

Permitting & Enforcement Committee Meeting – November 13, 2008

Lazarus Government Center
Ohio EPA
7th Floor DAPC conference room

Attendees: Co-Chairs - Jim Orlemann (CO), Jim Braun (Cleveland)

Minutes - Ed Fasko (NEDO)

- Mike Ahern, Cheryl Suttman, Mike Hopkins, Andrew Hall, (CO), Mike Riggelman, Todd Scarborough, (CDO), Jason Simon, Chris Clinefelter, (RAPCA), Sarah Harter, (SEDO), Peter Park, (Toledo), Anne Chamberlin, (Portsmouth), Mark Budge, (NWDO), Paul Tedtman, (HAMCODOES), Bud Keim (Canton), Rick Carleski, (CO/OCAPP)

1. **Enforcement issues** - Jim Orlemann

The Shelly trial ended last Thursday, 11/6. Jim Orlemann said there were a lot of witnesses called. Bob Hodanbosi, Mike Hopkins, Todd Scarborough Sarah Harter, Christina Wieg, Kim Reinbold and Jim himself were among them. The judge did not want any closing arguments because of the number of violations that were presented. On 11/7, the judge met with attorneys from both sides with a request. He asked for findings of fact and conclusions of law from both parties. He also wanted information to either refute or mitigate the charges and recommended penalties. All this information is due by mid-February. Jim feels this is one of the biggest trials in air program history; there are more violations than in any other case. Jim feels if we lose the case, the air permitting program will be in jeopardy as most of the issues have to do with air permitting. He pointed out that portable generators were a big issue in this case.

Jim handed out his graphs regarding enforcement. Cases resolved so far this year have reached 65; the goal of 100 by the end of the year is attainable. F&O's are at 44 with a goal of 50; Old cases are down to 18. Goal is "0" by end of the year. For EAR submittals, 90% submitted in the third quarter were within the 18 month goal of submittal date. The penalties look like they will be high this year. There are presently 100 cases on the EC docket, and 90 at the AG's office, 45 are the Shelly cases. On the handouts for inspections, the graphs showed 98.3% of the scheduled TV was inspected, and 96.3% of the scheduled SMTV inspections were completed. Jim also noted that the policy of not pursuing penalties for first time administrative violations was not really affecting the program. HPV cases have been given priority, and tend to be more complicated and not resolved quickly, but we are progressing well.

RAPCA had submitted a question regarding the definition of "agricultural waste" Structural materials are in the definition, but not buildings. There were two interpretations of whether a barn could be torn down and burned as agricultural waste. One interpretation said as long as the non-wood materials were removed, the remaining wood materials could be burned as agricultural waste. The second interpretation indicated the removing of material and then the burning of the remainder of wood, seemed to be a circumvention of the rule. It was generally agreed that the second interpretation was correct, especially in light of the asbestos rules, but RAPCA is to check on the source of the responses.

Action Item: Stay on top of enforcement and inspection deadlines. Source of interpretation of open burning question to be investigated. *

2. **New Source Review** - Mike Hopkins

In light of the major projects, Mike made note that the PM_{2.5} non attainment designations should appear in the Federal register in late December or early January. At this point, it appears the effective date will be 90 days out from the notice in the Federal Register. USEPA has told us that States will have 45 days from the FR notice to submit 2008 data. If we have attainment data for a certain area, then it would not go to non attainment. For permits trying to beat the redesignation deadline, he is looking at an effective date of 3/15/09.

For non attainment NSR, Appendix S should be followed (as revised May, 2008). We will continue to use Appendix S until we revise our Chapter 31 rules. At this point, PM_{2.5} and SO₂ will trigger NNSR. When the state rule is written, NO_x will also be included. See the August 4, 2008 guidance memo from Mike Hopkins.

