

Permitting & Enforcement Committee Meeting  
January 11, 2005  
Lazarus Government Center  
Ohio EPA  
Room C, DAPC

**Attendees:** Co-Chairs - Jim Orlemann (CO), Jim Braun (Cleveland)  
Minutes - Ed Fasko (NEDO)  
- Rick Carleski, Andrew Hall, Mike Hopkins, (CO)  
Bud Keim, Greg Clark,(Canton), Mike Riggleman, Adam Ward, (CDO), Paul Tedtman (HAMCO), Jeff Canan, (RAPCA), Joslyn Summers (Toledo), Glen Greenwood, Sarah Harter, (SEDO), Frank Markunas, (Akron), Kristen Switzer, (NEDO), Don Waltermeyer (NWDO), Matt Lindsey, (SWDO),Cindy Charles, (Portsmouth)

**1 - Title V Permits and issuance update**

*Initial Title V* - Jim Orlemann indicated the first group (initial commitment) all went final by the end of the year and that Ohio was the first in the region to complete its initial commitment. A letter from the director is to go to Region V confirming this. Jim is no longer working on permits unless he is in the process of completion of an assigned permit. Mike Hopkins indicated that anything assigned to Jim that he is not actively working on should be reassigned to Bruce Weinberg in the STARS activity log. Update the activity logs as the permits are worked on. Mike Hopkins indicated there was a reorganization meetings on 1/12 and the meetings at Central Office would be ongoing to address specific work assignments. Jim also pointed out there are 36 initial Title V applications which have to be done that were not part of the original commitment. This along with FESOPS are of high priority. Mike Ahern's poll of the DO/LAA's indicates there are 70-75 facilities that are in need of FESOPS that may be at the field offices. The feds are getting interested in the FESOPS. Mike Ahern indicated the FESOPS and the initial Title V's (36) must get done. Central Office may be working on a schedule for these.

**Action item - DO/LAA's are to process FESOPS and Initial Title V**

*Enforcement of TV Renewals* - The legal interpretation that Jeanne Mallet worked out is being revised and is in word processing. It will be posted on the web site in a Q& A format after approval .

**Action item - CO to post legal interpretation on web page**

*Title V Permits for MACT area sources* - The Bob Hodanbosi memo dated December 8, 2004 that was E-mailed did not list the secondary aluminum MACT as one that would be addressed with the deferral of area sources by the feds. Feds expect the package to be signed by late January or February. Mike Hopkins feels the secondary aluminum should be in memo. SEDO expressed concern with the language "responsibility of the owner/operator of the applicabel area sources to ensure compliance with the MACT and the Title V permitting programs." The concern was what would happen if USEPA changes its position. Mike Hopkins

feels the language in the memo is OK and does not have to be revised to reflect this. He also indicated the memo could be given to industry if requested.

**Action item - Per Mike Hopkins, CO (Abdur) to review memo as to weather to include secondary aluminum MACT issues**

*MACT general provisions in Title V permit* - A discussion ensued regarding how this is to be done and how it has been done, but Mike Hopkins stated for a permit to be enforceable the MACT and specific terms must be in the Title V permit. Jim Orlemann indicated some may have gotten through without the General Provisions. Some of the MACT's have tables at the end of the MACT rule that indicate which sections of the General Provisions apply. Attaching the table can be adequate instead of attaching all of the general provisions. If no table exists for the particular MACT, the entire General Provisions can be attached with a reference in Part II. The question was raised as to who will assure this is done. Mike Ahern suggested the DO/LAA send an E-mail with an attachment as a word perfect file to CO. contact. CO will convert it to a PDF file and include it in the permit. The DO/LAA should make sure the reference language is in the permit. The option is always open to list the applicable sections of the General Provisions that apply as noted in the table from the given MACT rule in part II of the permit, especially when the amount of information is fairly small, as it is preferred to have the terms actually in the permit rather than an attachment. If the entire General Provisions need to be attached to the permit, you do not need to send the Word Perfect document to Central Office containing the entire General Provisions. Central Office has a Word Perfect version of the entire General Provisions.

