

BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF)	
OGLETHORPE POWER COMPANY)	
WANSLEY COMBINED CYCLE ENERGY)	
FACILITY)	
ROOPVILLE, GEORGIA)	ORDER RESPONDING TO PETITIONER'S
ELECTRIC POWER GENERATION)	REQUEST THAT THE ADMINISTRATOR
PETITION IV-2002-1)	OBJECT TO ISSUANCE OF A STATE
)	OPERATING PERMIT
PERMIT NO. 4911-149-0006-V-01-0)	
ISSUED BY THE GEORGIA)	
ENVIRONMENTAL PROTECTION)	
DIVISION)	

ORDER DENYING PETITION FOR OBJECTION TO PERMIT

On February 4, 2002, the United States Environmental Protection Agency ("EPA") received a petition from the Georgia Center for Law in the Public Interest ("GCLPI") on behalf of the Sierra Club ("Petitioner"), requesting that EPA object to the permit issued by the Georgia Environmental Protection Division ("EPD" or the "Department") to Oglethorpe Power Company ("Oglethorpe Power" or the "Permittee") for its Wansley Combined Cycle Energy Facility ("WCCEF") located in Roopville (Heard County), Georgia (the "Oglethorpe Power permit" or the "WCCEF permit"). The permit is a combined state construction and operating permit, issued January 15, 2002, for one natural gas-fired only combined-cycle block which will generate approximately 521 megawatts of electric power ("Power Block 8"). The combined-cycle block includes two combustion turbines, two supplementary fired heat recovery steam generators and one steam turbine. The operating permit portion is issued pursuant to title V of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. §§ 7661-7661f.

The Petitioner requests that EPA object to the permit's lack of a requirement for a case-by-case maximum achievable control technology ("MACT") determination for emissions of hazardous air pollutants ("HAP"); the adequacy of the test method used to determine compliance with a carbon monoxide emission limit; the identification of Georgia Rule 391-3-1-.03(2)(c) as "State only enforceable"; and the omission of a short-term best available control technology ("BACT") limit covering startup and shutdown periods. The Petitioner also states that EPD improperly issued the permit to a company with other facilities that are not in compliance with permits already issued to them, in violation of the Georgia State Implementation Plan ("SIP"). The Petitioner requests that EPA object to the WCCEF permit pursuant to CAA section

505(b)(2), 42 U.S.C. § 7661d(b)(2). For the reasons set forth below, I deny the Petitioner's request.

I. STATUTORY AND REGULATORY FRAMEWORK

Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), calls upon each state to develop and submit to EPA an operating permit program intended to meet the requirements of CAA title V. The State of Georgia originally submitted its title V program governing the issuance of operating permits on November 12, 1993. EPA granted interim approval to the program on November 22, 1995. See 60 Fed. Reg. 57836 (November 22, 1995). Full approval was granted by EPA on June 8, 2000. See 65 Fed. Reg. 36358 (June 8, 2000). The program is now incorporated into Georgia's Air Quality Rule 391-3-1-.03(10). All major stationary sources of air pollution and certain other sources are required to apply for title V operating permits that include emission limitations and other conditions as necessary to assure compliance with applicable requirements of the Act, including the applicable implementation plan. See CAA sections 502(a) and 504(a), 42 U.S.C. §§ 7661a(a) and 7661c(a).

The title V operating permit program does not generally impose new substantive air quality control requirements (referred to as "applicable requirements") on sources. The program does require permits to contain monitoring, recordkeeping, reporting, and other conditions to assure compliance by sources with existing applicable requirements. See 57 Fed. Reg. 32250, 32251 (July 21, 1992). One purpose of the title V program is to "enable the source, States, EPA, and the public to better understand the requirements to which the source is subject, and whether the source is meeting those requirements." Id. Thus, the title V operating permit program is a vehicle for ensuring that existing air quality control requirements are appropriately applied to facility emission units in a single document, therefore enhancing compliance with the requirements of the Act.

