

Permitting & Enforcement Committee Meeting – September 9, 2008

Lazarus Government Center
Ohio EPA
7th Floor DAPC conference room

Attendees: Co-Chairs - Jim Orlemann (CO), Jim Braun (Cleveland)

Minutes - Ed Fasko (NEDO)

- Mike Ahern, Cheryl Suttman, Mike Hopkins, Jennifer Hunter, Andrew Hall, (CO), Mike Riggleman, Adam Ward, (CDO), Jason Simon, Dale Davidson, (RAPCA), Marco Deshaies, (SEDO), Pam Barnhart, (Toledo), Cindy Charles, (Portsmouth), Mark Budge, (NWDO), Bradley Miller, (HAMCODOES), Madhava Dasari, George Nemore, (SWDO), Bud Keim (Canton), Rick Carleski, (CO/OCAPP)

1. **Enforcement issues** - Jim Orlemann

Jim Orlemann spoke of the Shelly Trial which started on 8/27 in Franklin County. Because there are 40 plants involved, the Judge is looking for stipulations before court resumes on 9/17. He wants the PTI dates, construction dates, used oil burning periods to be stipulated. Jim handed out his enforcement numbers with graphs, including the schedule of resolution of old cases. We started out with 44 old cases and are now down to 24, with a goal of 0 by the end of the year. He hopes to resolve the Marzane cases with Findings and Orders or they may just be dropped. With a goal of 100 cases to resolve, 56 have been completed. The goal for findings and orders is 50 for the year and so far we have completed 37 which includes unilateral orders. Jim also mentioned the Ford Brookpark Findings and Orders resolved with a civil penalty of \$1.4 million, the largest civil penalty ever. Approval was received not to go to the AGO for this one. The Facility Compliance Evaluation schedules went out. It is very important to update CETA as the transfer of data from STARS2 is still in question.

Action Item: Keep on top of inspection commitments, update CETA accordingly.

2. **New Source Review** - Mike Hopkins

Mike spoke of the major projects which seem to be springing up recently. These projects are taking quite a bit of his time as well as NEDO's. He asked about how the staff is handling the learning curve of STARS2. There is a general concern about getting the hardcopy applications into the system and generating a workflow so the project can be properly tracked. The field offices are using different methods to get these applications entered. Some are using clerical people, some are using the permitting staff, and some are using a combination of both. Data entry is critical, and there is no way to backdate activity. If a note is placed to indicate a correct date, it will not affect an statistical reports that are generated. The note will only be considered if the specific application is looked at. The date stamp is the date that the application is considered received. If you cannot get an application validated, this will work against you. To stop the clock, when more information is needed, use the referral option. There has been a problem that consultants have in that they have been submitting data that they do not have the authority to do so. A fix is being considered that would allow them to do all the work and not lose it, prior to the responsible party submitting the information. *Tracking changes option* under review is very helpful. There is a link to a Microsoft Video that shows how this works. This is helpful in review, as Central Office is more likely to catch the changes that the field office may have made and thereby a permit can be issued quicker. The Statistics function has

not been used in Central Office as Mike does not quite have faith in it yet. Eventually, however, this is how we will track the numbers. Management reports, “late permits” should be working. The bar on workflow diagram still has some questionable dates. Remember, workflow start date sets the system into motion.

Mike Hopkins’ group will be working on how we are going to handle rush permits. The “rush box” should be checked, and a letter of request scanned in. The letter should still be sent to Mike Hopkins, and copied to the field office. This is how the guidance reads on the web.

Jenny Hunter brought up a FEPTIO issue. Previously, a PTI which went draft (syn minor PTI) would be followed by the issuance of a regular PTO (non-draft). STARS2 does not allow for that and checking the draft box will mean a FEPTIO will be issued. Come Friday, 9/12, this will be corrected, and it will not be necessary to check the draft box for a FEPTIO. Instead a Direct Final FEPTIO can be issued. The Field Office will make the decision if a draft is in order.

