

Permitting & Enforcement Committee Meeting
July 12, 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, Andrew Hall, Abdur Rahim, Jim Carney, John Paulian, Mike VanMatre, Arunee Niamlarb, (CO)
Angela Glosser, Bud Keim,(Canton), John Nicora, (Cleveland), Mike Riggleman, Adam Ward,(CDO), Paul Tedtman, (HAMCO), Jeff Canan, Mike Maleski, (RAPCA), Joslyn Summers, (Toledo), Frank Markunas, (Akron), Donn Meehl (NEDO), Don Waltermeyer (NWDO), Cindy Charles (Portsmouth), Sara Harter, Glen Greenwood (SEDO), Jim Pellagrino, (SWDO)

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 to the end of the year. The list was 52, 11 have been resolved and there are 41 left. This gives us 5 or 6 months to negotiate. DAPC has more old cases than any other division in the agency. Jim also handed out John Paulian's E-mail requesting the quarterly update of enforcement cases.

- CETA update - Moved up on agenda from item 8

Web-based CETA - Mike VanMatre and Arunee Niamlarb projected the new CETA on the wall and explained some of its functions and the benefits of the conversion. The Citrix server the application currently resides on is slow, and other programs can tie in better to the web-based version. Beta Testing will be conducted very soon, and the District Offices should be able to use it soon after an address is established for each office. Hook up with Locals will be established shortly after that. Each person will be assigned a login and password.. You will be able to search for different facility information at any page in the system. The compliance page will separate the FCE from the site visit. All site visits, FCEs, and stack tests must be entered into CETA. You do not need to enter quarterly report evaluations. The only violations that should be entered are emission violations and administrative violations. This information will be used by Central Office to track compliance percentages. CETA will be able to provide a list of pending enforcement cases for each office. Compliance status information will go directly to USEPA. Details of a site visit or FCE can go into a memo field; however, they are no longer required as part of the CETA reporting. The new version of CETA will be populated with historical data from the existing CETA. Facility data has been loaded from PTI tracker, STARdust and STARS. Inspection data began being entered into CETA and uploaded to USEPA in 12/02.

There are drop down boxes on the enforcement page for actions. A determination is going to have to be made by the CETA group concerning the difference between a formal and informal enforcement action. The CETA group focused on designing a system to meet the USEPA requirements and better fits our internal needs. It is important that the enforcement section is updated especially when a company returns to compliance, as this data is used by USEPA for public information. Stack testing will be reported under Appendix K. The feds will be requiring a listing of subparts in the NSPS section. Complaints, GDF inspections, TV certification are tracked in this database as well as Permit by rule info which is not needed by USEPA. Batch uploads to USEPA will be done monthly. Corrections to any information after it is sent to USEPA cannot be made without contacting the administrator(s) of CETA as that information will be locked. Prior to upload to USEPA, corrections are easily made. Facility information will not be locked. In the short term, make sure the facility information is updated. In the long term, the web based CETA will eventually be tied to the STARS rebuild, but it will not be a part of the initial STARS rebuild. If you make no entries for 20 minutes, you will be kicked out, but you simply have to log back in. Log in is similar to PTI 2000. Training will be conducted and the plan is to have the system fully on line November 1. The CETA group meets next week regarding testing.

Action item - submit additional suggestions for generation of reports to the CETA group.

2 -Title V Permits and issuance update

FESOPS and Title V mods - Mike Ahern is concerned that the outstanding FESOPS get issued. Some of the applications are pretty old and should be reviewed as soon as possible for accuracy. Facility either may no longer need a FESOP or may have become Title V. Mike's records show there are 63 Title V facilities pending either issuance of FESOP or removal from high-priority list. Mike also noted a wholesale change of assignments in STARS from Jim Orlemann to the Mike Hopkins have been completed, but DO/LAA's should check to make sure all the FESOP actions are where they are expected to be. FESOP actions should include the emissions units that are applicable to the FESOP. Non-FESOP units need to be a separate action. Registration status units ***do*** have to be separate actions from state actions that are non-FESOP. Regarding significant modifications for Title V, 15 applications have gone beyond 18 months without action; this leaves the facility in the positions of possible enforcement action against the facility by a third party. 18 TV renewals have been issued, Mike indicated that Ohio is best situated in Region regarding TV renewals.

