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Regulatory Order Worksheet

Regulatory Order #: RO-31c	Source: Dakota Creek Industries 820 Fourth Street Anacortes, WA 98221
Permit Engineer: Agata McIntyre	
RO App Received: 2/10/21	NOC Contact: Marie Piper, marie@dakotacreek.com NWCAA No.: 1382

A. Project Description

Dakota Creek is a shipyard that performs vessels maintenance. The facility requests a modification to RO 31-b to align the emission reporting deadline and certification requirements with NWCAA’s current rule and business processes. The facility is not requesting approval for any new, or modified, equipment. This is a purely administrative modification.

Dakota Creek requests the following changes to RO 31-b (original language in black, **modification in red**):

1. Dakota Creek Industries, Inc. (Dakota Creek) shall emit less than 9.99 tons of any single hazardous air pollutant (HAP), or less than 24.99 tons of a combination of HAP during any 12-month rolling period.
2. Each calendar month Dakota Creek shall ~~maintain and~~ track all materials that contain HAP **by maintaining with** a rolling total record of the quantity in gallons, the amount of HAP in **each the** material and the amount of HAP emitted. The records shall show the rolling total amount of each HAP separately and the combined amount of all HAP, in pounds. Each calendar month, Dakota Creek shall summarize all HAP emitted from **all the** materials used for the previous 12-month rolling period. These calculations shall be done within 30 days after the end of each month. These records shall include, at a minimum:
 - (A) Date of receipt and/or use **of each material**.
 - (B) Product information including HAP content.
3. If Dakota Creek determines that emissions are more than 90% of the limits in Condition 1, they shall submit a written notification to the NWCAA within 30 days of the discovery.
4. If Dakota Creek determines that the limits in Condition 1 have been exceeded, either by calculation, measurement or otherwise, they shall submit a written notification to the NWCAA within 7 days of the discovery.

5. Purchase and usage records, including MSDS sheets, for all materials used on site and HAP records specified in Condition 2 shall be kept on-site for at least five years and made readily available to the NWCAA upon request.

~~4. Reports submitted to the NWCAA shall be reviewed and signed by the facility manager and will include the following statement:~~

~~*"Based upon information and belief formed after reasonable inquiry, I certify that the statements and information in this document and all referenced documents and attachments are true, accurate and complete."*~~

~~5. Annually by January 31st, Dakota Creek shall submit an emission inventory for the previous calendar year summarizing the amount of HAP, volatile organic compounds, and criteria pollutants emitted on forms provided by the NWCAA.~~

NWCAA Analysis of the requested changes:

Condition 5: Condition 5 requires the submittal of an emission inventory by Jan. 31st. NWCAA Regulation 150.14, which also applies to Dakota Creek, also requires the submittal of an annual emission report. However, the regulation gives Dakota Creek until April 15 to submit the report.

Both the regulation and Condition 5 require the emission report, which is duplicative. However, the condition requires submittal by a much earlier date, Jan. 31st. Per discussion with Matt Holmquist, registered source lead, submittal of the emission information can be delayed until April 15th. This will align with the date when other registered sources submit their emission reports. There is no other reason why the emission information must be submitted by Jan. 31st. Therefore, Condition 5 can be deleted.

Condition 4: Condition 4 provides a certification statement of the truth and accuracy of a report submitted to NWCAA. NWCAA uses similar language in the forms provided to facilities for emission reporting, as required under Regulation 150.14. In addition, NWCAA regulations contain additional backstops to require truthful and accurate reports. Condition 4 is duplicative and can be removed.

Other changes: Administrative & for clarity.

B. Fees

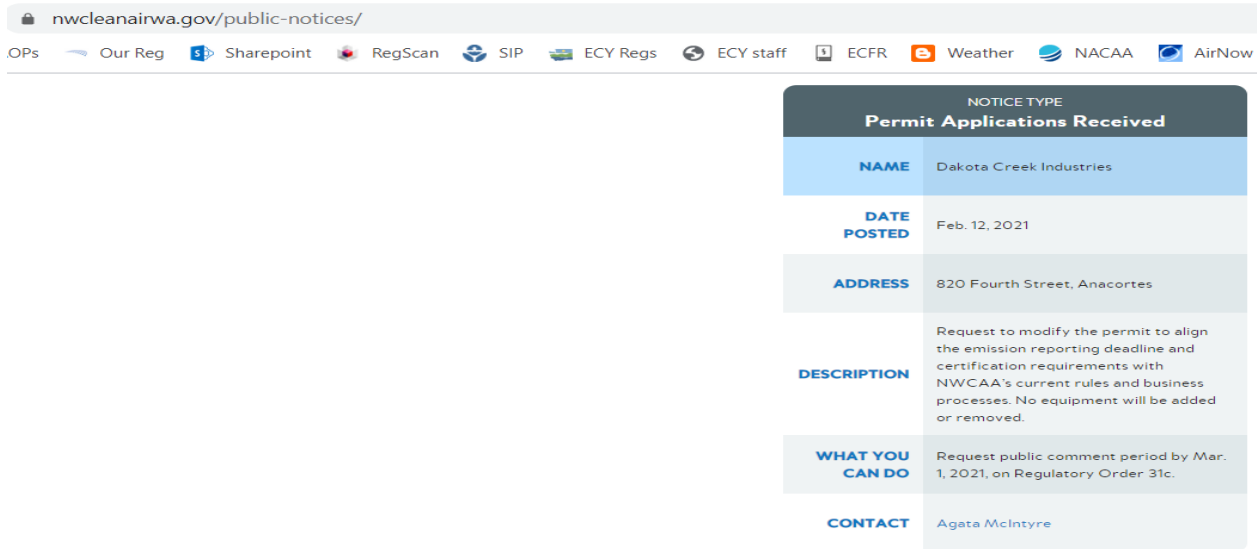
NWCAA assessed fees in accordance with the fee schedule for Regulatory Orders, effective January 1, 2021. The Fee Worksheet lists the fees assessed and amount paid. In summary, fees were:

