

## Permitting & Enforcement Committee Meeting – March 9, 2010

Lazarus Government Center  
Ohio EPA  
7<sup>th</sup> Floor DAPC conference room

**Attendees:** Co-Chairs – Jim Orlemann (CO), Jim Braun (Cleveland)  
Minutes – Jenny Avellana (CO)  
- Andrew Hall, Mike Ahern, Mike Hopkins (CO), Rick Carleski (OCAPP/CO), John McGreevey, Kelly Toth (CDO), Jenny Marsee, Chris Clinefelter (RAPCA), Sarah Harter (SEDO), Brad Faggionato (Toledo), Anne Chamberlin (Portsmouth), Tim Fischer (NEDO), Mark Budge (NWDO), Frank Markunas (Akron), Carl Safreed, (Canton), Paul Tedtman, (HAMCODOES), Craig Osborne, Terry Sanner, Madhava Rao Dasari (SWDO)

### 1. **Enforcement issues** - Jim Orlemann

Jim went over highlights of the Annual Enforcement Summary. The goal for the overall compliance rate for High Priority Facilities was set at 93%, we ended the year at 91.9%. This went up 5% since 2008. The summary didn't include goals for this year because the goals have not yet been finalized, but they will be similar to last year's goals. Jim handed out graphs for enforcement performance for calendar year 2010. There have been 13 cases resolved, 10 final F&Os issued, 37 old cases on the EC docket as of February 28. We also resolved two major public health nuisance cases in one week in February. The first was INEOS/Lanxess (joint case with USEPA). The public health issue was butadiene and acrylonitrile emissions. The second public health nuisance case resolved was SH Bell in East Liverpool. The public health issue there is manganese. There are two more public health nuisance cases involving manganese that we will be pursuing this year, one in Marion and one in Marietta.

Frank Markunas discussed revising the EAR form to remove duplicate information for streamlining enforcement action requests. He went over the redundancy in the old, or pre-September 2003, EAR form and the new, or post-September 2003, EAR summary table. He also pointed out that some of the information requested on the form cannot be filled out completely since cases unfold as you investigate, or certain information is not applicable depending on the violation. Frank recommended that field offices fill out a strong EAR form with attachments 1 and 2, and leave the other forms optional. Jim Orlemann will discuss with his staff with the goal of eliminating redundancy and streamlining the process for getting enforcement cases to Central Office. Mike Ahern mentioned that one of the projects that the IT folks are working on is to incorporate CETA into STARS2, and this might be a good time to think about whether we want an electronic EAR form to connect to information in STARS2.

### 2. **New Source Review** – Mike Hopkins

Mike provided updates on the job vacancies in central office permitting; the MACT position has been filled and Brittany Smith will start on Monday, March 15. Rod Windle's permit review position has been filled and Ben Cirker will start on Monday, March 29. They have selected a candidate for Robyn Kenney's position and that should be offered soon, and will be about four weeks or more before someone starts.

Andrew Hall provided an update on the Boiler MACT. The court ordered deadline to come up with a proposed rule to replace the vacated Boiler MACT is April 15, and a final replacement MACT needs to be in place by December 15. There were also some revisions promulgated to 112j (case by case MACT), that deal with what happens when a MACT is vacated.

Mike mentioned that there are now historic copies of NSR rules (i.e., Chapter 31) available on the website. This should help when trying to decide what rule applied at what time, should be beneficial for enforcement cases.

On January 22, 2010, 75 FR 3668 was issued, which includes VOC rules and includes proposal for OAC rule 3745-21-09(U)(2)(f) changes. This rule gives a process for facilities that want an alternative VOC limit for misc. metal parts coating.

On February 25, 2010, 75FR 8496 was issued, and in it USEPA finally approved as part of the SIP the October 2004 NSR reform rules. This could affect the new BAT guidance and which effective rule date should be cited for OAC 3745-31-05(A)(3). Mike will look into this.

Mike gave an update on the judge's order for the <10 tpy exemption. The new guidance says outlines how to cite BAT in permits. We must cite pre-SB 265 BAT and post-SB 265 BAT. Once the post-SB 265 chapter 31 rules are approved as part of the SIP, the pre-SB 265 language will no longer apply. Mike is not clear yet on renewal permits or modifications with the <10 tpy exemption and whether we need to use this double language or stick with the exemption since we are not reevaluating BAT. He should have some guidance by next week on what to do with renewals and modifications.

