

Interoffice Memo

To: Distribution

CC: Bob Hodanbosi, Chief, DAPC

From: Mike Hopkins, Assistant Chief, DAPC

Date: June 14, 2012

Re: Processing Utility Title V Renewal Permits

INTRODUCTION

As everyone should know by now, Ohio EPA, DAPC is working to “catch up” on operating permit renewals. We have made a lot of progress but still have a lot to do to meet the director’s goal of having no backlogged renewal permits by July 1, 2014.

In addition to meeting the Director’s goals, Ohio EPA is also trying to meet renewal processing goals set by U.S. EPA. U.S. EPA Region V set renewal goals for each Region V state. These goals included goals for the overall Title V backlog and goals for any power plants/refineries located in each state.

One group of Title V permits that has been especially difficult to process have been the utility permits. These have been difficult to process because when the original Title V permits were issued for them, most of the permits were appealed. In order to process an appealed permit, the appeal issues usually must be resolved. Working through appeals can be very time-consuming which adds to the time it takes to process the renewal.

DAPC has been working with the Attorney Generals (AGs) to better understand the status of the utility appeals. This review has included trying to “group” common issues, reviewing resolved appeal issues, and determining which issues we simply can’t bend on. Based on this review, we have come to the conclusion that many issues are now resolved such that we should be able to move forward with renewing many of these permits.

WHICH UTILITY FACILITIES ARE WE TALKING ABOUT?

DAPC developed a list of utility and refinery permits in order to track U.S. EPA’s utility/refinery renewal goals. This list is attached to the back of this memo (See: *Ohio*

EPA, Division of Air Pollution Control Utility TV Renewal Permit Status). Here are a couple of things to note about this list.

- The original power plant/refinery Title V renewal metric list that U.S. EPA developed included 28 facilities. We have since identified eight (8) additional power plant facilities. (Let me know of any others.) The additional facilities are identified at the end of the table.
- So far, Ohio has issued or resolved twelve (12) utility Title V renewal permits (two (2) on the original list, eight (8) on the additions list) and one refinery Title V renewal permit. Ten of these were issued or resolved in 2010 and 2011; two of these have been issued in 2012. (The column entitled "Fulfilled" contains the dates that the Title V renewal permits that have been issued final.)
- Of the initial 28 facilities, eleven (11) facilities are schedule to be shut down by 2015 (See the "Comment" column).

Please use this list to identify utility facilities that are located in your DO/Laa that need renewed.

WHAT IS THE RESULT OF THE AG APPEAL ANALYSIS?

The Attorney General's office reviewed all of the appeals from one law firm (Porter, Wright, Morris and Arthur) to try to understand the status of all of the appeal issues. They chose one law firm to simplify their analysis but the utility issues from other law firms are very similar. This analysis resulted in the attached *Current Status of PWMA Issues* spreadsheet. (Note: This spreadsheet is an attorney/client privileged document that should **not** be distributed.) The spreadsheet includes rows for each issue and columns for each permit appealed. At the intersection of the two, are check marks indicating that the particular appeal was appealed for the particular appeal issue. (Note that the spreadsheet includes some non-utility permits.)

In the spreadsheet the first column contains a description of the appeal issue, the second column contains the assignment of error and Ohio EPA's initial response from 2007, and the third column contains the current status of that issue. Note that when you review the current status of each issue, you find that most of the issues have been resolved in some way.

WHAT IS THE PLAN FOR PROCESSING THESE PERMITS?

DAPC is asking permit writers to begin processing the utility Title V renewal permits if they have not already done so. In order to do this, please do the following:

3 Processing Utility Title V Renewal Permits

1. Managers/supervisors for each DO/Laa should review the list of utilities to determine which ones are in their area. They should then decide which utility renewal permits should be processed next. It is DAPC's recommendation that managers/supervisors choose utilities that plan to continue operating first. Then, once we get those done, we can follow up with any plants that have announced a shutdown date but have not yet shut down. We are asking all DO/Laas with utilities to include one or more utility permits in their commitments for the July to December 2012 timeframe.
2. Once a permit writer is ready to work on a utility renewal, they should first review the Title V renewal application to check to see if it is current. Depending upon how old the application is, you may need to ask for updated EAC forms to update various items like the addition of new applicable requirements, or for any shutdown emissions units. You may also decide to do the annual inspection to help update this information. If you decide you need to do either one of these actions, contact the AGO assigned to the case to let them give the opposing council a heads up that we are beginning to work on the renewal. You can figure out who the AG is by reviewing the *Division of Air Pollution Control Permit Appeals* spreadsheet (attached). (Note: This spreadsheet is an attorney/client privileged document that should **not** be distributed.) Contact the lead attorney listed in the spreadsheet. Our current AGs are:

Attorney General	E-mail Address
Sarah Bloom Anderson	Sarah.Anderson@ohioattorneygeneral.gov
Clint White	Clint.White@ohioattorneygeneral.gov
Wednesday Szollosi	wednesday.szollosi@ohioattorneygeneral.gov
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3. You should then review the past permit, the appeal, and the *Current Status of PWMA Issues* spreadsheet. Review each appeal issue and determine what the resolution should be. If there is an appeal issue that has not been resolved, discuss the issue with your central office permit contact. Once you have a pretty good idea of how to

write the permit, contact the AG for the appeal and ask them to let the opposing council know you will be working on the permit if they have not already done so.

4. Draft the initial terms for the renewal. Send the draft to the AG. The AG can then send the draft terms to the opposing council. The opposing council will work with their client to provide us with comments on the terms. At some point, the AG and the opposing council may decide that our technical folks and the permittee's technical folks should work directly together. If that happens, then work directly with the permittee's technical folks.
5. Work through this process to develop acceptable terms. If there are any issues that you cannot resolve, contact your central office permit reviewer for assistance.
6. Process the permit through the various steps (Draft, PPP, PP) except for the last final step (Final).
7. Prepare the final permit and get it to the AG. They will then work to get an agreement with the utility to settle the case.
8. The AG will prepare final findings and orders and get both parties to sign off.
9. Prepare and process the final action on the Title V renewal.

In some cases there will be issues that have not been resolved and that we cannot resolve. If that is the case, then we may move forward with the renewal permit without resolving the particular issue. We will do this by keeping the original permit language in the permit and letting the company appeal the revised permit. This is not the preferred approach, but it is important to get these permits renewed and up-to-date, so we want to renew them even if not all issues have been resolved.

COMMON QUESTIONS AND ANSWERS

How should I handle requirements contained in federal or state consent decrees?

The approach to including consent decree requirements into the permit needs to be made on a case-by-case basis. The decree will need to be reviewed and understood so we can decide what should go into the permit. In general we will need to include any new permanent requirements as a result of the decree. Consent decree requirements that the facility has already complied with or items that are not necessarily air related should not be included. These issues should be discussed with your central office permit contact. In some cases you may need to process a PTI Administrative Modification to revise emission limitations or modify other requirements from previous PTIs. This also as the impact of making the consent decree requirements "applicable requirements" so we have

the authority to put them in the resulting Title V. The Final Title V Renewal permit for Lima Refining Company, P0086638, issued January 10, 2012, for the FCC (emissions unit P010, p. 146/475) provides an example of how to incorporate federal consent decree requirements.

Note that most items contained in a federal consent decree will need to be on the federal side of the permit. If there is a state consent decree, then state-only items should end up on the state side to the permit.

My facility has installed a scrubber to control emissions. The scrubber exhaust makes it impossible for the opacity monitor to measure opacity in the stack after controls because of water vapor in the exhaust. What options are available for this situation?

OAC paragraph 3745-17-03(B) describes the methods that must be used to determine compliance with the opacity regulations in 17-07. Many utilities have been using opacity monitors for years in order to demonstrate compliance with the opacity limits in the OAC rule as well as the federal NSPS rules that apply to utilities. If a scrubber has subsequently been installed such that an opacity monitor cannot be certified to measure the opacity from the exhaust stack, then U.S. EPA's Method 9, visible opacity readings are the official method for determining compliance with the applicable opacity limitation.

Visible opacity readings can be difficult or impossible in some situations due to atmospheric conditions, co-mingling of the plumes from multiple stacks or for other reasons. Because of this, Ohio EPA has drafted revised rules to address the scrubber/opacity issue. These rules have not yet gone out for public comment and are subject to change during the rule development and approval stages. However, the proposed approach for these rules is to replace the need for a continuous opacity monitor with a continuous particulate monitor (PM CEMS). Once the rules are promulgated, they will need to be approved into Ohio's State Implementation Plan (SIP).

Before these rules become effective, there are several options available to utilities as it relates to their opacity monitoring obligation. These are:

1. Install a continuous opacity monitor after other controls but before the scrubber. Then, report the results of the opacity monitoring. This approach meets both the need for ongoing compliance and for the need for a compliance method that matches up with the rule. The location of the COM will need to be approved by Ohio EPA and U.S. EPA as an alternative monitoring location to that specified in the applicable NSPS.
2. Conduct periodic Method 9 opacity readings. Under this approach the utility will attempt to conduct Method 9 readings during daylight hours on a daily basis while the

emissions unit is in operation. Daily readings are needed in order to meet the ongoing compliance requirement.

