

Application Review

Issue Date:

Region: Fayetteville Regional Office
County: Cumberland
NC Facility ID: 2600058
Inspector's Name: Tajjah Hamil
Date of Last Inspection: 12/13/2022
Compliance Code: 5 / In Physical Compliance

Facility Data	Permit Applicability (this application only)
<p>Applicant (Facility's Name): MANN+HUMMEL Purolator Filters LLC</p> <p>Facility Address: MANN+HUMMEL Purolator Filters LLC 3200 Natal Street Fayetteville, NC 28306</p> <p>SIC: 3714 / Motor Vehicle Parts & Accessories NAICS: 336399 / All Other Motor Vehicle Parts Manufacturing</p> <p>Facility Classification: Before: Title V After: Title V Fee Classification: Before: Title V After: Title V</p>	<p>SIP: 15A NCAC 02D .0515, .0516, .0521, .0524, .0614, .0711, .1100, .1111, .1806, and 02Q .0317 of 02D .0530</p> <p>NSPS: Subpart IIII</p> <p>NESHAP: Subparts MMMM, DDDDD and ZZZZ</p> <p>PSD: N/A</p> <p>PSD Avoidance: VOCs</p> <p>NC Toxics: Yes (Phenol and Formaldehyde)</p> <p>112(r): N/A</p> <p>Other: N/A</p>

Contact Data			Application Data
Facility Contact	Authorized Contact	Technical Contact	
Michael Bryant HSE Manager (910) 336-9454 3200 Natal Street Fayetteville, NC 28306	Randy Frye Director of Operations (910) 835-7344 3200 Natal Road Fayetteville, NC 28306	Michael Bryant HSE Manager (910) 336-9454 3200 Natal Street Fayetteville, NC 28306	<p>Application Number: 2600058.23A Date Received: 03/09/2023 Application Type: Renewal Application Schedule: TV-Renewal</p> <p style="text-align: center;">Existing Permit Data</p> <p>Existing Permit Number: 01757/T31 Existing Permit Issue Date: 04/06/2023 Existing Permit Expiration Date: 10/31/2023</p>

Total Actual emissions in TONS/YEAR:

CY	SO2	NOX	VOC	CO	PM10	Total HAP	Largest HAP
2022	0.0200	11.10	97.15	9.29	11.76	4.08	1.46 [Phenol]
2021	0.0600	11.25	139.28	9.39	13.70	5.36	1.62 [Phenol]
2020	0.0500	8.93	185.18	7.41	12.30	4.44	1.51 [Phenol]
2019	0.0400	8.12	180.03	6.73	13.38	6.07	1.67 [Phenol]
2018	0.0400	8.88	188.22	7.41	15.49	7.04	2.56 [Phenol]

<p>Review Engineer: Jacob Larson</p> <p>Review Engineer's Signature: _____ Date: _____</p>	<p style="text-align: center;">Comments / Recommendations:</p> <p>Issue: 01757/T32 Permit Issue Date: _____ Permit Expiration Date: _____</p>
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1. Purpose of Application

MANN+HUMMEL Purolator Filters, LLC currently holds Title V Permit No. 01757T30 with an expiration date of October 31, 2023, for an automotive oil filter, air filter and fuel filter manufacturing facility in Fayetteville, Cumberland County, North Carolina. This permit application is for a permit renewal without modification. The renewal application was received on March 9, 2023, or at least six months prior to the expiration date. Therefore, the existing permit shall not expire until the renewal permit has been issued or denied. All terms and conditions of the existing permit shall remain in effect until the renewal permit has been issued or denied.