Action item - DO/LAA's are to process FESOPS, significant mods and Initial Title V

New General Terms in Title V - New terms were effective on July 1, 2005, allowing a facility to transfer from Title V to non-Title V. A PTE and PTO application is needed, and the TV permit does not have to be revoked. The Title V permit is no longer effective after the Chapter 35 permit is issued. Mike feels a minor modification could be made to Title V permits

that do **not** have this language in the General Terms and Conditions to allow a facility to go to non-Title V without revocation of the TV permit.

Title V deviation reporting format instructions - Mike Ahern worked with Canton on this. He handed out the form and Bud Keim explained the layout of the form. It is aligned with the Title V permit. Mike indicated he would send the form out electronically to all. The form will eventually be posted on the DAPC web site and Mike Ahern will present this idea to industry during the MEC conference at the end of July. The form will be available for use if needed; however, companies will not be required to use this form if they have a better form that suits their needs. The use of the form should be encouraged though as it will make it easier for both industry and EPA to evaluate the reports if the same form is used by all. Thanks Bud and Mike. Good work, guys. Comments should go to Mike Ahern by 7/29

Action item - DO/LAA's to review document and get back to Mike Ahern by 7/29 with comments.

Electronic submittal of deviation report - Mike Ahern indicated information can be submitted electronically. Responsible signature must be sent hard copy. The date of receipt of the report is considered to be the date the signature is received.

Response to audit report - Mike Ahern handed out the USEPA's response to the audit report prepared by the Inspector General. In addition to the Inspector General audit, the Title V task force is still continuing its review of the program. Ohio EPA may be making changes to the Title V permit program based on comments from the IG audit report and any comments that might be provided by the Title V task force.

3 - New Source Review - Mike Hopkins was not at the meeting so no update was given. Jim Braun made a request of Mike Hopkins to discuss Emissions Offsets as it pertains to the new non-attainment areas at sometime in the future.

4 - Permit Issuance and Data Management

Permit by Rule (PBR) - New rules have been signed by the director. Will be available to the public in August. PBR units will be tied into new CETA and will be tested on new server prior to the new CETA going on line. Ahern and Hopkins still need to work with Carleski to prepare the PBR application forms. Information regarding the facilities that obtain PBRs will be displayed on the DAPC web page for public review.

Electronic PTI Application - Progress has been made in this project. There will be one e-mail address where the applications will be sent in Central Office. One address will be at each DO/LAA where the application will be shipped from Central Office. At this point they will be entered into PTI 2K by the DO/LAA and proceed as usual. This will be for PTI's only, as Title V

and PTO's continue to go through STARship. On-line forms, however are encouraged to be used. Mike handed out a suggested change to the web page to address the new form.

Title V accountability audit - An audit is to be conducted on the accounts charged regarding the Title V program. The audit will include an evaluation of each DO/LAA office.

5 - Engineering Guide Revisions

#1 - PTI/PTO for non-criteria pollutants - NWDO - in progress

#2 - Issuance of PTO for SO2 sources - Handed out as final. Issued on 5/18/05 -
Thanks Toledo DES!

#73 - VE guidance - Issued on 4/27/05 - **Not on web yet!!!**

#4 - VOC Definition of Potential to emit. - **CDO** - Handed out as final. Issued 6/22/05

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

#6 - PTI for coal to oil conversion - Cleveland - Committee working on it

#7 - Inclusion of Wt of water in PWR - NWDO - Committee formed at NWDO

#8 - Compliance Tests at Bulk Gasoline Terminals - RAPCA

RAPCA received no comments and feels the NSPS addresses the issue and the guide may be best dropped. Jim Orlemann had Bill Juris look at the revisions and feels the guide should be kept but updated to reflect the NSPS. Any additional comments should be gotten to RAPCA by end of the month.

