

Permitting & Enforcement Committee Meeting
November 8, 2005
Lazarus Government Center
Ohio EPA
6th Floor conference room

Attendees: Co-Chairs - Jim Orlemann (CO), Jim Braun (Cleveland)
Minutes - Ed Fasko (NEDO)
- Mike Ahern, Cheryl Suttman, Mike Hopkins, Jenny Nichols, Mike Ahern, Andrew Hall, (CO), Bud Keim, Ed Pabin,(Canton), Mike Riggleman, Adam Ward,(CDO), Paul Tedtman, (HAMCO), Jeff Canan, Chris Clinefelter, (RAPCA), Joslyn Summers, (Toledo), Don Waltermeyer (NWDO), Sara Harter, Zach Hamlin, (SEDO), Anne Chamberlin, (Portsmouth), Pam Korenewych, (NEDO)

1 - Enforcement update

Enforcement improvements - No update on enforcement improvements.

Enforcement issues - Jim Orlemann handed out a copy of the status of the old cases to be resolved during 2005. The director's goal is to resolve any old case by the end of the year. An old case is that which will be 21 months from the submission of an EAR. There are 28 left to be resolved by the end of the year. Jim also handed out the table of compliance status. Compliance for emission violations only for HPF's is 92.7 % and for all violations is 88%. He then handed out the Director's goals. We will make the goal to issue 45 F&O's easily. They are working hard at trying to resolve the old cases; DAPC has twice as many enforcement cases as any other division. We will not meet the resolution of 100 cases by the end of the year. The 95% compliance status is close. (92.7 as stated above). Penalties may meet one million dollars again this year. Jim then handed out an E-mail on the multi-media inspections that USEPA is planning in Ohio. DAPC did not provide any specific list, but the USEPA will probably inspect 10-15 facilities, and likely will include those on the list that the agency (includes other divisions) provided. A question was raised as to how to handle violations noted on joint inspections with USEPA. USEPA does not send a letter out unless a violation is noted, and generally wants to take the lead on these inspections. We normally send out letters after inspections as a follow-up even if there is no violation. One option is not to go along on the inspection. Jim indicated the USEPA should do it all, but we could be a party to a violation, especially if we are present. Although some districts may not count these as inspections, both Mike Hopkins and Jim Orlemann feel it should count as an inspection and violations should be addressed in a reasonable time frame. It was suggested these joint inspections should be addressed in grant language. If the Feds do not want us to take action, and their action seems to take an extended amount of time, the issue should be brought up in the enforcement calls with USEPA.

A discussion about unilateral orders was brought up and the development of template orders for common violations such as GDF's, drycleaners and administrative violations. Jim Orlemann indicated this is exactly how the new open burning laws are written. The penalty program is not written in the other rules. As of present, orders can be written without penalties the way the rules are presently written. CO sees no point in pursuing unilateral orders without

penalties. There are appeal rights to unilateral orders. CO is not sure how this will work out if violators don't pay up or appeal. It was made clear that Toledo, HAMCO and RAPCA should continue to use their local orders. Development of template orders or individual rule changes regarding enforcement is being held off on this till the new open burning rules are implemented.

2 -Title V Permits and issuance update

Permit Review - Mike Hopkins is cross-training NSR and Title V/PTO people. Permits are being exchanged between the two groups. Mike is also sending out a memo regarding reassignments, especially in the light of Rod Windle's paternity leave. Mike expects PTO's to be moved on; suggested sending them down in batches to the reviewer so an even cycle of renewals can be established. The goal is to have them all done in 5 years. If the permits have been sitting for a while, the DO/LAA should conduct a review, because, if a PTI mod is needed, the PTO that the reviewer developed, will be returned. Mike Ahern commented on the tracking of workload; he is looking at efficiency by quering PTI 2K and STARS. However, the programming people are tied up with CETA .