2. Facility Description

MANN+HUMMEL Purolator Filters LLC (MANN+HUMMEL) manufactures automotive oil, air, and fuel filters at its Fayetteville, North Carolina plant. A simplified description of the automotive filter manufacturing is as follows:

- The oil filter manufacturing process is a continuous process that begins with a bulk supply of filter paper on large rolls.
- The paper is cut to length, pleated, and formed into shape.
- Filters are then baked or “heat set” in a continuous oven so the paper holds its shape (i.e., paper curing).
- Filters are then placed in metal cans and plastisol or polyurethane is used as an adhesive to hold the filter to the end caps. Depending on the specific operation, the adhesive materials may be sealed, or cured, in a final cure oven.
- Completed filters are coated according to customer specifications in automated dry powder spray booths.

Some of the oil filters are produced as a cartridge-type filter with a rectangular shape. No metal cans are required for the cartridge filters. Oil filters are produced via heat settings and final curing.

The processes required to manufacture automotive filters results in emissions of regulated air pollutants, including nitrogen oxides (NO_x), volatile organic compounds (VOC), particulate matter (PM), hazardous air pollutants (HAPs), and North Carolina regulated toxic air pollutants (TAPs). These emissions occur primarily as a result of heat-setting the filters, curing the sealant/adhesive, and fugitive emissions from the use of various inks, adhesives, and paints. Heat setting (or curing) the filter paper results in the volatilization of constituents of the paper binders, such as formaldehyde and phenol. In addition to the heat setting and paper curing operations, emissions of VOC can be attributed to the use of polyurethane panel mold release agents and adhesives used in the production areas. While some of the heat set and curing ovens on the production lines are electric, there are some that are natural gas fired. Small amounts of criteria pollutants, TAPs and HAPs will also result from the combustion of natural gas.

In addition to processing the filter paper, MANN+HUMMEL creates the steel cans and end caps for its oil filters. This is done by a series of hydraulic presses which stamp rolls steel into shape. These metal pieces also go through washers and dryers, which are also natural gas fired. Fugitive VOC emissions occur from the inks used to label the filters, paint used for touch-up applications, and from the miscellaneous use of adhesives cleanup solvents.

3. History/Background/Application Chronology

History/Background

September 21, 2018	NOD for deviations from the minimum RTO temperature requirements, and excessive RTO monitor downtime for CDOL2 and CDOL7.
April 9, 2019	NOV for `15A NCAC 02D .0515 -Particulates from Miscellaneous Industrial Processes due to failure to maintain an uptime of at least 97% for the monitoring system for each RTO. <i>Resolved April 22, 2019</i>
August 21, 2019	NRE for 15A NCAC 02D 0515 -Particulates from Miscellaneous Industrial Processes due to failure to maintain an uptime of at least 97% for the monitoring system for three of the nine RTOs. <i>Resolved September 9, 2019</i>
April 28, 2020	NOV for 15A NCAC 02D .0515 “Particulates from Miscellaneous Processes” and 15A NCAC 02Q .0508(f) “Reporting Requirements for Excess Emissions and Permit Deviations.” <i>Resolved May 8, 2020</i>
September 23, 2022	NOV/NRE for 15A NCAC 02D .0515 “Particulates from Miscellaneous Processes” due to failure to maintain an uptime of at least 97% from the monitoring system for each RTO and failure to maintain the minimum RTO temperature.
March 1, 2023	NOV/NRE for 15A NCAC 02D .0515 “Particulates from Miscellaneous Processes” due to failure to maintain the minimum RTO temperature and to monitor downtime exceedances.
March 9, 2022	Air Permit No. 01757T30 was issued as a Step 2 of a two-step significant modification. <i>(See Russell Braswell TV review for permit No. 01757T30, dated March 9, 2022)</i>
April 6, 2023	Air Permit No. 01757T31 was issued for Title V Significant Modification Part I to relocate the bottom cap electric induction plastisol curing oven (ID No. ESOL2-c) from oil filter line (ID No. ESOL2) to oil filter line (ID No. ESOL7) as the top cap electric induction plastisol curing oven (ESOL7-e), install one new natural gas-fired plastisol final cure oven (ID No. ESOL2-d) to oil filter line (ID No. ESOL2), install one new natural gas-fired plastisol final cure oven (ID No. ESOL7-f), and remove one polyurethane dispensing operation (ID No. ESOL7-d) from oil filter line (ID No. ESOL7). <i>(See David B. Hughes TV review for permit No. 01757T31, dated April 6, 2023)</i>

Application Chronology

March 9, 2023	Received permit application 2600058.23A for renewal.
March 9, 2023	Sent acknowledgment letter indicating that the application for permit renewal was complete.
January 9, 2024	Draft permit and review forwarded to Supervisor for comments.

