



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

NOV 25 2003

OFFICE OF  
AIR AND RADIATION

Ms. Elaine M. Moore  
Sunoco, Inc.  
Toledo Refinery  
P.O. Box 920  
Toledo, OH 43697-0920

Re: Petition of Sunoco, Inc. Toledo Business Unit to Exempt the CO Boilers (B046 and B047) at the Sunoco Toledo Refinery (ORIS 50965) from Monitoring, Recordkeeping, and Reporting Requirements Under Ohio's NOx Budget Trading Program

Dear Ms. Moore:

The U.S. Environmental Protection Agency (EPA) has reviewed your October 20, 2003 petition under 40 CFR 75.66 in which Sunoco, Inc. requested an alternative to the monitoring, recordkeeping and reporting requirements of the Ohio NOx Budget Trading Program, OAC 3745-14-01, *et seq.* Specifically, the petition requests that the carbon monoxide (CO) boilers that combust and thereby control CO from fluidized catalytic cracking units (FCCU) at the petitioner's Toledo Refinery be exempted entirely from these requirements. EPA approves the petition in part, with conditions, as discussed below.

#### Background

Ohio's NOx Budget Trading Program rules in OAC Chapter 3745-14 were developed in response to EPA's 1998 Nitrogen Oxides State Implementation Plan (NOx SIP) Call and were approved into the Ohio State Implementation Plan (SIP) by EPA in September 2003. (*See* 63 Fed. Reg. 57356 (1998)). Under Ohio's rules, any CO boiler with a maximum design heat input capacity exceeding 250 mmBtu/hr and combusting and thereby controlling CO from an FCCU in Ohio is an affected unit regulated under the trading program.

On September 16, 2003, the Ohio Environmental Protection Agency (Ohio EPA) submitted a letter informing EPA of Ohio EPA's intention to amend the above-mentioned rules to exclude CO boilers combusting CO from an FCCU from the trading program. The letter also states Ohio EPA's intention to submit a SIP revision to EPA to include the amended rules. After Ohio's proposed rule change, CO boilers combusting CO from an FCCU will not be subject to the monitoring, recordkeeping, and reporting requirements (or any other requirements) of OAC Chapter 3745-14.

## EPA's Determination

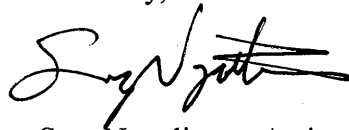
EPA has informed Ohio EPA and other states that each state EPA intends to allow the option to decide whether to include in the state's NOx Budget Trading Program CO boilers combusting and thereby controlling CO from an FCCU and that a state may revise its SIP to include or exclude such boilers. (A statement of EPA's policy on inclusion of such CO boilers in a state's NOx Budget Trading Program is attached.) Based on Ohio EPA's September 16, 2003 letter to EPA stating its intention to submit a SIP revision with the amended rules excluding such boilers from Ohio's NOx Budget Trading Program, EPA believes it is unnecessary for Sunoco, Inc. to begin to comply with the monitoring, recordkeeping and reporting requirements for such CO boilers before the amended rule and SIP revision and EPA's approval become effective.

Thus, EPA approves an extension of the deadlines for compliance by the petitioner's CO boilers with the monitoring, recordkeeping and reporting requirements of the Ohio NOx Budget Trading Program until the earlier of May 1, 2004 (the start of the next ozone season) or the effective date of EPA's approval of the SIP revision excluding such CO boilers from the Ohio NOx Budget Trading Program. If EPA's approval of the SIP revision will not become effective by the new deadline, EPA may extend this deadline upon request of the petitioner and demonstration that the SIP revision has been submitted and is pending approval.

EPA notes a second request made in the October 20, 2003, petition to consider revising the petitioner's allocation for allowances under Ohio's NOx Budget Trading Program for a different unit (BO44) at the Toledo refinery. EPA is not responding to this request and refers the petitioner to Ohio EPA for consideration of this request.

EPA's determination in this letter relies on the accuracy and completeness of the information provided by Sunoco, Inc. in its October 20, 2003, petition, and is appealable under Part 78. If you have any questions about this determination, please contact Mary Shellabarger at 202/ 564-9188.

Sincerely,



Sam Napolitano, Acting Director  
Clean Air Markets Division

attachment

cc: Christopher Jones, OH EPA  
Jim Tichich, OH EPA  
John Paskevicz, EPA Region 5  
Mary Shellabarger, EPA CAMD

# NOx SIP Call Applicability: Carbon Monoxide (CO) boilers combusting CO from the Fluid Catalytic Cracking Units (FCCUs)

## **BACKGROUND**

### **General**

- Some FCCUs use CO boilers (FCCU-CO boilers) to combust and thereby control CO and to produce steam for use at the refinery.
- NOx is produced by the regenerator at the FCCU and by the CO boiler and vents through a single stack.