There was a question about BAT for PM and the 10 ton threshold. The example Mike gave was if a source has 8 tons of PM-10 and 30 tons of PM, BAT should be based on the PM-10 emissions and not on the PM emissions. Rule citations would apply for PM but not BAT. (The guidance for SB265 on the web page needs to be corrected to reflect this)

Andrew Hall handed out a sheet on BAT submittal expectations. He has received initial submittals from Mike Ahern, NWDO, Toledo and RAPCA. Andrew would like the rest submitted as they are completed. He thanked all that submitted their work so far. He has the schedule posted on the web page and we are presently behind. He also said the cost effectiveness can be submitted later, in time for the rule package. A question was raised as to if the cost effectiveness can be bypassed if permits have been issued with the BAT that you are proposing. He indicated that was a possibility. One person commented that the info for BAT is not that easy to get from STARS2. Some of the other places that he suggested to look for info were the Control Technology Guidelines (CTG) for cost effectiveness, Google searches, other offices, and other search engines. He also suggested the RACT, BACT, LEAR clearinghouse as well as the BAT database. Andrew Hall is to send an E-mail with some examples. If a rule is used as BAT, you must specify. If you use the area RACT as BAT, RACT as it was in 2006 is to be used.

It was brought to our attention that the multi-media task in STARS is only a check-box. Some offices do E-mail to fulfill the obligation. Andrew handed out the memo by Dennis Bush dated January 14, 1999 regarding the Bessie Williams decision and the Multi-media form. Some forms have been attached to STARS2 under the terms and conditions.

3 **STARS2 and permit issuance update – Mike Ahern**

Mike Ahern handed out a list of Fee reports that need to be approved. Some of these actions may have been previously approved, but may have to be redone due to the problems we were initially having with fee reports. He pointed out that a new facility ID must be used when a shutdown facility is restarting at the same location. A transfer should not be used. The only time that a facility ID is reactivated is when there might be a migration issue into STARS2 or if we mistakenly shut it down. If a facility never installed the operations, has no Emissions units, it should be shut down. Deminimis units will keep a facility active in facility profile, even with no permits. If a PER due date is to be changed, the company should send a letter of request to the DO/LAA. The DO/LAA reviews the request and forwards it on to Erica. This change is an action of the director and modifies the permit. A problem occurred when information was migrated from CETA. The revocation data never made the migration to STARS2. Revocation letters are being scanned and put into STARS2.

Mike indicated he is working with PIC in regard to a template for the response to comments document. A template is to be put into the system. This will apply to all draft documents. The response will be incorporated into the final document. It will probably appear before the authorization page in the final permit.

50,000 issued documents in the system have to be converted to PDF from word perfect so they will be available for processing. These are all the documents that were issued in the old systems and were migrated. Mike also mentioned that electronic attachments to permits are available for Air Services users to view.

A group has been formed to address the portable source issue. The Aggregate Association met with Bob Hodanbosi regarding portable issues; there concerns will be taken into consideration in developing a method in how we handle portable plants. The time to get approval for intent to relocate is a concern for industry. At this point, it looks like we are issuing a separate facility ID for each permitted operation. Although we have not always done this in the past, we are not to split up the facilities with multiple portables just yet. There may be some changes in STARS2 on this. Some of the questions to be addressed are how often do we do portable permits, the possibility of Permit by rule or general permits. If a portable plant is on the list for inspection commitment, and moves from one district to another, who is responsible and how does this affect our commitment. Another point that was made is that we get notified of intent to relocate, but do not get notified when move is made, if in fact the company does make the move. Sometimes notifications are filed in anticipation of getting a job, which may never materialize.

Linda Ours spoke of some STARS2 issues. She was asked if the intake task could be adjusted to be parallel to the reviewer, so applications would not sit when the intake person is out of the office or not able to move the application on. Linda indicated that the intake role is currently disabled, and applications are currently going directly to the permit writer. A decision has not yet been made on if the intake role will be enabled or not. Linda was asked if bulk operations can distinguish by application type and that is not possible since the application type is not a field in the facility profile and thus can't be used to identify the 'universe' of facilities to update via Bulk Operations. However, facility classifications such as TV, PBR; and reporting category (SMTV/NTV/TV) can be used to assign roles. She asked that we keep the suggestions coming. She also wanted to caution those who have been given System Administrator rights to add EU's after permit issuance (i.e., magic button). DO NOT add EU's to permits if they are not in some application. This especially true of Title V permits.

It was brought up that all new facilities (new facility ID's) must have core reconciliation prior to developing the permit. This is to be followed for PBR's as well as other facilities. You can waste a lot of work if you do not follow this procedure.

Mike Ahern handed out an example of metrics report. These will track time spent on issued reports. In order that these days attributed to your office are correct, make sure that the referral is used as appropriate. It was pointed out that enhancements to the program can still be made.