A discussion also ensued regarding how the specific MACT requirements should be established in a permit. Mike Hopkins stated that for a permit to be enforceable, the MACT and specific terms must be in the Title V permit. The feds are pushing in that direction especially after the compliance date has passed and a compliance method has been chosen by the permittee. If the compliance method has not been specified, and there are a number of them for the particular MACT, or the company wishes to use a number of strategies, all of the ones that would be used are to be specified in the permit. A good option to use at this point, is to specify the applicable sections of the MACT rule in each section of the terms and conditions for each emissions unit subject to the MACT rule. The entire MACT rule would then be included as an attachment rather than inserting the MACT rule in Part II in STARS. This approach was used successfully for the Wabash Title V permit in Cleveland (facility number 13 18 00 1287). Mike Hopkins restated that after the compliance deadline has passed, the permittee should have chosen a specific compliance method. At that point, we would need to build in specific MACT terms and conditions into the emissions unit terms and conditions.

In **PTI's**, simply citing the applicable emission limitation from the MACT rule has been accepted, especially if a strategy has not been chosen. Check with the NSR contact, as this could avoid the attachment of the entire MACT. The entire MACT rule would then be included as an

attachment in the Title V permit. Refer to the MACT guidance from Spring '04 and the recent MACT training.

**Action item - DO/LAA's to determine easiest way to include MACT based on the individual situations.**

## **2 - Enforcement update**

*Enforcement improvements* - No update on enforcement improvements.

*Enforcement issues* - Jim Orlemann handed out a list of High Priority facilities that have to be updated for enforcement. John Paulian sent out an E-mail on this on 1/10/05. Each office has to identify violations, EAR status and whether it is administrative or not. Any corrections to the list as to facility status should go to Mike Ahern; Enforcement issues to John Paulian per his E-mail at the end of this section. There was some discussion as to how this list was formed, how it compares to CETA and to the list the locals annually provide to Dave Brown. As Mike Ahern wants the list updated regularly, it would seem the other sources of this data could be used. Mike's list is based on permit status, that is, whatever type of permit (Title V, FESOP, Synthetic Minor PTI) the facility has, that is what it is classified as. Permits that went draft even though they are not High Priority, should be addressed if they are on the list. If a facility *intends* to get a FESOP, then it is classified as a FESOP facility.

E-mail sent from CO on 1/10/04, contact Jim Orlemann and John Paulian  
Tom and I have been asked by Jim Orlemann to determine the compliance status at the end of 2004 for all high priority facilities in each of the state's district offices and local air agencies. We have faxed a copy of the current list of all high priority facilities in your district or area to you for your review. We are asking that you and/or your staff identify whether certain violations are known to exist at these facilities. Facilities with violations should be classified into one of the two categories outlined below.

The first category are emission violations, which include emissions above allowable levels or control equipment failure that would cause noncomplying excess emissions. Administrative violations may also be identified at these facilities.

The second category are those administrative violations that are determined to be major or sufficiently serious by the DO/LAA and Central Office to require an enforcement action request be submitted to Central Office. Examples include failure to obtain a Title V permit, late Title V permit renewal applications, chronic failure to submit reports in a timely manner, repeated failure to maintain required records, repeated failure to obtain PTIs and/or PTOs, major violations of operational restrictions, etc. No emission violations have been identified at these facilities.

We've also attached a table to list those facilities that are currently not in compliance. You either use this table electronically or simply manually fill in the requested information.

We need this information no later than January 18 (or sooner, if at all possible) in order to compile all of the information for the state for the year end report for 2004.

Please feel free to call either of us if you have any questions. Thanks in advance for your help in putting this report together.