Last meeting Mike mentioned there was a possibility of meeting with the DO/laas about the Title V backlog. Andrew and Mike are to meet on the 15<sup>th</sup> to outline what they want to cover at the meeting with the DO/laas. They will be talking about setting goals for this year and long term goals for each year thereafter.

Kelly Toth gave an update on the PTE guidance. Adam Ward was revising based on many comments, and was to send to Mike H. today. Mike said he had received the guidance and it is now on his to do list.

Jenny Avellana gave a recap on DSIWM's Pharmaceutical Collection Event guidance and our role in providing assistance to solid waste management districts looking to organize a collection event. The guidance is available on the Answer Place (topic 2145 or do a search for pharmaceutical). The guidance points to the DO/laa contact list on the internet, for the event organizer to contact for information about facilities that would be good disposal options for the event. The list includes:

- Hazardous Waste Incinerators and Solid Waste Incinerators
- Sewage Sludge Incinerators equipped with an afterburner operating at a temperature of at least 1800°F
- Basic Oxygen Furnaces
- Electric Arc Furnaces
- Blast Furnaces
- Cement Kilns, Lightweight Aggregate Kilns, Lime Kilns (no asphalt concrete plants)

Each DO/laa should assign someone to keep a list of facilities that have one of the units on our list in the guidance. It would be a good idea for the DO/laa to contact each facility to make sure it is okay to give their information to an event coordinator. The DO/laa can do an SCC code search in STARS2 to find such facilities. I will update the answer place topic to include the SCC codes for these facilities. I've had some facilities contact me with units that do not fall within the specifications on that list, and have done additional research to find that these units would also work as disposal options (completely destroy the pharmaceutical waste). If you have any facilities contact you with a similar request, you can have them call me at (614) 644-3625.

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

Mike wanted to let everyone know about the answer place communication that went out highlighting the changes to PTI and PTIO standard terms and conditions.

Mike also wanted to let everyone know to be in contact with Mike VanMatre when people leave the office to take their user IDs and/or default assignments out of STARS2.

At the last P&E meeting and the last air permitting live meeting, Mike went over the Title V Technical Incompleteness Procedures draft guidance. He got many comments and asks for any more comments by March 26 so he can have this finalized by the end of March. Mike handed out the guidance and the technical completeness and incompleteness letters, and went over changes. He discussed how these letters are not logged letters, and wanted input on whether these should be logged letters (if not logged, the letters have to be uploaded manually and does not automatically show up on correspondence history list). Mike also wanted feedback on an agency-wide procedure for sending/not sending preliminary incompleteness letters. If no completeness determination is made within 60 days, the application is deemed preliminarily complete. Some offices send out these completeness letters, some just wait for the 60 days to expire. Jim Orlemann mentioned that we should not have a procedure of just letting the 60 days expire, because the company would automatically get the application shield, and we will want to consider for each company whether we want them to get the application shield (i.e., does the facility have compliance issues?). There was some question as to how to define preliminary completeness/incompleteness, and Mike said for the next meeting he will do a writeup to give context to discuss a formal guidance on preliminary completeness.

Mike handed out the Title V Renewal Application Review guidance and went over the highlights of his changes resulting from comments. He used the review feature on Word, so the changes could be seen in the hard copy. Mike wants any additional comments by March 26.

Mike handed out the Public Records Request guidance (it says policy on the document now but probably should say guidance). This guidance talks about what policies and guidance are already out there now on records retention and public records requests and how all of these factors affect how we respond to public records requests. This is not a public records management policy, the agency already has a records retention policy. Mike wanted feedback from the P&E committee on the questions at the end of the guidance and whether some of them should be incorporated into the guidance. Mike mentioned that this guidance should not overtake any guidance that field offices already have in place.

Mike went over the P&E information on Answer Place. You have to log in to Answer Place and use keyword P&E. He created a list of Engineering Guides currently under review. The meeting minutes will also be available and are text searchable within the document. Mike's has posted his handouts on Answer Place for comment (topic 1969).

