

P & E Meeting  
August 12, 2003

Attendees: Don Waltermeyer (NWDO), Ed Fasko & Amy O'Reilly (NEDO) ,, Kay Gilmer & Kyle Nay (SEDO), Bud Keim (Canton), Abdur Rahim (CO), Adam Zolciak (Toledo), Jeff Canaan & Heather Kawecki (RAPCA), Matt Freeman & Anne Chamberlin (Portsmouth), Frank Marcunas (Akron), Mike Riggelman & Adam Ward (CDO), Mike Ahern, Tammy VanWalsen, Rick Carleski, Mike Hopkins & Jim Orlemann (CO), Jim Braun (Cleveland), and Jim Pelligrino (SWDO).

Jim Braun- mini- training document re: rule applicability used in the Cleveland office, may be useful to others. One page document.

Item #1-Title V update, Jim Orlemann- Region 5 summary as of 6/1/03 indicated that Ohio had issued more finals than any other state in the Region. 608 final actions completed, 744 the final goal. Last commitment date is 9/1/03. No way it can be done. Director has not yet asked for extension. He may want to wait to see how far along we will be at that point before going to Region 5 to ask for an extension comparable to what the other states were given. DAPC thinks that we will have to shoot for 12/1/03, that way stragglers can still be done before the end of the year. Top priority is to get the drafts out. As of yesterday, still 22 actions need to be done by Friday. All but one should be issued draft (GM in NWDO) by Friday. Some of those won't have had the quality review, so we expect that there will be more lengthy comments and PPP meetings to go through them and make the corrections. One way of another, they will be issued draft. Emphasis will then shift from moving them from draft to PPP. Important that we get them all done by the end of the year . The Director gets weekly reports on the issuance of the Title V's. He knows which offices are performing and which ones that are behind. There will be a lot of meetings, and a lot of work to do for the next few months.

Mike Ahern, will revise the tracking form to reflect this shift and be better able to track multiple permit actions. When the drafts are sent out, the cover letter will ask them to mark up the permit and provide comments early (may have them waive their review period). Pending lawsuits re: SOB's makes USEPA really sensitive to that issue, in Ohio especially due to the petitions and other lawsuits throughout the country.

Mike Hopkins- Region 5 list, USEPA has talked to the other states and there was an inconsistent counting method and from the data distributed by JO, it now seems that they have resolved this and the data looks good for Ohio.

Jim Braun- MACT applicability, seems to be getting more creative with respect to how the MACT is incorporated into the permit either by attachment or by incorporation. JO- to get some of them out by Friday, they are being attached; however, not the preferred way, will have to be incorporated before it can go to PPP. Statements of Basis (SOB), seems that R5 is getting more picky re: the SOB, no additional guidance, we just have

to respond to their comments and revise the SOB accordingly. How we choose which monitoring, record keeping and reporting seems to be their biggest concern. Not clear on what they (USEPA) really want.

Letter from TODCO re: request to revoke the Title V. Can we revoke a Title V? No provision in 77 to revoke "for cause". Typically "for cause" means something other than because you are now subject to the State PTO's. How should we respond to TODCO? Can't ignore the Title V. If final FESOP issued, can stop paying Title V fees. Rules need to be modified. In the meantime, one approach to be worked out is the use of Director's Orders to allow them to get out of the Title V. Trying to iron out the legal issues first. In the past, we have issued the State PTO's, now we are not sure we should have. "For cause" in the ORC, not in the OAC. May not be a good idea to issue the State PTO's anymore until the legal issues are worked out. NWDO will draft a response and run it by Central Office for approval. Would have to wait for the Title V to expire. TODCO can then submit the State PTO's at the same time they submit the Title V renewal application and DAPC can evaluate whether or not they've gone below the thresholds. Upon confirmation that they have gone below the thresholds, then we can tell them that we will act upon State PTO applications instead of Title V. The company still has a Title V permit requirement to submit a Title V renewal application, regardless of whether or not they want to pursue a FESOP.

Item #2- Enforcement Improvements- Final summary of the improvements to be implemented distributed. No comments received, considered this to be a good thing. Joe K. met with Chris Jones and Chris told Joe that everything looked good and that there were some good ideas included in the final recommendations. Will be sent out to all DOLAA's by Friday. One work group will be lead by Tom kalman, Don Waltermeyer & Curt Marshall also in group. Their goal is to identify minor violations that we can handle through rule revision & then unilateral orders. Jeanne Mallett- lead for workgroup to develop the rules to allow for the unilateral orders for penalties under \$5,000. Will have to go through JCARR. The list developed by the first group would then be used to issue unilateral orders with a defined penalty that could be appealed to ERAC and we would have to battle it out there. Hope that because the penalty would be small, shouldn't be too many appeals.

