

Current Status of PWMA Issues

	PWMA Appeal Issues	Summary of the Assignment of Error / Ohio EPA Response 2007	Current Status 2012	Cincinnati G&E (#5328)	Cincinnati G&E (#5676)	Cincinnati G&E (#5706)	Cincinnati G&E (#5326)	Ford (#5329)	Ford (#5254)	Ford (#5693)	Cardinal Operating (255265)	Millennium Inorganic (045246)	Toledo Edison - Richland (775698)	Toledo Edison - Bayshore (775707)	CEI Co. - Eastlake (775257)	CEI Co. - Ashtabula (045247)	CEI Co. - Lake Shore (775332)	Columbus Southern Power (255090)	Ohio Edison Co. - R.E. Burger (775256)	Ohio Power Co. (255076) (based off of summary)
1	Administrative Permit Modification	permit effective and expiration dates incorrect use of revised General Terms and Conditions <i>Effective/expiration dates are correctable (if still relevant) - General Terms and Conditions should not have not been revised in a Administrative Modification - there was a period of time when some were issued incorrectly - most, if not all of, the permits affected by the incorrect issuance should have expired</i>	No longer an issue. All affected permits have expired. New permits will get today's General Terms and Conditions.									✓			✓	✓	Need notice of appeal		✓	
2	Unreasonable, Unlawful, Arbitrary and Capricious Changes to Basic Title V Permit Program Requirements	General Terms and Conditions changed after draft Title V was issued <i>We were still working with US EPA and other parties during the initial round of Title V permitting and the General Terms and Conditions were in a state of flux - terms were revised to address program deficiencies - should not be an issue now</i>	No longer an issue. Conditions on renewal will be different anyway.	✓			✓	✓	✓		✓				✓				✓	
3	Changes in Deviation Reporting Requirements	Deviation reporting requirements revised in the Administrative Modification of the permit <i>As stated above, we were still addressing program deficiencies related to deviation reporting - US EPA has now agreed that our General Terms and Conditions satisfy the Part 70 requirements</i>	No longer an issue. Will address in renewal. Not subject to negotiation.	✓			✓	✓	✓		✓	✓			✓	✓			✓	
4	Federalization of State-Only Permit to Install and Nuisance Requirements	General Terms and Conditions (#19 and #20) revised to move provisions discussing "Permit to Install Requirement" and "Air Pollution Nuisance" from State Only Enforceable to State/Federal Enforceable <i>Chapters 3745-31 and 3745-15 are part of the SIP and, therefore, are federally enforceable</i>	No longer an issue. This language will be in the renewal. Not subject to negotiation.	✓			✓	✓	✓	✓	✓	✓			✓	✓		✓	✓	

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5	Identification of OAC Rule 3745-77-07(A)(1) as Catch-All	Authority citation for certain General Terms and Conditions (#19 and #20) not appropriate <i>Helps ensure compliance with these applicable requirements - we can add additional citations to address this matter, if necessary - Chapter 3745-31 for term #19 and Chapter 15 (or 3745-15-07) for #20 - or if a deal breaker, we can move each citation to Part II (Facility requirement) or Part III (emissions unit requirements) of the permit</i>	Authority citations are now correct. No longer an issue. Will address in renewal. Not subject to negotiation.	✓			✓			✓	✓		✓	✓			✓	✓	
6	Insignificant Emissions Units	General Term and Condition (#18) regarding "Insignificant Activities" in conflict with OAC rule 3745-77-02 <i>Rule was revised in 2003 to address notice of deficiency from U.S. EPA - rule and insignificant emissions units requirements aligned</i>	U.S. EPA is now OK with our approach. No longer an issue. Will address in renewal. Not subject to negotiation.	✓			✓			✓	✓			✓	✓		✓	✓	
7	BAT Requirements as Federally Enforceable Application Requirements	Objection to BAT requirements being moved from State Only Enforceable to State/Federal Enforceable <i>Chapter 3745-31 is part of the SIP and, therefore, is federally enforceable despite any historical application of the rule provisions</i>	No longer an issue. This language will be in the renewal. Not subject to negotiation.						✓		✓			✓	✓			✓	
8	Operational Restrictions	New substantive requirements imposed in conflict with ORC 3704.036(K) <i>Not new requirements - authorized pursuant to OAC rule 3745-77-07(A)(1) when necessary to ensure compliance - ERAC ruling in DP&L case - determined that restrictions imposed on DP&L were unreasonable because they could not perform the specified ESP monitoring and inappropriate in GE case since there was not a direct correlation between restrictions and emission levels - we will move certain operational restriction to the monitoring and record keeping section of the permit, if appropriate</i>	This is still an issue. New substantive requirement issue is on appeal in CSC case before the 10th District. When appropriate, certain operational restrictions are moved to the monitoring and record-keeping section.						✓		✓	✓	✓	✓	✓			✓	