- Orders Filing Fee: \$1,313.00
- Public Notice Fee: \$523.00

Fees paid in full 3/22/21.

C. Public Notice

Notice posted for 15 days on NWCAA website:



The screenshot shows a web browser window with the URL nwcleanairwa.gov/public-notices/. The navigation bar includes links for OPs, Our Reg, Sharepoint, RegScan, SIP, ECY Regs, ECY staff, ECFR, Weather, NACAA, and AirNow. The main content area displays a notice titled "NOTICE TYPE Permit Applications Received".

NOTICE TYPE	
NAME	Dakota Creek Industries
DATE POSTED	Feb. 12, 2021
ADDRESS	820 Fourth Street, Anacortes
DESCRIPTION	Request to modify the permit to align the emission reporting deadline and certification requirements with NWCAA's current rules and business processes. No equipment will be added or removed.
WHAT YOU CAN DO	Request public comment period by Mar. 1, 2021, on Regulatory Order 31c.
CONTACT	Agata McIntyre

NWCAA did not receive any comments, questions, or requests for review or a hearing from the public during the 15-day website posting which ended March 16, 2021.

In addition to the 15-day NWCAA website posting, in accordance with NWCAA 305.2(A)(7), **formal public involvement and notification** (i.e., comment period and, if requested, a hearing) **is required** for this project because RO-31c establishes a limit on the facility's potential, facility-wide, emissions.

Notice of a 30-day public comment period was published 4/29/21. The electronic documents were made available on NWCAA's website for public review during the 30-day comment period. The public comment period ended on 5/31/21. NWCAA waited until ____ to provide time for any postmarked comments to come into the office. Discuss results...

D. SEPA Review

Based on a February 2015 opinion from attorney TC Richmond (excerpt below), SEPA review is not required for a synthetic minor permit. Logically, a modification to a permit which didn't require SEPA review is also exempt from SEPA.

Any order that establishes limitations on a source's potential to emit

(WAC 173-400-091; NWCAA Reg 104.1)

Exempt. The synthetic minor determination pertains to the issuance of an air operating permit and is thus also exempt under RCW 43.21C.0381. Applying for this determination is a decision by the source to "opt-out" of the AOP program. The order issued by NWCAA establishes the limitations and conditions for "opting-out" of the AOP program. The fact that the limits (which are to assure that the AOP permit threshold is not triggered) are set forth in a federally enforceable order, rule, or permit condition is not determinative for purposes of SEPA compliance.⁶

Copy of guidance saved: J:\REG ORDER\RO 31c Dakota Creek

E. Permit History

NWCAA issued RO 31 on Jan. 5 2007. RO 31 is a voluntary limit on facility-wide emissions of HAPs. RO 31 protected the facility from classification as a major HAP source and becoming subject to major-source NESHAPs and the AOP program. Dakota Creek requested modifications to RO 31 as noted below. Each modification retained the facility-wide HAP limit:

- RO 31a: July 2007 modification to change reporting frequency from monthly to quarterly.
- RO 31b: June 2015 modification to increase the facility-wide limits (still below major-source threshold) and change reporting frequency.

F. Basis for Regulatory Order

The Regulatory Order is a voluntary permit requested by Dakota Creek and issued by NWCAA at the facility's request. It provides the facility with a Synthetic Minor limit to keep Dakota Creek out of the AOP program and out of having to comply with major source NESHAPs. As a condition of the permit, Dakota Creek must track emissions of HAPs monthly and report emissions to NWCAA.

Records provided to NWCAA (see M:\FinalDocs\Registered Sources\Dakota_Creek_Industries_1382-EM01-S\Emissions) show that emissions of all pollutants from the facility remain below the facility-wide limits in RO-31. Xylene is the single HAP emitted in largest quantities (still below the limit in RO-31).

G. Air Operating Permit (AOP) Program

No AOP. The facility is currently a Synthetic Minor source and will remain a SM source after the issuance of this revision.

H. Federal Rule Applicability

Major source NESHAPs do not apply at Dakota Creek because this RO, RO-31, restricts HAPs below major source levels.

I. Confidential Business Information (CBI)

The application does not contain any information deemed by the applicant to be CBI.

J. Review

Timeline	Date
Order Application Received	2/10/21
Order Incompleteness Determined	2/23/21
Order Completeness Determined	3/22/21
Public comment	4/29/21-5/31/21
Final issued	

Review		Date
NWCAA Engineering	Christos Christoforou	4/19/21
NWCAA Compliance	Matt Holmquist	4/19/21
Source	Marie Piper	4/27/21

K. Correspondence

See J:\REG ORDER\RO 31c Dakota Creek