3. Install a PM CEMS on the exhaust after the scrubber. Require certification and associated requirements for the monitor following installation. The compliance method for the opacity limit would be Method 9 visible emissions observations "if required" by the director.

The continuous PM monitor will function for the ongoing compliance need. The Method 9 readings will only be done on an as-needed basis and will function as the compliance method for opacity.

Note that there may be other variations of the above approaches. If you are presented with other options, talk to your central office permit contact about them. Also, the details of each approach will need to be worked out with the utilities.

Do we have standard terms or a standard approach to add CAM requirements into the permits?

Yes. The CAM terms and conditions for Part 64 Pollutant-Specific Emissions Units (PSEUs) can be found using the spreadsheet on Ohio EPA Answer Place topic #2269. All of the slides and materials from the August 22, 2011 CAM Refresher Training held in Columbus can also be viewed at AP2269. Although each PSEU will need to be evaluated on a case-by-case basis due to the many different types and configurations of control equipment and monitoring installed on utility boilers, the U.S. EPA TTN-EMC website contains multiple "case studies" that provide guidance for determining CAM indicators and ranges including a case study for determining CAM for a utility boiler controlled with an ESP. The website is: <http://www.epa.gov/ttn/emc/cam.html> . Please note that the CAM determinations provided for these case studies are intended to be presumptively acceptable and not prescriptive. Please work with your Central Office Permitting contact to evaluate the CAM plan, determine whether it is acceptable or more information is needed and then develop appropriate terms and conditions to include in the permit. Lastly, the Title V Statement of Basis (SOB) should include a fairly detailed discussion of the CAM and specific indicator ranges chosen in the permit. Please make sure to reference any source-specific information (recent stack tests, COMs data, etc...) relied upon for establishing CAM.

Can a utility avoid CAM because the Utility MACT got promulgated?

No. Although the MACT monitoring may satisfy the CAM monitoring (for SIP, BACT, etc... limitations) we cannot say that MACT monitoring satisfies CAM monitoring for an

emissions unit with a MACT compliance date at least three years in the future and the facility has yet to install the MACT monitoring.

My facility has indicated that they don't want their permit renewed. What should I do?

Discuss this issue with your central office permit reviewer and with the assigned AG. In most cases, we will let the facility know that we need to process the renewal because of the legal obligations to process renewal permits, because of our management's goals to get caught up on renewals and because we are getting significant pressure from U.S. EPA Region V to get caught up on Title V and Refinery renewal permits.

Can a facility obtain approval to burn alternative fuels through the Title V renewal?

If the use of the alternative fuels trips the modify definition, then the answer would be no. They must first get a PTI modification (or an environmentally beneficial exemption) before the alternative can be incorporated into the Title V. If the change does not trip the modify definition, then, yes, it can be incorporated into the Title V. In this case, you do need to make sure there is no conflict with the underlying PTI. If there is, then the PTI would also need to be administratively modified. These cases need to be evaluated and a case-by-case basis and discussed with your CO permit reviewer.

If something on one of the spreadsheets or table is incorrect, what should I do?

Send an e-mail to Mike Hopkins with the correction, deletion or addition.

What about other issues?

We also expect that new issues will crop up during this process. If you don't know how to resolve the new issue, please talk to your central office permit reviewer for assistance.

WRAP-UP

Please let me know if you have any questions concerning this process.

MH/mh

processingutilityrenewals02.docx

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8 Processing Utility Title V Renewal Permits