Title V Issuance - Mike Ahern indicated the Title V renewals cannot be wrapped in a modification. A complete application is needed for a renewal. The CAM plans that are required in a renewal should be referenced in the application as an attachment. The Feds and CO are streamlining the significant mod process to enable quicker issuance of mods. Loretta Crum will be back at end of November, and issuance should pick up again. When Title V permits are issued, a reference to the web page will be in the E-mail; the document will no longer be electronically attached. PTI's and FAR's will continue to be sent as an electronic attachment by E-mail when they are issued. The documents posted on the web will be in both PDF and Wordperfect format.

Title V deviation reporting format instructions - Mike Ahern handed out the final version of this document. It is only a tool and is optional. It will be posted on the web for companies to use, at the Title V info and also at what's new on the DAPC web page. Example deviation reports will be accepted by Ahern if the company is willing to allow the report to be used. Presently, the postings on the web are in Wordperfect, but will be posted in Word and Excell. A question was raised as to if this format could be used for non-Title V facilities; Mike said possibly, but this is only an optional suggested format. Other deviant issues; for no deviations, the listing of the E.U.'s is the minimum that is accepted on the report. For non-Title V, deviation reports are not required to be signed. Insignificant EU's in Title V are to be in compliance - Company certifies this in the annual compliance certification, because these units are now listed on the federal side.

3 - New Source Review -

P&E minutes

11/08/05

Page 3 of 6

Emission Offsets - Ohio has no trading program. Determination of offset value has been an issue. Use SIP allowable or past actual depending on the situation. FAT is in the SIP, generally BAT is more stringent than the SIP, and can be used as SIP allowable.

Where appropriate, facilities can take advantage of the NSR reforms which allows for a “past actual” to “future projected actual” evaluation to determine if NSR applies. The “past actual” to “future projected actual” evaluation can only be used for existing emissions units. The potential to emit should be used for any new emissions unit that has not been installed to determine the amount of emissions increase for the project. The “future projected actual” will not be established as a limit in the permit. Instead, all limits will be established at potential to emit in the permit. The “future projected actual” will need to be documented in the technical write up. The company must stay below the “future projected actual” amount for at least five years for existing units being modified. If projected actual is violated within five years, the injunctive relief policy has to kick in. A question was raised as to the necessity of sunset language in the permit. The feeling was that there would be no need for this, as annual reporting would be required and most often would not sunset.

Legislation to remove BAT and air toxics, and MRR - This initiative sponsored by the manufacturers association, was in the budget bill, but will be presented as separate legislation. Should it pass, only the rule limits would be left. The director’s office offered to meet with the manufacturers’ association and legislature to address the issue. Air toxics info was collected from processed PTI’s in recent years to determine its impact. The survey was of 6000 EU’s. 73% had no toxics review. 99% of EU’s passed modeling with no changes to source (physical or operational change) No permits were denied for air toxics. Of those that did not pass, only 7% actually modified the source or the operation. BAT is needed to get reductions for the SIP. BACT, MACT and LEAR are what is left if BAT is removed from the table. If this legislation is proposed, hearings will be held. If passed, SIP will have to be revised to have an alternative to allow for reduction of emissions. Air Toxics is not a rule, BAT is. Both are defensible as part of our mission. The Toxic studies, special monitoring, risk assessment are not in our rules. This legislation would prevent us from performing these tasks, as operational restrictions, monitoring, reporting and recordkeeping would no longer be part of the permit. Gap filling **IS** part of our rules OAC rule 3745-77-07(A)(3)(ii), meaning that if the manufacturers group is successful in the legislative effort, we would violate the Title V rules, feds take the program and Ohio Industry would be regulated from Washington D.C.

BAT analysis guide - This is on hold for a while, as Jennifer Nichols is involved with other projects.

P&E minutes

11/08/05

Page 4 of 6

Potential natural gas curtailment - If fuel switching is not listed in the permit, the exemption for life, health, etc. can be looked at on a case by case basis. F & O's would be written allowing the facility to operate with other fuels; probably resulting in some sort of penalty. The facility should submit a modification request to allow for alternate fuels; but be careful that PSD will not be tripped.

