

Summary

Permit Streamlining Workgroups Meeting

Air Management Study Group

Tuesday, November 12, 2013

1:30 pm

Room G09, GEF 2, 101 S. Webster St., Madison WI

Call-in Number: 1-888-291-0312, Pass Code: 8806 745#

Attendees

Renee Bashel, SCS Engineers	Mitch Mariotti, Wisconsin Ready Mixed Concrete Association
Dave Bender, Sierra Club	Andrea Morgan, U.S. EPA
Eric Bott, Wisconsin Manufacturers & Commerce	Kim Novak, Wisconsin Ready Mixed Concrete Association
Steve Dunn, WDNR	Pat Osborne, Aggregate Producers of Wisconsin
Kendra Fisher, WDNR	Barbara Pavliscak, WDNR
John Flickinger, Tri-Media Environmental & Engineering Services	Randy Robinson, U.S. EPA
Dan Guido, Environmental Resources Management	John Roth, DNR
Jeff Hansen, Wisconsin Power & Light	David Seitz, TRC Environmental
Arthur Harrington, Godfrey & Kahn	J.R. Sims, WDNR
Kristin Hart, WDNR	Patti Stickney, SCS engineers
Don Huff, Dairyland Power Cooperative	Scott Suder, Wisconsin Paper Council
Jeff Jaeckels, MGE	Carolyn Van Asten, PCA, Wisconsin Paper Council
Matt Kemp, Godfrey & Kahn	Karen Walsh, WDNR
Susan Kraj, U.S. EPA	Elizabeth Wheeler, Clean Wisconsin
Jim Lenz, Didion Milling, Inc.	

Action Items

- The Air Program is accepting additional permit streamlining ideas until Dec. 10 (DNR followed up with a reminder email on December 6). Send ideas to or discuss them with the relevant DNR staff member:
 - NR 406 - Construction Permit Team Leader – Steve Dunn
608-267-0566, steven.dunn@wisconsin.gov
 - NR 407 - Operation Permit Team Leader – Barb Pavliscak
608-935-1927, barbara.pavliscak@wisconsin.gov
 - “Cause or exacerbate” – John Roth
608-267-0805, john.roth@wisconsin.gov
- Kristin Hart reported on the permit streamlining listening sessions and the Nov. 12 workgroup meeting at the AMMSG meeting on Tuesday, December 3.
- Hart is planning to schedule a mid-January workgroup meeting.

Meeting Summary

Introduction, work schedule, & stakeholder roles

Kristin Hart, Permits and Stationary Source Modeling Section Chief

Hart explained the AMMSG workgroup members' role in the Air Program's permit streamlining initiative and outlined the proposed work schedule through April, 2014. The Air Program will be pursuing two sets of rule revisions. The first rule package will consist of revisions that can be completed relatively quickly and easily ("fast track" revisions). The goal for the first package is to make final recommendations on rule content by the end of January so that the rule language can be drafted by April. The second rule package will consist of revisions that are more complicated and require more significant discussion. Hart's presentation slides are available on the AMMSG website at <http://dnr.wi.gov/topic/AirQuality/AMStudyGroup.html> (refer to the November 12 meeting materials).

Permit streamlining ideas collected to date

Steve Dunn, Barbara Pavliscak and J.R. Sims, Permits and Stationary Source Modeling Section

Pavliscak discussed the Air Program's permit streamlining ideas for the first rule package (clarifying that the ideas have not necessarily been vetted outside the Program yet). She divided the ideas into two tiers.

The first tier consists of very minor revisions. These include correcting inconsistencies in rule language that make it difficult to interpret the code. The revision ideas include:

- Removing Table 1 and Table 2 from ch. NR 407, because they are no longer relevant (they refer to dates that have passed).
- Cleaning up inconsistent language between chs. NR 463 and NR 407 regarding part 70 sources.
- Cleaning up inconsistent language between chs. NR 406 and NR 407 regarding exemptions.
- Revising the definition of "emergency generator" so that it is consistent with the federal definition (possibly by changing the 200 hours-per-year operation cap to 500 hours).
- Revising language regarding the New Source Performance Standards for municipal solid waste landfills in ch. NR 440 to make it consistent with federal language.