January 17, 2024 Comments received from Booker Pullen, Supervisor.

January 18, 2024 Draft permit and review forwarded to the Stationary Compliance Branch for comments. Minor comments were received January 22, 2024.

January 18, 2024 Draft permit and review forwarded to the Fayetteville Regional Office for comments. Minor comments were received January 22, 2024.

January 23, 2024 Draft permit forwarded to the applicant for comments. No comments were received January 31, 2023.

XXXX xx, 2024 Draft permit and permit review forwarded to public notice.

XXXX xx, 2024 Public comment period ends. ___ comments received.

XXXX xx, 2024 EPA comment period ends. ___ comments received.

XXXX xx, 2024 Permit issued.

4. Permit Modifications/Changes and TVEE Discussion

The following table describes the modifications to the current permit as part of the renewal process. This summary is not meant to be an exact accounting of each change but a summary of those changes.

The following changes were made to Air Permit No. 01757T31

Page No.	Section	Description of Changes
Global	Global	-Updated the application number and complete date. -Updated permit revision number to T32. -Updated the issuance/effective dates to permit.
27	Section 2.2 A.2	-Added TPERs condition for clarity
29 - 36	Section 4 General Conditions	-Updated to most recent General Conditions (version 7.0, 08/21/2023).

This permit renewal is being processed without modification, and no changes to the Title V Equipment Editor are needed.

5. Regulatory Review

The facility is currently subject to the following regulations:

- 15A NCAC 02D .0515, Particulates from Miscellaneous Industrial Process
- 15A NCAC 02D .0516, Sulfur Dioxide Emissions from Combustion Sources
- 15A NCAC 02D .0521, Control of Visible Emissions
- 15A NCAC 02D .0524, New Source Performance Standards (Subpart III)
- 15A NCAC 02D .1111, Maximum Achievable Control Technology (40 CFR 63, Subpart MMMM, DDDD, and ZZZZ)
- 15A NCAC 02Q .0504, Option for Obtaining Construction and Operation Permit
- 15A NCAC 02D .1100, Control of Toxic Air Pollutants (*State-Enforceable Only*)
- 15A NCAC 02D .1806, Control of Odorous Emissions (*State-Enforceable Only*)

15A NCAC 02Q .0317, Avoidance Conditions for 15A NCAC 02D .0530: Prevention of Significant Deterioration (for VOC)

15A NCAC 02D .0515 Particulates from Miscellaneous Industrial Processes – The sources that are subject to this regulation are the Oil Filter Lines (Emission Source ID Nos. ESOL2, ESOL3, ESOL4, and ESOL5, and ESOL7 and ESOL8), the Oil Cartridge Line (Emission Source ID No. ESCART1), the Fuel Filter Line (Emission Source ID No. ESGL1), the Air Filter Lines (Emission Source ID Nos. ESAL4, ESAL5, ESAL7, ESAL8, ESAL9, ESPCELL1, ESPCELL2 and ESPCELL3), and the Carousel Polyurethane Operation (Emission Source ID No. ESCAROUSEL). The Permittee shall limit the particulate emissions from these sources to less than the allowable emission rate in pounds per hour as calculated by $4.10 \times P^{0.67}$ with “P” being the process weight in tons per hour for process weights that are less than or equal to 30 tons per hour. The Permittee shall maintain production and material use records to demonstrate compliance. The nine Recuperative Thermal Oxidizers shall control PM emissions from the heat set ovens for Oil Filter Lines 2-5, 7 and 8 and for the plastisol and final cure ovens on Oil Filter Line 4. The temperature monitoring device shall continuously measure and record the temperature when the heat set ovens are processing paper. The minimum 3-hour rolling average temperature for the RTOs shall be maintained at or above 1,126 degrees F (Condition 2.1 A.1.d). The monitoring system shall be operated at least 97% of the heat set oven operation time during each semi-annual period (Condition 2.1 A.1.d.i). The Permittee shall perform regular inspections and maintenance of the RTOs and afterburners as recommended by the manufacturer but at a minimum of once per year.

