

P & E minutes May 9, 2006

Permitting & Enforcement Committee Meeting - May 9, 2006

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, Rick Carleski, (OCAPP), Adam Ward, (CDO), Bud Keim, (Canton), Jeff Canan, Chris Clinefelter, (RAPCA), Joslyn Summers, (Toledo), Don Waltermeyer, (NWDO), Sara Harter, Glen Greenwood, (SEDO), Frank Markunas, (Akron). Paul Tedtman, (HCDOES), Craig Osborne, (SWDO)

1. **Enforcement issues** - Jim Orlemann handed out the list of goals in resolving cases. Listed were the dates of planned completion. He also handed out the compliance status as of the end of the first quarter of '06. John Paulian polled all the offices to get the compliance information he pulled from CETA verified. He noted an improved compliance percentage, probably due to more accurate data being put into CETA. Mike VanMatre entered a lot of backed up enforcement data into CETA in the last 2 weeks. The division wants to rely more on CETA. Jim had Tom Kalman look into the duplication issue in the EAR form. It appears the summary table in the front is a duplication. The AGO had requested the summary format. The enforcement committee is to meet with the AGO to see if this is necessary. If the summary form is needed, the table inside will be adjusted to reduce the duplication. If not needed, the summary will be eliminated. Another alternative is to delay the completion of the summary until the case gets referred to the AGO. Table 4A is adequate of Tom's needs.

Action Item: The enforcement committee will meet with the AGO to discuss the need for the summary form.

2. **Title V permits and issuance update** - Mike Ahern indicated we had a slow month with only 13 Title V actions this month. There were 11 final FESOP actions in April and 50 PTO's were issued. Presently, there are 61 initial Title V applications and 55 FESOP applications. Mike appreciated all the work on the FESOPS. He also indicated there are 36 expired Title V permits with late applications, 199 extended TV permits and a total of 235 total renewals. Mike also said the abbreviated Title V renewal application for facilities that were getting out of Title V is not legal. The facilities must either file a standard renewal application or report failure to file a renewal as a deviation. The permit shield will be lost if a timely renewal is not filed.
3. **New Source Review** - Mike Hopkins told us Genevieve D'amico will now be handling Illinois permits and Stacy Coburn along with Richard Angelbeck and Kushal Gupta will be handling the Ohio permits. Many may remember Stacy when she was a MACT coordinator at OEPA Central Office. Mike stated SB 265 was signed by the Governor on May 3, 2006. It is effective in 90 days. (August 3, 2006). We have been given a year to write rules explaining construction and what can be done before a permit is issued. For non-majors, more pre-construction activity will be allowed, while for majors, it will probably stay the same. There is a three year time frame for the air toxics rule, but the director wants it done by the end of the year. This is a tight time frame and the rule will have to include when it applies, threshold and modeling. Other issues in the bill have to be clarified; such as no BAT for emissions units less

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than 10 TPY controlled emissions. Central Office will have three years to develop BAT rules for emissions units greater than 10 tpy controlled. If a rule is not developed then there will be no BAT for the specific source of concern. There will be no lb/hr, lb/day for BAT, the most stringent limit would be the rolling 12 month. Region V has made no real comment on the legislation so far, and Mike is concerned that we will write the rules and then the Feds will object. There will be some effect on the SIP. Old BAT will stay for existing sources, but can be removed when Chapter 31 mods are requested. The reference to the nuisance rule was pulled out of the legislation, there has been a lot of changes to the bill since it was first proposed. The big unknown is how do we develop a BAT rule. By category? Uniqueness of different plant operations will be an issue for industry if this is pursued. BAT could be replaced by limits in ozone SIP rule, but that would only address VOC and Nox. The 90 day effective date means we may see no lb/hr limit in PTI's come August. Mike is looking into this as to when what part takes effect when. Staff will be needed for rule writing. Another issue is that the 21-07 revisions were made in the light that BAT for old sources would stay. As a result, this rule may need some serious revisions. New sources will not be subject to 21-07. There are already significant changes needed to 21-07 due to comments received and it will have to be refiled. Central Office will be preparing guidance to address the requirements of SB 265.