**4 New Rules and SIP update – Paul Braun**

Paul is presently updating Rule 3745-18 under the 5 year review plan. He expects this will be issued draft by summer.

In addition to the historic chapter 31 rules, the historic chapter 35 rule is also available on the internet. This is the most recent revision before the rule was rescinded.

The Title V rules were adopted and went final on 2/14/2010.

We have proposed to JCARR to rescind the chapter 108 CAMR rules. USEPA will write MACT or other rules, and cap and trade is not going to be part of the rules. This will probably be rescinded before the beginning of May.

The chapter 31 SIP approval for the October 2004 version will be effective on 3/29.

The Cincinnati ozone redesignation was proposed in the February 26 Federal Register for the 1997 standard.

**5 Terms and Conditions - Cheryl Suttman**

Cheryl was on vacation but she provided the following summary for the Terms and Conditions update:

Library news: I have loaded the Subpart IIII terms (CI ICE) into the library and they are linked to the summary Table (a first), rather than a "Tree spread" of long term titles/scenarios.

When I get back I am going to link all of the terms, that have tables, inside their table (and probably create some more); and I can get rid of some "run-on" titles that make some scenarios hard to find. I will be back in 2 weeks.

**6 Engineering Guide update-**

- #6 - PTI for Coal to oil conversion - Cleveland – May need to be re-written, Misty looking it over
- #18 - SO2 compliance determination for boilers – Toledo – Draft almost ready for review.
- #20 - VE limits, determination for stack sources - Akron - No progress
- #21 – BAT Requirements for New Fugitive Dust; non-Appendix A Areas – Cleveland – Finalized but not on web yet.
- #22 – Manual covers for open top degreasers – Cleveland – Finalized and on web
- #23 - Significant figures for TSP emission limitations - SEDO – Comments recieved.
- #24 - Application of Fugitive Dust Requirements to Affected Facilities – Toledo - No Progress
- #25 - Determination of source numbers and Permit fees for fugitive dust sources - Cleveland – Version 2 sent to Jim Orlemann for review.
- #26 - Inclusion of weight of water in the weight of "refuse" charged for incinerators.- NEDO – Draft handed out, minor changes, comments due by February 15.
- #29 - Applicability of the PTI Rules to Increases in Capacity of a Derated Boiler -CDO – No Progress
- #30 – Discontinuation of fugitive dust control measures – non- Appendix A areas – Cleveland – No comments. – Issued final 12/09/09
- #31 - Grouping of similar process units, figure II – Cleveland – Issued final 12/09/09
- #32 – Variances from visible emission requirements. – Cleveland – Issued final 12/09/09
- #34 - Conditions for Issuance of PTI/PTO for an Inactive Source – RAPCA – Shutdown definition needed.

P & E minutes January 12, 2010

- #35 – Registration Status for Floating roof storage tanks. – Cleveland – Issued final 12/11/09
- #36 – Fuel burning equipment, physically and operationally united – Cleveland - Issued final 12/29/09
- #37 – Whether or not product separation/recovery equipment constitute control equipment – Cleveland – Jim Orlemann says trying to get this issued by sometime next week (mid March)
- #44 - Portable Plants - NEDO – Sarah and Michael of SEDO and Erica's final work given to Jim Orlemann for final review.
- #53 - Open Burning Standards - Central Office – Rule was appealed with hearing in Feb. 2007
- #70 - Toxics – Hopkins reviewing; #69 may need changes due to changes in #70. – No progress.
- #72 – Grouping of Emissions Units for fee purposes – Revoked; replaced with guidance in Air Services
- #74 - Classification of PM - Central Office –Federal Register for PM 2.5 is effective Need to address test protocol for condensables and the Hopkins NSR guidance.
- #XX- New guide for crushers and non-metallic material - NSPS OOO - Mike Hopkins to review and address recent changes to subpart OOO.

General Permits – Crematories general permit - Sarah VanderWielen of Central Office ran the AERMOD model in respect to the mercury emissions issue. CDO will wait until the <10 tpy BAT exemption guidance is finalized before working on the tub grinders general permit.

**-----Next meeting is Tuesday May 11.**