of the final permit decision by the EPA Regional Administrator. The petition for review shall include a statement of the reasons supporting that review, and shall adhere to the standards outlined in 40 CFR § 71.11(I).

All persons applying for administrative review must file the original and one (1) copy of the petition for review with the Environmental Appeals Board at the following address:

For Regular Mail:  
U.S. Environmental Protection Agency  
Environmental Appeals Board (MC-1103B)  
401 M Street, SW  
Washington, DC 20460

For Hand-Carried and Express Mail:  
U.S. Environmental Protection Agency  
Environmental Appeals Board (MC-1103B)  
Westory Building, Suite 500  
607 14th Street, NW  
Washington, DC 20005

Phone number: (202) 501-7060  
Fax number: (202) 501-7580

For purposes of judicial review under the Act, final Agency action does not occur until after administrative review procedures are exhausted. Notice of the Agency's final action with respect to this permit will be published in the Federal Register. Judicial review of this final action is available by filing a petition for review in the United States Court of Appeals for the appropriate circuit within sixty (60) days of the date of the Federal Register notice. Under Section 307(b) of the Act should the administrative appeal not be filed, this final Agency action shall not be subject to judicial review in civil or criminal proceedings for enforcement.

Since comments requesting changes to the draft permit were received and changes were made to the permit, this final permit will become effective thirty (30) days after the service of notice, unless review is requested under 40 CFR §71.11. If a petition for review of the final Agency action is filed, the permit will not become effective until after a decision on the petition is rendered by the Environmental Appeals Board. If you have any questions about this permit please contact Mr. Steven C. Riva at (212) 637-4074.

Sincerely,

**/S/ William J. Muszynski**

William J. Muszynski, P.E.  
Acting Regional Administrator

Enclosures

cc: Erin M. Crotty, Acting Commissioner, NYSDEC w/o encl.  
Pat Lavin, NYSDEC, w/encl  
Tom Marriot, NYSDEC, Region 8, w/encl  
Sonny Buffalo, Seneca Nations, w/encl

**STATEMENT OF BASIS  
FINAL TITLE V PERMIT FOR  
PHILADELPHIA FURNITURE MANUFACTURING COMPANY**

EPA Region 2 is issuing a final Title V permit pursuant to 40 CFR Part 71 to Philadelphia Furniture Manufacturing Company (PFMC). PFMC is located in the City of Salamanca which is Indian Country. Until the Seneca Nation of Indians have their own Part 70 Title V program, EPA remains the permitting authority for this facility.

PFMC has a boiler that is subject to NSPS Subpart Dc. Since the boiler at PFMC burns natural gas only, it is subject to NSPS recordkeeping and notification requirements. PFMC cannot burn any other fuel without being affected by the emission limits in the NSPS. In order to ensure that PFMC complies with this restriction, this part 71 permit includes a condition that limits fuel use to natural gas and requires daily record keeping of fuel burned.

Furthermore, PFMC is an area air toxic source based on its actual emission of hazardous air pollutants (HAP). By limiting its actual emissions to 5 tpy or less of any individual HAP, or 12.5 tpy or less of all HAPs combined within the entire facility, PFMC is not subject to the compliance requirements of the wood furniture MACT (40 CFR Part 63, Subpart JJ). In the permit, a mechanism to ensure emissions do not exceed 5 tpy of a single HAP and 12.5 tpy of all HAPs was created. The mechanism chosen was to record and calculate total solvent consumed and the HAP content of solvent consumed on a 12 month rolling basis. Monitoring is provided by keeping records of consumption of solvents and the HAP content from certified product data sheets or other vendor information. PFMC determined that its actual emissions were below the limits stated above by monitoring the solvent use and HAP content, making the required calculations and keeping such records.

