

P & E minutes July 11, 2006

Permitting & Enforcement Committee Meeting - July 11, 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, Andrew Hall, Mike Hopkins, Jenny Nichols, (CO), Rick Carleski, (OCAPP), Todd Scarborough, (CDO), Bud Keim, (Canton), Jeff Canan, Chris Clinefelter, (RAPCA), Joslyn Summers, (Toledo), Sara Harter, (SEDO), Frank Markunas, (Akron). Paul Tedtman, (HCDOES), Craig Osborne, (SWDO), Cindy Charles, (Portsmouth)

- Enforcement issues** - Jim Orlemann handed out the graph of resolved cases during calendar year 2006. There have been 20 cases resolved so far, the goal is 90 by the end of the year. Since we cleared the old cases out last year, Jim feels we should meet this goal without issue. Attached to this was a graph regarding F & O's. Nine have been issued so far this year, the director's annual goal is 50, up from 45 from last year. The third graph was the compliance percentage taken from CETA. For HPF's. 97.6 % compliance was reported for HPF's with emission violations, and 91.8% was reported for all non-complying HPF's. The last graph was the number of old cases (greater than 21 months) on the docket. The goal is "0" by the end of the year; we started with 48 and we are at 41 as of the end of June. Jim also handed out a schedule for processing old cases for 2006 and 2007. Jim will continue to update these lists at the P & E meetings. As of today, there are 120 cases on the EC docket and 62 at the AGO's office. Jim also handed out the memo regarding the statute of limitations, reminding us that any violation older than 18 months will not be pursued for penalties. This means a referral to central office from the field office must be submitted prior to 18 months after the field office becomes aware of the violation or civil penalties will not be pursued. Other items of note regarding enforcement; Jack McManus has moved in the AGO's office to head of taxation. It appears that Nate Orosz will replace Jack. A new ES2 enforcement position will be posted in Central Office. No progress into the duplication issue in the EAR form. - Sarah Harter of SEDO reported the problems with asphalt plants burning waste oil. Inspections turned up the halogen content of the waste oil being out of range. The facility must prove that the material is non-hazardous. SEDO is working with DHWM in this matter. DHWM SEDO is preparing an NOV as they believe the requirement is not being met. It was suggested that the plants burning waste oil statewide be checked; look at the records for the past 4 years. CDO also noted a problem with plants in their area, and found an exceedance of mercury and heat content issues. A firm in Michigan appears to have been supplying the suspect fuel.

Action Item: DO/LAAs are to file EAR's in a timely fashion. Asphalt plants records are to be checked statewide regarding used oil fuel specs. The enforcement committee will meet with the AGO to discuss the need for the summary form.

- Title V permits and issuance update** - Mike Ahern handed out Guidance regarding the GE decision and it included some information regarding SB 265. Terms and conditions are being worked up for the library. Andrew Hall explained the memo specifically addresses ESP and baghouse terms but they could be used for a model for other types of control equipment. If you

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have comments on the terms, or wish to propose similar terms for other control equipment, send them to Andrew. The important thing is that these terms have to be embedded in the monitoring terms rather than operational restrictions, and operational restrictions cannot be more stringent than a rule. **Do not use this language if the operational restriction is rule based or comes from a PTI.** Mike Ahern also indicated June was a slow month for permits. He indicated his concern for a growing backlog as the TV permits continue to expire. The numbers; 54 FESOPs need to go final, 270 TV renewals have been filed, 43 significant mods and 16 re-openings need to get issued. Mike and Erica met with Mike Hopkins and Andrew Hall regarding getting these permits out. Andrew will work with his staff to work with the field offices regarding renewal issuance and see what is holding these up and develop a schedule. DO/LAA's should work up a list of TV renewals and the position of the permit in the process. This list should be done weekly, and also include 10 PTO's sent to CO contact along with the TV and FESOP. Mike also indicated his concern for old hard copy FESOP applications that were never acted on and never entered into the system. USEPA is revising the permit tracking system (TOPS) and will be watching our progress.

Action Item: DO/LAA's to prepare weekly list for CO contact, find any hard copy FESOP applications and enter them into STARS, and update Mike Ahern's list of FESOP's by sending him an E-mail. CO to act on list and DO/LAA's will respond by adding to it weekly.

3. **New Source Review** - Mike Hopkins talked about the new assignments to the field offices. The central Office contact will handle PTI's PTO's, TV and FESOPs. He also mentioned new positions at Central Office. An ES2 will be hired for the emissions trading program and will work for Jenny Nichols. Andrew Hall's ES3 position will be posted and 2 ES2 positions, one for permit review, and one for non-TV permit backlog. ---- SB 265; the new PTI rules regarding construction are out and the comment period ended July 10. ---- The air toxics language it out for interested parties; it consists basically of a list of approximately 650 compounds. - August 3 is the effective date for SB 265 at which time there will be no BAT for sources less than 10 TPY of controlled emissions. (criteria pollutants). It was pointed out that we would lose the one and three minute VE limit for unpaved and paved roadways and storage piles less than 10 TPY controlled. unless they are written in a rule. We would have to go back to six and thirteen minutes as the one and three have been established as BAT. Some discussion ensued as to how we can be ensured that sources less than 10 TPY controlled will use and maintain their control equipment. Operational restrictions? Monitoring? A possibility is the use of terms to require control equipment in order for the source to stay below the 10 ton requirement and stay out of BAT. In order to meet the no backsliding requirement, the threshold only applies to new or modified sources. Existing Model General Permit terms that have already been created will retain the BAT requirements. For any new Model General Permit terms created after August 3, sources with controlled emissions less than 10 TPY will not have BAT in the Model General Permit. -- Mike Hopkins indicated that outside comments have been received and sent to Joe Loucek of NEDO regarding Engineering Guide 44. The Guide 44 team will have to review these comments and consider the modifications to EG 44. - Mike talked about the boilerplate appeal language for director's letters This should be placed in any director's letters that state appealable actions. - RAPCA brought up

