

**UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL AIR QUALITY TASK FORCE**

**CONCERNS OVER EPA'S BASIS FOR DETERMINATIONS OF THRESHOLDS
FOR REQUIRING TITLE V AND PSD PERMITS**

BACKGROUND:

The USDA Agricultural Air Quality Task Force (AAQTF) members have concerns based on a briefing provided at the March 1, 2006 AAQTF meeting by EPA. We would like to bring attention to the Secretary of Agriculture so that he may convey this concern to the Administrator of EPA.

Initially, the AAQTF members were briefed on an important issue pertaining to laying hen operations by Dr Bryan Shaw in the Amarillo and Hawaii 2005 meetings. This issue was the enforcement action taken by USEPA against Buckeye Egg. The EPA press release dated 02/23/2004 entitled "Ohio's Largest Egg Producer Agrees to Dramatic Air Pollution Reductions from Three Giant Facilities" indicated that Buckeye Egg Farm, L.P., the largest commercial egg producer in Ohio agreed to pay a civil penalty of \$880,598 and commit to installing and testing \$1.4 million of controls. EPA's justification for this action was that "Buckeye had failed to obtain necessary air permits" for their facilities. The necessary permits were Title V and PSD (prevention of significant deterioration). In April 2005, the new owner of Buckeye Egg (Ohio Fresh Egg) were fined over \$500,000 for noncompliance with the Buckeye Consent decree. On March 2, the USEPA enforcement personnel from Ohio briefed the AAQTF on the justifications for their actions. Two areas of controversy emerged that need to be addressed:

1. Should the thresholds for requiring Title V and Potential for Significant Deterioration (PSD) permits be based upon PM₁₀ or TSP?
2. Should "good engineering practice (GEP)" be used to determine annual emissions of agricultural operations based upon "potential to emit"?

Issue 1

Background:

The thresholds for PSD and Title V permits are 250 and 100 tons of PM₁₀ or 250 and 100 tons of Total Suspended Particulate (TSP) per year. If the source emissions exceed the thresholds, they should have PSD and Title V permits issued by their state air pollution regulatory agency (SAPRA). Buckeye did not have these permits. USEPA's estimated TSP emissions for the three sites were 740, 650, and 550 tons per year (TPY). Had the USEPA used the particle size distribution reported by their contactor, they would have found that less than 10% of the TSP emissions were PM₁₀. If the thresholds were based upon PM₁₀ rather than TSP, the annual emissions would have been 74, 65, and 55 TPY. None of the facilities would have exceeded the thresholds requiring Title V or PSD permits.

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In a memorandum from Ms Lydia Wegman, Deputy Director, Office of Air Quality Planning and Standards, USEPA, dated October 16, 1995, PM₁₀ was specified as the designated “regulated” PM pollutant for the purposes of Title V. The following is a quote from Ms. Wegman’s Memo:

Today's guidance should be used to determine which sources of particulate matter are subject to minimum title V requirements and fee calculations. The Federal minimum for applicability of Title V to sources of particulate matter should be based on the amount of emissions of PM-10, not particulate matter, that the source has the potential to emit.

PM emissions from all agricultural stationary sources can be characterized as large relative to PM found in urban areas. Typically, 10 to 30% of the TSP emitted by agricultural stationary sources is PM₁₀.

Recommendation:

The AAQTF recommends that PM₁₀, or appropriate indicator for PM₁₀, rather than TSP annual emissions be the criteria for requiring Title V and PSD Permits as specified in the USEPA 1995 memorandum.

This recommendation should have little effect on non-agricultural stationary sources.

Issue 2

Background:

The USEPA used a flow rate in the houses that was much too large for good engineering practice (GEP) and justified this use of this flow rate using the “potential to emit”. It would have been relatively simple to use the Midwest Plan Service (MWPS) recommendations for laying hens for air flow that accounts for ambient temperatures rather than use a single flow rate for 24 hours per day, 365 days per year. Had they done so, the annual TSP emissions would have been reduced to approximately 40% of the reported emissions. The flow rate used by USEPA would likely have resulted in numerous dead birds in winter conditions in Ohio. The “potential to emit” would continue to apply in that the design capacity of the houses of 207,000 birds could be used with the appropriate flow based upon MWPS recommendations. (The actual population of the houses was reported by the contractor to be 190,000 birds.)

Recommendation:

The AAQTF recommends that GEP be used in determining annual PM₁₀ emissions from agricultural stationary sources for requiring Title V and PSD permits. Based on the facts, we believe this was an abuse of facts, testing methods, and authority.

This recommendation should have little effect on non-agricultural stationary sources.

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