There are no air quality monitoring or modeling requirements that specifically apply to this source because even though the potential emissions of the criteria pollutants and hazardous air pollutants emitted by the source could exceed the major source threshold the actual emissions of the hazardous air pollutants are presently less than the major source threshold. Through this permit the permittee will be required to maintain its actual emissions below the major source threshold for HAP pollutants. Should this source at any time exceed the major source threshold for HAPs it will become subject to the major source requirements specified in the Wood Furniture Manufacturing Operations MACT, 40 C.F.R Part 63, Subpart JJ. The only applicable requirements to which the source is presently subject are the area source requirements listed in 40 C.F.R section 63.800(b)(3). Although, no VOC emission limits apply, the source is required to track and record the actual VOC emissions because the actual emissions data will be needed if any modification is made in the future and also to calculate annual permitting fees.

The rest of the permit consists of standard permit conditions that apply to any Part 71 facility.

**United States Environmental Protection Agency  
Region 2, Air Programs Branch  
290 Broadway, 25 Floor  
New York, NY 10007**

**FINAL**

**AIR POLLUTION CONTROL  
TITLE V PERMIT TO OPERATE**

Permit Number: SEN001  
Replaces Permit No.: N/A

Issue Date: **NOV - 1 2001**  
Effective Date: **NOV - 1 2001**  
Expiration Date: **OCT 31 2006**

In accordance with the provisions of Title V of the Clean Air Act and 40 CFR Part 71 and applicable rules and regulations,

**Philadelphia Furniture Manufacturing Company**

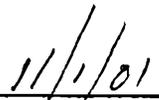
is authorized to operate air emission units and to conduct other air pollutant emitting activities in accordance with the permit conditions listed in this permit.

This source is authorized to operate in the following location:

100 Rochester Street, Salamanca, New York

If any term is not defined in this permit, then it will have the meaning stated in the referenced regulations. All terms and conditions of the permit are enforceable by EPA and citizens under the Clean Air Act. Please reference the permit number cited above in future correspondence regarding this facility.

  
\_\_\_\_\_  
William J. Muszynski, P.E.  
Acting Regional Administrator

  
\_\_\_\_\_  
Date

**AIR POLLUTION CONTROL  
TITLE V PERMIT TO OPERATE**

**Philadelphia Furniture Manufacturing Company  
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### **Abbreviations and Acronyms**

CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CEM	Continuous Emission Monitoring
CFR	Code of Federal Regulations
COM	Continuous Opacity Monitoring
EIP	Economic Incentives Programs
EPA	Environmental Protection Agency
gal	gallon
HAP	Hazardous Air Pollutant
hr	hour
Id. No.	Identification Number
kg	kilogram
lb	pound
MACT	Maximum Achievable Control Technology
MVAC	Motor Vehicle Air Conditioner
Mg	megagram
MMBtu	Million British Thermal Units
mo	month
NESHAP	National Emission Standards for Hazardous Air Pollutants
NO <sub>x</sub>	Nitrogen Oxides
NSPS	New Source Performance Standard
NSR	New Source Review
PM	Particulate Matter
PM10	Particulate matter less than 10 microns in diameter
ppm	parts per million
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
psia	pounds per square inch absolute
RMP	Risk Management Plan
SNAP	Significant New Alternatives Program
SO <sub>2</sub>	Sulfur Dioxide
tpy	Tons Per Year
US EPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

## **I. Source Identification and Unit-Specific Information**

### **A. General Source Information**

Plant Name: Philadelphia Furniture Manufacturing Company

Plant Mailing Address: 100 Rochester Street

City: Salamanca

State: New York

Zip: 14779

Region: EPA Region 2

County: Cattaraugus

Reservation: Seneca Nation of Indians

Owner: John K. Desmond

Address: 321 Norristown Road

City: Ambler

State: PA

Zip: 19002

Company Contact: John K. Desmond

Phone: 716-945-5500

Plant Manager/Contact: Don Gowin

Phone: 716-945-5500

Responsible Official: John K. Desmond

Phone: 716-945-5500

SIC Code (4 digit, if available): 2511

AFS Plant Identification Number: 36-009-00042

Other Clean Air Act Permits: N/A

Description of Process: This facility is engaged in the wood furniture manufacturing activities. These activities include spray and paint booth operations and wood cutting and sanding operations.