**Action item - DO/LAA's are to review list and correct as necessary. CO is to determine if this is a duplication of an existing list or database. Due by Jan. 18 for enforcement purposes, facility info changes to Ahern in two months.**

**Enforcement procedures** - The guidance that was handed out at the last meeting indicated the deadline for EAR's has actually been extended by two weeks. There was concern as to the depth of information available to complete an EAR within that time frame. Jim Orlemann indicated the reason for tracking of deadlines is because of the statute of limitations, and the director's office will be looking at this and expects the field offices to meet the statute. Old cases are considered anything longer than 21 months (from date of EAR submitted). Cases this old will not be kept on the docket, though on-going violations will be the exception. Old violations, will be included only for ongoing, used as lack of good faith on part of company. The zero date starts when determination of the violation is made. Considering that DAPC has the most cases of all the divisions, Jim feels we do well. A question was raised about deadlines for Central Office review; Jim commented that we did not meet the goal of finishing all the old cases by the end of the year. One office asked what happened to the notification letter informing a company that they have been referred. The response was that we are not to send the letter of notification.

**Action Item - DO/LAA's are not to send letter notifying the facility that they have been referred for enforcement. Follow enforcement deadlines as outlined.**

**Enforcement and Title V application submittal** - Jim Orlemann handed out the legal response developed by Jeanne Mallet regarding the questions asked about Title V applications and enforcement by Cleveland. The final version will be posted on the web page. A copy of the draft is included in the hard copy of the minutes.

**Action Item - CO to finalize the document and post it to the web.**

### **3.- New Source Review**

**Emission Factor guidance** - No progress at this time, permanently on hold till the PAG completes the work with the PPEC. Talk to your NSR contact if there are any issues with changed emission factors. PTI modification will be needed if the emissions will increase.

**NSR reforms** - New rules are in effect, so applications should be reviewed in light of the new rules. Training will be held on 2/1-2 in CO and 2/3-4 in NEDO, for NEDO, Akron, Canton and Cleveland. . This will cover both Title V renewal and NSR. Feds join CO in training. Misty Parsons is handling the schedule and agenda. CO will look at the possibility of taping the training.

**Action Item - CO to get agenda out and DO/LAA's to coordinate with Misty as to how many and which site they will attend.**

**RACM for portable drills** - NWDO will present information next time

**BAT for mercury for crematories** - Contact NWDO for example permits; this will be dropped from the agenda.

**Coke Ovens, mercury emissions** - Testing for mercury is being planned for existing sources in order to establish data. Under the director's authority, we can request testing of existing sources even if they are not required by permit.

**Action Item - DO/LAA's with Coke ovens are to arrange for mercury testing at coke ovens in their jurisdiction.**

*MACT applicability to other units, “once in always in”* - A facility becomes major for an area MACT, such as a degreaser. since they missed the first compliance deadline without obtaining a FESOP to restrict PTE for the degreaser This is the only reason they are major. They also have a miscellaneous metal coating line. Is the coating line MACT applicable to the facility because the facility already is major for HAPS due to the degreaser? Jim Braun referenced a memo (see attached) from USEPA Region I that says they can get out of the coating MACT by obtaining a synthetic minor for this source. Engineering Guide 67 seems to conflict with this determination as shown in example 2 at the end of the Engineering Guide. Jim Orlemann says the company can get a synthetic minor for the second MACT as long as the facility obtains the Synthetic Minor before the first compliance date for the second MACT. Jim also noted that this will likely be a rare situation. Mike Hopkins agreed. Although it is not that clear in the rule, Mike indicated it is a “MACT by MACT “ and a timing issue as to when a particular MACT applies. It should be noted, however, that the facility would remain subject to Title V because they did not restrict PTE for the degreaser before the first compliance deadline under the “Once In, Always In” policy.

