

Permitting & Enforcement Committee Meeting – January 13, 2009

Lazarus Government Center
Ohio EPA
7th Floor DAPC conference room

Attendees: Co-Chairs - Jim Orlemann (CO), Jim Braun (Cleveland)
Minutes - Ed Fasko (NEDO)
- Erica Engel-Ishida, Cheryl Suttman, (CO), Kelly Toth, Todd Scarborough, (CDO), Jeff Canan, Chris Clinefelter, (RAPCA), Sarah Harter, (SEDO), Peter Park, (Toledo), Anne Chamberlin, Louis Boerger, (Portsmouth), Mark Budge, (NWDO), Frank Markunas (Akron), Rick Carleski, (CO/OCAPP)

1. **Enforcement issues** - Jim Orlemann

Jim handed out his graphs regarding enforcement. Cases resolved this year reached 99; 1 short of the goal of 100. F&O's completed was 55 exceeding our goal of 50; This is the first year that we are under the new definition of old cases; 18 months rather than 21. Of the 44 old cases, only 2 were not resolved by the end of the year. Goal was "0" by end of the year. For 2009, we have 37 old cases to be resolved. Jim was not happy about the compliance percentage for HPV facilities. It stands at 86.7 and we are aiming for 93%. Jim is asking for EAR submittals to address the non-compliance issues. Bob Hodanbosi is meeting with the staff regarding the goals of the division. At this time, it looks like there will be no enforcement goals from the Director's office. Other goals are to be determined. Jim pointed out that we ended the year with 80 cases on the EC docket and 97 cases at the AG's office. Although the Shelly trial is over, the lawyers for both sides are preparing documents for the judge in order that a decision by the judge will be made. Mike Hopkins is in a meeting on the Shelly matter today.

There was no update on CETA.

RAPCA had submitted a question regarding the definition of "agricultural waste". Structural materials are in the definition, but not buildings. Determination was as laid out in agenda e-mail response:

Subject: Re: Fwd: Burning barn siding/wood

Jeff, as explained below, Bryan does not believe it would be lawful to consider a dismantled building to be agricultural waste that could be burned for disposal. In other words, burning a dismantled building would be prohibited.

>>> Bryan Zima 12/22/2008 3:38 PM >>>

Jim, I think Tom Kalman's position is correct.

As you know, "agricultural waste" means, in part, "any matter generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape waste that are generated in agricultural activities. . . ."

Words in definitions are supposed to be given their common meaning. The phrases, "generated by crop, horticultural, or livestock production practices" and "generated in agricultural activities" would not normally be read, in my opinion, to include building demolition. As was suggested, there are types of "structural material"

that may fit the bill of being generated by agricultural activities and practices. They could include structures on which vines or plants could grow, freeze prevention tarps and cloth, etc. In contrast, building demolition is not what one would typically think of as being generated in an "agricultural practice" or ongoing "agricultural activity." Demolition seemingly is something that is done in the temporary cessation of normal practice or outside normal practice or activity.

The other items listed in the definition as examples can also suggest what was intended. They--flooding debris, bags and cartons--all refer to more regularly or periodically-generated wastes. This contrasts with the extraordinary, or once-in-a-generation act of demolishing a building.

Most conclusive, however, is the express exclusion for buildings. That exclusion creates two different groups: "Buildings" on one hand, and "structural material generated in agricultural practice or activity" on the other. I see nothing in the definition that would suggest an intent by the rule drafters that "buildings" would be converted into "structural material" at some point in the demolition process. That could convert just about every building into structural material (unless it was burned with no demolition), and would literally eliminate the exemption for buildings. I read the rule to indicate that once a building, always a building, whether demolished or not. The burning of a demolished building would still be the burning of a building, and so excluded from the definition of agricultural waste

Frank Markunas of Akron shared his court experience on a recent case regarding a crusher. Although some time had passed since the incident, the case had finally gone forward and Frank's testimony was key to the case..The judge was new to environmental law, and the AGO handling the case was also new. Frank talked about good documentation and adherence to following procedures, especially when conducting fugitive dust and method 9 readings. He also spoke of how other settlements come to light when the case was presented. This discussion led into the concern for the efficiency of unilateral orders and the possibility of expanding this program for other categories of violations, such as gasoline stations, fugitive dust violations or work practice violations. Jim had stated that a good percentage of unilateral orders have resulted in failure to pay fines. These are turned over to collections, but no one seems to know of the results after that. The question appeared to be "is it better to collect a low percentage of fines under unilateral orders which are easily developed, or pursue a smaller number of cases under traditional findings and orders?" Jim committed to discuss the possibility with Bob Hodanbosi.

