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PACT WITH OIL COMPANY MAY HELP EPA DEVELOP GUIDE ON 'UPSET' EMISSIONS

EPA and the petrochemical company Flint Hills Resources (FHR) have agreed to develop and evaluate strategies for curtailing so-called "upset" emissions, in what agency and company sources say could lead to guidance to minimize such emissions from petroleum refineries and other industrial facilities.

Agency and industry sources say the Aug. 6 agreement builds upon significant progress the company has made over the past several years in reducing upset emissions from flaring — or combustion of gases often released during startup, shutdown and malfunction (SSM) periods. EPA recognized the company with a Clean Air Excellence Award in 2003.

The agreement comes as environmentalists are considering a lawsuit to force EPA to overturn state rules on upset emissions, and with one activist group issuing a report charging that more than half of all states illegally exempt these events from Clean Air Act enforcement. The Aug. 18 report by the Environmental Integrity Project (EIP) argued that states do an inadequate job of tracking the releases that occur during SSM periods.

In the wake of pressure from environmentalists, EPA several months ago sent information requests to several refineries in Texas seeking more information about SSM problems — a prelude to possible enforcement. An agency source says the new agreement does not involve facilities that were the subject of the requests.

The four-phase agreement with FHR covers several facilities, including refineries in Pine Bend, MN; Corpus Christi, TX; and North Pole, AK. The agreement says the company is also likely to pursue similar work at a newly acquired chemical facility in Joliet, IL, though on a somewhat slower timetable. *Relevant documents are available on InsideEPA.com.*

An EPA source says the agreement does not provide regulatory or enforcement relief, but it may give the agency new insights into facility operations and opportunities for controlling upset emissions. The source says the effort may result in EPA guidance on how companies can reduce SSM-related emissions.

Under the agreement, FHR will provide EPA information about SSM events at these facilities. FHR and EPA will then cooperate in developing a policy addressing the emissions, to be implemented over a two-year period. The company will prepare a report on the policy's results that would be available to EPA and state regulators.

"It is FHR's intent to develop a comprehensive policy that remains consistent with existing regulations and guidance but that consolidates its approach to SSM emissions and seeks to improve performance beyond what may otherwise be required," states the agreement, which was signed by EPA air and enforcement officials along with FHR.

A source with the company says the agreement uses its previous success with flaring as a model to address other types of SSM emissions, and one of the first issues the company and EPA will likely tackle is cataloguing these other emissions. The source adds the company and EPA have been discussing the approach for roughly six months, after EPA indicated that SSM emissions would be an agency priority.

The source also says addressing SSM emissions could help the company improve its bottom line by reducing down time, and calls the agreement an alternative to an inefficient confrontational approach. "We very much agree with the [collaborative] approach," the source says.

The agreement stipulates that it is not intended to modify or supersede the requirements of a consent decree reached in 2001 between EPA and a petroleum division of Koch Industries, FHR's parent company.