## B. Source Emission Units

**Table 1. Source Emission Units**

The following table identifies and describes each emissions unit, such as process units and control devices later referenced in this permit.

<b>Emission Unit Id. No.</b>	<b>Description</b>	<b>Control Equipment</b>
00001A	McEwen Natural Gas Boiler - 12.6 mmbtu/hr	N/A
00001B	McEwen Wood Boiler - 6.6 mmbtu/hr	N/A
00001C	Superior Natural Gas Boiler - 6.9 mmbtu/hr	N/A
00010	Paint Spray Booth	N/A
00038	Glaze Spray Booth	N/A
00038A	Glaze Spray Booth	N/A
00038B	Glaze Spray Booth	N/A
00039	Bleach Spray Booth	N/A
00040	Paint Spray Booth	N/A
00041	Paint Spray Booth	N/A
00042	Paint Spray Booth	N/A
00043	Paint Spray Booth	N/A
00044	Paint Spray Booth	N/A
00045	Paint Spray Booth	N/A
00046	IR Drying Oven	N/A
00047	IR Drying Oven	N/A
00048	IR Drying Oven	N/A
00051	Paint Spray Booth	N/A
00052	Dry Clime Flash Tunnel	N/A

00053	Dry Clime Flash Tunnel	N/A
00054	Dry Clime Flash Tunnel	N/A
00055	Paint Spray Booth	N/A
00056	Paint Spray Booth	N/A
00058	Paint Spray Booth	N/A
00059	Paint Spray Booth	N/A
00061	Wood Sanding Operations	Internal baghouse and MAC collector
00062	Plant Ventilation	Internal baghouse and MAC collector
00071	Wood Chip Storage Silo	Cyclone
00104	MAC Dust Collector	Baghouse

**C. Federal Air Quality Requirements**

There are no air quality monitoring or modeling requirements that specifically apply to this source except for the area source monitoring requirements specified in 40 C.F.R. section 63.800(b)(3) of the Wood Furniture NESHAP.

## **II. Requirements for Emission Units**

00001A, McEwen Natural Gas Boiler:

- (1) The permittee shall only combust natural gas in this emissions unit.
- (2) The permittee shall record the amount of fuel combusted each day that the boiler operates. Further, the permittee shall maintain the records of the amount of fuel combusted each day at the facility for a period of five years from the date of fuel usage. [40 CFR 60.48c(g)]

## **III. Facility Wide Permit Conditions**

Conditions in this section of the permit (Section III. Facility-Wide) apply to all emissions units located at the facility, including any units not specifically listed in Table 1 of Section I.B. [40 CFR § 71.6(a)(1)]

- (1) The hazardous air pollutant (HAP) emissions at the facility shall not exceed 5 tons of any one HAP per rolling 12-month period and no more than 12.5 tons of any combination of HAP per rolling 12-month period, and at least 90% of the plantwide emissions per rolling 12 month period shall be associated with the manufacture of wood furniture or wood furniture components. [40 CFR § 63.800(b)(3)]
- (2) The permittee shall keep monthly purchase and usage records of HAP and Volatile Organic Compounds (VOC) containing solvents and raw materials, including monthly usage records for all finishing, gluing, cleaning and washoff materials. The total usage for a month shall be calculated and added to the previous 11 months of usage.
- (3) The permittee shall maintain records of the number of pounds of HAP and VOC per gallon and percent of HAP and VOC content in each solvent and raw material as purchased and consumed. Such information should be derived from certified product data sheets for these materials or other information provided by the vender. All product data sheets and vender information must be kept on file for a period of five years from receipt.
- (4) The permittee shall keep records on a monthly basis of all HAP emissions emitted that month. The record shall also show that the month's HAP emissions added with the previous 11 months HAP emissions are less than or equal to 5 tpy for any individual HAP and less than or equal to 12.5 tpy of any combination of HAPs. HAP emissions shall be calculated assuming all volatile compounds are completely emitted. The owner or operator shall also calculate each month the percent of HAP emissions associated with the manufacture of wood furniture or wood furniture components. [40 CFR 63.800(b)(3)]

(5) The permittee shall keep records on a monthly basis of all VOC emissions emitted that month. The record shall also show that the month's VOC emissions added with the previous 11 months VOC emissions. VOC emissions shall be calculated assuming all VOCs are completely emitted.