The first set of PER reports is expected (November 15). A letter was sent out requesting that the reports are due. The hard copy entry is not working right now and is scheduled to be fixed. (Fixed as of 11/20) NTV facilities have the option of submitting either electronically or hard copy, but eventually all the PER reports do have to be entered into STARS2 by the DO/LAA if the company does not submit electronically. STARS2 will generate a NOV if the report does not appear in STARS2. These reports are entered on the facility level on the left under compliance reports. You can enter into Stars2 the date received, date reviewed, report status and identify if they reported deviations or not. Then, if many deviations (or other comments) were written in the hardcopy report, the DO/LAA could choose to not enter those notes by hand but scan the hardcopy report and upload it to the specific PER in Stars2. There are only 24 facilities state-wide that should be submitting PER's for November. Initial Notice of Violation will come out of Central Office. After two cycles of PER's, data entry is to be evaluated.

The TV and SMTV quarterly and semi-annual compliance reports are to be electronic as of January 31 for last ¼ of 2008. This was addressed in a letter sent to the TV and SMTV facilities on November 6. The letter also addresses other air services issues. A copy of the letter is available on our web site under air services.

Action Item: Engineering Guide 44 will have to be modified per portable plant group determinations; enter hard copy PER reports into STARS2 as soon as the system allows you to.

Terms and Conditions -

Since the last P&E meeting the following files have been revised, and for the following reasons:

The Toxic Air Contaminant Statute terms, ZZZ2A and ZZZ2B were revised to reference only one permit type rather than all of them (PTI, PTIO, or FEPTIO). The appropriate permit type is now a fill-in-the blank for [XXX8].

The synthetic minor restriction terms (V, W, X, and Y terms) have been revised to include the changes made to the reporting requirements in OAC 3745-15-03. Until there is time to change all of the sets of terms that include reporting requirements, permit writers should try to blend the appropriate reporting requirements with the new reporting term drafted for these Chapter 15 changes, titled: Reporting Requirements for PTIs, FEPTIOs, and PTIOs. A PTIO, non-Title V facility would now report annually in the Permit Evaluation Report, rather than quarterly, as many of the old reporting terms have been drafted.

The Visible Emission (VE) terms have been split out into individual files according to the required compliance scenario, and following Bruce Weinberg's guidance document from many years ago. Many of the existing VE terms are located in one file and it can be difficult to determine which terms go together when drafting a permit. Bruce's guidance document will be included as one of the files. Individual files have been completed for the following scenarios:

Standard VE opacity at stack 17-07(A) (1)

Standard VE opacity for fugitive dust 17-07(B)(1)

Standard VE for stack and fugitive (mix) 17-07(A)(1) and (B)(1)

Stack BAT determination (fill in XXX1)

Stack BAT of 0%

No fugitive emissions BAT

Minimize fugitive emissions from points of capture and no VE at stack 17-08(B)(3) New term

Bruce's VE summary, VE scenario, document will be the first file in the tree.

Since these terms will need new branches to be made in the "TREE" they are not yet available in the Library; a hard copy of this set was passed out in the meeting because of this delay.

The first attempt at drafting Federal Rules into a summary table has been completed for stationary internal combustion engines. Subpart JJJJ for Stationary Spark Internal Combustion Engines and Subpart IIII for Stationary Compression Ignition Internal Combustion Engines are summarized in Excel tables. The first sheet of the Excel file shows the operating scenario (size engine, fuel etc) down the left side column and the applicable sections of the subpart follow in each row under the appropriate section of the permit. The second sheet of each Excel file summarizes each paragraph of the rules and they are listed in numerical order. The manufacturer's requirements were not included.

The next set will be for Steam boilers, Subparts D, Da, Db, and Dc.

The permit can either reference the entire subpart in the Additional T&Cs or Summary Table, or the appropriate sections of the subpart can be referenced as applicable within the individual sections of the permit. This format also provides for a useful inspection tool, to allow the inspector to familiarize him or herself with the appropriate sections of the federal rules, without wasting time trying to determine the requirements applicable to the source.

GDF terms were drafted from the Part 63 Subpart CCCCC GACT. These terms have been out for comment for some time and were drafted prior to the decision to only reference Federal rules. If they are added to the Library, they should be used for guidance rather than pasted into terms. GDFs that have a monthly throughput of 100,000 gallons or more have to meet the management practices in Table 1 to the Subpart and cargo tanks unloading at GDFs with a monthly throughput of 100,000 gallons or more must meet the management practices in Table 2 to the subpart.

