

RESOLUTION OF THE
OZONE TRANSPORT COMMISSION

CONCERNING
EPA'S PROPOSED OPERATING PERMIT PROGRAM

WHEREAS, stationary sources contribute at least 25% of the hydrocarbon (HC) and approximately 50% of the oxides of nitrogen (NO_x) emissions that form ozone in the Ozone Transport Region.

WHEREAS, EPA has proposed regulations that would require states to implement operating permit programs, and the preamble specifically states that Section 506(a) of the Clean Air Act may limit a state's ability to be more stringent unless such relates to the control of air pollution.

WHEREAS, many of the proposed requirements do not relate directly to the control of air pollution such as administrative requirements including turnaround times, frequency of reporting, "bubbling", permit shields, or telemetering requirements; and, therefore, would not allow a state to be more stringent than EPA as specified in Section 116 of the Act.

WHEREAS, that proposal would interfere with a state's ability to implement its operating permit program in a way that will lead to attainment of the ozone air quality standard within the time frames specified in the Act.

NOW THEREFORE BE IT RESOLVED by the Ozone Transport Commission that the proposed EPA regulations be changed to reflect the following concerns of the Commission:

Preemption of States' Rights

The proposed permitting regulations must not preempt state authority with respect to permit requirements; but states should be allowed to be more stringent in all aspects of the permit conditions, including technical and administrative requirements.

Permit Shield

The proposal expands operational flexibility to allow any change in a source's operation that is not explicitly excluded from its operating permit. This section contradicts current state and local agency practices of the Act in a way not intended by Congress. The source should continue to be expected to comply with all applicable existing state and federal regulations whether or not they are explicitly mentioned in the permit.

Minor Permit Amendments

The proposal allows a source to provide seven days notification to the permitting authority for a minor permit amendment. This is unrealistic and places a tremendous time burden on the permitting authorities. EPA, in expecting these reviews to be completed in seven days, seriously compromises a state's ability to ensure that significant effects on air quality will not result from minor permit amendments. Preconstruction review should be required for any modification that would increase emissions above the allowable levels; this review would take much longer than seven days.

RESOLUTION PASSED 7/16/91