Open positions - Hiring seems to be moving forward, as when a new administration takes over, a freeze will probably take place. A modeler has been hired to assist Bill Spires; Bruce Weinberg's replacement should be hired soon.

4 - Permit Issuance and Data Management - addressed after CETA issues.

5 - Engineering Guide Revisions

#1 - PTI/PTO for non-criteria pollutants - NWDO - no comments, final to Jim Orlemann

#73 - VE guidance - Issued on 4/27/05 - *on web now...*

#5 - VOC Exemption for fixed roof tanks. - Akron - No update at this time

#6 - PTI for coal to oil conversion - Cleveland - Comments received. Being modified and will be redistributed.

#7 - Inclusion of Wt of water in PWR - NWDO - Comments under review

#8 - Compliance Tests at Bulk Gasoline Terminals - RAPCA - RAPCA is to clarify issues with Jim Orlemann. May be done.

#9 - PTI/PTO for Grain Dryers - Progress

#10 - Applicable Rules for Stone Crushing Plants - Toledo DES - Draft handed out, comments due by next P& E meeting

#44 - Portable Plant - NEDO - Latest version with flow charts E-mailed last week. Jim to do final review. Additional comments to NEDO by end of month.

53 Open Burning Standards - Work on this engineering guide will be on hold until the rule is finalized.

6 - Library of terms and conditions. - The request form and the instructions are available electronically at <http://www.epa.state.oh.us/dapc/terms/termsintro.html>

Cheryl Suttman is working on the terms for landfills and the H2S issue. Presently the trial permit with these terms is under appeal. Cheryl received some HAP terms from Bob Goulish which are presently under review. The Industrial Boiler terms (part 63 DDDDD) were discussed along with the requirement for MACT terms to be exactly laid out in the terms and conditions library. MACT terms in a permit; the preferred method is still that the terms are in the permit, not referenced or attached, though in some cases, that is not possible. Not all MACT terms need to be in the library; possible a reference to an approved permit would suffice.

P&E minutes

11/08/05

Page 5 of 6

CETA -Web-based CETA - DO/LAA's have been trained on new CETA. It has not been launched yet, do to a problem with pulling in data from visual fox-pro. The PBR system is still working, so that can be used even though the rest of CETA may not be.

- Permit Issuance and Data Management

Permit by Rule (PBR) -. The process for revoking PTI's for PBR will be addressed in a guidance that is under development. The director's authority to revoke PTI's for PBR's should be given to PIDM in the next month. Enforcement will be used to address fines in PBR as there is no fee structure for PBR's and thereby no way of doubling the fee. Mike Ahern said that you cannot double the blue card fee. Further, the initial in the PBR form relates to initial permitting requirement, not initial PBR.

Electronic PBR Notification - Who signs off and where does the application go with multiple sources in various DO/LAA's? The units should be divided per office, so each gets an original signature, for the group of units in that office, not for each form. Alltel PBR's were the only ones this way so far. Originals do not have to go to Central Office. If they do come to Central Office, they will be routed to the appropriate DO/LAA's They will not be logged or tracked.

Other issues - Theresa Mills of the Buckeye Environmental Network is looking for information on the portable asphalt plants. There is a concern about communication between offices and the publication of the notice in the proper newspaper. Home office nomenclature is an issue with the automatic public notice issuance. Ms. Mills may be contacting local offices.

8. Stack Testing

No issues at this time.

9. Landfill Operating Scenarios

Attached at the end of this document is the Draft Guidance for the Requirements and Approval of Higher Operating Values (HOVs) Demonstrations under the Landfill NSPS, Subpart WWW.. Cheryl handed out an approval landfill letter and template for local approval.

10. - Other Issues -

OLAPCOA combined meeting - Meeting will be held on 12/05 and P & E will send the following representatives: Mike Ahern, Jim Braun, Bud Keim, Ed Fasko, Sarah Harter.

- Parking lot items -

1 - Multiple emissions units, common control; first draft of rules are being reviewed. There was discussion that the language should be crafted to fit in the rules for PTIO.

The monthly permit call notes will be posted on with the P & E notes at <http://dapcnet/>

Reminder - 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.