15A NCAC 02D .0516 Sulfur Dioxide Emissions from Combustion Sources – The natural gas fired ovens (ID Nos. ESOL2 – ESOL5, ESOL7, ESOL8, ESGL1, ESAL4, ESAL5, ESPCELL1, ESPCELL2 AND ESPCELL3), the diesel fuel-fired emergency engines (ID Nos. ES-FP1, ES-EG1 AND ES-EG2) and the insignificant gas-fired boiler (ID No. IS-B1). The Permittee shall limit sulfur dioxide emissions to less than 2.3 pounds per million Btu heat input. No monitoring, recordkeeping, or reporting is required for these sources when firing the permitted fuels. The AP-42 emission factor for Sulfur Dioxide combustion is 0.0006 lbs/mmBtu. According to the Permittee during the most recent inspection, the engines use ultra-low sulfur fuel oil which emits 0.002 lbs/mmBtu.

15A NCAC 02D .0521 Control of Visible Emissions - Emission Source ID No. ESOL3 was installed in 1969 and is limited to 40% opacity while all other sources are subject to the 20% opacity limit. The monthly visible observations must be performed for all sources for each stack for emissions above normal, and observations recorded in a logbook and a semi-annual summary report submitted. Compliance is expected.

15A NCAC 02D .1100: “Control of Toxic Air Pollutants” – State Enforceable Only

The facility as a whole is subject to this State-Only requirement. More discussion on facility air toxics in section 7 or review.

15A NCAC 02D .1806 – Control and Prohibition of Odorous Emissions – This regulation is applicable facility-wide and requires the facility to operate in a manner which does not cause nor contribute to objectionable odors beyond the facility’s property boundary. DAQ inspectors have not noted any odors when entering/existing the site. Continued compliance is expected.

15A NCAC 02Q .0317 Avoidance Conditions for 15A NCAC 02D .0530 PSD – This regulation allows facilities to request terms and conditions be placed in that facility’s permit to avoid applicability, in this instance, for PSD. The Permittee has the potential to emit greater than 250 tons per year of VOC and has elected to obtain a federally enforceable permit limit to avoid being designated as a major stationary source and to avoid applicability of PSD permitting. MANN + HUMMEL shall continue to demonstrate compliance with this facility-wide PSD avoidance limit. The new sources are emitters of VOCs and as

such the Permittee will include these emissions in all calculations to ensure compliance with PSD avoidance condition.

6. NSPS, NESHAPS/MACT, PSD, 112(r), CAM

NSPS

The diesel-fired fire pump (ID No. ES-FP1) is subject to 40 CFR 60, Subpart IIII “Stationary Compression Ignition Internal Combustion Engines” because the engine was constructed after July 11, 2005. The Permittee must maintain a manufacturer’s certification that the engine meets the emission standards outlined in Condition 2.1 C.3.b. and make the certification available to an authorized representative upon request. No monitoring/recordkeeping/reporting is required for the emergency engine ID No. ES-FP1.

The natural gas-fired boiler (ID No. IS-B1) is NOT subject to 40 CFR 60, Subpart Dc “Small Industrial-Commercial-Institutional Steam Generating Units,” since its maximum heat input is less than 10 mmBtu/hr.

This permit renewal does not change the facility’s NSPS status.