#### **IV. Other Permit Requirements**

##### **A. Recordkeeping Requirements [40 CFR §71.6(a)(3)(ii)]**

In addition to any recordkeeping requirements stated in this permit, the permittee shall comply with the following generally applicable recordkeeping requirements:

- (1) The permittee shall keep records of any monitoring activity related information and shall include the following:
  - (i) The date, place, and time of sampling or measurements;
  - (ii) The date(s) analyses were performed;
  - (iii) The company or entity that performed the analyses;
  - (iv) The analytical techniques or methods used;
  - (v) The results of such analyses; and
  - (vi) The operating conditions as existing at the time of sampling or measurement.
- (2) The permittee shall retain records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and copies of all reports required by this permit. [40 CFR § 71.6 (a)(3)(ii)(B)]

##### **B. Reporting Requirements [40 CFR §71.6(a)(3)(iii).]**

- (1) The permittee shall submit to EPA Region 2 reports of all monitoring required under this permit every 6 months. The reports are due on April 1<sup>st</sup> and October 1<sup>st</sup> of every year during the permit term. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with **Section V.F.(a)** of this permit.

- (i) A monitoring report under this section must include the following:
  - (1) The company name and address.
  - (2) The beginning and ending dates of the reporting period.
  - (3) The emissions unit or related activity being monitored.
  - (4) The emissions limitation or standard, including operational requirements and limitations, specified in the permit for which compliance is being monitored.
  - (5) All instances of deviations from permit requirements, including those attributable to upset conditions as defined in the permit and including excursions or exceedances as defined under 40 CFR part 64, and the date on which each deviation occurred.
  - (6) All other monitoring results, data, or analyses necessary to demonstrate compliance with this permit.
  - (7) The name, title, and signature of the responsible official who is certifying to the truth, accuracy, and completeness of the report.
  
- (2) The permittee shall promptly report to EPA Region 2, by telephone or facsimile, deviations from permit conditions, including those attributable to upset conditions as defined in this permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. A written notice, certified consistent with permit condition V.F.(a), must be submitted within 10 working days of the occurrence. For the purposes of this section of the permit, prompt is defined as follows:
  - (i) Reports of deviations will be submitted based on the following schedule:
    - (1) For emissions of a hazardous air pollutant that continue for more than an hour in excess of permit requirements, the report must be made within 24 hours of the occurrence.
    - (2) For emissions of any regulated pollutant excluding the HAPs, that continue for more than two hours in excess of permit requirements, the report must be made within 48 hours of the occurrence.

(3) For all other deviations from permit requirements, the report shall be submitted with the semi-annual monitoring report required in Section IV.B.(a). [40 CFR § 71.6(a)(3)(iii)(B)]

(ii) “Deviation,” means any situation in which an emissions unit fails to meet a permit term or condition. A deviation is not always a violation. A deviation can be determined by observation or through review of data obtained from any testing, monitoring, or recordkeeping established in accordance with § 71.6(a)(3)(i) and (a)(3)(ii). For a situation lasting more than 24 hours which constitutes a deviation, each 24 hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:

- (1) A situation where emissions exceed an emission limitation or standard;
- (2) A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met;
- (3) A situation in which observations or data collected demonstrates noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit;
- (4) A situation in which an exceedance or an excursion as defined in 40 CFR Part 64 occurs.