Jim Braun brought up the R & D exemptions with the attached questions. He also brought up a question about the continued reporting requirements in a permit surrounding 3745-21-07. Mike Hopkins response was, if it is in a Title V permit, the requirements must still be followed until the terms are changed after the Feds accept the SIP. If the requirements are in a state only permit, they could act only on the basis of the new rule, as we will not pursue enforcement, but the Feds may in Title V situations. The director has asked the USEPA to act on the SIP approval as soon as possible in order to provide some relief to industry recordkeeping requirements. The main item the Feds may not approve is the SMC exemption in the rule, but maybe the rest will be okay. The other item in the rule that may be of issue is the applicability of the new 21-07 rule to existing sources only (i.e., sources installed prior to the effective date of the new rule). The Feds may object to this because they might view this as backsliding since the new rule does not apply to new sources (i.e., sources installed after the effective date of the new rule).

3 **STARS2 and permit issuance update – Mike Ahern**

Mike mentioned the court decision which authorized the local authorities to establish monitoring requirements for gap-filling. The court was clear in stating this was actually an obligation of the states to act on these requirements. The previous ruling was that all monitoring requirements had to be rule-based. Mike also stated rule citation is critical for industry to use in applying for permits. Ahern will review the Title V renewal guidance to consistency. He also stated that our Title V rule revision is moving forward. In regard to FAR documents, there is some involvement from PIC when a public hearing is held, and we have been using a format when a public hearing is held, and another when one is not. A template is to be developed that will be used for all FAR’s. It will be uploaded as a correspondence document. All documents uploaded should be in word.

The CAU has been working with the Contractors to develop reports. Send any suggestions for reports that might be needed to Mike Ahern and Linda Ours. And SCC search for reports is also to be developed and could be helpful for the BAT project. Central Office is unable to process the intent to re-locate letters right now, but this should be fixed soon. There will probably need modifications to EG. #44. The 14 day requirement for preliminary review is for initial installations and Chapter 31 mods. This does not apply to other permits. A question that was brought up previously about numbering the emissions units at a dry cleaner. Initially, all

units were listed under D001. There may have been an occasion where D001 and D002 were used when a petroleum machine as well as a perc unit were both located at the same site. Using additional numbers may help keep track of the units installed. The single EU number may have been established for billing purposes. The fee schedule for PTIs established a permit fee for the entire facility. Consequently, after the facility obtains its first permit then for any additional units that are installed the permit can be issued with applying a zero fee. The thoughts behind this issue need to be investigated.

Linda Ours addressed some of the issues that people were having with STARS2. If a unit is never installed, you have to mark it as shutdown. Invalid units must be marked as such. A problem that has occurred is the unintentional dead-ending of a workflow by indicating return of the application. If you just need more information, you can just refer the action. (This stops the clock) A returned application means a new entry for the project with a new workflow. The magic button which will allow the field offices to add EU's is a system administrator function. However, one person in each field office will be given this authority. By Friday, 9/12, all DO/LAA's are to let Linda know who that will be. Bulk operations has finally been fixed so facility roles can be changed in just a single process flow. Speaking of facility roles, there are default roles that Linda needs to change if staff leave or change responsibilities so that new facilities will be assigned properly. Looping back is to go back to the original person assigned, but when you do loop something back, you should check the workflow to be sure the proper party has been assigned the task.

Linda reminded us that ownership/contact is established on gateway and is maintained outside the profile. The facility has to submit the information. A consultant cannot do this. This will be changed soon so a non-responsible party can save changes as a "in progress task" which must be submitted by a responsible official. A question was raised about when a facility adds an emissions unit and assigns an emissions unit number. Linda responded that the EU will be listed as "temp". Staff will have to correct the EU number ; if not, they will get a warning; the facility cannot change this, nor can they change the OEPA description. The next question was about creating a new facility. When you create a new facility, the facility ID is unique; that is, each facility gets a facility ID#. You can, however, have a different facility ID # at the same address. STARS2 will not provide a warning if a second facility number is created for the same address. Most of these situations should be caught though when Linda Lazich performs the CORE ID search. A question about legacy permits, this one was specifically started in PTI2K and migrated to STARS2. The EU's are x'd out in the application, but not in the permit detail, will the permit be able to be processed? Linda said yes. Regarding looping back, you should always check your to-do list. In order to make people better aware of this action, a different color could be considered for the workflow diagram. Possibly a number listed (1,2) in the workflow would be another way to address this. You can also sort your workflow and to do in different ways to find things. Please note that the bolded items in the workflow list are those that have not been addressed. If you have any enhancement requests, send them to Linda with "Enhancements" in the subject title of your e-mail. There is still some money to address some of these issues.

