

## Meeting Minutes for NSR Workgroup meeting - May 3, 2005

### **Those in attendance:**

Ron Amirikian, DNREC

David Bacher, NRG

Al Denio, Sierra Club

Nick DiPasquale, Duffield

Michael Fiorentino, MAELC

Paul Jann, DuPont

Amy Mann, DNREC

Deanna Morozowich, DNREC

Rose Nino, EPA R3

John Peronti, GM

Gene Pettingill, DNREC

Tom Webster III, Daimler-Chrysler

Stu Widom, Conectiv

### **Old Business:**

The Department did not receive any comments on the minutes from the first three sets of NSR workgroup committee meeting minutes. Gene stated that the Department will post those minutes as “final documents” by May 4, 2005. Draft meeting minutes from the last meeting (4/12/05) were distributed to the Committee. They will be posted on the NSR webpage on the Department website. Committee members interested in submitting comments to the draft meeting minutes should contact Gene Pettingill or Deanna Morozowich for any changes as soon as possible. Committee members requested that any future e-mails from the Department should include the “link” to the Department NSR webpage for ease in finding documentation. Gene reminded the Committee that three more NSR meetings are scheduled.

At the last meeting, the Committee discussed Clean Units and consisted of a Departmental comparison with the Federal proposal. Overall the NSR Reform Committee stakeholders would prefer a 10-year period for establishing a baseline, a lookback period and clean unit exclusion.

On April 11, 2005, the first meeting of discussions for the “Alternate Path” approach to NSR met. The committee discussed the Oregon Plant Site Emission Limit (PSEL) Program and the possibility of adopting a similar program in Delaware. Gene announced that the meeting was very productive and it appears as though future meetings on the alternate path may go forward. Meetings are to be held after regularly scheduled NSR Reform meetings in the Lukens Drive office. Please consult the NSR webpage on the Department website for any scheduling updates.

### **NEW BUSINESS:**

The topic of the meeting was Pollution Control Projects (PCP). Documentation was distributed to the committee (electronic versions will be posted on the NSR Reform webpage on the Department website by 5/4/05); the handouts consisted of the following:

- Delaware PCP Options
- EPA PCP Exclusion

Gene discussed the Delaware PCP Options. The Departments listing of options may be different than that of the EPA and requires some definition of “environmentally beneficial”.

One committee member believes that developing a list would be burdensome and suggested the Department start with the EPA listing as a guidance document.

Another committee member believes the scope is narrowly focused and should provide net environmental benefits. A net environmental benefit will reduce the overall risk. Under NSPS or NESHAP a control technology must be installed. The committee believed requirements should be on a case-by-case basis for industry and limit technologies and control requirements.

One committee member asked if this would be voluntarily or mandatory, and after some discussions it was suggested that the process should be similar to that of the Reg. No. 2 permitting process. The committee stressed that there should be some sort of analytical approach to analyze projects and every case be put on a level playing field that treats every source fairly.

An example was cited of a company voluntarily installing a scrubber to sell offsets. It was asked why this would be public policy. It was stated that offsets are required by the rule. The committee member discussed the Federal citation - Federal Register / Vol. 67, No. 251 / Tuesday, December 31, 2002 / Rules and Regulations page 80237 (This document is listed as #2 on the “Supporting Documentation” Webpage on the NSR Workgroup website). Air quality impacts were discussed.

The committee discussed a Plant Applicability Limit (PAL) overriding a pollution control project. If a source violated a facility emission limit stated in their permit, that facility would need emission credits and to reset their PAL by going through a well defined process (i.e. LAER and offsets) to change the PAL limits. The Federal Register / Vol. 67, No. 251 / Tuesday, December 31, 2002 / Rules and Regulations page 80233 lists several examples to revise a PCP Exclusion. Under Reg. No. 2 and Reg. No. 25, there would be a baseline review, caps, etc.

One committee member discussed sludge and asked if the Reg. No. 2 process was adequate to regulate mercury and other pollutants (other than criteria). As an example, the member stated that air toxic screenings were involved for inhalation and net bioaccumulation. As another example, the refineries have regenerative and non-regenerative scrubbers that generate offsets that the facility can sell. The committee member questioned if that facility could discharge to the river and if DNREC could deny that PCP.

The Department stated that the examples were good examples but that they were far too complex for discussions with AQM. Non Point Discharge Elimination System (NPDES)

permits for discharges to water would be required and further discussions with other divisions within DNREC would be necessary.

Gene Pettingill also addressed No. 3 on the Delaware PCP Options – An indiscriminate collateral emission increase is not acceptable – certainly not in nonattainment area.

Several committee members commented that collateral emissions need to be address on a case by case basis and the value of the environmental gain must be weighted against the collateral in increase. The Department is looking towards projects that environmentally beneficial. One committee member commented that their facility often eliminates processes. Pollution prevention causes decreases in emissions and practices.

Other comments were:

One committee member asked that the general definition of “environmental benefit” that is provided in the preamble be implemented in the rule.

One committee member would like the Department to look further into the PCP exclusion, as it may cause problems with the minor NSR ruling.

One committee member requested that this program being discussed be put into place as a system of checks and balances. Another added that the system needs to consider facilities on a case-by-case basis and allow for market incentives, because all emissions are not created equal. Facility owners/operators want the option to decide what is best for their facility and operations.

Gene Pettingill wrapped up the meeting and stated that the Committee will receive correspondence through email at least one week prior to the next meeting. The committee was also encouraged to visit the NSR website for updates and possible changes to the schedule. The next meeting is scheduled for Tuesday, May 24 June 14, 2005 (10:00 am – 12:00 pm in the Lukens Drive Office, Conference Room B).