



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 06 2011

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Christian Richter
The Policy Group
1155 15th Street NW # 500
Washington, DC 20005-2725

Re: No Action Assurance Regarding the Prepared Feeds Manufacturing Area
Source Air Toxics Regulations

Dear Mr. Richter:

I am writing in response to your June 10, 2011 letter to the United States Environmental Protection Agency (EPA), on behalf of several trade associations representing manufacturers of prepared animal feeds, in which you request relief from requirements regarding air toxics emissions, known as National Emissions Standards for Hazardous Air Pollutants (NESHAPs). The regulations at issue are the NESHAP for Prepared Feeds Manufacturing found at 40 C.F.R. Part 63, Subpart DDDDDDD. This rule requires, among other things, that large prepared feeds facilities with pelleting operations install particulate matter (PM) control devices (cyclones) designed to achieve 95 percent or greater reduction of total PM emissions. The Office of Air Quality Planning and Standards believed, based upon data collected during the rulemaking process, that existing cyclones used by the industry were designed to meet the 95 percent efficiency standard in the final rule. In your letter you provided evidence, collaborated by information received from others, that the industry cannot comply with the requirements to document or certify that their existing equipment can meet the 95 percent efficiency design requirement. You note that the rule as promulgated would require many existing sources to replace the cyclones they are presently using. This outcome was not an intended consequence of the rule, and EPA intends to revise the rule in this regard.

EPA presently intends to propose these changes as direct final amendments in December 2011. Due to the 30 day comment period for direct final rule changes, even if no comments are received, the amendments would not take effect until after the January 5, 2012 compliance date for this rule. If comments are received, EPA will have to take these comments into consideration before issuing a final rule some months later. Either way, facilities subject to this rule will face compliance difficulties.

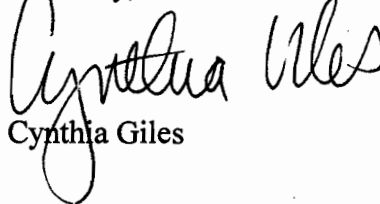
For the reasons outlined in your letter, for pelleting operations greater than 50 tons per year covered by 40 C.F.R. Section 63.11621(e), EPA will exercise its enforcement discretion to allow existing affected sources to continue to operate without demonstrating that its PM controls are designed to achieve a removal efficiency of 95% or more. This exercise of discretion will begin on January 5, 2012, and is subject to the following conditions:

- Existing affected sources must utilize properly operating cyclones to control PM and must comply with all requirements of the rule other than the demonstration that the cyclones used have a design removal efficiency of at least 95% as specified in 40 C.F.R. Section 63.11621(e);
- Existing controls must be kept in continuous operation per manufacturer's specifications;
- This no action assurance does not apply to new sources. New sources must comply with all of the requirements of Subpart DDDDDDD including 40 CFR Section 63.11621(e);
- This exercise of discretion will terminate upon the effective date of the final rule or 11:59 P.M., E.D.T., June 1, 2012, whichever occurs earlier; and,
- EPA reserves the right to revoke or modify this no action assurance.

The issuance of a no action assurance for this short period of time is in the public interest as it will eliminate the perceived need to replace currently effective controls while ensuring that sources without controls install and operate such controls. I believe that this action will not increase environmental harm, as sources will be required to operate in accordance with the originally intended control requirements during this rulemaking period.

If you have any further questions regarding this matter, please contact Phillip Brooks, Director, Air Enforcement Division, 202-564-7106, or Charles Garlow of his staff at 202-564-1088.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia Giles". The signature is written in black ink and is positioned above the printed name.

Cynthia Giles