The intent to relocate letters for the portable plants is currently not working, but the issue is being addressed. The intent of group names initially was by company, or common ownership. Is that still what we want to do? We are no longer using the "90's" numbering system, but those units issued with "90's" will still show up that way. Linda also wanted all to be aware that you can enter deviation reports as well as stack test reports into the system. It is okay to upload these reports as needed, it is recommended but not mandatory. Upload reports to the Facility attachments. The question came up as to just how much we can or

should put into the system. This will also affect records review and FOIA requests. It was also pointed out that outside people cannot see the permit detail notes. Mike Hopkins stated that it's possible that guidance for uploading reports will need to be developed to establish consistency across the state. Please note that total particulate was added under the list of pollutants in the Applicable Requirements section. The pick lists for the pollutants are not the same across the system. If information is missing on a pick list, notify one of the SAs: Linda Ours, Mike Ahern, Erica Engel-Ishida, or Mike Van Matre. Linda encouraged everyone to use the Online Help in STARS2 as much as possible and to contact Erica if any corrections are needed. We were also told a MACT coordinator was to be assigned.

OCAPP is helping facilities that did not get the SMTV's filed hard copy in time to file them electronically. The DO/LAA's should be prepared for questions.

Action Item: Engineering Guide 44 will have to be modified to address STARS2 issues, group names, and supportive EU's. It was pointed out that portable EU's and non-portable EU's should not be used in the same permit. SEDO and NEDO have to get together with Mike Ahern to address the guide revisions. Some standards need to be established as to how much material should be loaded into STARS2, Confidentiality issues and records requests.

4. **Terms and Conditions -**

Cheryl Suttman is checking the exemptions and permits-by-rule in Chapter 31 to see if there are any discrepancies between the requirements for exemptions from obtaining a permit and any new U.S. EPA rules, e.g., new NSPSs or area source MACTs. Some Chapter 31 rules that may be affected include GDF's, emergency generators, and autobody finishing.

Cheryl has drafted terms-by-reference for GDF's based on 63 Subpart CCCCCC and for stationary combustion engines based on NSPS Subparts IIII for compression ignition and JJJJ for spark ignition engines. No comments have been submitted to date.

The effective date for 63 Subpart CCCCCC for new (commence construction after 11/9/06) GDFs is 1/10/08 or upon startup; and an existing source must be in compliance by 1/10/11. The GDF Appendix A static leak test (ST-30) and Appendix B dynamic pressure performance test (ST-27) in OAC 3745-21-10 do not agree with the CARB vapor recover test procedures from the subpart: **1.** leak rate and cracking pressure test of pressure/vacuum vent valves (CARB TP-201.1E) and **2.** static pressure performance test (CARB TP-201.3).

Cheryl has served on a landfill "higher operating value" (HOV) work group with the DSIWM who are working together to resolve the state's landfill gas problems and to enforce the NSPS, Subpart WWW.

The HOV committee has modified Cheryl's draft guidance document (into a NSPS summary and a landfill gas guidance document) and her landfill NSPS applicability table (completed following the submission of a survey mailed by DSIWM) and have forwarded these documents to Bob Hodanbosi and Pam Allen for sign-off. The guidance document has been or will be sent to landfill owners and operators and their consultants for comments. The new guidance does not allow for an HOV approval for O₂ or N₂, these requests will be denied; and higher well temperatures will require testing beyond the scope of the NSPS: the higher the requested temperature, the more testing we will require.

All of the HOV and alternative timeline requests received to date at Central Office (all HOV and alternative timeline requests should be sent to Cheryl's attention at CO) will accompany an

inspection team made up of staff from both divisions (DAPC and DSIWM). The HOV committee plans to resolve and address all of the past HOV and alternative timeline requests through these inspections (most should be back in compliance, as required by NSPS rule). Outstanding HOV requests and those received following this inspection shall be reviewed by both divisions and the approval or denial letter shall be drafted by the DAPC district office or LAA and reviewed by both Central Office and the DSIWM contact for the facility before they are mailed.