Permitting authorities must provide at least 30 days for public comment on draft title V permits and give notice of any public hearing at least 30 days in advance of the hearing. 40 CFR § 70.7(h). Following consideration of any comments received during this time, section 505(a) of the Act, 42 U.S.C. § 7661d(a), and 40 CFR § 70.8(a) require that states submit each proposed permit to EPA for review. Upon receipt of a proposed permit, EPA has 45 days to object to final issuance of the permit if it is determined not to be in compliance with applicable requirements or the requirements of title V. 40 CFR § 70.8(c). If EPA does not object to a permit on its own initiative, CAA section 505(b)(2), 42 U.S.C. § 7661d(b)(2), and 40 CFR § 70.8(d) provide that any person may petition the Administrator, within 60 days of the expiration of EPA's 45-day review period, to object to the permit. These sections also provide that petitions shall be based only on objections to the permit raised with reasonable specificity during the public comment period (unless the petitioner demonstrates that it was impracticable to raise such objections within that period or the grounds for such objections arose after that period).

Section 505(b)(2) of the Act, 42 U.S.C. § 7661d(b)(2), requires the Administrator to issue a permit objection if a petitioner demonstrates that a permit is not in compliance with the requirements of the Act, including the requirements of 40 CFR Part 70 and the applicable implementation plan. If, in responding to a petition, EPA objects to a permit that has already been issued, EPA or the permitting authority will modify, terminate, or revoke and reissue the permit consistent with the procedures in 40 CFR §§ 70.7(g)(4) or (5)(i) and (ii) for reopening a permit for cause. A petition for review does not stay the effectiveness of the permit or its requirements if the permit was issued after the expiration of EPA's 45-day review period. See 42 U.S.C. §§ 7661d(b)(2)-(b)(3); 40 CFR § 70.8(d).

II. PROCEDURAL BACKGROUND

A. Permitting Chronology

EPD received a title V permit application submitted by Oglethorpe Power for the WCCEF on November 30, 2000. The Department determined that the application was administratively complete on January 29, 2001. On September 21, 2001, EPD published the public notice providing for a 30-day public comment period on the draft title V permit for the WCCEF. The public comment period for the draft permit ended on October 22, 2001. The Petitioner submitted comments to EPD in a letter dated October 22, 2001, which serves as the basis for this petition. EPD subsequently issued the final permit to Oglethorpe Power on January 15, 2002.

B. Timeliness of Petition

EPA's 45-day review period for the Oglethorpe Power permit ended on December 6, 2001. The sixtieth day following that date, which was the deadline for filing any petitions for an objection to this permit, was February 4, 2002. As noted previously, on February 4, 2002, EPA received a petition from GCLPI on behalf of the Petitioner requesting that EPA object to the permit. Therefore, EPA considers this petition to be timely. EPA subsequently received a letter from Oglethorpe Power Corporation dated March 22, 2002, stating the company's responses to the Petitioner's allegations.¹

¹See Letter from Douglas J. Fulle, Director, Environmental and Regulatory Affairs, Oglethorpe Power Corporation, to Gregg Worley, Chief, Air Permit Section, Air Division, U.S. EPA Region IV (Mar. 22, 2002).

III. FACILITY BACKGROUND

WCCEF consists of one combined-cycle block (which includes two combustion turbines, each with a supplementary-fired heat recovery steam generator) that will produce approximately 521 megawatts of electric power for sale. The combined-cycle block fires only natural gas and each combustion turbine is equipped with an evaporative inlet cooler and lube oil demister vents. Support equipment includes one cooling tower and one diesel-fired emergency generator.

