

Section 17 - Response Document from June 7 Public Workshop

On June 7, the Division of Air Quality (DAQ) conducted a public workshop on the planned adoption of Section 17 into Regulation 1138. Section 17 would be applicable to prepared feeds manufacturing facilities that use materials containing chromium or manganese compound. During this public workshop there were four questions that arose that required further review, research or discussion before providing an answer or clarification.

DAQ's response and planned action, where appropriate, for each of those four questions follows.

Question 1

If you know that the facility is over the 50TPD average daily feed production level (ADFPL), is it necessary for you to annually calculate the ADFPL, given that nothing will change as a result of the newly calculated ADFPL?

Answer

No, once a facility has determined and reported, either based on the initial determination or on a subsequent annual calculation in future years, that their annual ADFPL has exceeded 50 tons per day, further calculation of the ADFPL is not required.

That being said, if the facility's initially determined that the ADFPL is 50 tons per year or less, then the facility is required to continue to calculate the annual ADFPL (and maintain records of that each calculation) until such time that the annual ADFPL exceeds 50 tons per year. These actions are required pursuant to 17.3.4, 17.7.2, 17.8.6, 17.9.1.2, and 17.9.1.6 of Regulation 1138.

Planned regulatory changes

To better clarify this situation, the following change to 17.9.1.2 will be made to the workshop draft before submission to the Delaware Registrar as the proposed regulation.

17.9 Recordkeeping requirements.

17.9.1 The owner or operator shall maintain the records specified in 17.9.1.1 through 17.9.1.6 of this regulation.

17.9.1.2 A copy of each annual compliance certification report prepared to comply with 17.0 of this regulation, including all documentation associated with each deviation or the calculation, if applicable, of the average daily feed production level that was prepared in accordance with the requirements in 17.8.6 of this regulation.

Under Section 17, once the facility has exceeded the 50 tons per year annual ADFPL that facility would be subject to a requirement in 17.4.5 or 17.4.6 of this regulation to install and operate a cyclone to control emissions from pelleting operations and, therefore, not subject to the requirements of 17.8.6.

Question 2

Can the Annual Compliance Certification Report that must be submitted by March 1 of the following year be submitted with the other annual or semi-annual reports currently required?

Answer

Yes, but not through Section 17. From a Section 17 perspective, the owner or operator is required to prepare the Annual Compliance Certification Report (ACCR) by March 1 for the previous year in accordance with 17.8. But it is only under certain specific circumstances that the ACCR is required to be submitted to the Department. Those circumstances are defined in 17.8 and 17.8.3 through 17.8.6. If one of these circumstances occurs during the previous year, then the owner or operator is required to submit the ACCR by March 1.

However, under Section 3.0 (General Provisions) of Regulation 1138, which also applies to the prepared feeds manufacturing facility in accordance with 17.10, the owner or operator may request a change in the submittal date of a periodic report in accordance with 3.10.1.5.

3.10.1.5 The owner or operator may change the dates by which periodic reports under 40 CFR Part 63 or this regulation shall be submitted (without changing the frequency of reporting) by mutual agreement between the owner or operator and the Department. For each relevant standard established pursuant to Section 112 of the Act, the allowance in the previous sentence applies beginning one year after the affected source's compliance date for that standard. Procedures governing the implementation of this provision are specified in 3.9.9 of this regulation.

Section 3.0 can be found at <http://regulations.delaware.gov/AdminCode/title7/1000/1100/Split1138/1138-02.shtml#TopOfPage>

Planned regulatory changes

No Section 17 changes are needed.

Question 3

If a facility was using only one HAP (say Cr) and decided to switch to Mn or to use both Cr and Mn containing materials, does the facility need to notify the Department?

Answer

“No” from a Section 17 perspective, but possibly “Yes” from a permitting perspective as discussed below.

Section 17 does not require the owner or operator to notify the Department should a facility change the animal feed formulation from, say, a chromium-based component to a manganese-based component or to a feed formulation that uses both.

From a Regulation 1102 perspective, the switching from use of, say, a chromium-based component to a manganese-based component or vice versus would constitute an alteration of the operation, which is prohibited

prior to receiving approval of the source's permit application to alter the operation. However, if the affected source foresees a likelihood that either or both chromium-based and manganese-based components could be used in future formulations, the source should ensure that the 1102 permit includes both components. Then, at the time of the reformulation, no notification would be required.

Planned regulatory changes

No regulatory changes are needed.

Question 4

A facility uses a cyclone and monitors the cyclone operating parameter (say fan amperage or pressure drop) in accordance to the cyclone manufacturer's specifications or operating instructions to demonstrate proper operation of the cyclone. If the facility experienced a power failure that results in the shutdown of the prepared feed operation, the operating parameter will be outside the "acceptable range" for proper operation, would this be a deviation?

Answer

Yes, Section 17 defines deviation as any instance in which an affected source or an owner or operator of such a source fails to meet any applicable requirement or obligation established in Section 17. In the situation in question, the sudden loss of power would result in the affected source's failure to properly operate the cyclone in accordance with 17.4.5 for new sources or 17.4.6 for existing sources. Though a deviation would have occurred, in most cases, an exceedance or excess emission would not result as Section 17 is structured as a combination of equipment, work practice and operational standards versus an emission standard. Again, for the situation in question, since the cause of the loss of power is not within the direct control of the affected source or the owner or operator, this deviation probably would not warrant any further actions by the Department.

Planned regulatory changes

No regulatory changes are needed.