- MACT due to MEK - USEPA has delisted MEK so that it is no longer a HAP. Mike Ahern indicated the company must ask for an applicability determination from George Czerniak of USEPA. There is no information on now we are to take this out of the Title V permits. Company should submit a request to modify. If a Synthetic Minor permit was issued to restrict MEK, then the company can request to modify the permit to remove the MEK restriction but will be charged a fee for the modification

- Jim Orlemann indicated the federal rule review will result in beefing up of monitoring rules rather than allow states to rely on gap-filling. The **umbrella** monitoring rules have been vacated. The feds are to prepare additional periodic monitoring requirements in rules this fall in specific categories. At this time we will continue to gap-fill.

- In regard to the GE decision, which Jim later handed out, some discussion ensued about the establishment of direct relationship between a mass limit and a control parameter. We cannot put the control parameter into the operational restrictions unless this can be established. Bedding the control parameters in the monitoring terms will be the way we will put them into the permit. Right now, the director does not plan on filing an appeal of the GE decision. The 10th court said operational restrictions are unlawful. If the restriction is not rule based, a new substantive requirement is unlawful. This is contradictory to the State's duty to establish compliance monitoring, record keeping, reporting and testing. Operating parameter restrictions from CAM plans are OK as is MACT, since the parameters are rule based. Likewise, if an operating parameter restriction was established in a PTI then it should remain in the Title V permit since the PTI is an applicable requirement. We will be viewing the decision only on operational restrictions; we will retain gap filling and testing. If this is contested, OEPA will go to court. However, if the company wants the restriction, we may be able to put it in. The Feds are aware of the GE decision, but have made no comments so far. If an excursion of the parameter occurs, it is not reportable as a deviation, provided the company performed the

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necessary monitoring and took corrective actions accordingly. If a company appeals an existing permit because of the language in the operational restrictions, a modification (re-opening) would be in order. In the compliance certification, the excursion must be reported in concurrence with the existing permit. A memo from Central office is planned on these issues in early June as this affects Title V renewals as well as initial Title V's and PTI's. Library will also have to be changed in order to maintain consistency statewide. Presently, we are to process permits as we have always done. If a company requests "GE terms", work with your Central Office reviewer on a case-by-case basis.

- RAPCA brought up an issue with Tub-Grinders. A tub grinder was moved to Columbus from its home office in RAPCA. There was a concern about the need for a PTI and the relocation issue. Depending on the size of the diesel powered unit, a synthetic minor PTI may be required. This appears to be a good candidate for a general permit or permit by rule. There was some further discussion about the fee and how we are charging them. The latest issued terms for these types of facilities are to be sent to Cheryl Suttman for her review and to establish general terms in the library. Presently the tub grinders should be charged fees by the process weight and not the diesel emissions, though Mike Ahern is looking into alternative fee structure.

Action Item: Central Office will prepare guidance to address SB 265. In addition, Central Office will prepare guidance on control equipment operating parameters by early June. DO/LAAs should send tub grinder permit examples to Cheryl Suttman for General Permit development.

- 4. Permit and Data Management** - Mike VanMatre is to do a presentation on CETA at the next P&E meeting. The data is getting better. Mike has been promoted in the computer section for infrastructure of information over the internet. The PTI 2K changes (column to table format) are being completed by Mike Ahern with the individual DO/LAA's. The set-up problems with the individual LAN's are almost all resolved. When you do a PTI mod and add an EU you will need to choose between using columns or the new table. Right click on the row and select "Format", then click on the "Row" tab, and then choose "Divide Row Across Pages" - it should allow the row to spill over onto the next page.

- Mike also wanted to remind everyone that E-mail is a public record. If you send and receive any information regarding a company electronically, it is expected that the information can be recovered. This is a problem when an employee leaves the agency and his groupwise account is closed. The E-mail is not recoverable. It was suggested that the best way to address this may be to print out all relevant E-mails and place a hard copy in the file. The electronic backup of e-mail depends on the LAN of the particular DO/LAA.