Cheryl will soon be adding PSD and non-attainment permits issued since the middle of April to the RBLC database. If she cannot find the application in Central Office, she will be calling the district and local offices for the information needed for the entry.

Cheryl has served on a landfill "higher operating value" (HOV) work group with the DSIWM who are working together to resolve the state's landfill gas problems and to enforce the NSPS, Subpart WWW.

The HOV committee has modified Cheryl's draft guidance document (into a NSPS summary and a landfill gas guidance document) and her landfill NSPS applicability table (completed following the submission of a survey mailed by DSIWM) and have forwarded these documents to Bob Hodanbosi and Pam Allen for sign-off. The guidance document has been or will be sent to landfill owners and operators and their consultants for comments. The new guidance does not allow for an HOV approval for O₂ or N₂, these requests will be denied; and higher well temperatures will require testing beyond the scope of the NSPS: the higher the requested temperature, the more testing we will require.

All of the HOV and alternative timeline requests received to date at Central Office (all HOV and alternative timeline requests should be sent to Cheryl's attention at CO) will accompany an inspection team made up of staff from both divisions (DAPC and DSIWM). The HOV committee plans to resolve and address all of the past HOV and alternative timeline requests through these inspections (most should be back in compliance, as required by NSPS rule). Outstanding HOV requests and those received following this inspection shall be reviewed by both divisions and the approval or denial letter shall be drafted by the DAPC district office or LAA and reviewed by both Central Office and the DSIWM contact for the facility before they are mailed.

The new "tree" format for the Library of Terms and Conditions will be ready in a few weeks. It will replace the current library. Most likely a link to the old library format will be retained for a short period of time for the transition to the new format.

4. **Engineering Guide update-**

- #6 - PTI for Coal to oil conversion - Cleveland - Mike Hopkins is looking at this. No progress
- #9 - PTI/PTO Determinations for grain dryers - NWDO - Don Waltermeyer sent information to Jim.
- #16 - Conditions requiring additional testing - NWDO – Comments received by NWDO, ready for final review by Jim O. No Progress
- #18 - SO₂ compliance determination for boilers – Toledo sent questions to Jim.
- #20 - VE limits, determination for stack sources - Akron - No progress
- #23 - Significant figures for TSP emission limitations - SEDO – In the works.

- #24 - Application of Fugitive Dust Requirements to Affected Facilities - Toledo working on this.
- #25 - Determination of source numbers and Permit fees for fugitive dust sources - Cleveland – No progress.
- #26 - Inclusion of weight of water in the weight of “refuse” charged for incinerators.- NEDO – Should be getting a work group together soon. No progress
- #27 - Determination of Heat input during a boiler stack test - RAPCA – Ready for final review by Jim O.
- #28 - Methods for Ascertaining the Uncontrolled Mass Rate of Emission for Figure II – CDO - draft handed out, comments to Mike Riggleman by November 13, 2008.
- #29 - Applicability of the PTI Rules to Increases in Capacity of a Derated Boiler -CDO – working on this
- #44 - Portable Plants - NEDO – Will be updated based on Portable Plant group determinations.
- #53 - Open Burning Standards - Central Office - Hearing resolved; no progress on guide
- #70 - Toxics – Hopkins reviewing; #69 may need changes due to changes in #70. – No progress.
- #74 - Classification of PM - Central Office - Andrew Hall and his group can start working on this now that the Feds have passed the PM 2.5 rules. No progress.
- #75- New guide for crushers and non-metallic material - NSPS OOO - Mike H. - No progress

Cleveland is working on comments for the general permit for crematories.. CDO and Tub grinders general permit has been put on hold. NEDO needs to move on General permit for Generators. The aggregate general permit may be looked at by NWDO. There is a landfill meeting next month (Dec 11) regarding HOV's requests. The requests will be submitted to the district solid waste and air. DAPC will generate a letter based on Cheryl's review.

P & E minutes need to be updated on the web.

Jim Orlemann, Jim Braun and Christine McPhee are working on the terms for 21-07. A facility in NWDO may be shutting down due to a conflict with the rule and federal approval. (or lack of).

Next meeting is Tuesday, January 13, 2009

Happy Holidays to all....Turkeys everywhere ask that you eat more beef and vegetables.