NESHAP/MACT

The Permittee is subject to 15A NCAC 02D .1111: Maximum Achievable Technology (MACT), 40 CFR Part 63, Subpart DDDDD “National Emissions Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters.” The requirements of 40 CFR Part 63, Subpart DDDDD apply to facilities that own or operate an industrial, commercial, or institutional boiler or process heater as defined in CFR 63.7575, and is located at, or is part of, a major source of HAP, except as specified in 40 CFR 63.7491.

- The insignificant boiler (ID No. IS-B1) is subject to 40 CFR 63, Subpart DDDDD “Industrial, Commercial, and Institutional Boilers and Process Heaters” since the facility is a major source of HAP and does not meet any of the exemption criteria of 40 CFR §63.7491. The Initial Notification was received at FRO on July 31, 2014, the one-time Energy Assessment was completed on April 17, 2015, and the initial tune-up was completed on July 14, 2015.
- The insignificant boiler (ID No. IS-B2) is subject to 40 CFR 63, Subpart DDDDD “Industrial, Commercial, and Institutional Boilers and Process Heaters” since the facility is a major source of HAP and does not meet any of the exemption criteria of 40 CFR §63.7491. The boiler is a new unit, and the Initial Notification was submitted to the FRO on April 12, 2019.

The Permittee is subject to 15A NCAC 02D .1111 40 CFR Part 63, Subpart MMMM “National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.” The requirements of 40 CFR 63, Subpart MMMM apply to miscellaneous metal parts and products surface coating facilities that are a major source of HAP emissions. An affected source, as defined in CFR 63.3883, is subject to this subpart if using 946 liters (250 gallons) per year, or more, of coating that contain HAPs in the surface coating of miscellaneous metal parts and products; and that is a major source, is located at a major source, or is part of a major source of emissions of HAP. Emission sources (ID Nos. ESOL2-d, ESOL8-c, and ESOL8-d) are subject to this regulation. The addition of the proposed sources will not affect 40 CFR 63, Subpart MMMM applicability.

The requirements for 40 CFR 63, Subpart ZZZZ apply to the emergency engines (ID No. ES-FP1, ES-EG1 and ES-EG2). Emission source ES-EG2 which is an existing stationary RICE with a site rating of

less than or equal to 500 brake HP that is located at a major source of HAP emissions, is required to keep records of annual oil changes and air cleaner/belt/hose inspections and maintenance, a log of operating hours, and submit a semi-annual summary report. Emission source ES-EG1 became a MACT affected source in June 2007; however, in accordance with 40 CFR 63.6590(b)(1)(i), Mann Hummel does not have to meet any emissions or operational limitation for this generator because it is an existing emergency combustion ignition engine with a capacity of greater than 500 HP. Emission source ES-FP1 is a new MACT affected source which meets the requirements of this part by meeting the requirements of 40 CFR Subpart IIII (see NSPS section above), for compression ignition engines in accordance with 40 CFR 63.6590(c).

This permit renewal does not affect this status.

PSD

Implementation of the Prevention of Significant Deterioration (PSD) regulations has been delegated in full to the State of North Carolina. These air quality regulations are contained in 15A NCAC 02D .0530 "Prevention of Significant Deterioration (PSD)". The PSD regulations apply to new sources designated as "major" by the PSD regulations or by existing major sources undergoing a major modification.

While the facility has the potential to emit greater than 250 tons of VOCs for any consecutive 12-month period, MANN+HUMMEL has previously elected to obtain a federally enforceable permit limit to avoid being designated as a major stationary source. 15A NCAC 02Q .0317 Avoidance Conditions for 15A NCAC 02D .0530 "Prevention of Significant Deterioration" allows facilities to request terms and conditions to be placed in that facility's permit to avoid PSD applicability. The PSD avoidance limit will remain as it is currently permitted.