Pavliscak noted that the group should feel free to suggest similar minor changes.

The second tier of revisions for the first rule package consists of changes that have a more significant impact. These revision ideas include:

- **Revising state operation permit lifetimes.** Statute does not restrict permit lifetimes, but state code sets a term of five years for state operation permits (SOPs). SOP lifetimes could be longer (like for ROPs and GOPs). Even if a SOP does not have an expiration date, it could still be reopened for cause or revision as the Department sees fit or at the permittee's request.
- **Clarifying the minor source revision procedure.** Rule language makes it difficult to use the minor revision process. The procedure could be revised so that it is more than an administrative revision but less than a full revision.
- **Creating an administrative revocation procedure for closed facilities.** When a facility shuts down, notification is required. However, it seems unnecessary to require notification to the facility when the facility requests revocation. The Air Program is discussing the feasibility of streamlining this process.
- **Adjusting the list of insignificant units.** The list includes small boilers less than 5 million Btus. These boilers are subject to a MACT standard. The Air Program is considering removing these as insignificant units and also looking for other units with similar issues.
- **Creating a "natural minor" source exemption.** The Air Program is required by the legislature to address this.

Sims and Dunn presented on four listening sessions they held around the state in October to collect public input on the permit streamlining initiative. The presentation slides have been posted on the AMSG website at <http://dnr.wi.gov/topic/AirQuality/AMStudyGroup.html> (refer to the November 12 meeting materials). Attendance at each session ranged from about 7 people in Eau Claire to 55 in Green Bay.

Defining “cause or exacerbate”. Sims discussed a flow chart (slide 11) that shows the decision tree used to determine whether modeling is required for permitting. One of the criteria for permit approval is that “the source will not cause or exacerbate a violation of any ambient air quality standard or ambient air increment.” At each point in the permitting decision tree, the definition of “cause or exacerbate” affects whether modeling is required (except for the last step, where public concern is the basis for modeling). Sims clarified that in some cases, defining the term could preclude a requirement for modeling as a basis for determinations.

Listening sessions & streamlining ideas. Dunn summarized permit streamlining suggestions received by the public during the listening sessions (see the presentation slides).

The suggestions are listed in a handout that was posted on the AMSG website with the November 12 meeting materials. Dunn mentioned that he was surprised there were not more requests for exemptions and general permits.

Discussion

Hart suggested that the group start prioritizing streamlining ideas and identifying which priorities can be pursued immediately. She noted that many of the ideas do not require a rule change (for example, the way the Air Program provides information to the public).

Natural minor exemption from operation permits. Hart explained that this is a priority that the Air Program is required by legislation to address. She noted that facilities would still need construction permits, and asked how that could be approached. One option would be to make the exemption only available to facilities that do not need a construction permit.

Hart asked for additional suggestions of topics to be addressed in the first rule package. Considering the Air Program’s streamlining ideas (presented by Pavliscak) and the suggestions collected at the listening sessions (see presentation slides and handout), the group discussed the following potential priorities:

Improve electronic permit applications. Huff suggested moving forward with this idea. Pavliscak noted that the biggest issue with the current electronic system is the electronic signature. Right now you can apply for a permit online, but you still have to print, sign, and mail in the application. The Air Program is very close to establishing an electronic signature process. This will not require a rule change as part of the streamlining initiative.

Like-kind replacement exemption from NR 406. Bashel suggested this should be prioritized. Dunn clarified that there is currently a similar exemption in NR 406, but only for partial replacement of a unit. This idea involves full replacement. The Air Program would probably use the definition of “like-kind” from NR 405 if they moved forward with this idea. Hart asked whether anyone thought it would be a bad idea to pursue this exemption. Bender responded that it would depend on the details of the exemption. Dunn agreed that would probably be true for all streamlining ideas.

Allow more construction prior to permit issuance. Harrington thinks this is a very important issue for business expansion. He asked whether the requirement to obtain a permit before commencing construction is a state or federal requirement. Dunn clarified that for sources subject to PSD or nonattainment NSR, it is a federal requirement to obtain a construction permit before building. He doubts the requirement for PSD construction could be changed, and if so, it would have to be addressed in the second rule package (the longer-term track). For other construction permits, state statute requires a permit before building unless a source obtains a waiver. Dunn stated that the streamlining initiative could possibly address this by changing the requirements for obtaining a waiver (e.g., removing the undue hardship requirement). Another option would be to issue part of the permit first, so the source can start construction, and then issuing the rest of the permit at a later date.