Mike H. will the penalty figure be adjusted for inflation? Not likely.

Performance standards developed for the handling of enforcement cases. New tracking of performance standards, zero date of the violations (when you first learned of each violation), when CO puts together package (within 90 days), then hold meeting within 90 days of issuing document and then settle it or give them a drop dead date within 360 days of EAR submittal dates. Half of the time we are now given (two years from receipt of the EAR). JO meets with Joe K. quarterly to go over status of old cases. Joe will still hold us to the 2- year deadline. Adam, what about "complete EAR", must review quickly. Could an email be sent to tell offices of the deficiency or that it has been deemed complete. Major change in how we function.

Page 3- j- drive file where typical terms that are used for F & O's. Initially used by CO, but could be used for the DOLAA's. New EAR form completed. JO will be distributing it.

Training - work group established to give "global training" for enforcement. One-two days, all enforcement staff to be included. Curt Marshall is group leader. Will give recommendations by December 1 for what to include in the training.

One of the outstanding issues is whether or not to have quarterly meetings at each office to go over enforcement cases and procedures. Problem is that you can't visit each quarterly. Will ask for comments from DOLAA's regarding how to improve the communication between CO and DOLAA's. Adam "living documents" re: where all the documents are held, like the enforcement manual.

EC meetings- SEDO wants to know if that means they are invited to. JO, we don't conduct our enforcement meetings the way the other divisions do (go over each and every case on the docket) because of the number of cases. Our meetings only cover the actions by the Director during the previous two weeks.

Website to be created where all Final (not draft F & O's) Actions by the director that anyone can access (like DHWM does now). Federal audit revealed that the general public was ignorant of all of the enforcement action taken by OEPA. Putting the final actions on the web will help to increase public awareness of our enforcement program.

Last page has the deadline associated with each of the activities to be implemented.

Federal Court ruled on the First Energy ruling re: Sammis. Slammed company and USEPA in the ruling. NSR reforms still going forward, unclear how the ruling will impact the reforms. May induce settlements from the existing cases. The company will appeal after the penalty phase is complete this spring. New rules are not retroactive. States can be more stringent, for example we can say we won't do a PAL. USEPA will argue that you get more reductions under a PAL because companies will try harder to stay under the PAL. Environmental groups would argue you are gutting the program. Director deciding upon what approach to take with respect to the rule revisions necessary to adopt the reforms. Industry pressuring Jones to adopt the reforms immediately. Environmental groups want to be included in the decision making process. Director reviewing our options. Met with industry groups and it was very contentious. They made it clear they want it done asap. Mike H. feels that no matter which direction we take not everyone will be happy and no matter which approach we take, it will take longer than industry wants. Meeting this month to go over issues. USEPA thinks that the PAL won't impact other requirements; however, industry thinks it will do away with BAT. Mike H. feels sorry for the states that have not been delegated authority because they have to implement it right away. Will USEPA come here to do NSR reform training? Mike H. probably won't for implementation but Region 5 says they will develop whatever training we want. Whether we develop it as part of our NSR training, USEPA or a combination of both. Each state will probably develop theirs

differently. Will keep on the docket.

NSR- Mike Hopkins.

EG on emission factors- no progress to report. PAG technical subcommittee suspended due to PPEC workload reduction groups. No further meetings scheduled at this time. Still more work needs to be done on it. Why can't we issue the guide ourselves? Why can't we do this through P & E? Why does it have to go through the PAG? Expectation was that once they got a reasonable product, it would be turned over to P & E. PAG initiated guide, not internally motivated. Not going to change how we do things normally, just clarifies how we do things now. Jim Braun- what's the normal process? JO- Issue can be raised by anyone. Developed as draft, sent out for comments. Once final, it gets issued by Hodanbosi to everybody. In the past we've never sent them out to interested parties. Set review period for policies, but not for guides. No current mechanism for periodic reviews. Up to P & E to point out obsolete or errors in old guides.

EG- Once in always in- Radhica moved to Chicago. Abdur taking on the responsibilities. Abdur, no progress to report. Was ready to be issued final. Was going to add examples, but never received any from anyone. Could examples be pulled from the USEPA's web page? Letter from R5 re: Once in always in had examples and that was to be included in our guide. Radhica was looking for more examples. Should redistribute it and start over. Mike H. will coordinate it.

Mike H-

Sent out 180 day list and asked offices to update him on where those permits are. DOLAAs that haven't responded, need to so Mike knows how to get them moving. Doing pretty good about meeting the 180 day timeframe. List keeps growing, difficult to keep up with.