The primary air emissions from this facility are oxides of nitrogen (Nox), carbon monoxide (“CO”), sulfur dioxide (“SO₂”), volatile organic compounds (“VOC”), total particulate matter, and particulate matter less than or equal to 10 micrometers in diameter. The facility is subject to the following federal requirements: 40 CFR Part 60, Subpart Dc, *Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units*; Subpart GG, *Standards of Performance for Stationary Gas Turbines*; 40 CFR § 52.21, *Prevention of Significant Deterioration of Air Quality*; and 40 CFR Parts 72, 72 and 75 (*Acid Rain program*). The facility is also subject to the following SIP requirements: Georgia Rules 391-3-1-.02(2)(b), *Visible Emissions*; (d), *Fuel-burning Equipment*; and (g), *Sulfur Dioxide*. See Title V Application Review, Oglethorpe Power, Permit No. 4911-149-0006-V-01-0.

IV. ISSUES RAISED BY THE PETITIONER

A. Improper Permit Issuance

Petitioner’s comment: The permit must be denied because facilities under common control with WCCEF are neither in compliance with Georgia Rule 391-3-1-.03(8)(c)(3) nor on compliance schedules. Georgia Rule 391-3-1-.03(8)(c)(3), which is part of the Georgia SIP, prohibits the permitting authority from issuing a “permit to construct a new or modified major stationary source [to be located in any area of the State determined and designated by the U.S. EPA Administrator or the Director as not attaining a National Ambient Air Quality Standard or in areas contributing to the ambient air levels of such pollutants in such areas of nonattainment]” unless:

[t]he owner or operator of the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in this State, are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Act.

The Petitioner alleges that there are three reasons why Oglethorpe Power has failed to meet this applicable requirement for “statewide compliance.” First, the Petitioner alleges that: (a) the Scherer Steam-Electric Generating Plant (“Plant Scherer”) is under the common control of Oglethorpe Power, Georgia Power and others; (b) EPA has determined that Plant Scherer is not in compliance with the Georgia SIP, but Plant Scherer does not have a compliance schedule;

and (c) therefore, Georgia Rule 391-3-1-.03(8)(c)(3) prohibits Oglethorpe Power from obtaining a permit for the WCCEF.

Second, the Petitioner alleges that: (a) the WCCEF is under the common control of Georgia Power and Oglethorpe Power; (b) all of Georgia Power's major stationary sources must either be in compliance or have compliance schedules; (c) Plant Scherer and Georgia Power's Bowen Steam-Electric Generating Plant ("Plant Bowen") are not in compliance with the Georgia Air Quality Act and its regulations; and (d) therefore, EPD issued Oglethorpe Power the WCCEF permit in violation of Georgia Rule 391-3-1-.03(8)(c)(3).

Finally, the Petitioner alleges that although Oglethorpe Power will own the WCCEF, Georgia Power will actually be the operator. The Petitioner states that this is the way Plant Scherer is operated and that "as the sole holder of the water withdrawal permit, Georgia Power is in control of operations of the [WCCEF] because one cannot operate a combined cycle turbine power plant without water." Thus, the Petitioner concludes that because Georgia Power is the operator of the WCCEF, all of Georgia Power's major stationary sources in Georgia must be in compliance with the Act or on compliance schedules, and because they are not, the Petitioner asks that EPA object to the WCCEF permit.

EPA's response: EPA agrees that Georgia Rule 391-3-1-.03(8)(c)(3) applies to the WCCEF, because EPD has determined that while the county in which it is located (Heard County) is an attainment area for all criteria pollutants, the county is an area contributing to the ambient air level of ozone in the metropolitan Atlanta ozone nonattainment area. See EPD Narrative for Oglethorpe Power Company – Wansley Combined Cycle Energy Facility, TV-12684, Permit No. 4911-149-0006-V-01-0, § I(A)(5). However, EPA believes that the Petitioner has not carried its burden of demonstrating that the WCCEF permit is not in compliance with this rule.