#9 - PTI/PTO for Grain Dryers - NEDO - Committee being formed

#10 - Applicable Rules for Stone Crushing Plants - Toledo DES - No update

#44 - Portable Plant - NEDO - RAPCA submitted additional comments along with Jim Orlemann. Revisions made, E-mailed revision. Additional comments to NEDO by end of month. Flow Charts still need to be revised and sent to Mike Ahern.

53 Open Burning Standards - Jim working with Lee on this regarding the guidance developed regarding storm debris.

6 - EVEL SIP Discussion - Todd Brown was not available to make it to the meeting, but Jim Orlemann reported that Region V has talked to Todd about this. The understanding is that as long as the permit is effective, and the EVEL is in the permit, the EVEL is in effect. At renewal, the company must demonstrate the continued need for the EVEL. OEPA had hoped the demonstration would be enough to put it into the renewed permit, but the Fed opinion is that another SIP revision may be necessary, Jim did state that if an EVEL is no longer needed, then we should not honor the company's request if submitted. To change this in a Title V or non- Title V is only an administrative mod. Todd will be looking further into the matter.

7 - Library of terms and conditions. - Cheryl Suttman handed out the request form and instructions for changes to the terms and conditions. Cheryl has not received any requests as of recently. She was informed of the terms that were sent out regarding the three gallon per day limit for miscellaneous metal coating. (OAC rule 3745-21-09(U)) in the Northeast area. Cheryl

requested that people provide her with suggestions for new terms. In addition, if you are aware of any standard terms that are routinely used in permits but are not currently part of the Library of Terms, please bring those terms to Cheryl's attention. The request form and the instructions are available electronically at <http://www.epa.state.oh.us/dapc/terms/termsintro.html>

8. CETA - Discussed earlier

9. Stack Testing

Condensable PM issue - Although this grew out of an emission inventory issue and Mike Hopkins suggested we bring it to the P & E committee, Jim Braun had discussions on this matter with USEPA. USEPA's opinion is to require condensibles in testing only if it is specified in the permit and developed with a rule. The concern regarding emission inventory is that the form is linked to the Fee emission report and double reporting of emissions could be an issue if one actual pollutant is calculated with a factor and condensibles are used for another. An example would be determining SO₂ emissions from coal content, and calculation of particulate to include the condensibles which may have sulfates. The back half of method 5 may not be appropriate for testing if method 202 or 201 is specified. The important issue is that what is reported should be accurate. Possibly a sub-committee could be formed to look at this.

Action Item - Possible sub-committee to look at this

10. Landfill Operating Scenarios

Cheryl Suttman has taken a look at this issue. She has contacted an USEPA web site for compliance assistance, This is the same website that Bud Keim of Canton contacted to gain approval of alternative monitoring parameters for American Landfill. Bud Keim discussed how a prior approval was obtained from USEPA Region 5 for higher well operating temperature limits on ten (10) extraction wells that had undergone a field testing demonstration at American Landfill, Waynesburg, Ohio. An SCS Engineers letter of 11/07/01 addressed to Harry Judson, OEPA and Canton LAA provided documentation, field observations and supporting laboratory data to demonstrate that the higher extraction well temperature limit of 165 degrees F (74 degrees C) on these wells would "not cause fires or significantly inhibit anaerobic decomposition by killing methanogens." In this higher operating value (HOV) demonstration, SCS Engineers submitted sampling data that: (a) did not show elevated levels carbon monoxide, or oxygen (which would indicate a possible aerobic condition in the landfill); and (b) the laboratory measurements of carbon monoxide (CO) in the samples ranged from 1.47 parts per million by volume (ppmv) to 64.80 ppmv, with an average of 24.23 ppmv (having established that a CO reading of 100 ppmv as a breakpoint for possible indication of landfill fire); and additionally, (c) disassembly observation & photos of the flame arrestor mesh screen showed no possible evidence of a subsurface landfill fire. After review, it was decided that this initial demonstration and protocol needed to be reviewed by USEPA. Therefore the SCS Engineers letter, subject "NSPS Higher Operating Value (HOV) Demonstration" for American Landfill was sent on