112(r)

The facility is not subject to Section 112(r) of the Clean Air Act requirements because it does not store any of the regulated substances in quantities above the 112(r) thresholds. No change with respect to 112(r) is anticipated under this permit renewal.

CAM

The CAM rule (40 CFR 64; 15A NCAC 02D .0614) applies to each pollutant specific emissions unit (PSEU) at major TV facilities that meets all three following criteria:

- the unit is subject to any (non-exempt: e.g., pre-November 15, 1990, Section 111 or Section 112 standard) emission limitation or standard for the applicable regulated pollutant.
- the unit uses any control device to achieve compliance with any such emission limitation or standard.
- The unit has potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source (i.e., 100 tons per year for criteria pollutants or 10/25 tons per year for HAPs).

There are no sources that require utilization of a control device to achieve compliance with an applicable pollutant specific emission limit or standard and have uncontrolled emissions of a regulated air pollutant greater than 100 tons per year. Therefore, CAM does not apply. This permit renewal does not affect this status.

7. Facility Wide Air Toxics

15A NCAC 02D .1100: “Control of Toxic Air Pollutants” – State Enforceable Only

The facility as a whole is subject to this State-Only requirement. The facility submitted updated modeling with application (2600058.20D) which was received July 17, 2020. The modeling analysis was reviewed and approved by the Air Quality Analysis Branch (AQAB) on August 17, 2020. The permit currently contains a 15A NCAC 02D .1100 stipulation with emission limitations for formaldehyde and phenol; it does not contain a 15A NCAC 02Q .0711 toxic condition. The TPER Limits for the toxics listed below other than Formaldehyde and Phenol will be added to the Title V permit.

The Toxic Pollutant Emission Rates (TPER) in the table below provides a summary of the proposed facility-wide emissions of TAPs following the modification permit 01757T31. As shown in the table, formaldehyde and phenol are still the only TAPs above the limits requiring a permitted emission rate.

Pollutant	15A NCAC 02Q .0711 TPERs			Facility Wide PTE Values			TPER Triggered?		
	lb/yr	lb/day	lb/hr	lb/yr	lb/day	lb/hr	lb/yr	lb/day	lb/hr
Formaldehyde	--	--	0.16	--	--	1.83	--	--	Yes
Phenol	--	--	1.00	--	--	3.37	--	--	Yes
Methyl ethyl ketone	--	155.80	93.19	--	8.39	0.35	--	No	No
n-Hexane	--	46.30	--	--	5.19	--	--	No	--
Toluene	--	197.96	58.97	--	0.43	0.02	--	No	No
Xylene	--	113.70	68.44	--	1.08	0.05	--	No	No
Styrene	--	--	11.16	--	--	0.01	--	--	No
Benzene	11.07	--	--	6.95	--	--	No	--	--
p-Dichlorobenzene	--	--	69.50	--	--	0.0001	--	--	No

8. Facility Emissions Review

The facility-wide potential emissions have not changed because of this TV permit renewal. Actual emissions for criteria pollutants and HAPs for the previous five years reporting periods are provided in the header of this permit review.

9. Compliance Status

September 21, 2018

NOD for deviations from the minimum RTO temperature requirements, and excessive RTO monitor downtime for CDOL2 and CDOL7.

April 9, 2019

NOV for `15A NCAC 02D .0515 -Particulates from Miscellaneous Industrial Processes due to failure to maintain an uptime of at least 97% for the monitoring system for each RTO. *Resolved April 22, 2019*

August 21, 2019	NRE for 15A NCAC 02D 0515 -Particulates from Miscellaneous Industrial Processes due to failure to maintain an uptime of at least 97% for the monitoring system for three of the nine RTOs. <i>Resolved September 9, 2019</i>
April 28, 2020	NOV for 15A NCAC 02D .0515 “Particulates from Miscellaneous Processes” and 15A NCAC 02Q .0508(f) “Reporting Requirements for Excess Emissions and Permit Deviations.” <i>Resolved May 8, 2020</i>
September 23, 2022	NOV/NRE for 15A NCAC 02D .0515 “Particulates from Miscellaneous Processes” due to failure to maintain an uptime of at least 97% from the monitoring system for each RTO and failure to maintain the minimum RTO temperature.
March 1, 2023	NOV/NRE for 15A NCAC 02D .0515 “Particulates from Miscellaneous Processes” due to failure to maintain the minimum RTO temperature and to monitor downtime exceedances.