**C. Compliance Schedule** [40 CFR § 71.6(c)(3) and (4) and § 71.5(c)(8)(iii)]

- (1) The facility is in compliance with all applicable requirement at the date that it submitted its application and will continue to comply with such requirements. [40 CFR § 71.5(c)(8)(iii)(A)]
- (2) For applicable requirements that will become effective during the permit term, the source shall meet such requirements on a timely basis. [40 CFR § 71.5(c)(8)(iii)(B)]

**D. Permit Shield** [40 CFR § 71.6(f)]

- (1) Compliance with the conditions of this permit shall be deemed compliance with any applicable requirements specifically identified in the permit as of the date of permit issuance.

- (2) Nothing in this permit shall alter or affect the following:
- (i) The provisions of Section 303 of the Clean Air Act (emergency orders), including the authority of the Administrator under that section;
  - (ii) The liability of a permittee for any violation of applicable requirements prior to or at the time of permit issuance; or
  - (iii) The ability of the EPA to obtain information under Section 114 of the Clean Air Act. [40 CFR § 71.6(f)(3)]
- C. Should the facility go beyond the PTE limits set out in this permit for HAPs, it will be subject to an enforcement action and a reopening of this permit treatment as a major source under 40 CFR Part 71.

#### **E. Operational Flexibility [40 CFR § 71.6 (a)(13)]**

- (1) The permittee is allowed to make a limited class of changes under Section 502(b)(10) of the Clean Air Act within this permitted facility that contravene the specific terms of this permit without applying for a permit revision, provided the changes do not exceed the emissions allowable under this permit (whether expressed therein as a rate of emissions or in terms of total emissions) and are not Title I modifications. This class of changes does not include:
- (i) Changes that would violate applicable requirements; or
  - (ii) Changes that would contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. [40 CFR § 71.6 (a)(13)(i)]
- (2) The permittee is required to send a notice to EPA at least 7 days in advance of any change made under this provision. The notice must describe the change, when it will occur and any change in emissions, and identify any permit terms or conditions made inapplicable as a result of the change. The permittee shall attach each notice to its copy of this permit. [40 CFR § 71.6(13)(i)(A)]
- (3) Any permit shield provided in this permit does not apply to changes made under this provision.[40 CFR § 71.6(13)(i)(B)]

#### **F. Economic Incentives Program**

No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in this permit. [40 CFR § 71.6(a)(8)]

**G. Chemical Accident Prevention** [ 40 CFR Part 68]

Should the permittee of a stationary source reach a threshold quantity of a regulated substance in a process, as determined under 40 CFR §68.115, it shall comply with the requirements of the Chemical Accident Prevention Provisions at 40 CFR Part 68 no later than the latest of the following dates:

- (1) Three years after the date on which a regulated substance is first listed under 40 CFR § 68.130; or
- (2) The date on which a regulated substance is first present above a threshold quantity in a process. [40 CFR § 68.10(a)]

**H. Stratospheric Ozone and Climate Protection** [40 CFR part 82]

The permittee shall comply with the standards for recycling and emissions reduction of ozone depleting substances pursuant to 40 CFR Part 82, Subpart F, except as provided for motor vehicle air conditioners (MVACs) in Subpart B:

- (1) Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to 40 CFR §82.156.
- (2) Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to 40 CFR §82.158.
- (3) Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to 40 CFR §82.161.
- (4) Persons disposing of small appliances, MVACs, and MVAC-like appliances must comply with recordkeeping requirements pursuant to 40 CFR §82.166. ("MVAC-like appliance" as defined at 40 CFR §82.152).
- (5) Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements pursuant to 40 CFR §82.156.
- (6) Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances pursuant to 40 CFR §82.166.