The new "tree" format for the Library of Terms and Conditions will be ready in a few weeks. It will replace the current library. Most likely a link to the old library format will be retained for a short period of time for the transition to the new format.

5. Engineering Guide update-

- #6 - PTI for Coal to oil conversion - Cleveland - Mike Hopkins is looking at this. No progress
- #9 - PTI/PTO Determinations for grain dryers - NWDO - Don Waltermeyer and Jim Orlemann have had some discussion on this. The information is to be sent to Jim.
- #16 - Conditions requiring additional testing - NWDO – Comments received by NWDO, ready for final review by Jim O. .
- #18 - SO2 compliance determination for boilers – In the works, maybe version next time.
- #20 - VE limits, determination for stack sources - Akron - No progress
- #23 - Significant figures for TSP emission limitations - SEDO – Received comments
- #24 - Application of Fugitive Dust Requirements to Affected Facilities - Toledo - no progress
- #25 - Determination of source numbers and Permit fees for fugitive dust sources - Cleveland – No progress.
- #26 - Inclusion of weight of water in the weight of "refuse" charged for incinerators.- NEDO – Should be getting a work group together soon. No progress
- #27 - Determination of Heat input during a boiler stack test - RAPCA – Ready for final review by Jim O..
- #44 - Portable Plants - NEDO – NEDO and SEDO to discuss with Ahern.
- #53 - Open Burning Standards - Central Office - Hearing resolved; no progress on guide
- #70 - Toxics – Hopkins reviewing; #69 may need changes due to changes in #70. – No progress.
- #74 - Classification of PM - Central Office - . Andrew Hall and his group can start working on this now that the Feds have passed the PM 2.5 rules. No progress.
- #75- New guide for crushers and non-metallic material - NSPS OOO - Mike H. - No progress
- #28 - Methods for Ascertaining the Uncontrolled Mass Rate of Emission for Figure II – CDO - draft handed out, comments to Mike Riggelman by November 13, 2008.
- #29 - Applicability of the PTI Rules to Increases in Capacity of a Derated Boiler -CDO – working on this

Mike Ahern offered to post the current draft engineering guides on the DAPC Guidance page. The group authoring that particular guide is responsible to get Mike the latest draft, which will be posted for internal viewing only.

Cleveland handed out the model general permit for crematories. Comments should be sent to Jim Braun by the next meeting. For the tub grinders, Mike Hopkins noted that we need to determine what BAT is for these emissions units. It will also be necessary to address the high NOx emissions from the generators for minor source modeling. It might be necessary to

establish stack parameters for the generators. The BAT rule development package has been prepared and is with the director; and will be discussed with Mike Hopkins and Andrew Hall before being distributed to the Field office volunteers.

There has been no progress on the 21-07 guidance. Jennifer Hunter will see that the old version of 2107 is posted so that it can be referred to.

Next meeting is Thursday, November 13, 2008

Questions regarding R & D.

3745-31-03 Exemption

(i) Laboratory equipment

(i) Laboratory equipment and laboratory fume hoods used exclusively for chemical or physical analyses and bench scale laboratory equipment.

(ii) Laboratory paint booths used to prepare samples for chemical or physical analysis where the actual emissions of each laboratory paint booth is less than 3.0 tons of VOC per year and where:

(a) The owner or operator maintains records, available to the director upon request, detailing that the VOC emissions are less than 3.0 tons of VOC per year, and

(b) Any exhaust system that serves only coating spray equipment is supplied with a properly installed and operating particulate control system.

Questions:

1. For the exemption above, is it necessary for the facility to maintain records for each individual paint booth or is it acceptable to maintain records for all the paint booths combined and demonstrate that the average VOC emissions for each booth are less than 3.0 tons/year?

Answer: The facility must maintain records for each individual paint booth. However, if the total annual emissions for all of the paint booths combined

is less than 3.0 tons/year then it is acceptable to maintain records for all of the paint booths combined.

2. If the answer to question 1 is yes, then what happens if the average for all paint booths exceeds 3.0 tons/year - will the facility need to obtain a permit for all of the spray booths if they are not able to determine which spray booth(s) exceed the 3.0 ton/year limit?