**Action Item - Engineering Guide 67 should be reviewed and rewritten in light of this determination. USEPA Region V should be contacted to confirm the information in the memo from Region I.**

*Landfill operational scenarios* - HAMCO e-mail and the attached letter from HAMCO to the director regarding this ongoing issue was attached to the agenda. The air division lacks the technical expertise to determine whether the modifications requested by the facility are acceptable. This is true in all the DO/LAA's. The letter to the director suggests either we accept anything with a Professional Engineer's stamp or establish some policy on the review of these requests. Mike Hopkins indicated that we should establish contact with the Solid Waste Division in the applicable jurisdiction and coordinate with their experts and with USEPA. Julie Monahan was specifically named in Mike's E-mail.

**Action Item - DO/LAA's should coordinate with the respective Solid Waste people in the appropriate jurisdiction and USEPA until a response to the letter to the director to HAMCO's letter is received. NWDO has done some modifications that can be used as starting point.**

#### **4. Permit Issuance and Data Management**

*Repository for guidance* - Mike Ahern has indicated that he will be posting all the permit call notes to an unpublished web site similar to the way the P & E minutes are posted. There is a plan for an agency wide intranet site that this will eventually go on, but at this time, this is the interim method that we will be following as a repository for guidance generated at these meetings and the permit calls and other internal guidance.

**Action Item - All agency staff should review permit call notes as well as P & E minutes and comment where appropriate prior to information being posted on the internal web page.**

*Other PDIM issues* - TV renewal guidance for industry will be posted on the web page and referenced in the STARShip newsletter. Elisa Thomas will be faxing a list of the fee population. Please respond as requested. Reminder letters for fee's and compliance certification

will be sent by CO. The Office of the inspector general audit of the Title V program results have been received. Mike will be sending out the Ohio info. Comments have been received on the general permit terms. Adjustments will be made. Agency is moving away from Word Perfect and to Word. Air will stay with Word Perfect until STARS is rebuilt. Coral 10 will be the last version used. The new PC's will be windows XP with Microsoft Office Suite.

## 5. Engineering Guide Reviews

*#3 - Bake-off ovens/incinerators - RAPCA* - Comments have been received and reviewed. Pyrolysis units with built in Afterburners will not be considered deminimis, as the temperature on the integral afterburner can be set and is considered add on control device.

**Action Item - Get guide into standard format, Jim Orlemann to get Bob Hodanbosi to sign off and replace on web.**

*#44 - Portable Plant Guidance - NEDO* - Mike Ahern has sign off approval from director. Joe Loucek (NEDO) has all final comments. Send any additional comments to Joe

**Action Item - Mike Ahern and Ed Fasko to review procedures and Joe to address comments for final version. Jim Orlemann will do final review before finalizing.**

*#2 - Issuance of PTO for SO2 sources - Toledo* - Joslyn Summers submitted the draft. Rule updates appear to be the only issue.

**Action Item - Submit comments to Joslyn by end of February.**

*#1 - PTI/PTO for non-criteria pollutants - NWDO* - Don Waltermeyer is forming a team at NWDO to work on draft changes by next meeting

**Action Item - Draft to be submitted by next meeting.**

*#4 - VOC definition of Potential to Emit - CDO* - Reviewing for rule changes of 21-07. Feds presently reviewing the new rule. Rule will be gutted and identify controlled sources.

**Action Item - CDO to make changes in respect to new 21-07 rule**

*#XXX - VE guidance - NEDO* - Tim Fischer incorporated changes by Jim Orlemann. Draft handed out. Jim suggested some additional changes proposed by Bruce Weinberg.

**Action Item - Submit comments to Tim Fischer or Ed Fasko by end of February. Tim to make changes. Number to be assigned.**

## 6. CETA update

Adam Ward indicated there will be an update of the compliance monitoring page to minimize the data entry. Becky Pohlman of RAPCA is assisting in this effort. They will be meeting this week. An E-mail from RAPCA was handed out regarding reporting elements that USEPA is looking at. CETA group is to provide a response to the issues in the E-mail.