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the possibility of a permit by rule applicability for crushers and screeners that meet the PBR requirements but is at issue with non-metallic materials (NSPS OOO). Mike is OK with a PBR, but will have to investigate the definition of non-metallic materials. Tub grinders are a separate issue.

Action Item: Central Office to investigate the non-metallic material issue. All offices should check for Director's template letters and modify them where appropriate.

4. **Permit and Data Management** - Mike Ahern indicated that condensible PM is not billable for 2005. A letter was sent to the companies regarding this, the DO/LAA's may be contacted on this by the regulated community. If they do not want to be billed for condensibles, they should contact Central Office directly. STARship cannot separate out the condensibles for billing purposes. - Mike believes the PTI 2K Macros and templates are working OK at the field offices. Contact him if you still have issues with this program.----PTI 2K automatically lists 31-05 in the template. After Aug 3, you **must delete this rule if it does not apply** to the PTI you are working on. (Less than 10TPY controlled) If you have comments on rule 15-05 changes, you have till July 22.
5. **Engineering Guide update** -
 - #5 - VOC exemption for fixed roof storage tanks - Akron - one comment received. Moved on to Jim Orlemann. Akron will now work on EG #20 - Determination of compliance with VE limitations for stack sources.
 - #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 - NWDO not at meeting, comments to Don
 - #9 - PTI/PTO determination for grain dryers - NWDO - NWDO not at meeting, comments to Don
 - #10 - Applicable TSP rules for stone crushing plants. - Toledo - Ready for Jim Orlemann to review
 - #11 - Use of Table 1 for multiple sources permits/derating - Cleveland - No progress
 - #12 - BAT requirements for GDF. - NEDO - This guide will be modified to answer questions about procedures at GDF's. Rough electronic draft sent out last week. Comments to NEDO.
 - #16 - Conditions for requiring additional source compliance tests. - NWDO - NWDO not at meeting, no progress
 - # 17 - Authority and criteria for requiring compliance tests at normal boiler operating rate. - RAPCA- This deals with mostly multiclones on coal fired boilers. The group determined this guide is still needed and a draft should be out before next meeting.
 - #18 - SO2 Compliance determination methods for coal fired boilers. - Toledo -no progress
 - #19 - Applicable TSP rules for coke oven battery combustion stacks. - HAMCO will work on this guide. #53 - Interpretation of open burning standards - Rule is done and effective. Jim will contact Lee to help work on guide revision.
 - #XX - Condensibles and determination for reporting purposes - Andrew Hall's team should have a draft out by next meeting. Now called EG 74.
 - #75 - 17-07, 17-08 issues and examples - Flow diagrams are holding this up and should be completed soon.SMC issues Jim handed out the draft rule changes to 21-07 that address the Fed's belief that the rule applies to SMC operations. New factors put a number of facilities in violation. Jim

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believes we are locked into the 8 and 40 or 85% controlled for the Feds to accept our SIP. USEPA feels the rule can be more stringent than the MACT, is reasonable and can be followed.

6. **Terms and conditions and Policy distribution -**

An intern is converting word perfect terms to word. Tub Grinder terms and conditions on back burner, a number of recently issued permits have been submitted as examples. . Landfill issues are waiting on information from USEPA. (higher operating value)The navigation of the library is making progress.

7. **CETA update -** Mike VanMatre made a presentation on CETA changes. There is a new report and there are 2 buttons on compliance status for enforcement. A grid of violators can be created to calculate compliance. It is extremely important that CETA enforcement information be updated. He is concerned about things not being done correctly in enforcement page. Things have to be done in sequence or the Fed system will not accept the data. A spread sheet is being sent to each field office to outline any deficiencies. Mike is to update the MACT entries into CETA.

8. **Stack Testing -** No update

9. **New items and parking lot -**

Multiple emissions units controlled by common control device. - The pending PTIO rules will eliminate Chapter 35. We cannot make these changes to Chapter 31 right now since it is currently undergoing the 5-year rule review. Adding these concepts to the PTIO rules is not a possibility because we do not want to delay promulgation of these rules by 2007. These concepts cannot be added to Chapter 77 since this rule does not allow for adding new emission limits. There is a small possibility that these permitting concepts might be used for the new BAT rules under SB 265 or they could be used to develop pollutant specific limitations in the OAC rules. This project will be on hold until a decision can be made sometime in the future.

Next meeting is September 12