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

Mike was not at the meeting... He was involved in a meeting regarding Shelly.

3 **STARS2 and permit issuance update** – Erica Engel-Ishida

Erica handed out a list of the permits issued in December as well as a list of the permits issued for 2008. This report does not distinguish between initial installations and Ch. 31 mods and operating permits for non-Title V permits. There was some concern about the PBR number as it seemed rather high. Erica also told us the reminder letters for emission fee reports would be going out soon. Compliance certification letters should be going out in February. Although we encourage all facilities to use the electronic submittal for reports, non-HPF reports can be submitted hard copy and entered into the system by DO/LAA staff. To follow on that thought, if a company has a requirement under Title V and is becoming non-Title V, fee reports and compliance certification must be submitted electronically, quarterly reports can be submitted hard copy. Erica talked about the Web-ex training that was held on 1/07. She has gotten a lot of positive feedback. The next Web-ex training for staff will be on 1/21. Extra time will be added on to address issues that normally would be discussed in the STARS2 procedural calls that Adam Ward started. The first hour of the call will be the training,

and the second hour will be discussion of the mechanics of the permits, and the items that Adam was addressing in the STARS call that he had been holding. There was some discussion as to tying the permit call into this, or at least looking at it and the overlap that might apply. Erica also wanted all to know the PER function was up and working as of Friday, and the reminder letters for PER's due this quarter would be sent out soon. Erica anticipates there will be a lot more this time. The time covering the PER will be from the issuance of the PTIO till the end of the year.

The permit keyword search capability will be pursued, although it will be costly and come at the expense of other suggested enhancements to the STARS2 program. You will be able to search all the permits under a keyword as this enhancement will benefit all. At this time we have spent \$4.5 million on STARS2.

After the break, Erica indicated there will be 298 PER reminder letters going out for this quarter. The first Webex industry training for Air services will be conducted today. If you get a call as to future trainings for industry, direct them to the Air Services Website. Because one of the functions of STARS2 is the grouping of similar EU's for emissions reporting purposes, engineering guide #72 has been rewritten and forwarded to Jim Orlemann for his review. The Webex training today will be archived, and all the questions that are asked, be they directly or in the chat box, will be addressed and the answers documented.

Terms and Conditions -

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

Most of our terms are written for Chapters 17, 21, and 15.

Cheryl has finished the updates for Chapters 17 and 21; but almost all of the terms have reporting requirements that need to be changed to include the new PER for PTIOs and FEPTIOs.

The reporting terms have been modified in the: Visible emission, GDF, Total Enclosure, synthetic minor (V, W, X, and Y terms), and parameter monitoring J terms; the CEM J terms are quarterly reporting and did not need modification. The generic PER term can be used for all the rest or can be modified (until corrected) for all the rest.

However, it was suggested that Cheryl read the PTIO Implementation Guidance for the PER requirements; and there she would find a list of things to be reported in the PER, suggesting that the generic file can be used for everything (and maybe delete the reporting term in all the rest).

Not from meeting: However, after doing this Cheryl found Appendix A to this document (referenced reporting list?) is entitled/for "Examples of additional reporting requirements not included in the PER" for more-frequent-than-annual reporting requirements (where we are sort of telling them not to include a lot of exceedances in the PER). It was not a list of things that might be included IN a PER, but excluded. Cheryl thinks, however, this document is for internal use only and has asked Kelly Toth and Sarah Harter if there is a reporting sample list for facilities in STARS2 for their PERs (no response yet).