## 7. Stack Testing

*Noon start policy* -Bob Hodanbosi is to sign off on the Noon start policy to make it statewide.

**Action Item - Bob Hodanbosi is to sign off on the Noon start policy to make it statewide.**

*50% witness requirement* - Concern was raised that the reduction in witness requirement was due to financial considerations and it would hamper compliance efforts. Jim indicated that the feeling was it was more of a resource issue, as Title V's require additional testing. This is not a reduction so much as a flexibility issue. All the DO/LAA's indicated they will try to hit all the tests that they feel they should get.

**Action Item - Any comments on the policy should be sent to Bob Hodanbosi**

## **8. Landfill Operating Scenarios**

See NSR issues

## **9. Visible Emission Guidance**

*VE Guidance* - See Engineering Guide reviews

*CEM issues* - Concerns about statewide policies on CEMs

**Action Item - Fasko to get with Todd Brown on this issue.**

-----**Next meeting is on March 8 at 9:30 in Central Office**-----

## **Attachment of USEPA Memo re: MACT**

March 23, 2000

### **MEMORANDUM**

**SUBJECT:** Applicability of the May 16, 1995 Memorandum "Potential to Emit for MACT Standards – Guidance on Timing Issues" for Subpart T Sources Who Become Non-major after the Compliance Date of the Standard

**FROM:** William T. Harnett, Acting Director /s/s

Information Transfer and Program Integration Division, OAQPS (MD-12)

**TO:** John Courcier, Acting

Air Permit Program Manager, Region I

This memorandum is in reply to your June 14, 1999 inquiry in which you asked if a source which was a major source under section 112 as of the compliance date for an applicable MACT standard, could subsequently become a non-major source of Hazardous Air Pollutants (HAP) emissions and defer title V permitting. Your inquiry presented two different situations - in one situation the facility took Potential to Emit (PTE) limits after the compliance date of the standard and in the other situation, the facility replaced all of its equipment subject to a relevant standard after the compliance date. We've identified the situations you described and our position on each of them below.

### **Question one:**

You indicated that a facility operating an existing halogenated solvent cleaning machine was a major source of HAP and subject to 40 CFR part 63, subpart T, as of the "first compliance date" for that standard, but subsequently took facility-wide PTE limits to become a non-major

(i.e., area) source. Pursuant to 40 CFR 63.468(j), permitting authorities have the option of deferring affected non-major halogenated solvent sources from title V permitting requirements. Does the title V permitting authority have the option of deferring title V permitting for this affected subpart T source?

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<sup>1</sup> Some facilities may be eligible to limit PTE based on EPA's Transition Policy. For further information, see EPA's December 20, 1999 memo titled "Third Extension of January 25, 1995 Potential to Emit Transition Policy."

**Position:**

An existing major source subject to subpart T that takes limitations on its PTE after the first compliance date cannot be deferred from title V permitting. In that the facility's change in PTE did not occur until after the "first compliance date" of subpart T, the halogenated solvent cleaning machine continues to be considered a major source for the purposes of subpart T and must obtain a title V permit.

Timing for obtaining potential to emit restrictions and title V applicability

The EPA's May 16, 1995 memorandum, "Potential to Emit for MACT Standards -- Guidance on Timing Issues," states that an existing facility may switch to area source status at any

time until the "first compliance date" of that standard. In order to be considered an area source under a section 112 standard, a major source must take limitations on its PTE by this date, otherwise, the source is required to comply permanently with that standard to ensure that maximum achievable reductions in toxic emissions are achieved and maintained.

