

EC-G-1998-44



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

JUL 9 1985

OFFICE OF  
AIR AND RADIATION

MEMORANDUM

**SUBJECT:** Timely and Appropriate Guidance and Asphalt Plants  
**FROM:** Director  
Stationary Source Compliance Division  
Office of Air Quality Planning and Standards  
**TO:** William A. Spratlin, Director  
Air and Toxics Division, Region VII

This is in response to your memo of April 22, 1985 concerning the application of the timely and appropriate guidance to asphalt concrete plants subject to NSPS. In your memo, you describe a situation where an asphalt concrete plant ceases operation for the year within 180 days of the initial startup without ever achieving maximum production, and without conducting a performance test. This results in a violation of the testing requirements during the period of inoperation. This is compounded by the impracticality of conducting a performance test during the winter months. In addition, the timely and appropriate guidance would prompt the commencement of an enforcement action including the assessment of a cash penalty prior to the re-startup of the plant. Your proposed resolution would require the asphalt concrete plants to test within 30-60 days of their next initial startup which would be enforced with a State or EPA order.

Your proposal appears reasonable where the failure to test is beyond the ability of the source to conduct such a test. However, it is our understanding that most asphalt plants can achieve maximum production within 60-90 days of initial startup. Since the regulations provide for a maximum of 180 days to demonstrate compliance, there is some responsibility upon the source owner or operator to conduct the tests in a timely manner. It appears that it should be possible, in most cases, to achieve maximum production and conduct the necessary tests prior to cessation of operation, but that the source owners or operators may be choosing not to operate in that fashion in order to postpone the need for testing. This should be investigated prior to implementing your proposed strategy.

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Sources unable to achieve maximum production can also be tested at a lesser rate if those tests will provide an indication of their ability to achieve compliance under all conditions.

We have become increasingly sensitive to the application of the NSPS to the asphalt concrete industry and in particular the application of the testing requirements. Increasing evidence appears to indicate that a significant percentage of affected facilities are not meeting the NSPS emission limitations or the testing requirements. In light of this situation, it is essential that EPA take a consistent approach when dealing with this industry, and that national guidance be followed to the maximum extent practical.

If you have any questions regarding this memo, please contact Rich Biondi at 382-2831.



Edward E. Reich

cc: Steve Hitte  
 Bob Ajax  
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 Tracy Gipson  
 Air and Waste Management Division Directors  
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 Air Management Division Directors  
 Region I, III, V, and IX  
 Air, Pesticides, and Toxics Management Division Director  
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 Air and Toxics Division Directors  
 Regions VII, VIII, and IX  
 Air Program Branch Chiefs, Regions I-X  
 Air Compliance Branch Chiefs, Regions II, III, V, IX