The parameter monitoring terms were written to compliment the generic PER term (file name "RPT", the first file linked in the Misc. section of the Library), and the parameter terms

reference it. Cheryl thinks she has been updating all the reporting terms, for Chapter 15 PER change, using similar language to prevent the duplication of PER terms, for example as in the parameter reporting terms:

"The permittee shall identify in the annual permit evaluation report the following information concerning the operations of the ESP during the 12-month reporting period for this/these emissions unit(s): "

Getting with Jim O to see if we can keep the parameter, J, PER reporting terms, and maybe others.

Cheryl has finished the NSPS tables for JJJJ, spark ignition internal combustion engines (ICE) and IIII, compression ignition ICE. The first page of the Excel document shows the different scenarios and applicable NSPS subparagraphs, by permit section; the 2nd page shows a short summary of each sub-paragraph, referenced in the first, in numerical order. Cheryl excluded the requirements for the manufacturer.

Cheryl has (long ago) completed a summary of the emission limits, by fuel (excluding wood and special fuels), for NSPSs D, Da, Db, and Dc for steam generators. She would like to complete this "summary" in an Excel document and for the entire rules.

Not sure we will follow this path in the future; rather we will only reference the full rule, e.g. 60 Subpart Dc, in the permit emission limit/applicable rule table.

The used oil terms are being reviewed by Jim O. We have added the new (from April) DHWM guidance on the rebuttable presumption for total halogens, for 1000 ppm or greater (we passed out this guidance and draft term for off-spec used oil).

Cheryl has drafted new terms for 21-09(Y) for flexographic and rotogravure printing, being reviewed by Bill Juris; however, I still need to add the record keeping requirements (from the "B" terms and not in 21-09 (Y)) to make them complete.

The visible emission terms have been separated into different files (instead of being crammed into two files) and according to Bruce Weinberg's old VE scenarios (included in TREE and numbered to match the appropriate set of terms); and so permit writers don't have to scroll through a mess of VE terms to try to determine which are appropriate.

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 – Finalized and issued on 12/24. Copy handed out.

#16 - Conditions requiring additional testing - NWDO – Comments received by NWDO, in signoff

#18 - SO2 compliance determination for boilers – No update.

#20 - VE limits, determination for stack sources - Akron - No progress

#23 - Significant figures for TSP emission limitations - SEDO – No Progress.

#24 - Application of Fugitive Dust Requirements to Affected Facilities - No Progress.

#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 – Finalized and issued on 12/29.
- #28 - Methods for Ascertaining the Uncontrolled Mass Rate of Emission for Figure II – CDO - draft handed out, comments to Mike Rigglesman by November 13, 2008. In Signoff
- #29 - Applicability of the PTI Rules to Increases in Capacity of a Derated Boiler -CDO – No Progress
- #34 - Conditions for Issuance of PTI/PTO for an Inactive Source – RAPCA – Starting to review.
- #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.
- #72 – Grouping of Emissions Units for fee purposes – Erica submitted modifications to Jim Orlemann
- #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
- #XX – 17-08 scenarios – Comments to Orlemann by 1/31. Flow Diagrams courtesy of Diane Orlemann.
- #XX – 21-07 sunset language – Comments to Jim Braun by 1/31

Cleveland is working on comments for the general permit for crematories. Jim Braun will E-mail final version. Please send comments to Jim by 2/15. . 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.

Jim Orlemann handed out the Hazardous Waste Division used oil policy so that we would be aware of what other divisions are following when facilities use used oil. Also handed out were the used oil terms and conditions.

A discussion ensued around SEDO's e-mail regarding the enforcement actions around non-road engines. A list of 10 questions was handed out and Jim Orlemann indicated that Marc Glasgow is looking at a rule change in order to clarify the issue. Jim's belief is that if the generators are considered mobile, they are exempt and are not included in inventory for that reason. Although permits have been issued including these generators, there seems to be some confusion as to the definition of portable vs. mobile. Our 31-01 rule addresses this and it is based on Part 89.

Action Item – This should be addressed soon, to not do so will open up all kinds of inconsistency in the statewide application of how each office has been looking at this...

Outdoor wood fired boilers – The rule has been revised and is presently at the Director's office. The next step would be to circulate it to interested parties.

**Last entry of P & E notes is November '07----- Action item--- Update page---
-----Next meeting is Tuesday March 10**

Next meeting is Tuesday, March 10, 2009