11/20/01 to Julie Monahan, USEPA Region 5. Seven (7) days later, George Czerniak, Branch Chief, AE/CA approved the American Landfill's request for a temperature operating value of 165 degrees F for wells NW39 through NW48 in their letter of 11/27/01. It was our understanding at that time, that this modus-operandi was determined to be a technically sound approach for future documentation of HOV Demonstrations by American Landfill in accordance with 40 CFR 60.753 of NSPS WWW, which states:

"Operate each interior wellhead in the collection system with a landfill gas temperature less than 55°C (131°F) and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. **The owner or operator may establish a higher operating temperature, nitrogen, or oxygen value at a particular well. A higher operating value demonstration shall show supporting data that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.**"

The above NSPS WWW requirement and HOV demonstration option is a Part III Operational Restriction A.II.1.f. of American Landfill's Title V permit issued 11/28/01. On January 20, 2004, the SCS Engineers submitted on behalf of American Landfill, a second "NSPS HOV Demonstration" with an identical format, field observations and supporting laboratory data to Canton for compliance evaluation and concurrence. Based upon the prior above 2001 USEPA applicability determination, their concurrence in the technically sound HOV demonstration documentation and approval of a temperature operating value of 165 degree F, Canton's understanding was that a precedent was established for Ohio EPA application. Therefore, Canton asked American Landfill for a "NSPS Higher Operating Protocol" to formalize the HOV demonstration field sampling, report documentation and notification protocol for T&C's inclusion into Title V permit.

American Landfill, assisted by SCS Engineers, has prepared a "NSPS Higher Operating Protocol" formalized as indicated above for demonstration that elevated well operating temperatures are not causing subsurface fires or significantly inhibiting aerobic decomposition by killing methanogens. The American Landfill forwarding letter to Canton LAA, copies to Ohio EPA and USEPA, for this HOV demonstration protocol will reference/attach the USEPA's prior 2001 approval letter for the American Landfill/SCS Engineers 2001 HOV demonstration. Hopefully, this action will satisfy the Title V on-going compliance determination as to the standard by which American Landfill establishes a HOV following an exceedance, including the monitoring, record keeping and reporting, provided appropriate corrective actions are taken by 5, 15 and 120 days in accordance with 40 CFR 60.755. Cheryl Suttman will receive copies of this correspondence within 14 days.

A number of facilities will be requesting the alternatives under NSPS WWW. If we can gain USEPA approval through this site, the Director's letter that HAMCO had presented some time back may not be needed. Requests should be funneled through Cheryl Suttman to see how quick

we can get responses. If this does not work, we will have to develop a plan for review as proposed in the HAMCO letter. It was noted that Minor Modifications for Title V permits can be done to add in the necessary alternate operating scenario for the landfill.

A question regarding the use of a flare was brought up by SWDO. If a landfill is not subject to NSPS or other rules and using a gas flare for control of odors, can the flare be shut down as the landfill begins to generate less gas and no longer generates nuisance odors? It was suggested the question be brought up in the next permit call - ***From the 8/12 call - Response from Mike Hopkins -Mike stated if there is no requirement, the facility can shut the flare down. No letter is necessary. If they existed, F&O's requiring a flare would have to be addressed prior to shutdown. However, if the flare was given an exemption through a Director's letter, an evaluation would have to be conducted to see if there are any other emissions that would trigger the rule when the flare is shut down. If triggered, a Director's exemption letter would be needed. Mike also indicated if there is no requirement, the potential would be based on uncontrolled. It was suggested the facility be requested (we cannot require this) to do a trial period of shutdown of the flare, prior to its removal to see, if in fact the odors no longer exist.***

11 - Other Issues -

- Jim Orlemann suggested that all look over the new 21-07 rules to make sure the appropriate sources in the your area are properly listed. The comment period ends August 1, 2005.