DAQ has reviewed the compliance status of MANN+HUMMEL. During the most recent inspection, conducted on December 13, 2022, the facility appeared to be in compliance with all applicable requirements. The facility’s most recent Annual Compliance Certification (ACC) was received on March 1, 2023, and indicated compliance with all applicable requirements in 2022 except as noted in the deviation summary report.

10. Public Notice/EPA and Affected States Review

A notice of the DRAFT Title V Permit shall be made pursuant to 15A NCAC 02Q .0521. The notice will provide for a 30-day comment period, with an opportunity for a public hearing. Consistent with 15A NCAC 02Q .0525, the EPA will have a concurrent 45-day review period. Copies of the public notice shall be sent to persons on the Title V mailing list and EPA. Pursuant to 15A NCAC 02Q .0522, a copy of each permit application, each proposed permit and each final permit shall be provided to EPA. Also pursuant to 02Q .0522, a notice of the DRAFT Title V Permit shall be provided to each affected State at or before the time notice provided to the public under 02Q .0521 above. No affected states or local agencies are within 50 miles of this facility.

11. Other Regulatory Considerations

- A P.E. seal is NOT required for this renewal application.
- A zoning consistency determination is NOT required for this renewal application.
- A permit fee is NOT required for this renewal application.
- EPA has promulgated a rule (88 FR 47029, July 21, 2023), with an effective date of August 21, 2023, removing the emergency affirmative defense provisions in operating permits programs, codified in both 40 CFR 70.6(g) and 71.6(g). EPA has concluded that these provisions are inconsistent with the EPA’s current interpretation of the enforcement structure of the CAA, in light of prior court decisions¹. Moreover, per EPA, the removal of these provisions is also

¹ NRDC v. EPA, 749 F.3d 1055 (D.C. Cir. 2014).

consistent with other recent EPA actions involving affirmative defenses² and will harmonize the EPA's treatment of affirmative defenses across different CAA programs.

As a consequence of this EPA action to remove these provisions from 40 CFR 70.6(g), it will be necessary for states and local agencies that have adopted similar affirmative defense provisions in their Part 70 operating permit programs to revise their Part 70 programs (regulations) to remove these provisions. In addition, individual operating permits that contain Title V affirmative defenses based on 40 CFR 70.6(g) or similar state regulations will need to be revised.

Regarding NCDAQ, it has not adopted these discretionary affirmative defense provisions in its Title V regulations (15A NCAC 02Q .0500). Instead, DAQ has chosen to include them directly in individual Title V permits as General Condition (GC) J.

Per EPA, DAQ is required to promptly remove such impermissible provisions, as stated above, from individual Title V permits, after August 21, 2023, through normal course of permit issuance.

12. Recommendations

The permit renewal application for MANN+HUMMEL Purolator Filters, LLC has been reviewed by DAQ to determine compliance with all procedures and requirements. DAQ has determined this facility is complying or will achieve compliance, as specified in the permit, with all requirements that are applicable to the affected sources. DAQ recommends the issuance of Air Permit No. 01757T31.

² In newly issued and revised New Source Performance Standards (NSPS), emission guidelines for existing sources, and NESHAP regulations, the EPA has either omitted new affirmative defense provisions or removed existing affirmative defense provisions. See, e.g., National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants; Final Rule, 80 FR 44771 (July 27, 2015); National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; Final Rule, 80 FR 72789 (November 20, 2015); Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units; Final Rule, 81 FR 40956 (June 23, 2016).