The duties of posting the monthly call and P & E minutes will be passed on to Jennifer Nichols and Cheryl Suttman.

- 5. Engineering Guide update** -
#5 - VOC exemption for fixed roof storage tanks - Akron - Frank Markunas will send it electronically to the group prior to the next meeting.

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#6 - PTI for coal to oil conversion - Cleveland - Conference call to be scheduled with Jim Orlemann, Mike Hopkins and Jenny.

#7 - Inclusion of weight of water in PWR - NWDO - Handed out draft. being reviewed at NWDO. Air to be included in review. Comments due by next meeting

#9 - PTI/PTO determination for grain dryers - NWDO - Draft will be sent out through e-mail. Comments due by next meeting.

#10 - Applicable TSP rules for stone crushing plants. - Toledo - draft handed out. Comments due to Joslyn Summers by May 30

#44 - Permit issuance Policy for relocation of portable/mobile facilities. - NEDO - Jim handed out final revision. Sarah Harter and Mike Ahern are working on nomenclature and file regarding portable plants. An electronic document set-up to be put into PTI 2K web page. THANKS TO ALL WHO WORKED ON THE DEVELOPMENT OF THIS GUIDE!!!

#53 - Interpretation of open burning standards - On hold till Rule change is final.

#XX - Condensibles and PM-10/2.5 reporting - Andrew Hall's team has met, working on guide.

New Guide assignments

#12 - BAT requirements for new GDF's - NEDO - Will address other GDF issues also #13, #14, #15 to stay as is.

#11 - Use of Table I for multiple source permits/derating - Cleveland

#16 - Conditions for requiring additional source compliance tests - NWDO

#17 - Authority and Criteria for requiring compliance tests at normal boiler operating rate.- RAPCA

#18 - SO2 compliance determination methods for boilers - Toledo

Engineering Guide regarding 17-11, 17-08 is being held up until the diagrams are completed.

- Reinforced composite plastic manufacturing - Examples of the issues were in a handout that came along with the agenda. All were asked to look at the memo and comment as to how their office may have handled similar situations. However, USEPA has made comments that further revision is necessary for 21-07. Feds say 21-07 applies to **SMC** and the rule will have to be re-written with that consideration. A clarification of liquid and VOC containing material should be also addressed in order to establish state-wide consistency.

Action Item: NWDO will send out Draft of E.G. #9 via e-mail. Submit comments to NWDO (Don Waltermeyer) by July 11 for both E.G. 7 and 9. Submit comments to Toledo (Joslyn Summers) by May 31 for E.G. #10. Review and provide comments to NEDO (Ed Fasko) on the reinforced composites plastic manufacturing issue regarding 21-07(G) applicability.

6. Terms and conditions and Policy distribution -

Federal ASTM methods corrected, 21-09 parametric monitoring changed to match the rule. MACT coatings under review. VE terms for scrubber stack have been put in, landfill terms have been reviewed and ok'd. Flare and permanent total enclosure terms are to be uploaded. The acid rain permit material has been separated. The on-spec oil term was incorrect and has been corrected. The Halogen test citation should be 279-10 (B). The BAT specific limit on

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off-spec oil term may have to be changed due to legislation SB 265. A link has been established to permit by rule on the T&C front page.

Regarding Landfill guidance, USEPA has provided some comments regarding alternative monitoring.

The navigation of the library committee has been established and will begin its task

7. **CETA update** - Mike VanMatre is updating the queries. MACT entries will be delayed till next meeting.
8. **Stack Testing** - No update
9. **New items and parking lot** -
Rule reviews - Chapter 77
Director's letters on intranet
Emission Factor Guide - No update
CDD appeal - language from the appeal to be put into the T&C library
Multiple emissions units controlled by common control device. - PTIO will be changing Chapter 35 and this may best be included in the PTIO rules.
Next meeting is July 11