As indicated previously, Georgia Rule 391-3-1-.03(8)(c)(3) requires the "owner or operator of the proposed new or modified source" to make a demonstration that "all major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in [Georgia]" meet certain compliance obligations. (Emphasis added.) Georgia Rule 391-3-1-.01(aaa) defines the term "person" to include "any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States, or any other entity, and includes any officer, agent, or employee of any of the above." Thus, the plain language of Georgia Rule 391-3-1-.03(8)(c)(3) suggests that it aims to ensure that an entity applying for a construction permit demonstrates that all of its major sources in Georgia meet their compliance obligations – regardless of where in the State they are located. EPD issued the WCCEF permit to Oglethorpe Power Company, which is designated on the permit as the WCCEF's "Parent/Holding Company" and which assumes responsibility for the WCCEF's operation under

the permit.² Therefore, under Georgia Rule 391-3-1-.03(8)(c)(3), Oglethorpe Power is the “owner or operator” that was obligated to demonstrate that all major stationary sources owned or operated by Oglethorpe Power itself, or owned or operated by an entity controlling, controlled by, or under common control with Oglethorpe Power, in Georgia satisfy the rule’s compliance obligations.

The Petitioner asserts that Plant Scherer is under the common control of Oglethorpe Power, Georgia Power and others, and that Oglethorpe Power has admitted that it “owns portions of only Units 1 and 2 at Plant Scherer.” See Petition, Exhibit 4 at 2 n.1. However, the EPA Notice of Violation cited by the Petitioner alleges non-compliance only as to Plant Scherer’s Units 3 and 4. See Petition, Exhibit 5 at 7. It is not clear from the plain language of Georgia Rule 391-3-1-.03(8)(c)(3) that it requires an owner or operator to make any demonstration as to facilities that it does not own or operate, even if they are located at the same plant site as facilities that it does own or operate. Nor has the Petitioner demonstrated that the rule should for other reasons be so broadly construed. Thus, with respect to Plant Scherer, EPA sees no reason to question EPD’s determination that all of Oglethorpe Power’s facilities in Georgia are in compliance with all applicable requirements.³

The Petitioner also alleges that the WCCEF is under the common control of Georgia Power and Oglethorpe Power. EPD has acknowledged that “common control” of the Title V site as a whole, consisting of the WCCEF and two other facilities – namely, the Georgia Power Wansley Steam-Electric Generating Plant, and the Municipal Electric Authority of Georgia – Wansley Unit 9 – exists between Oglethorpe Power and Georgia Power.⁴ However, as explained above, the relevant inquiry for purposes of Georgia Rule 391-3-1-.03(8)(c)(3) is whether the entity Oglethorpe Power is under common control with the entity Georgia Power. The petitioner has not demonstrated that this is the case. As the WCCEF permit and its narrative indicate, the term “common control” is used differently in the context of EPD’s Title V site determination.

²The WCCEF was previously permitted under the name of Georgia Power Company – Wansley Steam Electric Generating Plant.” See Narrative for Oglethorpe Power Company – Wansley Combined Cycle Energy Facility, TV-12684, Permit No. 4911-149-0006-V-01-0, §§ I(A)(2), I(A)(3).

³See EPD Final Determination, “Prevention of Significant Air Quality Deterioration Review of the Oglethorpe Power Corporation Wansley Combined-Cycle Energy Facility, Power Block 8,” SIP Permit Application No. 12684, Phase II Acid Rain Permit Application No. 12713 and Title V Permit Application No. 12684 (Jan. 2002) at 7.

⁴See EPD Final Determination, “Prevention of Significant Air Quality Deterioration Review of the Oglethorpe Power Corporation Wansley Combined-Cycle Energy Facility, Power Block 8,” SIP Permit Application No. 12684, Phase II Acid Rain Permit Application No. 12713 and Title V Permit Application No. 12684 (Jan. 2002) at 3; Condition 1.1; EPD Narrative for Oglethorpe Power Company – Wansley Combined Cycle Energy Facility, TV-12684, Permit No. 4911-149-0006-V-01-0, § I(B).

The Petitioner has not demonstrated that the WCCEF is under the common control of Georgia Power and Oglethorpe Power within the meaning of Georgia Rule 391-3-1-.03(8)(c)(3).

