

Permitting & Enforcement Committee Meeting – March 9, 2010

Lazarus Government Center
Ohio EPA
7th Floor DAPC conference room

Attendees: Co-Chairs – Jim Orlemann (CO), Jim Braun (Cleveland)
Minutes – Jenny Avellana (CO)
- Andrew Hall, Mike Ahern, Cheryl Suttman, Paul Braun, Brittany Smith (CO), Rick Carleski (OCAPP/CO), Todd Scarborough, Adam Ward (CDO), Sarah Harter (SEDO), Jeff Canan, Chris Clinefelter (RAPCA), Anne Chamberlin (Portsmouth), Tim Fischer (NEDO), Peter Park (Toledo), Laura Miracle (Akron), Paul Tedtman (HamCo), Mark Budge (NWDO), Terri Dzienis, Carl Safreed (Canton)

1. **Enforcement issues** - Jim Orlemann

Jim discussed the revision of the EAR form that Frank Markunas went over in the last meeting. At this point in time the enforcement unit determined that Tables 4a, 4b and 4c at the end of the form can be optional, and they might ask for that information later if needed as the case is developed. He feels that the summary table at the beginning of the form is not redundant, and is inclined to keep this table, as it compliments what is provided in items 1 through 4. The enforcement unit will be making some adjustments to the form. It will be in Word instead of Wordperfect. The changes will be made and the form sent out for comment in the next 2-3 weeks.

General enforcement activities – Jim handed out enforcement statistics and graphs for this year through the end of April. As of the end of April, 28 EC cases have been resolved, 23 of which have been Findings and Orders (F&Os). The goal for 2010 is 40 F&Os, so we are already over half way to that goal. The percentage of EARs submitted by field offices within the Statute of Limitations time frame was 75% for the first quarter of the calendar year. This is normally greater than 95%. The compliance percentage for High Priority Facilities (HPFs) was 92.8%. The goal is 93% for 2010. At the beginning of May we were at 93%.

Jim discussed the oral arguments for the Shelly appeal. The big issues were how PTE was calculated (using operating hours or 8760) and the ongoing period of noncompliance (stack test shows noncompliance- we believe they are not considered to be in compliance with permit until they demonstrate they are in compliance). For the period of noncompliance issue, this can affect many enforcement cases.

The last item that Jim discussed was Bryan Zima's retirement at the end of the month. There will be no replacement until after the end of the year. Drew Bergman will be filling in for Bryan until after the end of the year. We should continue to work with staff attorneys.

2. **New Source Review** – Andrew Hall

Andrew mentioned that there is currently guidance being developed for BAT for multiple operating scenarios (e.g., separate BAT determinations for a coating operation with VOC-containing coatings and water-based coatings). Also mentioned that Mike Hopkins is waiting on guidance from AGs on how to address renewals with the <10 tpy exemption. We shouldn't be initiating administrative modifications to go back and establish BAT where the original PTI/PTIO had a <10tpy exemption. Companies can request such a modification, but as general practice we do not want to do this.

The Boiler MACT was proposed on April 30 and is approximately 400 pages long. It includes emission limits for larger boilers and burner tuning for smaller boilers. Boilers will likely be required to install add-on controls because the rule has eliminated the health-based alternatives (i.e., established through modeling).

Also, changes to rule 112(j) have been proposed, which outline what states need to do in this case of a MACT rule vacatur. There was a webinar on May 12 to discuss the 112(j) rule change. The projected rule will not become final until after the deadline for the Boiler MACT to become final. Therefore boiler sources will comply with Boiler MACT, not the MACT 112(j) rule.

NSR backlog – The director's goal for 2010 is to get down to 200 NSR permits to install and chapter 31 modifications on the backlog. We started the year in the low 200s, but now at 250. It will be challenging to meet our goal by the end of the year. The director is aware of problems with BAT. Late permits that are greater than 180 days old are backing up. Mike will be sending email soon to get these older permits moving.

Title V backlog - Andrew and Mike will be discussing Title V renewal processing with U.S. EPA when they are here for the annual grant meeting. Andrew and Mike plan to meet with DO/Laas in July to get ideas about which permits we can commit to working on to get backlog down. The person at each DO/Laa responsible for signing off on permits needs to be at this meeting.