- - - - -Next meeting is January 10 at 9:30 in Central Office - - - - -

-----HAPPY HOLIDAYS TO ALL !!!-----

Draft Guidance for the Requirements and Approval of Higher Operating Values (HOVs) Demonstrations under the Landfill NSPS, Subpart WWW

A.

This guidance document was developed using the Landfill NSPS regulations, along with additional U.S. EPA guidance letters and documents available on the Internet. This guidance addresses requests for exemptions from the following requirements:

1.

Per 40 CFR 60.753(c), each owner or operator of a MSW landfill using a gas collection and control system, to comply with the provisions of 40 CFR 60.752(b)(2)(ii), shall operate each interior wellhead in the collection system with a landfill gas temperature less than 55 ° C and with either a nitrogen level less than 20% or an oxygen level less than 5%, unless it can be demonstrated that the elevated parameter does not cause fires or inhibit anaerobic decomposition.

2.

Per 40 CFR 60.755(a), the owner or operator shall take monthly measurements of the gauge pressure in the gas collection header and monitor each well for temperature and nitrogen or oxygen. If any one of these parameters are exceeded (with the option to exclude either nitrogen or oxygen, but

not both), action shall be initiated to correct the exceedance within 5 days; and if correction of the exceedance cannot be achieved within 15 days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial non-compliant measurement. An alternative timeline for correcting the exceedance may be submitted to the director for approval.

3.

Per 40 CFR 60.753(d) and 60.755(c), the owner or operator shall operate the collection system so that the methane concentration is less than 500 ppm above background at the surface of the landfill, through surface testing around the perimeter and at 30 meter intervals traversing the landfill. Areas with steep slopes or other dangerous areas may be excluded from the surface testing. Any reading of 500 ppm or more above background shall be recorded as a monitored exceedance; but the exceedance is not a violation of 40 CFR 60.753(d) if the location is recorded and cover maintenance or vacuum adjustments correct the reading to less than 500 ppm above background within 10 days of the first non-compliant reading, or within a second 10-day reading if still in exceedance following the second non-compliant reading. If the re-monitoring shows a third exceedance for the same location within any quarterly period, a new well or collection device shall be installed within 120 days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes, or control device, and a corresponding timeline for installation may be submitted to the director for approval.

B.

Guidance on exemption requests from the requirements of NSPS Subpart WWW:

1.

*Each monitoring well must be evaluated individually, i.e., each well must be named individually when requesting any deviation of the NSPS requirements, with the appropriate HOV "demonstration" applicable to each well named. Since the regulation does not require the director's approval of HOV demonstrations for higher temperatures, oxygen or nitrogen levels, in 40 CFR 60.753(c), the district or local air agency can approve these requests **IF** the appropriate testing is completed and the results demonstrate that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.*

a.

There are no federal guidelines as to what compounds need to be measured to demonstrate "no fire" or "no detriment to anaerobic conditions", however, we have determined that in order to make a

decision on an HOV exemption from the temperature, nitrogen, or oxygen level requirements in 40 CFR 60.753(c), we will need the following testing information:

- (1) wellhead air sampling is completed;*
- (2) it is analyzed for nitrogen, oxygen, methane, carbon dioxide, and carbon monoxide;*
- (3) a temperature measurement is taken the same day of sampling;*
- (4) there is no physical evidence of fire, such as charred materials on the inside of pipes or on the disassembled flame arrestor mesh screen; and*
- (5) the results demonstrate that the elevated temperature did not cause fires or significantly inhibit anaerobic decomposition.*

b.

Prior to the date of this guidance, we have not approved any HOV request for nitrogen or oxygen, as the appropriate data has not yet been requested or submitted. We have approved one request for a HOV for temperature, following the receipt of the testing results listed above. If assistance is needed in making a determination, contact Cheryl Suttman in Central Office (614-644-3617) or you may request assistance in the determination from our U.S. EPA contact for this NSPS, Shelia Desai at Region V (phone:312-353-4150).

c.