Finally, the Petitioner has not carried its burden of demonstrating that the WCCEF permit is not in compliance with Georgia Rule 391-3-1-.03(8)(c)(3) on the ground that Georgia Power will operate the WCCEF even though Oglethorpe Power will own the WCCEF. The Petitioner has stated only that Georgia Power is the sole holder of the WCCEF's water withdrawal permit. However, that assertion is not sufficient to establish the Georgia Power is the operator for purposes of the CAA. Therefore, the petition is denied with respect to this issue.

B. Omission of Case-by-Case MACT Standard

Petitioner's comment: The permit must contain a case-by-case MACT standard because it is a major source of HAPs. Case-by-case MACT standards under section 112(g) of the Act are applicable requirements and thus must be included in title V permits. EPD mistakenly claims that a case-by-case MACT standard is not required because the WCCEF is not a major source of HAPs. A "major source" is a facility that has the potential to emit 10 tons per year or more of any one HAP or 25 tons per year or more of any combination of HAPs. For example, based on EPA's AP-42 emission factors for natural gas combustion and the results of a study by the Gas Research Institute ("GRI") and the Electric Power Research Institute, the facility's potential-to-emit for formaldehyde is greater than 10 tons per year for periods of reduced load operation (e.g., startups and shutdowns). Therefore, EPA should object to the permit and require EPD to incorporate a case-by-case MACT standard into the WCCEF permit.

EPA's response: The Petitioner correctly notes that case-by-case MACT standards are applicable requirements for purposes of title V, see 40 CFR § 70.2, and cites the "major source" thresholds for HAP emissions under the CAA. 42 U.S.C. § 7412(a)(1). However, EPA believes that the Petitioner's calculations overestimate the WCCEF's potential emissions of HAPs and that the Petitioner has failed to demonstrate that EPD improperly determined that the facility is not a major source of HAPs. See EPD Narrative for Oglethorpe Power Company – Wansley Combined Cycle Energy Facility, TV-12684, Permit No. 4911-149-0006-V-01-0, § I(E)(3) (noting that Power Block 8 is not a major source of HAPs). In particular, EPA has concluded that the Petitioner overestimates the potential emissions of formaldehyde for a number of reasons. First, the Petitioner's estimate is based on an AP-42 emission factor of 7.1×10^{-4} pounds of formaldehyde per million Btu heat input ("lb/MMBtu"); however, more recent information from EPA's Office of Air Quality Planning and Standards indicates that a more appropriate emission factor for formaldehyde is 2.02×10^{-4} lb/MMBtu. See EPA Memorandum from Sims Roy to Docket A-95-51, *Hazardous Air Pollutant (HAP) Emission Control Technology for New Stationary Combustion Turbines* (Aug. 21, 2001). The Petitioner also failed to prorate the heat input at 100 percent load level to more accurately reflect periods of startup and shutdown, which typically occur between 0 and 50 percent load. Furthermore, the Petitioner cited a GRI report to support a formaldehyde emission factor for startups and shutdowns that is 503 times higher than the AP-42 value (7.1×10^{-4} lb/MMBtu); however, this approach overlooked the fact that the actual low-load (i.e., at 30 percent load) formaldehyde emission

factor, as reported in the same GRI document and presented by the Petitioner, is only 7.5×10^{-3} lb/MMBtu, approximately 10.6 times higher than the AP-42 value but not nearly 250 times higher, like Petitioner's estimate. This emission factor is significantly lower than the value calculated by the Petitioner (0.1775 lb/MMBtu) based on his "very conservative assumption" to increase the AP-42 emission factor by a factor of only 250 rather than 503 (i.e., $7.1 \times 10^{-4} \times 250$).

EPA believes that EPD properly determined that the WCCEF is not a major source of HAPs, particularly formaldehyde, and that the Petitioner has not demonstrated otherwise.⁵ Thus, EPD's determination that section 112(g) case-by-case MACT requirements are not applicable to the WCCEF is consistent with the CAA. The petition is therefore denied with respect to this issue.