SCC Codes on Permits - Carl Safreed discussed his e-mail about adding SCC codes to permits. The email started when Andrew Hall spoke to Dan Aleman about searching for similar permits and EUs to compare terms and conditions, and the best way to do this might be to compare SCC codes. Andrew suggested in an e-mail that SCC codes be placed on the actual permit at the emissions unit level. Erica responded that this was a possibility, but that we would have to pay for the change to STARS2. Would it be worth paying for this feature; is this a better way to search than a keyword search? Mike Ahern mentioned that SCC codes were developed for emission estimation purposes, not developed for permitting purposes. For certain categories, SCCs change often, and some do not exactly fit. You can currently search for SCC codes under the Management Reports tab in STARS2. Mike said we can expand this report and leverage information in STARS2 to get the information we need without putting the code into permits, and that he would rather do it this way.

Area Source MACTs/GACTs – Chris Clinefelter discussed his question about placing area source MACTs in permits. Andrew Hall checked with Mike Hopkins and we do not have plans to ask for delegation of authority for these rules. This will probably be mentioned at the annual grant meeting with U.S. EPA, where we hope to get a clear direction on whether we can enforce these rules. The main question is, if it is in the permit, does this trump the delegation agreement? Our MACT coordinator, Brittany Smith will be looking into the delegation agreement. Jim Orlemann stated that he believes the rules are enforceable by us if we put them into our permits. Should we be putting this into permits if we do not have delegation of authority to enforce? Adam Ward suggested we have a concrete written statement/document that says how we are going to address area source MACTs in permits so there is consistency throughout the state. Before the next meeting he is going to formulate a list of clear questions about citing area source MACTs in permits.

Adam Ward gave an update on the PTE guidance. He has incorporated all comments and sent to Mike Hopkins to review. He stated that there are 3 to 4 fundamental questions that need to be answered by Mike before he redistributes the guidance for comment.

3 STARS2 and permit issuance update – Mike Ahern

The final version of the Title V Technical Incompleteness Procedures Memo has been posted to Answer Place under Answer Place ID 2172.

The Title V Renewal Application guidance is not yet final. Some folks want a checklist and Mike is looking into providing one in the guidance. At the last P&E meeting there was some question as to how to define preliminary completeness/incompleteness, and whether we should be sending letters for preliminarily complete/incomplete applications. Mike has talked to Bryan Zima about the option not to send out letters, but he still needs to talk to Bob.

Mike did get comments on the file review workgroup guidance, and he expects to get that out final soon. Rich Boudier (Director's Office) is planning to do training at field offices for this guidance.

Mike wanted to remind everyone that we are using the external version of Answer Place almost exclusively now. People need to login in order to be able to view internal guidance that is not available to the public. If you have trouble logging in to Answer Place, contact Mike.

Emissions reporting went very smoothly, especially for the first year where non-Title V reporting was done in air services. Billable emissions were down 60,000 billable tons. DO/Laas should take a look and make sure emission reductions are accurate. Most of the reductions were at utilities. There were also very few questions on the April 30 Title V annual compliance certifications.

We are beginning to work on the transition for Air Services and STARS2 from being a project to maintenance mode. We are developing a SOP manual for that support, which encompasses technical support as well as what drives that support. It will outline how we will report issues in the future and how these issues will be resolved.

4 New Rules and SIP update – Paul Braun

Cincinnati was redesignated attainment for the 1997 ozone standard, making the entire state in full attainment effective May 11, 2010. August is the tentative date that U.S. EPA will announce the new ozone standard between 0.06 and 0.07 ppm. If 0.07 ppm is chosen as the standard, more counties in Ohio will be nonattainment than attainment. If 0.06 ppm is chosen as the standard, no counties in Ohio will be attainment.

The SIP package went final with minor amendments to OAC rule 3745-15-01 and 3745-15-05, that were effective January 2009.

Paul expects the Lithographic printing RACT and Title V rule changes to be approved in 6 months to a year. The Title V rule changes are not actually SIP rules but the program still has to be approved.

U.S. EPA is still working on the VOC RACT rule, specifically the sheet molding compound (SMC) rules in 3745-21-07 and -21-25.

Paul is still working on the SO₂ rules (Chapter 18). He went through all rules and will pass a list around of facilities that are in permanent shutdown status or are completely gone. He will leave the facilities in the rule until they are permanently shut down. Some facilities are so old they are not in STARS2, so Paul cannot find an official shut down date. Paul is asking everyone to look at these facilities and give him an official shut down date. Paul plans on including this list as part of the submittal in the draft rule for public comment.