## **I. Asbestos Removal and Disposal**

The permittee shall comply with 40 CFR part 61, subpart M when conducting any renovation or demolition at the facility. [40 CFR part 61, subpart M]

## V. Part 71 Administrative Requirements

### A. Annual Fee Payment [40 CFR §71.6(a)(7) and 40 CFR §71.9]

- (1) The permittee shall pay an annual permit fee in accordance with the procedures outlined below. [40 CFR § 71.9(a)]
- (2) The permittee shall pay the annual permit fee each year by April 1<sup>st</sup>. [40 CFR § 71.9(h)]
- (3) The fee payment shall be in United States currency and shall be paid by money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the order of the U.S. Environmental Protection Agency. [40 CFR § 71.9(k)(1)]
- (4) The permittee shall send fee payment and a completed fee filing form to  
  
U.S. EPA Region II  
P.O. Box 360188M  
Pittsburgh, PA 15251  
[40 CFR § 71.9(k)(2)]
- (5) The permittee shall send an updated fee calculation worksheet form and a photocopy of each fee payment check (or other confirmation of actual fee paid) submitted annually by the same deadline as required for fee payment to the address listed in **Section V.F.** of this permit. [40 CFR § 71.9(h)(1)]
- (6) Basis for calculating annual fee:
  - (i) The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all “regulated pollutants (for fee calculation)” emitted from the source by the presumptive emissions fee (in dollars/ton)<sup>1</sup> in effect at the time of calculation. [40 CFR § 71.9(c)(1)]

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<sup>1</sup> The permittee should note that the presumptive fee amount is revised each calendar year to account for inflation, and it is available from EPA prior to the start of each calendar year.

- (a) “Actual emissions” means the actual rate of emissions in tpy of any regulated pollutant<sup>2</sup> (for fee calculation) emitted from a part 71 source over the preceding calendar year. Actual emissions shall be calculated using each emissions unit’s actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. [40 CFR § 71.9(c)(6).]
  - (b) Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data. [40 CFR § 71.9(h)(3)]
  - (c) If actual emissions cannot be determined using the compliance methods in the permit, the permittee shall use other federally recognized procedures. [40 CFR § 71.9(e)(2)]
- (ii) The permittee shall exclude the following emissions from the calculation of fees:
    - (a) The amount of actual emissions of each regulated pollutant (for fee calculation) that the source emits in excess of 4,000 tons per year. [40 CFR § 71.9(c)(5)(i)]
    - (b) Actual emissions of any regulated pollutant (for fee calculation) already included in the fee calculation.[40 CFR § 71.9(c)(5)(ii)]
    - (c) The quantity of actual emissions (for fee calculation) of insignificant activities [defined in § 71.5(c)(11)(i)] or of insignificant emissions levels from emissions units identified in the permittee’s application pursuant to § 71.5(c)(11)(ii). [40 CFR § 71.9(c)(5)(iii)]
- (7) Fee calculation worksheets shall be certified as to truth, accuracy, and completeness by a responsible official. [40 CFR § 71.9(h)(2)]
  - (8) The permittee shall retain all work sheets and other materials used to determine fee payments. Records shall be retained for five years following the year in which the emissions data is submitted. [40 CFR § 71.9(i)]
  - (9) Failure of the permittee to pay fees in a timely manner shall subject the permittee to assessment of penalties and interest. [40 CFR § 71.9(l)]

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<sup>2</sup> The term “regulated pollutant (for fee calculation)” is defined in § 71.2.

- (10) When notified by EPA of underpayment of fees, the permittee shall remit full payment within 30 days of receipt of notification. [40 CFR § 71.9(j)(2)]
- (11) A permittee who thinks an EPA assessed fee is in error and who wishes to challenge such fee, shall provide a written explanation of the alleged error to EPA along with full payment of the EPA assessed fee. [40 CFR § 71.9(j)(3)]

**B. Annual Emissions Inventory** [40 CFR § 71.9(h)]

The permittee shall submit an annual emissions report of its actual emissions for both criteria pollutants and regulated HAPS for this facility for the preceding calendar year, by April 1 of each year. The annual emissions report shall be submitted to EPA at the address listed in provision **V.F** of this permit.

**C. Compliance Requirements** [40 CFR § 71.6(a)(6)(i) and (ii), and sections 113(a) and 113(e)(1) of the Act, and § 51.212, § 52.12, § 52.33, § 60.11(g), and § 61.12.]