Harrington suggested that perhaps you can define commencing construction differently (e.g., defining it as the process that takes place after site clearing). He understands the public policy problems associated with allowing construction before the permit is issued, because then the Air Program would be under greater pressure to issue a permit once construction has started. However, he pointed out that other states have different requirements.

Hart suggested removing the undue hardship requirement for the waiver, to avoid conflict with the federal definition of commencing construction. Harrington asked whether sources would still have to request the waiver. Hart answered yes, which creates more work for the Air Program, but provides a check. Facilities have difficulty understanding whether their project is minor. Many facilities want to construct a new unit under the limit of their current operation permit – it is important for the Air Program to review these cases.

Hart suggested looking at aligning the state and federal definition of commencing construction. Hansen warned that this approach could prevent sources from entering into contracts. He recommends examining the record for limitations of the rule. He believes undue hardship was the most contentious part of the rule.

Hart suggested tentatively prioritizing this issue for the first package, either looking at the definition of commencing construction in NR 400, or looking at the waiver requirement.

Dunn noted that commencing construction is defined slightly differently in NR 400 than NR 405 (which applies to major sources and was probably copied from the federal definition). Hansen pointed out that there are different uses for the term between major and minor requirements.

Operation permit expiration. Bashel suggested that the idea to make more permits permanent or have longer (10-year) renewal periods could be a priority. Hart mentioned that she had brought this up at different meetings, and has had mixed feedback. Some like the idea of getting rid of expiration dates for FESOPs and minor source permits. Instead, the Air Program would review changes requested by sources or revision requests. Hart hopes that after streamlining the permit process, the Air Program would have more time for processing revisions and reopening permits for cause, but the Program currently lacks the time and resources for this.

Hansen suggested 10-year renewal periods if the Air Program lacks time or resources to address renewals in a timely manner. Hart agreed this should be a priority for the first rule package.

Hart clarified that if a permit does not expire, the public would not get to look at the whole permit again. Mariotti asked whether there could be a reopener clause. Hart agreed that it is a possibility, or perhaps the Department could reopen for cause. Pavliscak added that maybe “cause” could include a request from the public.

Hart mentioned that the proposal could prioritize permit renewals based on how close actual emissions are to limits and whether there has been noncompliance or a Notice of Violation (another idea suggested at the listening sessions).

Minor revision for operation permits. Hart mentioned that a possible priority is to make minor source revision in NR 407 usable for sources, perhaps by having separate provisions for part 70 and non-part 70 sources.

Administrative revision for construction permits & permit integration. Hart asked whether the group has thoughts on administrative revisions for construction permits. She envisions it would be similar to the wording in the revision section of NR 407.

Hansen said that the overlap between Title I and Title V permits could be more streamlined. Currently, you have to change the Title I permit to get that change moved over to the Title V permit. It would be nice if that could happen in a single action. Hart agreed, because the process is time-consuming for permit writers. Pavliscak noted that the Air Program is doing a better job now of integrating Title I and Title V actions. Fisher noted that there is probably statutory language that would present problems for integrating changes to Title I and Title V permits. Hart said the Air Program will look into it, and in the meantime will include the administrative revision process and permit integration as possible priorities.

Emergency generators. Regarding changing the 200 hours-per-year cap to 500 hours, Hansen noted that he thinks 500 hours is part of EPA’s guidance as it relates to temporary sources. He suggests looking at the

emergency generator definition in the RICE rule. If the Air Program aligned its definition with that definition, it may simplify the issue for sources.

General permits. Hansen mentioned that a general permit for RICE sources could be helpful.

Closing Items

Comments on remote access to meeting. Guido commented that he could hear the meeting well over the phone, but could not see the visual materials. Perhaps a Live Meeting or web-based meeting would help. Bashel noted that combining a Live Meeting with phone works better than voice over internet.

Meeting adjourned