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9	Opacity as an Independently Enforceable Applicable Requirement	Objection to inclusion of OAC rule 3745-17-07 in Title V permit as an applicable requirement <i>ERAC ruling in the DP&L case that OAC rule 3745-17-07 is an applicable requirement and is independently enforceable</i>	No longer an issue. Resolved by DP&L. Not subject to negotiation.	✓			✓			✓	✓				✓	✓		✓	✓	
10	Use of Continuous Opacity Monitors (COMS)	Objection to not having the "AEP - Conesville Station COM language" in the Title V permit <i>U.S. EPA expressed concerns about the opacity language in the Conesville permit and indicated that they would object to any future permit with that language in it - we worked with the utility group and crafted a new compliance provision for the COMS which is now part of Ohio EPA's regulations (OAC rule 3745-17-03(C)) - the rule was submitted to U.S. EPA as a SIP revision but they did not initially agree with our approach - other states have also raised this issue and eventually they may change their minds -for now we include our negotiated rule on the State Only Enforceable side of the Title Vpermits - ERAC ruled in the DP&L case that the use of COMS in the permit was acceptable</i>	No longer an issue. Resolved by DP&L. Not subject to negotiation.	✓			✓				✓				✓	✓		✓	✓	
11	Start-Up and Shutdown Opacity Exemptions	Objection to monitoring and recording ESP temperatures to justify start-up and shutdown exemptions provided in OAC rule 3745-17-07 <i>Seemed reasonable to us that if you want the exemption prove that you are entitled to take it - they don't have to monitor but we will not grant the exemptions without justification - gap filling used to establish the necessary monitoring, record keeping, and reporting provisions</i>	This will most likely be the language in the renewal unless they have a reason and a good alternative.				✓				✓				✓	✓		✓	✓	

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12	Sulfur Dioxide Limitations (weighted average issue)	Failed to include the word "weighted" in the sulfur dioxide emission limitation when using the CEM for compliance <i>In my opinion, use of the word weighted is not necessary for this limitation - the CEM simply averages the data generated by the monitor on a rolling, 30-day basis regardless of what is burned in the unit - this is not the same as determining the average sulfur dioxide emission rate for a total weight of coal with a certain sulfur content and adding it to another total weight of coal with a different sulfur content and so on over a rolling, 30-day period</i>	Weighted" does not belong in CEMS scenario. This language will be in the renewal. Not subject to negotiation.	✓			✓				✓				✓	✓		✓	✓	
13	Nox SIP Call (inclusion of requirements)	Requirements not in draft Title V permit and regulations not yet part of SIP <i>Moot point now - effective State law which benefits utilities and the rule is now part of our SIP</i>	No longer an issue. Resolved as it is now part of the SIP. Not subject to negotiation.				✓				✓				✓	✓			✓	
14	Visible Emissions Inspections for Fugitive Dust Sources / Diesel Generators (daily check issue)	Daily VE checks are overly burdensome <i>Tried to use a simple approach which allowed the facilities to do an assessment of ongoing compliance with the applicable requirement without conducting formal Method 9 observations at some set frequency - we could offer a tiered approach which would relax the check frequency if all daily observations over an agreed upon period are indicative of compliance (ie., to weekly or even monthly unless a problem occurs which would send them back to daily for the specified period of time) - or we could just impose Method 9 observations at a set frequency and argue the reasonableness of our frequency at ERAC</i>	"Daily" is the default. This language will be in the renewal unless they have a good reason for a less stringent time frame. (Also note that Bob Hodanbosi is looking at recommendations related to roadways and parking areas 03/12.)												✓				✓	