Answer: Since the answer to 1 above is that records must be maintained for each paint booth, the facility would only need to obtain a permit for each paint booth that exceeds 3.0 tons/year of VOC. If the total combined emissions for all booths was originally less than 3.0 tons/year with the facility maintaining records for all booths combined and then the combined emissions increase to over 3.0 tons/year then the facility would have to begin maintaining records for each paint booth to demonstrate that each booth is less than 3.0 tons/year in order for the booth to maintain exempt status under this exemption.

3. If the facility needs to obtain a permit for all of the paint booths, is it possible to identify all paint booths as a single emissions unit such as "R&D Paint Booths" so that they can continue to maintain facility wide records for all paint booths combined? Or will it be necessary to obtain individual permits for each booth with individual record keeping?

Answer: The facility will need to obtain a permit for each individual booth that has annual emissions greater than 3.0 tons/year VOC. Each permit will have its own record keeping requirements for each paint booth.

4. If it can be determined that one or more specific paint booths have actual emissions greater than 3.0 tons/year, then those emissions units would need a permit and would have individual record keeping requirements while the remaining spray booths that qualify for the exemption could remain under facility wide record keeping (if the answer to question 1 is yes). Is this correct?

Answer: As noted above, each paint booth with emissions greater than 3.0 tons/year VOC will need a permit. Per the answer to question 1, any remaining paint booths that still qualify for the exemption will be required to have individual record keeping unless it can be demonstrated that all of the exempt paint booths combined have total emissions less than 3.0 tons/year VOC.

Note: Another option to consider is the possibility that an individual paint booth might be able to comply with the De Minimis exemption contained in OAC rule

3745-15-05. The booth can be exempt if either actual or potential emissions of VOC are less than 10 pounds/day as well as less than 1 ton/year HAPS. If the potential to emit is less than these thresholds, then the only record that needs to be maintained is the potential to emit calculation for the booth. If the potential to emit is over the thresholds but actual emissions are below, then the booth can still be De Minimis but daily records for the booth must be maintained to demonstrate that actual emissions are below the De Minimis thresholds.

Potential to emit should be determined based on the maximum hourly coating usage operating 24 hours per day and 365 days per year.

Questions regarding 21-07

Comment: As examples of the applicability of this paragraph, if a permit-to-install, a permit-by-rule, a permit-to-operate, or a Title V permit has been issued prior to the effective date of this rule and contains both a citation to rule 3745-21-07 of the Administrative Code and one of the associated requirements referenced within this comment, the associated requirements contained in such a permit shall be void upon the effective date of this rule. The associated requirements covered by this comment shall include: (a) any requirement that prohibits the use of photochemically reactive materials, or prohibits the use of volatile photochemically reactive materials; (b) any requirement that limits organic compound emissions from an operation to eight pounds per hour and forty pounds per day, except as specified in paragraphs (M)(3)(d) and (M)(3)(g) of this rule; (c) any requirement to determine or document materials as being photochemically reactive materials; and (d) any recordkeeping and reporting requirements related to requirements referred to in (a), (b) or (c) of this comment.

All other permit conditions, including annual emission or material usage limitations (tons per year, gallons per day or month or year, VOC per gallon, etc.) and all other recordkeeping and reporting requirements associated with those permit conditions remain in effect.

Question:

1. The above comment states that the noted requirements become void upon the effective date of the rule. Is a facility allowed to take advantage of this new allowance immediately or do they have to wait until their permit is modified to reflect the changes in the new 21-07 rule?

Answer:

Facilities should be aware that if BAT limits were established instead of the limit from 21-07 then they should continue to maintain the records required in their permit.

If the permit contained the limits from the old 21-07 rule then we will not pursue enforcement if the facility chooses to take advantage of the above allowance. However, for Title V and Synthetic Minor facilities the company needs to comply with the old 21-07 requirements until USEPA approves the new 21-07 rule. The old 21-07 rule remains as an applicable requirement under the effective SIP until the new rule is approved by USEPA. Minor facilities can stop maintaining records per the above prior to getting their permit modified.

Ohio EPA has requested that USEPA take action soon on the pending new 21-07 rule. Ohio EPA anticipates that USEPA will approve most of the new 21-07 rule except for the Sheet Molding Compound (SMC) exemption. However, since a MACT rule now exists for SMC operations, USEPA might be willing to accept the SMC exemption.