- (1) The permittee must comply with all conditions of this Part 71 permit. Any permit noncompliance constitutes a violation of the Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. [40 CFR § 71.6(a)(6)(i)]
- (2) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [40 CFR § 71.6(a)(6)(ii)]
- (3) For the purpose of submitting compliance certifications in accordance with **Section V.D.** of this permit, or establishing whether or not a person has violated or is in violation of any requirement of this permit, nothing shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed. [Section 113(a) and 113(e)(1) of the Act, 40 CFR § 60.11(g).]

**D. Compliance Certifications** [40 CFR § 71.6(c)(5)]

The permittee hereby certifies compliance with all permit terms and conditions, including emission limitations, standards, or work practices. The permittee hereby certifies as to the truth, accuracy, and completeness of this certification. The permittee must continue to provide compliance certifications on an annual basis.

- (1) The certification shall include the following:

- (i) Whether or not the actual emissions of a single HAP have been less than 5 tons per year and the actual emissions of all the HAPs combined have been less than 12.5 tons per year and the accuracy of actual VOC emissions,
- (ii) The identification of the method(s) or other means used for determining the compliance status of each term and condition during the certification period,
- (iii) The status of compliance with the terms and conditions of the permit for the period covered by the certification based on the method or means designated in (ii) above. The certification shall identify each deviation and take it into account in the compliance certification.
- (iv) Such other facts as the EPA may require to determine the compliance status of the source.
- (v) Whether compliance with each permit term was continuous or intermittent. [40 CFR § 71.6(c)(5)(iii)]

**E. Duty to Provide and Supplement Information** [40 CFR § 71.6(a)(6)(v), §71.5(a)(3), and § 71.5(b)]

- (1) The permittee shall furnish to EPA, within a reasonable time, any information that EPA may request in writing to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the EPA copies of records that are required to be kept pursuant to the terms of the permit, including information claimed to be confidential. Information claimed to be confidential must be accompanied by a claim of confidentiality according to the provisions of 40 CFR part 2, subpart B. [40 CFR § 71.6(a)(6)(v), § 71.5(a)(3)]
- (2) The permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall promptly submit such supplementary facts or corrected information. [40 CFR § 71.5(b)]

**F. Submissions** [40 CFR § 71.5(d), § 71.6 and § 71.9]

- (1) Any document (application form, report, compliance certification, etc.) required to be submitted under this permit shall be certified by a responsible official as to truth, accuracy, and completeness. Such certifications shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

- (2) Any documents required to be submitted under this permit, including reports, test data, monitoring data, notifications, compliance certifications, fee calculation worksheets, and applications for renewals and permit modifications shall be submitted to: [40 CFR § 71.5(d), § 71.6(c)(1) and § 71.9(h)(2)]

Steven C. Riva, Chief  
Permitting Section, Air Programs Branch  
EPA Region 2  
290 Broadway, 25<sup>th</sup> Floor  
New York, NY 10007

**G. Severability Clause** [40 CFR §71.6(a)(5)]

The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.

**H. Permit Actions** [40 CFR § 71.6(a)(6)(iii)]

This permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**I. Administrative Permit Amendments and Permit Modifications**

[40 CFR § 71.7(d) and (e)]

In order to amend or modify this permit, the permittee shall meet the criteria established and comply with the requirements for administrative permit amendments or permit modifications provided under § 71.7(d) or (e) respectively.

**J. Reopening for Cause** [40 CFR § 71.7(f)]

The permit may be reopened and revised prior to expiration under any of the following circumstances:

- (1) Additional applicable requirements under the Act become applicable to the permittee with 3 or more years remaining before expiration of this permit. Such a reopening shall be completed no later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions have been extended pursuant to § 71.7 (c)(3).

- (2) EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
- (3) EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.
- (4) EPA determines that the permittee has exceeded its area source limits for VOCs and HAPs and has therefore reached the major source threshold for those pollutants.