- Don Waltermeyer of NWDO asked if anyone had heard of an exemption for rail car unloading of CD&D material at either rail property, using rail personnel, or rail equipment. There is an opinion in this small section of the regulated community that this type of operation is exempt from permitting. NWDO believes not and has requested permits. No one at the meeting has heard of such an exemption. (Joe Loucek of NEDO exchanged E-mails regarding this issue with Don Waltermeyer of NWDO and Jeanne Mallet. See below)

Hey Jeanne -

Thanks for getting back to us. The last email you sent me was that you couldn't find Eva's notes or her memo on the subject, and we'd have to wait for Eva to get back from leave. I thought we had something in writing from Jim Vinch up here, but no one is claiming to have a copy (neither in DAPC nor DSIWM).

So based on what you wrote below, if we get a facility telling us that they are a railroad, and therefore exempt from the requirement to get any Ohio EPA permits, should we:

1. Tell them to submit that in writing with all supporting documentation; and
2. Send that to you (or if comes to DSIWM, Jeff Hurdley) for a determination?

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In the meantime, Ohio EPA should continue with our normal route of requiring a permit application until it has been proven not to be needed?

Up here in NEDO, DSIWM has a facility that they have been discussing this issue with for awhile, now. The facility claims the information is privileged and that our atty should talk to their atty. Should we use the steps I listed above, probably in conjunction with Ohio EPA's confidential files protocol?

thanks,

Joe

>>> Jeanne Mallett 07/14/05 11:02 AM >>>

Joe, I believe I responded on this, based both on my earlier research and Eva's memo. This continues to be a fact-specific determination. Although the federal law exemption is written broadly the cases so far have not had great facts. We're happy to give out best analysis on any particular set of facts.

P.S. Eva has returned as of this week, but she is working part-time and of course now works with the DSIWM practice group.

>>> Joseph Loucek 7/14/2005 10:50 AM >>>

Don -

I just read through Ed Fasko's minutes from yesterday's P&E meeting.

One of the issues raised by you was railroad exemptions for CDD transfer stations. There is a federal rule that restricts states from having jurisdiction over railroads - I believe it is part of the interstate commerce rules. This issue has come up before in NEDO. Specifically, our review of the issue albeit brief, and superficial because none of us are attys, is that just because a facility owns a couple railcars and property with a railspur may not make them a railroad in terms of the federal exemption. There are some pretty specific definitions and standards to be considered a railroad.

I asked Jeanne if legal could look into this, and either give the DO/LAAs specific tools for determining whether a "railroad" was eligible for the exemption or not, or at least provide guidance as to what information the DO/LAAs should collect to provide Legal with the information they would need to make the determination.

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Eva Brault has been working on or inherited this project some time ago before she went on maternity leave. I believe she is still on maternity leave, so the question may not be addressed for awhile yet.

NWDO is not alone in having this issue brought up. I suspect it may even be the same folks that tried to use that argument here in NEDO.

- The BAT study group formed some years ago developed a guidance which was never finalized. In light of the recent questions by certain industrial groups about BAT, it may be wise to finalize this policy.

- Parking lot items -

- 1 - Multiple emissions units, common control; preparing proposed rules
- 2 - Engineering guide on emission factor changes; PAG working on final review
- 3 - 17-07, 17-08 guidance; Waiting on completion
- 4 - RACM/BAT for portable drills - NWDO meeting with facility at end of the month
- 5 - Procedural issues for CEMS - NEDO to discuss with Todd Brown.
- 6 - CDD landfills H2S emissions - draft terms in (SEDO) landfill may be appealed. Once resolved, the monitoring of H2S should be BAT. (Or some form of it)

P & E minutes are posted. http://www.epa.state.oh.us/dapc/Per_enf/P&Ehistoryweb.html

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 on September 13 at 9:30 in Central Office-----