By this we mean that major sources subject to a MACT standard must change to area source status prior to the "first compliance date" of that standard in order to avoid the requirements for major sources under that standard, including the necessity for a title V permit. If a facility does not take appropriate emission limits by this deadline, then the facility is classified as

a major source for the purposes of that standard since section 501(2) provides that any source that is major under section 112 will also be major under title V. Had the facility taken appropriate action to limit its PTE prior to the "first compliance date" of subpart T, it may have been able to classify its subpart T affected source as an area source and defer title V permitting.<sup>1</sup>

Applicability of multiple standards to a single facility

As a point of clarification, for facilities subject to multiple MACT standards, the May 16, 1995 memorandum also explains that a facility that is subject to the major source requirements of one section 112 standard is not necessarily subject as a major source for all future section 112 standards - a facility may take potential to emit limits to become an area source before the "first compliance date" of a future standard.

For example, if the facility you described above wanted to ensure that it would not be subject to the major source requirements of the Miscellaneous Metal Parts standard (a future MACT standard), the facility could take PTE limits to become an area source before the "first compliance date" of the Miscellaneous Metal Parts standard. In this case, the facility would continue to be classified as a major source for the purposes of subpart T and title V, but would not be subject to the major source requirements under the Miscellaneous Metal Parts MACT

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<sup>2</sup> Under 40 CFR §§ 70.3(c) and 71.3(c), permits for major sources must include all applicable requirements for all relevant emission units at a facility and area sources must include all

applicable requirements for emission units that cause the facility to be subject to part 70 or part 71.

<sup>3</sup> EPA's May 16, 1995 memorandum, "Potential to Emit for MACT Standards -- Guidance on Timing Issues," states that a new source that is major at the time of promulgation or startup, whichever is later, will remain major for purposes of that standard. In this case, the new affected source was non-major upon startup of the new solvent cleaning machine. The facility used section 63.465(e) of Subpart T to determine its potential to emit for each new individual solvent cleaning machine and then determined that its facility-wide potential to emit hazardous air pollutants was below the major source threshold (as defined in Section 63.2 of the General Provisions) upon startup of the new machines.

standard. Rather, area source requirements, if any, under this standard would apply to the facility.<sup>2</sup>

**Question two:**

You indicated that an existing facility operating a halogenated solvent cleaning machine was a major source for the purposes of subpart T as of the first compliance date for that standard, but recently removed the solvent cleaning machine subject to subpart T and replaced it with a new

enclosed-technology that has a physical maximum potential to emit that is less than the major source threshold. The emissions from the solvent cleaning machine are the only hazardous air pollutant emissions at the facility and the facility is minor for criteria pollutants. Can the facility be deferred from title V permitting?

**Position:**

The facility in this example can be deferred from title V permitting since the affected source subject to subpart T is a new source located at a non-major facility - the new solvent cleaning machine is a new non-major source for the purposes of subpart T.

Under 40 CFR 63.460(a) of subpart T, an affected source is identified as each individual solvent cleaning machine. Section 63.461 further describes an existing source as "any solvent cleaning machine the construction or reconstruction of which was commenced on or before November 29, 1993" and a new source as "any solvent cleaning machine the construction or reconstruction of which is commenced after November 29, 1993." Because this facility replaced all its solvent cleaning machines subject to subpart T (e.g., permanent shutdown) and constructed new solvent cleaning machines after November 29, 1993, the new machine is classified as a new source for the purposes of subpart T.

The new solvent cleaning machine in this example was also not located at a major source upon startup of the machine.<sup>3</sup> Therefore, the facility can be classified as a non-major source for the purposes of subpart T and can be deferred from title V permitting if title V is not otherwise triggered. However, had the new, non-major source been located at a facility that remained major after the solvent cleaning machine was replaced, then title V permitting could not be deferred in accordance with EPA's May 16, 1995 memorandum, "Potential to Emit for MACT Standards -- Guidance on Timing Issues."

Please keep in mind that the position set forth in this memorandum is intended solely as guidance, does not represent final Agency action, and cannot be relied upon to create any rights enforceable by any party. Should you have other questions concerning this position, please contact Ingrid Ward of my staff at (919) 541-0300.

cc:

Air Program Managers, Regions I - X

Title V contact, Regions I - X

Title III contacts, Regions I - X

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