**K. Property Rights** [40 CFR §71.6(a)(6)(iv)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

**L. Inspection and Entry** [40 CFR § 71.6(c)(2)]

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow EPA or an authorized representative to perform the following:

- (1) Enter upon the permittee's premises where a Part 71 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
- (4) As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

**M. Emergency Provisions** [40 CFR § 71.6(g)]

- (1) In addition to any emergency or upset provision contained in any applicable requirement, the permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, the permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (i) an emergency occurred and that the permittee can identify the cause(s) of the emergency;
  - (ii) the permitted facility was at the time being properly operated;
  - (iii) during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and
  - (iv) the permittee submitted notice of the emergency to EPA within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. This notice fulfills the requirements of **Section IV.B.(b)** of this permit, concerning prompt notification of deviations.
- (2) In any enforcement proceeding the permittee attempting to establish the occurrence of an emergency has the burden of proof.
- (3) An “emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

**N. Transfer of Ownership or Operation** [40 CFR § 71.7(d)(1)(iv)]

A change in ownership or operational control of this facility may be treated as an administrative permit amendment if the EPA determines no other change in this permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to EPA.

**O. Off Permit Changes** [40 CFR §71.6(a)(12)]

The permittee is allowed to make certain changes without a permit revision, provided that the following requirements are met:

- (1) Each change is not addressed or prohibited by this permit.

- (2) Each change shall meet all applicable requirements and shall not violate any existing permit term or condition.
- (3) Changes under this provision may not include changes subject to any requirement of 40 CFR parts 72 through 78 or modifications under any provision of Title I of the Clean Air Act.
- (4) The permittee must provide contemporaneous written notice to EPA of each change, except for changes that qualify as insignificant activities under §71.5(c)(11). The written notice must describe each change, the date of the change, any change in emissions, pollutants emitted, and any applicable requirements that would apply as a result of the change.
- (5) The permit shield does not apply to changes made under this provision.
- (6) The permittee must keep a record describing all changes that result in emissions of any regulated air pollutant subject to any applicable requirement not otherwise regulated under this permit, and the emissions resulting from those changes.

**P. Permit Expiration and Renewal** [40 CFR §71.5(a)(1)(iii), §71.5(a)(2), §71.5(c)(5), §71.6(a)(11), §71.7(b), §71.7(c)(1), §71.7(c)(3)]

- (1) This permit shall expire upon the earlier occurrence of the following events:
  - (i) five (5) years elapses from the date of issuance; or
  - (ii) the source is issued a part 70 or part 71 permit under an EPA approved or delegated permit program. [40 CFR § 71.6(a)(11)]
- (2) Expiration of this permit terminates the permittee's right to operate unless a timely and complete permit renewal application has been submitted at least 12 months but not more than 18 months prior to the date of expiration of this permit. [40 CFR § 71.5(a)(1)(iii)]
- (3) An application for permit renewal shall be submitted to the EPA Regional office 12 months prior to expiration of this permit.
- (4) If the permittee submits a timely and complete permit application for renewal, consistent with 40 CFR § 71.5(a)(2), but EPA Region 2 has failed to issue or deny the renewal permit, then all the terms and conditions of the permit, including any permit shield granted pursuant to 40 CFR § 71.7(b) shall remain in effect until the renewal permit has been issued or denied. This application shield shall cease to apply if, subsequent to the completeness determination, the permittee fails to submit any additional

information identified as being needed to process the application by the deadline specified in writing by EPA Region 2. [40 CFR §71.7(c)(3), §71.7(b)]

- (5) Renewal of this permit is subject to the same procedural requirements that apply to initial permit issuance, including those for public participation, affected State, and tribal review. [40 CFR § 71.7(c)(1)]
- (6) The application for renewal shall include the current permit number, description of permit revisions and off-permit changes that occurred during the permit term, any applicable requirements that were promulgated and not incorporated into the permit during the permit term, and other information required by the application form. [40 CFR § 71.5(a)(2), §71.5(c)(5)]