5 Terms and Conditions - Cheryl Suttman

New terms added to the T&C Library since the meeting of 1/12/10:

- The two terms from Mike Hopkins's 2/19/10 Interoffice Memo, for permit processing following U.S. District Court decision on BAT for permits <10 TPY, have been posted in the BAT-related terms, under the "organized by Library structure".
- Leaks from process units that produce organic chemicals, for OAC 3734-21-09(DD), with the applicable definitions from OAC 3745-21-01; and in two template files, one in order by rule and the other by permitting sections.
- Clean Air Interstate Rule "if applicable/must comply" term from Jennifer Hunter and Lee Burkleca.
- Method for the detection of leaks of VOC from petroleum refinery equipment and organic chemical manufacturing equipment.
- Method for determination of equipment in "VOC service" and/or "light liquid service"
- NSPS General Provisions, Subpart A
- Terms for NSPS Subparts Da and D for electric utility steam generating units greater than 250 MMBtu/hr, including a file summary of the rule
- Landfill inspection checklist-Rule Summary
- Terms for NSPS Subpart IIII for stationary compression ignition internal combustion engines,
 1. A summary file of the rule;
 2. 47 permit templates;
 3. 8 General Permits for the Aggregate (or anyone else who can use the facility diesel fuel oil restriction, which is the only difference from the 47 template permits); and
 4. A table that can be copied and used to calculate the pound per hour or ton per year emissions using the limits the engine certification and/or permitted limits and diesel fuel usage.

How the Subpart IIII template terms work, for Stationary Compression Ignition Internal Combustion Engines:

Each permit template is linked to the first column number in the Permit Template Table.

1. Pre-2007 model year stationary diesel (engines need only comply with the limits in Table 1 to Subpart IIII, which is equivalent to the Tier 1 limits in 40 CFR 89.112 Table 1.
2. Model year 2007 engines must comply with the limits applicable to the rated power in Table 1 in 40 CFR 89.112 (highest Tier, 2 or 3).
3. Model year 2008 and later stationary diesel engines must comply with either Table 1 in 40 CFR 89.112 (Tier 2 or 3 as applicable) or the appropriate Table in 40 CFR 1039.102, the Interim Tier 4 exhaust emission standards, based on the maximum engine power and according to the model year as required in Table 1 at 40 CFR 1039.1(b)(1).
4. Compression ignition engines greater than 10 liters per cylinder must comply with the emission limits found in 40 CFR 94.8 for Marine Compression Ignition Engines:
 - a) pre-2007 models with Part 94 Tier 1 standards for NO_x, limit in 40 CFR 94.8(a)(1); and
 - b) 2007 model year and later with Part 94 Tier 2 standards in 40 CFR 94.8(a)(2)

No terms have been drafted for Voluntary Emission Standard limits in Table A-2 of 94.8, but can be drafted upon request, call or e-mail Cheryl Suttman.

A sample of the rules showing the permit numbers from the NSPS template table was handed out. Emergency engines template numbers were not included, other than those from Table 4, but can be added to the same rules according to the template table applicable limit from the rule, i.e. "Limit".

If there is a need to draft terms for a facility who would like to be permitted at any other limits (e.g., Tier 2 in 89.112, where only Tier 1 is required), please call or e-mail Cheryl Suttman.

The Landfill (LF) higher operating value (HOV) and alternative timeline guidance documents are going final this week. We will soon be reviewing these requests. Not confirmed, however, it is anticipated that the DSIWM and DAPC will be conducting an inspection at each landfill with an HOV or alternative timeline request submitted in the last 2.5 years. The six months of required data could be collected and/or requested during the inspection, for any wells that are still out of compliance. As soon as the guidance is posted into "What's New", we might assume that HOV and alternative timelines received, will need to be addressed according to the guidance documents.

6 Engineering Guide update-

#44 - Portable Plants - Issued final April 14, 2010.

#74 - Classification of PM - Central Office –Andrew Hall mentioned we will have a final test method on PM 2.5 condensables later this summer, so it is a good time to start looking at this guide again.

General Permits –

Aggregate General Permit – Mike wanted to take one last look at the package before it goes draft. Todd Scarborough asked if we could have guidance on when a new PTIO is needed when the company replaces a component, as this is one of the most common problems at these aggregate plants. Andrew said he will mention this to Mike.

Crematories general permit - Sarah VanderWielen of Central Office is going to prepare a summary about the Mercury modeling. We might have to add BAT according to new BAT guidance.

Jim Braun discussed starting a workgroup to put together a Title V training manual to be used throughout the state. He is looking for volunteers. He will send out Cleveland/NEDO's manual and SEDO's manual and identify people that want to get involved and set up a meeting.

-----**Next meeting is Tuesday July 13.**