

Meeting Minutes for NSR Workgroup meeting - April 12, 2005

Those in attendance:

Ron Amirikian, DNREC
Kathleen Anderson, EPA R3
David Bacher, NRG
Deb Brown, ALA
Al Denio, Sierra Club
Nick DiPasquale, Duffield
Michael Fiorentino, MAELC

Paul Jann, DuPont
Amy Mann, DNREC
Deanna Morozowich, DNREC
Rose Nino, EPA R3
Gene Pettingill, DNREC
Stu Widom, Conectiv

Old Business:

Draft meeting minutes from the first three meetings were provided to the Committee via email and the website posting. Gene Pettingill stated the Department would like to have a final set of minutes for all meetings to date. Stakeholders were given the opportunity to provide comments on each set of the draft minutes. Gene stated that the Department will hold the record for the meeting minutes open for a few more days to give the Committee ample time and consideration. Any further comments for meeting #1(2/8/05) and meeting #2 (3/1/05) should be submitted no later than Thursday, April 14, 2005; any further comments for meeting #3 (3/22/05) should be submitted no later than Thursday, April 21, 2005. Finalized documents will be e-mailed/posted soon.

The Department website providing the Committee (and the public) with information about NSR Reforms and Regulation 25 has again been updated. The Department has added an "Alternate Path" webpage to provide useful information on the "out of the box" approach to achieving our mutual goals, and begins by concentrating on a format similar to the Oregon PSEL program. Since the entire website contains a lot of additional information, new documents have been marked "New" in a highlighted yellow to differentiate new documents from existing documents.

The first meeting of the Subcommittee met yesterday morning (Monday, April 11, 2005) in the Grantham Lane Office to discuss the Oregon Plant Site Emission Limit (PSEL) Program. The alternative path approach was deemed worthwhile to explore and the Subcommittee will meet again on the topic after each of the next regularly scheduled NSR Reform meetings. It was determined in the meeting that the approach will take some time and careful consideration to develop. Paul Jann concurred that the schedule has not been established yet, but stated the Sub-committee is in the process of outlining a set of principles. Once a draft document, that the Subcommittee feels comfortable with, is established, the Subcommittee would like to look at the schedule and discuss the draft with Title V permit holders of the Chamber of Commerce.

Some general comments were:

- The EPA asked if the Department will be taking emission reductions when considering the Oregon PSEL program. The Department is exploring the concept at this time. In theory, caps would be put on facilities similar to a PAL, and if the caps were structured properly, a facility could potentially avoid NSR.
- The EPA asked how the Department would submit equivalency determinations and take credit for reductions. Section 110 and Part C and D of Title I will make requirements of the State as part of the SIP and NSR.
- If the EPA finds the State deficient, a SIP Call may be issued.
- The Department stated that this approach may be incorporated into Regulation 25 or it may be a whole new regulation. The intent is to make things easier by providing more flexibility to industry and less burden for DNREC.
- A concern was generated about an initial set-up period and what facilities are to do in the interim. The Committee would like a transition period, because things sound like long term solutions, but they need further developed.

In Delaware, there are only two facilities that have a PAL. Amy Mann provided a Delaware PAL Comparison between the PAL for DaimlerChrysler and DuPont Edgemore. Each PAL has five major points: emission limitations, pre-approved (Dept. and facility approved) changes listed within the PAL, Construction Projects, PAL Certification, and Reduction Limits. A detailed comparison of all five major points has been posted on the website. It is titled "Delaware PAL Comparison" and is listed under "meeting handouts" for Tuesday, April 12, 2005.

Some general comments/questions were:

- One stakeholder asked if Gene would be willing to find someone involved in the PSEL program in Oregon and if that person would be willing to come to DE to participate in one of the meetings or at least participate in a meeting via conference call. Gene thought that might prove to be useful in developing a similar approach and will follow up on that.
- One stakeholder asked if Hay Road or Hercules had a PAL. Amy Mann responded that they do not; they both have caps. There are many facilities that do not have a PAL, but rather VOC caps or process caps, for example. The caps depend on the emission unit.

NEW BUSINESS:

Documentation was sent to the committee through email prior to the meeting and was posted on the website. The topic of the meeting was Clean Units Exclusions and consisted of a Departmental comparison with the Federal proposal.

An emissions unit designated as a Clean Unit will not be required to undergo NSR permitting for a period of 10 years as long as project activity does not cause a change in the emissions limitation or work practice requirements in the unit permit. Also, any unit that installed BACT as a result of an NSR permitting process within the past 10 years will automatically be designated a Clean Unit. Clean unit status of an emissions unit is unaffected by redesignation of the attainment status of the area in which it is located.

Other comments were:

- One stakeholder discussed that the federal rule allowed for a 15-year time period in its provisions. It was originally 10 years and wanted to know if it will go to 15 years. The EPA responded that a draft on that issue hasn't been published.
- One stakeholder feels that 5 years is way too short for planning in industry. It takes almost two years to get a permit and feels that there is no incentive. A 10-year period would be much better for establishing a baseline, a lookback period and clean unit exclusion.
- One stakeholder stated that the clean unit exclusion was very useful in debottlenecking and to a modified unit.

Gene Pettingill wrapped up the meeting. The next meeting is scheduled for Tuesday, May 3, 2005 from 10:00 am – 12:00 pm in the Lukens Drive Office, Conference Room B and will cover the last of the five topics in NSR Reform – Pollution Control. Gene discussed options in Delaware with the Committee. The Committee would like to have a review session of all notes and key points to date, and perhaps, be provided with a chart outlining the EPA viewpoint, compared to the Department viewpoint, along with the viewpoint of the Committee. Gene stated that something like that could be put together for the Committee and a discussion on this could take place after the Pollution Control discussion, if time permits. An underline/strike-out draft copy of DNREC proposed changes to Regulation 25 is anticipated by the NSR Reform meeting scheduled for Tuesday, May 24, 2005. Kathleen Anderson, representing the EPA, reminded the Committee to keep in mind that decisions to court proceedings are expected in the May/June 2005 time frame and portions of the NSR Reforms may be thrown out of court, they may stay as they are, or they may have to be rewritten. She also reminded the Committee to keep the courts decision in mind when considering the topics that are being discussed, the schedule of meeting events for the committee, and the January 2006 deadline required by the EPA. Please check email postings and the website for any updates.