General- What about Abdur's work with respect to getting guidance on the web. Mike H. still their desire, have yet to implement it because of Abdur covering MACT questions. Implementation on hold. Intention of the reorganization, but on hold for now.

PMU-Mike Ahern-

Modification and renewal processing guidance. Still working on open issues. What constitutes a significant change with respect to monitoring, record keeping and reporting? Will be meeting in Sept. to discuss further. During the conversion process, only the state only side of the permit was being converted. Erika will be contacting each office to let them know where this is a problem. Focus now on modifications needed for PTI incorporation. Less than 10 mods issued so far. Since the last meeting, Jim Braun talked with folks working on it and the word perfect document was so bad, it basically needed to be totally retyped. Mike A. initial permits that got converted, entire sections were cut out. A lot of formatting issues. Essentially

rebuilding the permit from scratch. Prior to the guidance issuance, CO now going through the document before sent out to the offices. Minor issues (numbering with a dot) still a problem and part III of the tables, the applicable rule isn't lining up properly. When the field offices open it up, the columns shift and still problematic. Can Adobe be used? Mike will look into it. Significant mods. Have higher priority; however, what about the renewals? What priority do they have? JO- Drafts top priority then after 8/15 moving them to final is our highest priority. We tell the AGO that appeals are the lowest priority and offices are not to give them any priority. Renewals and modifications behind the first round in terms of priorities. Still to be reviewed by CO but should be so much easier.

JO/Mike H working with AGO on permit appeals. About 200 appeals on the books. 50 for Title V's. Working with the AGO to determine which ones we should be prioritized. At some point, a list will be sent out to the DOLAAs which ones will be handled as priorities. Top priorities will most likely be the ones that the companies are really pushing us on. Priority must be on the renewal, not on the appeal language. For those offices that are done with their Title V's, we have 18 months to issue after deeming it complete. Many sites are in the position where the 18 months is ticking away. SEDO says that all of the ones they sent in have just sat here in CO. Mike A will get together with JO to prioritize the list for those to go first. Mike's group focusing on the modifications due to the PTI issuance that conflicts with the final Title V. A part of the guidance document, the permit writer is asked to compare the wordperfect document with the permit. Permit writer review of this very important (eliminating shut down units, including new ones) or instances where permittee forgot to include emission units, improperly characterized (insignificant vs. non-insignificant). Upon receipt of the wordperfect document, tracking of the permit no longer done in STARS, how is it being tracked in other offices? Can do activity log update thru STARS but can't pull up the permit itself. Can DOLAA's be given access to the j drive? Mike A. not sure, would recommend setting it up the same way that PTI tracking is done. Each version of the document will be given a different name, but when the applications are amended, tracking will be a problem.

Changes to general terms and conditions sent out for comments to clarify the deviation reporting requirements and added language to address the effect of shutting down emission units during the life of the permit. Still incorporating comments received. Will be presented to PAG this afternoon. Once these changes are made to the General Terms, they will impact all facilities. Must comply with the most recent version. Will add a new General Term with respect to the shutdown units so that they don't have to keep sending in deviation reports.

NOD- On July 29, comment period for the revisions to OAC chapter 3745-77 ended. Ohio Chamber of Commerce and the Chemical Technology folks have submitted comments indicating their opposition to the rule change. JCARR hearing 8/9/03. Director to attend hearing. Will begin using the language for renewals only at this time (including insignificant units on the STATE/FED side). De minimus units will remain on the state only side.

Revised PTI application form now on web. 8/1/03. No cutoff date for acting on old forms. Should be still considered complete if old form is used. Also if title v application comes in with old EAC forms, Bob H. says to let them use the old ones unless substantially deficient.

Checklist for renewal applications? Working on it. Biggest issues for incompleteness, CAM plan submittals, EAC forms for insignificant units and failure to include stack test results as part of the application.

Asphalt plants, use of newly established id's not a problem, but converting the old ones still being worked on. NEDO looking at their workload, so not changing old stuff. Phase 2 will be to change the old ones. SEDO sending mike a foxpro file of all of the portable facilities to reassign the id numbers. Erin will assist to do the conversions. Each office needs to develop the list. Will start with SEDO and see if there are any problems before requiring them all to convert.

