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MEMORANDUM

SUBJECT: Incorporation of Startup, Shutdown, and Malfunction
Plans into Source's Title V Permits

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)

TO: Regional Air Directors

The purpose of this memorandum is to clarify the language within 40 CFR §63.6(e)(3)(i), the General Provisions for National Emission Standards for Hazardous Air Pollutants (NESHAP), which states that a source's Startup, Shutdown, and Malfunction (SSM) plan shall be incorporated by reference into the source's title V operating permit.

The language in §63.6(e)(3)(i) is to ensure that the requirement to prepare and implement a SSM plan is explicitly stated within a source's operating permit. Our intention is not for the contents of the plan to be actually written into the permit. This conclusion follows from the requirements for the SSM plan: the repository for the SSM plan is at the source's location; that revisions to the SSM plan by the owner or operator are not required to be submitted to the EPA; and that the owner or operator is required to keep all previous versions of the SSM plan for a period of 5 years.

The requirement to prepare and implement the SSM plan remains enforceable. While there is no need for a source's SSM plan to be submitted with the title V permit application or included in the source's operating permit, the permitting authority may review a copy of the source's SSM plan if desired. The confidentiality of the plan shall be subject to the protection afforded by §63.15.

We intend to include this clarification in a public rulemaking along with other revisions to the General Provisions 40 CFR part 63 subpart A in the near future.

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2

The Regional offices should send this memorandum to States within their jurisdiction. Questions concerning this issue should be directed to the appropriate regional office staff. Regional Office staff may contact James Szykman of the Policy, Planning and Standards Group in the Emission Standards Division at (919) 541-2452.

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