Based on a literature search conducted to date, the following conditions may be indications of fire/no fire or anaerobic/aerobic conditions:

- (1) fire: CO >1000 ppm; no methane; O₂ at ~15 to 20%; temperature 167 ° F or higher*
- (2) no fire: CO <100 ppm; methane ~ 20 to 45% or higher; no or low O₂; temperature ~131 ° F or less*
- (3) aerobic conditions: 140 to 160 ° F*
- (4) anaerobic conditions: 70 to 131 ° F*

Per the March 2, 2004 letter from George T. Czerniak (Chief of Air Enforcement and Compliance Assurance, Region V) to "Earth Tech", regarding an extension of the 15-day correction period (see "A.2" above) for positive pressure and exceedance of the oxygen level for wells located at Onyx-Valley View Landfill in Illinois, where the parameters were brought back into compliance 16 and 47 days following the first non-compliant readings:

"It is U.S. EPA's position that alternative timelines must be requested prior to the 15-day deadline for exceedance correction, if expansion of the gas collection system is not an option. In U.S. EPA's view, requesting alternative timelines after the projects are completed is unacceptable."

Therefore, the owner or operator can request an alternative timeline for correcting the exceedance, if the request is submitted before the 15-day or 120-day deadline, per the regulation. Since the director's approval is required for these alternative timelines, a director's exemption letter will be required.

3.

Per 40 CFR 60.759(a)(3)(ii), non-producing wells (nonproductive area) may be decommissioned (excluded from control) if all of the excluded area can be shown to contribute less than 1% of the total amount of nonmethane organic compounds (NMOC) emissions from the landfill. The amount, location, and age of the material shall be documented and provided to the director upon request. A separate NMOC emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the NMOC emissions estimate for the entire landfill. This NMOC estimate for the requested exempted areas must be calculated using the equation in the regulation [40 CFR 60.759(a)(3)(ii)].

In many requests submitted to the U.S. EPA, it was determined that agency approval is not required prior to permanently decommissioning collection wells, as long as the requirements of the rules are met. However, these non-producing wells can be "capped" but cannot be removed because removal would be considered a "design change" requiring approval by the director. Non-producing wells might include perimeter wells not in waste, older wells where methane production is very low, leachate recirculation lines or horizontal wells not part of the collection system, or wells that have been installed for a minimum of 15 years. All non-producing wells must meet the 1% NMOC estimate requirement. It appears that as long as the 1% calculation is documented, agency approval is not required. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass

of the decommissioned section if the nature, location, age, and amount of the nondegradable waste is documented.

4.

Ohio EPA cannot approve any instances of positive pressure and all collection systems must be operated with negative pressure at each well-head except as provided by the regulation. The regulation [40 CFR 60.753(b)] provides the only circumstances for the exemption and no other approvals are appropriate. This is documented in one of several letters, dated March 30, 2004 from George T. Czerniak (Chief of Air Enforcement and Compliance Assurance, Region V) to "Onyx-Orchard Hills Landfill" in Illinois.

5.

Per U.S. EPA's letter dated September 12, 2005 from George T. Czerniak (Chief of Air Enforcement and Compliance Assurance, Region V) to "Stony Hollow Recycling", a landfill can exclude dangerous areas from landfill gas collection and control systems, which may include: roadways, constructions areas, truck traffic areas, and slopes steeper than 3:1. However, a collection system must be installed and operated in any active area of a landfill where the initial waste has been in place for 5 years [40 CFR 60.753(a)] and surface methane monitoring must be done in all active areas where the gas collection and control system is required to be installed.

6.

Also from the same letter to Stony Hollow identified in "5"above, Mr. Czerniak stated that: "The NSPS regulations require that an open flare must have a heat sensing device at the pilot light or the flame itself to indicate the continuous presence of a flame. The flare pilot light must be lit so that the flare is ready for use as a backup control device." Stony Hollow had proposed to track the start/stop times and dates when the flare was used, because their landfill gas is piped off-site for treatment and the flare is only used as a backup. Their request was denied per the requirements of the regulation.