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15	Boiler Testing / Sulfur Dioxide Testing Requirement (SO2 oil issue)	Removal of 30-day averaging provision for fuel oil <i>30-day averaging provision was set-up for coal, not oil - oil is blended to a specification and there is no need for averaging - terms are set-up to allow a blend of different oils but the facility must show that the as-fired oil meets the required limitation</i>	Not an issue. Not negotiable.	✓							✓				✓				✓	
16	Inclusion of Descriptive Terms as if Limitations	Emissions unit descriptions are too detailed The information came from their applications - if they lied and we missed a modification that triggered new requirements, we need to know now	Should not be an a matter of controversy.				✓				✓							✓		
17	Failure to Clearly Specify Testing Obligation ("if required" issue)	The use of "if required" prior to the specified test procedures yields an uncertain obligation for the company <i>Here again, we tried to establish a reasonable approach for requiring testing for emission limitations we did not believe would be a problem to meet or where we had other monitoring parameters that could be used to document ongoing compliance - we could specify a set frequency and argue the reasonableness at ERAC</i>	This language will be in the renewal. Not subject to negotiation.	✓		✓	✓													
18	OAC 3745-17-11 (engine rule clarification issue)	Objection to listing the enforceable State and Federal emission limitations for engines <i>The AP-42 emission factors which were the basis for our rule limitations changed - we adjusted our rule limitations but the US EPA has not acted on our SIP revision - therefore, two sets of enforceable limitations exist for these engines - we simply tried to clarify this fact for the affected units</i>	No longer an issue. Resolved as it is now part of the SIP. Not subject to negotiation.																✓	

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19	Visible Emission Reporting Requirement (obligation to identify all days with VE)	Objection to daily VE check reporting provisions <i>The requirement to identify all days with VEs establishes a pattern of what is normal for a specific emissions unit - it is not a formal determination of opacity levels - the term also recognizes that there may be a period of time where the VEs are not normal and asks for a description of any corrective actions taken - the approach does not affect the stringency of the applicable emission limitation as implied - again, we could go to formal Method 9 observations at a set frequency with the requirement to submit documentation of the observer's certification and all observation forms for the semi-annual period</i>	Not an issue. Not negotiable.																✓	
20	Arbitrary Reporting Dates		Resolve on a case-by-case basis.																	
21	Significant Figures in Emission Limitations		There is an engineering guide on this issue.															✓		
22	Unreasonable Effective Date		Should be straightened out upon renewal.	✓																
23	Failure to Include MACT Standards		Will include MACT using reference approach.				✓													

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24	Improper Rulemaking (malfunction rule issue)	Do not believe that a malfunction constitutes a violation <i>Any malfunction reported pursuant to OAC rule 3745-15-06(B) constitutes a violation and must be reported as a deviation -general argument is that not every malfunction (or upset) causes a violation - no argument; however, any malfunction reported pursuant to OAC rule 3745-15-06(B) is and must be addressed through the required deviation reporting - DAPC does acknowledge that the opacity limitations specified in OAC rule 3745-17-07 are not applicable during a malfunction if the provisions of OAC rule 3745-17-07(B)(11)(f) are met</i>		✓	✓				✓			✓	✓							
OTHER					Facility specific: emissions averaging time for B006; new monitoring requirements for B006; new monitoring requirements for B007-B008; emission testing requirement for B006 and B007; emission factors for B007 and B008; typographical errors; fugitive dust inspection and control requirements; recordkeeping requirements for coal handling system; failure to include PTL				Facility specific: Improper correlation of parametric monitoring with emission limit compliance; "process weight rule"; inconsistent monitoring, record keeping and reporting requirements for mold lines serviced by wet scrubbers; incorrect opacity limits for processes with shared control devices/stacks; incorrectly identified applicable requirement	No page #10.	Incorporation by reference of manufacturer's recommendations and operating manuals		Misstatement of a emissions limitation / failure to identify averaging time / different monitoring and reporting obligations / failure to include federally-approved averaging of PE and VE for boilers	Missing page 10; F002 inclusion of nuisance language from NOV; P902 is a fugitive source	Missing page 10				Missing page 10; Duplication of sources	