

Mr. Thomas C. O'Connor
Director of Technical Services
National Grain and Feed Association
1201 New York Avenue, N.W.
Suite 830
Washington, DC 20005

Dear Mr. O'Connor:

This is in response to your September 20, 1994 letter regarding the consideration of fugitive emissions of a stationary source for major source applicability purpose under the Clean Air Act's (Act's) title V operating permits program. Specifically, your request is in reference to the role the August 3, 1978 section III new source performance standards (NSPS) for new, modified or reconstructed grain elevators plays in determining which grain elevators must consider fugitive emissions for purposes of determining title V applicability.

In accordance with the Environmental Protection Agency's August 7, 1980 section 302(j) rulemaking, certain specific source categories must include fugitive emissions (to the extent quantifiable) in determining if a source is a major source for title V purposes. These source categories generally parallel those listed by Congress in section 169(1) of the Act, and also include "any other stationary source category which, as of August 7, 1980, is being regulated under sections 111 or 112 of the Act" [see, for example, 52.21(i) (4) (vii)].

Certain size grain elevators (as defined in 40 CFR Part 60 DD) have been subject to regulation under section 111 since August 3, 1978 and are, therefore, a source category for which fugitives must be included when determining major source status. However, as you point out, grain elevators below the applicable NSPS facility size thresholds need not consider fugitive emissions in such determinations.

As defined in EPA's operating permit regulations, fugitive emissions are those emissions which could reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

It is important to note that it is the NSPS source "category" which defines the reach of the 302(j) rule, not whether an individual source, having constructed or modified, must comply with the NSPS standard itself. In other words, grain elevators of the size and type covered by 40 CFR Subpart DD must include their fugitive emissions to determine if they are a major source under title V even if the NSPS in 40 CFR Subpart DD does not apply to that source.

If you have any questions, please call Mr. David Solomon, Chief, New Source Review Section, at (919) 541-5375.

Sincerely,

Edward J. Lillis
Chief
Permits Programs Branch

cc: D. Solomon