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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JAN 23 1996

Mr. Billy J. Sexton
Director, Jefferson County Department of
Planning and Environmental Management
Air Pollution Control District
850 Barret Avenue
Louisville, KY 40204-1745

Dear Mr. Sexton:

This letter is in response to your correspondence of December 7, 1995 regarding questions on the use of Clean Air Act (Act) title V emissions fees for various small business activities.

Your first question was whether title V emission fees can be used to fund the whole small business program, including assistance to small companies that will not be required to have a title V permit. Your second question concerned whether title V fees could be used to fund workshops for companies that may be affected by the Clean Air Act, but which are not required to have a title V permit. You requested that our response distinguish between funding for a Small Business Air Pollution Ombudsman and funding for a Small Business Technical Assistance Program (SBTAP), as well as between title V small businesses and non-title V small businesses.

An August 4, 1993 memorandum was issued from John Seitz to the EPA Regional Air Directors entitled "Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Programs Under Title V." According to that memorandum, portions of the SBTAP that provide: (1) counseling to help sources determine and meet their obligations under part 70, including applicability, options for sources to which part 70 applies; (2) outreach/publications on part 70 requirements; and (3) direct part 70 permitting assistance are all activities expected to be funded by title V permit fees.

Additional guidance was issued on July 21, 1994 by Assistant Administrator Mary Nichols entitled "Transition to Funding Portions of State and Local Air Programs With Permit Fees Rather than Federal Grants" to address which types of activities may be funded by title V fees. That guidance provided examples of the types of activities of the SBTAP attributable to part 70 sources

that could be funded by title V fees, including: (1) costs of a clearinghouse on compliance methods and technologies including pollution prevention approaches; (2) establishment of an Act/small business ombudsman and the provision of information on source applicability, available assistance, and the rights and obligations of small business stationary sources under the Act; and (3) costs associated with a small business compliance advisory panel.

The July 21, 1994 guidance also explained that costs of the SBTAP attributable to non-part 70 sources may not be funded by title V fees. However, such costs could be eligible for air grants.

In summary then, to the extent that Jefferson County's SBTAP and Ombudsman provide technical assistance to part 70 small businesses that are related to title V or to the source's rights and obligations under the Act, costs of those activities could be funded by title V fees.

I hope that this information responds adequately to your inquiry. If you have further questions, please contact Scott Voorhees of my staff at (919) 541-5348.

Sincerely,

Robert G. Kellam /5/
Acting Director
Information Transfer and Program
Integration Division