### **NOx SIP Call treatment of FCCU-CO boilers**

- The NOx SIP Call includes “industrial boilers” as large non-electric generating units (non-EGUs), but excludes FCCUs, from calculation of required highly cost-effective reductions (63 FR 57356, 57416, Oct. 27, 1998).
- In the NOx SIP Call preamble and rule, “FCCU” is not defined, but the definition of “boiler” (40 CFR 96.2) covers FCCU-CO boilers.
- Technical support documents developed for NOx SIP Call final rule (but not developed for NOx SIP Call proposed rules) describe “FCCU” as including the process heater and the regenerator and treat the FCCU-CO boiler as a separate source.
- The NOx SIP Call large non-EGU inventory includes some, but not all, FCCU-CO boilers.
- Part 60, Subpart J (40 CFR 60.101(m)) arguably defines “FCCU” to include the FCCU-CO boiler (i.e., as “regenerator equipment for controlling air pollutant emissions and for heat recovery”).
- Treatment of FCCU-CO boilers is inconsistent among States, with some States including them in the SIP NOx trading program as non-EGUs and some States excluding them from the SIP NOx trading program.

## **EPA’S POSITION**

EPA intends to allow each State with one or more FCCU-CO boilers the option of determining whether all its large FCCU-CO boilers are covered, or all its large FCCU-CO boilers are not covered, by the SIP NOx trading program. EPA does not intend to allow States to split the category by including some, but not all, large FCCU-CO boilers in the trading program.

- EPA’s position is based on the following circumstances:
  - a. The NOx SIP Call includes industrial boilers (as large non-EGUs), but excludes FCCUs, from calculation of required highly cost-effective reductions.
  - b. The NOx SIP Call definition of “boiler” covers FCCU-CO boilers.
  - c. Technical support documents for the NOx SIP Call final rule (but not included for NOx SIP Call proposed rules) define “FCCU” as not including the FCCU-CO boiler.
  - d. The 40 CFR Part 60 definition of “FCCU,” which arguably includes FCCU-CO boilers, created confusion over whether FCCU-CO boilers were included as non-EGUs.

- e. Treatment of FCCU-CO boilers in large non-EGU inventories and SIP NOx trading programs is inconsistent among States.
- Because of these circumstances, EPA believes each State should have the option of deciding whether to include all large FCCU-CO boilers in, or exclude all large FCCU-CO boilers from, the SIP NOx trading program; EPA intends not to disapprove SIPs simply because they exclude all large FCCU-CO boilers in the State from the trading program.
  - EPA recommends that a State may choose to revise its SIP to include or exclude all large FCCU-CO boilers in that State as follows:
    - a. To exclude an FCCU-CO boiler currently in, and allocated allowances under, the SIP NOx trading program,<sup>1</sup>
      1. Take back (or do not take action to provide) all allowances allocated to such boiler and remove such allowances from the trading program.
      2. When the allowance allocations for non-EGUs are updated,
        - i. Determine the controlled emissions calculated for such boiler by examining the 2007 control case portion (which reflects 60% reduction of 2007 uncontrolled emissions) of the NOx SIP Call emissions inventory.
        - ii. Decrease the total tons, and thus the total amount of allowances, for non-EGUs in the NOx trading program by the amount from step a.2.i above.
    - b. To include an FCCU-CO boiler currently not in, and not allocated allowances under, the SIP NOx trading program,
      1. Allocate to such boiler an amount of allowances calculated using the same procedures that were used to allocate allowances to the other non-EGUs.
      2. When the allowance allocations for non-EGUs are updated,
        - i. Calculate the NOx emissions remaining at the boiler after the NOx SIP Call reduction (a 60% reduction of 2007 uncontrolled emissions) by using the 2007 base case emissions inventory).
        - ii. Increase the total tons, and thus, the total amount of allowances, in the NOx trading program tons by the amount from step b.2.i above.
- For questions, contact Dwight Alpern (202-564-9151) or Doug Grano (919-541-3292).

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<sup>1</sup> If an FCCU-CO boiler is currently in the SIP NOx trading program but is not allocated allowances because the unit is not in the 2007 control case in the NOx SIP Call emissions inventory, the unit may be excluded from the program by continuing not to allocate allowances and, when allowance allocations are updated, continuing to exclude the unit's emissions from the 2007 control case.