C. Inadequate CO Monitoring

Petitioner's comment: The permit contains a CO emission limit of 2 parts per million ("ppm") in Condition 3.3.9.b.⁶ This limit is based on a one-hour averaging time. See Condition 4.1.3.j and "Note under Part 3.0. The permit requires that the Permittee conduct Georgia EPD Method 10 performance tests to test for CO emissions. See Conditions 4.2.1.b, 4.1.3.j. Although Georgia EPD Method 10 has a minimum detectable concentration of 20 ppm, the emission limit is 2 ppm. Therefore, Georgia EPD Method 10 likely will yield "non-detect" test results, and the test method will render the emission limit 20 ppm as a practical matter. EPD cannot increase BACT emission limits by a factor of ten through an inappropriate test method. EPA should object to the permit and require a different test method with a minimum detection limit below 2 ppm.

EPA's response: With regard to Georgia EPD Method 10 (EPA Reference Method 10), the Petitioner correctly states that the minimum detectable concentration is 20 ppm; however, it is important to note that this minimum detectable concentration level applies to a span of 0 to 1,000 ppm. See 40 CFR Part 60, Appendix A, Method 10, § 2.2. The minimum detectable concentration referenced in Method 10 is equivalent to two percent of the instrument span (20 ppm/1,000 ppm x 100%), and compliance can be verified using Method 10 by choosing an appropriate monitor span gas value. For example, if a 25 ppm CO standard were used as the

⁵In addition, EPD included a formaldehyde testing requirement in the final WCCEF permit in response to the Petitioner's concern, as stated in comments submitted to EPD on the draft permit. See EPD Final Determination, "Prevention of Significant Air Quality Deterioration Review of the Oglethorpe Power Corporation Wansley Combined-Cycle Energy Facility, Power Block 8," SIP Permit Application No. 12684, Phase II Acid Rain Permit Application No. 12713 and Title V Permit Application No. 12684 (Jan. 2002) at 13; Condition 4.2.1.f.

⁶Condition 3.3.9.b prohibits the discharge into the atmosphere from each combined combustion turbine and duck burner stack of any gases containing CO in excess of 2.0 ppmvd, corrected to 15% oxygen.

upscale calibration gas, the Method 10 measurement range would be 0 to 25 ppm, and the corresponding minimum detectable concentration would be approximately 0.5 ppm (i.e., 25 ppm x 2%).

In response to comments that the Petitioner submitted to EPD on the draft WCCEF permit, EPD pointed out that § 6.1 of Method 10 provides that the maximum CO concentration which the Method 10 instrument is calibrated to measure must be no more than 1.5 times the applicable source performance standard, and that EPD “will require an instrument span sufficient for measuring the expected CO concentration.”⁷ In the WCCEF permit, the applicable source performance standard is the 2 ppm CO emission limit. By the terms of Method 10, the maximum CO concentration which the Method 10 instrument is calibrated to measure must be no more than 1.5 times 2 ppm – i.e., no more than 3 ppm. Thus, the measurement range is 3 ppm, and the corresponding minimum detectable concentration would be approximately 0.06 ppm (i.e., 3 ppm x 2%). This minimum detectable concentration is more than adequate to assure compliance with the 2 ppm CO emission limit. Therefore, the petition is denied with respect to this issue.

D. Limitation of Enforcement Authority

Petitioner’s comment: The WCCEF permit impermissibly limits who may enforce a federal stack height provision, Section 123 of the CAA, by including a condition having “substantially the same effect” as a “State only enforceable” condition. Section 123 provides, in relevant part, that “[t]he degree of emission limitation required for control of any air pollutant under an applicable implementation plan under [title I of the CAA] shall not be affected in any manner by–

- (1) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or
- (2) any other dispersion technique.”

