

## Permit Exemption Threshold Committee (PETC)

### **Minutes of November 6, 2003 Meeting**

**Attendees:** Chuck Taylor, GT Environmental; Mike Hopkins, Ohio EPA; Paul Koval, Ohio EPA; Misty Parsons, Ohio EPA; Bill Spires, Ohio EPA; Laurie Stevenson, Ohio EPA; Paul Guevin, Ohio Paint Council; Kristin Clingan, Ohio Chamber of Commerce; Tim Ling, Plaskolite; Matt Johnston, Worthington Industries; Kevin Kilroy, Smithers-Oasis; Joe Koncelik, Ohio EPA; David Newsad, RMT; Doug McWilliams, Squires Sanders; Karen Walter, Brouse McDowell; Jon Hunter, Delphi Corp.; Keith Shoemaker, Ohio Paint Council; Marty Seltzer, Porter Wright; Perry Bennett, Molded Fiber Glass; Genevieve Damico, USEPA (by phone)

#### **I. Introductions & Approval of Minutes**

The workgroup meeting was called to order and the minutes from the October 9, 2003 meeting were approved as distributed. Mike Hopkins began an explanation of Ohio EPA's redraft of the rule, which had been distributed prior to the meeting.

#### **II. Bill Re-draft**

Mike Hopkins walked the group through their redraft of the rule. First, they added the definition of "air contaminant source project." The prior focus has been on a single emissions unit, but in reality they get permits with multiple emissions points, which should be captured by the rule. They modeled the definition in this draft after the USEPA guidance on PSDs, but Mike noted that the Agency is open to input on this definition.

In regard to notification of MACT sources, OEPA deleted the language that said "notification-only" sources were eligible for the exemption, saying that they would not be able to do that and maintain their delegation agreement with USEPA. Chuck noted that the change would eliminate the option of those sources to use any of the exemptions that followed in the rule (a)-(pp), which would increase Ohio EPA's workload not decrease it.

In (iii), new language was inserted to properly define restrictions in the rule including a table to make the rule "visually simplified." It was agreed that looking at the table would be faster than reading the corresponding verbiage. The table was then described. It includes two different tests to meet, individual emissions and project numbers. A detailed discussion continued on the specific numbers in the table. For the last column in the table, Mike stated that they don't know what threshold levels to include, for toxics, etc. Something slightly higher than zero for those listed in (iii)(c) above.

Doug asked how these numbers interplay with the *di minimus* rule? Why not keep same *di minimus* threshold? Mike stated that their feeling is that so few sources will emit these highly toxic substances that they want the front-end review, not back-end review when it's causing a nuisance. This will partially address citizen group concerns.

The OEPA draft went back to the TLV list, based on their feeling that the TLV list is easier for people to look up and access (MSDS sheets) without having to search on the Internet, etc. In this draft, the 2002 version of the TLV list would be locked in, but then changed at five-year rule review.

The rule draft included a 10.0-ton threshold for stack emissions and 2.0-ton threshold for fugitive emissions. The fugitive emissions threshold is a calculation based on distance to the fence line, etc. The threshold could be altered by altering all the other perimeters as well. What about sources that have stack and fugitive emissions? Either have to model or make worst-case assumptions in the rule.

The Ohio Paint Council expressed a concern over the drafting of the rule related to where emissions leave the building. Mike thought that small painting operations would fall under the permit by rule (PBR), but the question is the same. Many small painting operations won't meet the perimeters of the rule in terms of how fugitives are released from the building. Mike stated that the trouble with fugitives released close to the ground is that they don't disperse, need further fence line as a result.

The fugitives discussion continued by trying to determine what common scenarios should be used in crafting these perimeters, we won't capture every scenario, but the worst-case scenario. The draft didn't include a flow rate, could include other perimeters if we want to try to pull in more facilities. It was also noted that there should be some reference to external sources (not in the building). Mike reiterated that we should focus on common scenarios, not something that occurs only 4 places in the state.

The current draft only considers new sources, what about shut down/replacement? Mike agreed it would be a good thing to factor in.

Some general comments were made by industry members that the rule may be getting to the point where its complexity will make people afraid to use it, and also that there is a level of uncertainty inherent with the project definition that could discourage the rule's use. Mike noted that some definition of 'project' is needed in the rule but the current definition could be redefined. Some discussion followed, including a suggestion to use the "significant net emissions increase" approach.

The penalty language in (vi) is new. OEPA explained that the notification information is very important to the Agency and they need some hammer to guarantee compliance with the requirement. Discussion followed, including changing the language to “may assess” vs. “shall assess.” Joe Koncelik stated that their biggest concern is that they don’t want to waste resources negotiating the penalty amount, but he would be okay with changing it to the Director’s discretion as to whether or not the \$1,000 penalty was assessed.

The discussion returned to the TLV list, with OEPA’s opinion that it is a more straightforward list to use. It looked like approximately 180 of 800 would be above the 15,000 ug/m<sup>3</sup> threshold level. Joe said they came up with the 15,000 threshold based on the modeling perimeters. That number could change if the other perimeters changed as well; it’s a balanced equation. Paul Koval estimated that the 15,000 level would exempt about 1/3 of the TLV list.

Genevieve was asked to comment on the overall approach contained in Ohio EPA’s draft; she said it was fine.

More questions were asked about the rule draft. Uncontrolled PTE is not defined anywhere, does it need to be defined? Mike said they’d have to think about it. They want to avoid exempting any source where the Agency relies on the PTI to verify operation of a control device.

The new substances listed in (c)(ii), where did they come from? Paul Koval explained that they came from a 1997 strategy between USEPA and Great Lakes states identifying a sub-list of air pollutants of concern/ persistent biocumulative compounds. He explained that this is just a clarification in the rule; anyone in these substances would be in the PTI system anyway.

Chuck raised the issue of the air toxics policy (ATP) and noted that its application makes this a controversial rule with industry. The level of eligibility for exemption is based on meeting criteria embodied in the ATP. Does exceeding the ATP imply a nuisance? Joe said “no.” Nuisance is an independent determination, not related to exceeding or meeting PTI requirements; it’s a case-by-case determination.

While OEPA considers the TLV list to be the broadest-ban look, Paul Koval will look at the other lists again and see if any other list would be comparable. OEPA wants a conservative approach to the list, even though many will admittedly never be air pollutants. Their comment was that the HAP list is a national list; it does not consider a toxic substance at one facility that could still be very toxic.

OEPA asked if we were to return to the HAP list, what would we use as a screening level for modeling? Bill Spires wants something comparable to what they do now. Sub-divide the HAP list?

Another general comment was made that these sources already deal with the complexities of the PTI system, so the complexity of this rule should not be a concern. This rule won’t pull in new sources that haven’t dealt with the PTI system before.

### **III. Homework**

1. “Uncontrolled PTE” clarification from Mike by 11/14/03
2. Paul Koval to review toxics lists and get back to the group
3. Dave Newsad to estimate how many PTIs exempted under this rule draft
4. Industry comments on this rule draft to OEPA by 12/1/03

Next Meeting: **Thursday, December 11, 2003**  
**10 AM**  
**Ohio Chamber of Commerce**  
**Conference Room B (3<sup>rd</sup> Floor)**

**\*Note Room Change**

**\*Also note that box lunches will not be offered on 12/11/03**