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Ohio EPA, Division of Air Pollution Control Utility TV Renewal Permit Status						
Facility Name	Facility Type	Permit Type	Date	Fulfilled	Permit#	Comment
Avon Lake Power Plant	Power plant	Initial issued	6/20/2003		P0085253	Scheduled shutdown 2015
Cardinal Power Plant (Cardinal Operating Company)	Power plant	Initial issued	12/31/2002		P0089700	Draft not issued
Cleveland Electric Illuminating Co., Lake Shore Plant	Power plant	Initial issued	6/20/2003		P0094244	Scheduled shutdown - 2015
Cleveland Electric Illuminating Co., Eastlake	Power plant	Initial issued	12/27/2002		P0085105	Scheduled shutdown - 2015
City of Hamilton – Dept. of Public Utilities	Power plant	Initial issued	6/20/2003		P0097012	Draft not issued
City of St. Marys Power Plant	Power plant	Initial issued	2/27/2002	10/6/2011	P0086789	Boilers shut down - no longer Title V, FEPTIO Issued
Conesville Power Plant	Power plant	Initial issued	2/12/1998		P0089102	Conesville 3 to shut down 2012
Dover Municipal Light Plant	Power plant	Initial issued	4/30/2002		P0090801	Draft not issued
DP&L, J.M. Stuart Generating Station	Power plant	Initial issued	5/16/2001		P0091208	Draft not issued
DP&L, Killen Gnerating Station	Power plant	Initial issued	1/8/2003		P0091217	Draft not issued but terms prepared 4/6/12
DP&L, O.H. Hutchings Generating Station	Power plant	Initial issued	1/13/2003		P0093906	Scheduled shutdown - 2015
Duke Energy – Beckjord	Power plant	Initial issued	6/20/2003		P0107149	Scheduled Shutdown - 2015
Duke Energy –Miami Fort	Power plant	Initial issued	8/21/2003		P0099746	Draft not issued but terms prepared 3/16/12
Duke Energy-Zimmer	Power plant	Initial issued	1/3/2005		P0105126	Draft not issued
Edgewater	Power plant	Initial issued	4/24/2002	4/22/2011	P0085399	Permanently Shutdown
FirstEnergy Generation (Ashtabula)	Power plant	Initial issued	12/23/2002		P0084052	Scheduled shutdown - 2015
Gen. James M. Gavin	Power plant	Initial issued	1/30/2002		P0089258	Draft not issued
Muskingum River Power Plant	Power plant	Initial issued	1/30/2002		P0090945	Scheduled shutdown - 2015
Niles	Power plant	Initial issued	5/29/2002		P0086141	Scheduled shutdown 2012
OVEC-Kyger Creek	Power plant	Initial issued	2/12/1998		P0107839	Draft not issued
Picway	Power plant	Initial issued	2/27/2002		P0083810	Scheduled shutdown - 2015
R.E. Burger	Power plant	Initial issued	12/26/2002		P0089085	Draft not issued
R.H. Gorsuch	Power plant	Initial issued	10/24/2001	3/24/2011	P0091123	Boilers shut down – The facility will retain their Title V but the power plant operations have ceased.
Toledo Edison (Bay Shore)	Power plant	Initial issued	1/3/2005		P0105219	Scheduled shut down 2012
Lima Refining	Refinery	Initial issued	7/15/2004	1/11/2012	P0086638	Completed
Toledo Refining Company	Refinery	Initial issued	2/12/2004		P0104231	PP issued 05/15/12
BP-Husky	Refinery	Initial issued	10/13/2004		P0104782	Draft not issued
Marathon-Canton	Refinery	Initial issued	2/13/2004		P0101116	Draft not issued

10 Processing Utility Title V Renewal Permits

Utilities not on U.S. EPA's list						
Duke Energy Kentucky, Woodsdale Generating Station	Power Plant			2/15/2011	P0104674	six - 1034 mmBTU per hour simple cycle combustion turbines, one emergency combustion turbine generator, one diesel fire pump, one gasoline dispensing operation, one non-halogenated solvent cold parts cleaner, and one - 275,000 BTU per hour propane fired generator.
Duke Energy Indiana, Madison Generating Station	Power Plant			11/2/2010	P0105343	eight natural gas-fired, 80MW, simple-cycle turbines, two emergency diesel generators, and seven Insignificant Emissions Units
Cleveland Thermal LLC	Power Plant			7/30/2011	P0094247	coal handling system, two cooling towers, three 170 mmBtu/hr oil-fired boilers, two 220 mmBtu/hr natural gas/oil-fired boilers and three 228 mmBtu/hr chain grate coal-fired boilers controlled by a mechanical dust collector.
Cleveland Public Power - Service Center	Power Plant			4/4/2011	P0106494	gas turbine #3 rated at max heat input 256.8 mmBtu/hr.
AMP Napoleon Generation Station	Power Plant			10/24/2011	P0106889	2 combustion turbines for power generation
AMP Galion Generation Station	Power Plant			10/24/2011	P0106890	2 combustion turbines for power generation
AMP Gas Turbines - Bowling Green	Power Plant			10/24/2011	P0106891	2 combustion turbines for power generation
Duke Energy Hanging Rock II, LLC	Power Plant			1/19/2012	P0107243	1270 MW Combined Cycle Power Plant