Jim Braun- what about portable boilers? Mike H. is it a boiler they will continue to own? They can be done as portable but trouble is that it could be a major modification at certain locations. Still have to deal with the PTE and how it impacts Title V applicability. SEDO, no consistency in how permits are being issued throughout the state for the portable units. Can see what they've recently sent out through the PTI tracking. Clearly states that if you move it to a new location, you have to consider the impact on the new location with respect to Title V. Cheryl Suttman and Bruce W. working on updates of all permit terms and conditions, should make sure they are in the loop. What about a company that wants to try a new piece of equipment, but not sure they want to buy it.

Can use the Director's exemption letter. Example, the rock crushers that are rented need a permit either from the owner that is renting it out (typically done as a portable unit) or the company that rents it needs a permit. Need to have either permits or Director's exemption letter (not to exceed 60 days of operation). If it doesn't fit into one of those exemption categories, then need a permit.

Mike Ahern- Sandy Craig is converting the NSR manual to electronic.

Landfill- no progress to report.

EG-VE's guide revised. Need comments by mid Sept. Will send out email around Labor day to tell folks to send in comments.

CETA update- Lisa Holscher has told CO that she is withdrawing from our periodic enforcement calls to focus solely on the AFS database and how the states are doing with respect to the CMS grant commitments and uploading of the compliance and enforcement stats to USEPA's database. CETA stats will be incorporated

Inspection form- need to send out the electronic version to everybody., including the table version.

17-08- not ready for distribution yet.

Multiple emission units- Jim Braun, they met on August 8, 2003. Don Vanterpool feels that either a new rule and/or modification of existing rules is necessary to do what we needed. As the meeting progressed, Don was no longer so sure that rule revisions are necessary. Biggest hurdle is that we would allow someone to group them, then if they pulled out one of the units and installed a new one, it would effectively eliminate the public's ability to weigh in on the change. Would feel more comfortable with a rule change that explicitly states when and how someone can group the emission units. Example of a NWDO permit for Sauder Woodworking that was grouped together as one emissions unit. Tom k. reviewed it and said it was OK for Sauder; however, he didn't think it would be appropriate for bigger units. Jim B. thinks that is unfair to other companies. If ok for Sauder, then should be OK for everyone. Basic concern comes back to installation of new units without allowing public comment. NWDO, Sauder different because the sawdust is used to fuel the boiler, so the baghouse became the conveyance for the sawdust. Grinders/routers, etc. no NSPS, etc. can't change flow rates or increase production, otherwise they would be applying for PTI's every day for changing out of woodworking equipment, grinders, etc. SEDO has similar operations where the baghouse collects the sawdust for resale and therefore permitted the same way. The source is the baghouse, not the saws. Product collection versus emission sources. Jim B. Thinks it should be fair and equitable across the board. Jim B. still thinks that legally it is not defensible. Don W. they could have looked at each of the woodworking stations are de minimus, but because when it gets added up they are huge. Where do you go from here? Jim B. proposes that we do come up with a rule change to make it equitable across the board. Ford Casting, SIP revision example can be used as the starting point. Pollutant specific? Conclusion is that it shouldn't be pollutant specific, should be general. Need to gather data to support it, just like FMC did to get the SIP approval. What would be the cost and effort to go through a rule revision? Jim Braun feels strongly that it should be made to happen. If we don't do it now, 5 years from now we will still be struggling with it. Haven't looked at what other states are doing. Genevieve equating it to a PAL. Benefit would be in saving time processing the permit and companies would jump on board because they could replace units without the need for obtaining a PTI's. JO have had internal discussions in the past, grouping and for identical emission units (ex. 6 identical boilers going in, can we just give them the same language without having to issue separate permits. Other issue where we would define "emission unit" thru BAT can be done as a group limit; however, when applying the other rules and can conclude that the other rules are less stringent, then you can do it in the PTI. Conditions, doing it to establish BAT, limit is more stringent than existing rules, etc. Could identify many situations where there could be benefits. Administrative for sure and some could be chapter specific. Need to get permission from Bob H. to expend resources to work on this. 4-6 months to put it together, 6-8 months for JCARR. Must clearly define where grouping can occur both administratively and from an emissions stand point. Need to put together a memo to Bob H. outlining the benefits and justification for working on this. Other option would probably have to go in the PTI and PTO rules and perhaps pollutants.

St. Louis- had a meeting with respect to National accreditation push from USEPA. Did have a small session with respect to annual certificates of compliance. Feds issuing fines related to late filing of annual certification. Bud Keim, initiating enforcement on incomplete certifications, from USEPA. ST & C's with respect to testing needs to be updated. Honda gave a presentation on how they review the certificates of compliance. GM's presentation wasn't very good.

CAM, credible evidence to be dropped from agenda until specific issues brought up. Stack testing to remain. NWDO wants to drop the requirement to witness all runs.

Next meeting- October 14, 2003