42 U.S.C. § 7423(a). Condition 8.15.1, styled “State Only Enforceable Condition,” provides:

The Permittee shall not build, erect, install, or use any article, machine, equipment, or process the use of which conceals an emission which would otherwise constitute a violation of an applicable emission standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of the pollutants in the gases discharged into the atmosphere. [391-3-1-.03(2)(c)]

⁷See EPD Final Determination, “Prevention of Significant Air Quality Deterioration Review of the Oglethorpe Power Corporation Wansley Combined-Cycle Energy Facility, Power Block 8,” SIP Permit Application No. 12684, Phase II Acid Rain Permit Application No. 12713 and Title V Permit Application No. 12684 (Jan. 2002) at 13.

While not worded the same, the Petitioner asserts, Section 123 has substantially the same effect as Condition 8.15.1. EPA should object to the permit and require that Condition 8.15.1 not be limited to “State only enforceable.”

EPA’s response: The stack height requirements of Section 123 of the CAA, 42 U.S.C. § 7423, impose no obligations on regulated sources of air pollution. Rather, section 123 is addressed to States, and requires States to consider stack heights and dispersion techniques in determining the “credit” that can be given, for air quality planning purposes, for emission limitations that States impose on regulated sources. In contrast, Condition 8.15.1 prohibits sources of air pollution from circumventing emission standards by such means as improper dilution of air emissions (e.g., the mixing of ambient air with exhaust gases prior to stack exit). Thus, EPA believes that the Petitioner’s interpretation that Section 123 and Condition 8.15.1 have “substantially the same effect” is incorrect. Therefore, the petition is denied with respect to this issue.

E. Omission of Short-Term BACT Limits

Petitioner’s comment: The WCCEF permit should contain short-term BACT limits that cover emissions during startup and shutdown. EPA has repeatedly held that BACT emission limitations must cover all phases of operations including startups and shutdowns. The WCCEF draft permit included “short term” daily BACT limits in pounds per day for CO and NO_x. However, these limits were not included in the final permit. Therefore, EPA should object to this permit and require that it include short-term BACT limits for CO and NO_x that cover startups and shutdowns.

EPA’s response: The Petitioner is correct that short-term (i.e., daily) numerical emission limits for CO and NO_x contained in the draft permit were omitted from the final title V permit. However, EPA believes that EPD has adequately addressed the emissions of CO and NO_x resulting from startups and shutdowns as far as BACT is concerned because the WCCEF permit does contain requirements that serve to restrict startup and shutdown emissions. Such requirements are as follows. First, compliance with the annual emissions limits (tons per year) includes emissions during startup and shutdown. See Conditions 3.3.7 (NO_x), 3.3.8 (CO). Second, the permit defines the duration of a startup or shutdown event such that, if the duration is exceeded, emissions count toward compliance with normal operating mode short-term emissions limits. See Condition 3.3.14. Third, emissions during startup or shutdown that exceed normal operating mode emissions can be considered unexcused exceedances unless “best operational practices to minimize emissions are adhered to.” See Conditions 6.1.7, 6.2.14. Compliance with NO_x and CO emissions limits will be assessed through use of a continuous emissions monitoring system (“CEMS”) that can provide a reading of ppmvd values.⁸

⁸Note that NO_x and CO emissions during startup (and to a lesser extent during shutdown) are variable and difficult to measure with precision, and that operators of combustion turbines have very little control over emissions during startup and shutdown. However, operators have an

Condition 5.2.1. Therefore, the petition is denied with respect to this issue.

V. CONCLUSION

For the reasons discussed above and pursuant to section 505(b) of the CAA, 42 U.S.C. § 7661d(b), and 40 CFR § 70.8(d), I hereby deny the petition of GCLPI on behalf of the Sierra Club concerning the WCCEF title V operating permit.

So ordered.

November 15, 2002
Date

Christine Todd Whitman
Administrator

economic incentive to minimize the duration of startup and shutdown periods (consistent with protection of equipment components), because combustion turbines are not producing electricity or revenue when in startup or shutdown mode.