



DEPARTMENT OF
ECOLOGY
State of Washington

Washington Air Operating Permit Program Audit Report

Calendar Year 2008

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Executive Summary

Washington's Air Operating Permit (AOP) program undergoes a routine performance audit and a random permit review each year. Crystal Alford from Ecology's Air Quality Program and April Westby from Spokane Regional Clean Air Agency performed the audit and the review for calendar year 2008. It has been many years since staff from within the AOP program performed a program audit.

General findings

Overall, the audit revealed that Washington's AOP permits are generally well written and contain a complete listing of applicable requirements. Many permits are on, or are about to trigger, their second renewal cycle. Agencies have a wealth of experience managing the program, working with the sources, and writing the permits. In addition, the permits have been enforced for two full cycles, and many issues resulting from enforcement of the permit conditions during the permit term are being resolved during the renewals.

Opportunities for improvement

There are still opportunities for ongoing improvement of each agency's permitting, compliance and enforcement activities. During the next renewal cycle, we encourage agencies to review the content of their permits and provide additional clarity when describing applicable requirements and the emission units. Not only does this improve the permits, but it strengthens compliance and enforcement program activities by:

- making the permit and the basis for the requirements in the permit clearer and easier for the source to comply with; and
- making it easier for agency staff to determine compliance.

Conclusions and recommendations

A complete listing of the conclusions from this year's audit and recommendations is given at the end of this report. Recommendations include:

- improving timely processing of permit renewal applications;
- improving data reporting;
- improving the content of the permit/Statement of Basis;
- improving full compliance evaluations; and
- making permit information available on all agency web-sites.

Introduction

Washington Administrative Code (WAC) 173-401-920(3) requires annual routine performance audits of the operating permit program administered by Ecology and the seven local air agencies in Washington State. In past years, a contractor has been hired to perform the audits of both Ecology and the local air agencies. This has cost the Air Operating Permit sources about \$35,000 each fiscal year in Development and Oversight fees. This year, the Air Operating Permit Coordinator from the Department of Ecology, Crystal Alford, performed the audit of Washington's seven local air agencies and April Westby, from Spokane Regional Clean Air Agency, performed the audit of Ecology's four offices, saving approximately \$30,000.

The audit focus this year was performance of the annual routine performance audit and the annual random individual permit review for calendar year 2008. The reviews evaluated individual agency programs based on the requirements listed in WAC 173-401-920(3)(b) and (c). The fiscal audit required every two years per WAC 173-401-920(3)(a) and the extensive performance audit required every five years per WAC 173-401-920(3)(d) were not due to be performed as part of this audit.

A preaudit public meeting was held at the Eastern Regional Office of Ecology in Spokane on April 21, 2009. The meeting was announced in the permit register prior to the meeting. There were no attendees of the meeting, however, one set of comments was received via email. The concerns raised in the email comments were reviewed and considered during the performance audit review for the specified agencies. The responses to the comments received are contained in the section of the audit report that pertains to the specific comment.

Audit Review – In General

A standard audit checklist, which included evaluation of specific program activities based on the requirements contained in WAC 173-401-920(3)(b) and (c), was developed to assist in consistently evaluating the programs at each agency. The checklists completed by the auditor during each of the site visits are available for review, but are not included as a part of this report.

Data gathered prior to conducting the on-site audits included information from EPA's AFS database related to enforcement and full compliance evaluations for 2008 and TOPs database related to permitting activities for the first half and second half of 2008. Ecology's Permit Register was used to count permit activity performed during the audit period from the agencies. In addition, agency web-sites were used to review permits and their Statements of Basis, prior to and following the on-site audits.

Overall, several audit criteria evaluated across the individual programs yield similar, unremarkable results. Average application processing time takes three to four months of part time work to complete. Agencies reported applications are received substantially complete and no applications had to be disapproved. EPA review of proposed permit actions did not result in objections to the permits. Permits were not challenged on a legal or administrative basis. No accidental releases were reported under the FCAA 112(r) program. Agency files contained

appropriate levels of documentation of permit related activities, including full compliance evaluations, report reviews, emission inventories, complaint response, correspondence with the source, source test and CEM performance test reports, new source review actions, and enforcement actions. Expirations dates are contained in issued permits. Most sources do not specify alternate operating scenarios for inclusion in the permits. Permit appeal information has been included. State or local only requirements are identified with applicable requirements. Source inspections are performed unannounced when possible.

Generally, specific maintenance requirements are not included within the permit, beyond the need to develop and follow an operation and maintenance plan for equipment. Procedural requirements for providing public notice of permit actions in accordance with WAC 173-401-800(2) are generally followed. Some permit actions, such as receipt of a complete application, discussed in WAC 173-401-805(2), may not be reported by agencies into the state permit register. It is unclear if the intent of this section (WAC 173-401-805) is to require publication of these actions, or just to make available the opportunity to post notice of the actions in the permit register.

Every agency reviewed in the audit had lapsed permits. Explanations for the lapses include workload issues, staffing issues, high number of new applicable requirements to be included in the permits, especially when applicable MACT standards are promulgated, and on-going resolution of enforcement issues.

Average permit costs to the individual programs for processing the permits are not easily determined. Some agencies are attempting to track this information. Unfortunately, the audit periods are set up on a calendar year and the agencies track expenses following the State's fiscal year. In addition, many permit actions begin during one calendar year, but are not completed until the next, resulting in the permit processing time/costs being split over two years. For individual agencies that have an estimate of these costs, they are identified in the agency specific results later in the report.

Ecology's permit processing costs are difficult to determine due to the fact that there are four separate Ecology offices that process and issue permits. Two of the Ecology offices, CRO and ERO, are Regional offices that are similar to the Local Air Agencies. However, the other two Ecology offices, NWP and Industrial Section handle larger, more complex sources than the Regional offices. Due to these factors, it is difficult to calculate a single average permit processing cost that is representative for all four Ecology offices. Based on the total permit processing cost reported by Ecology for the most recent fiscal year, and the number of permit actions processed by Ecology during the year, the average permit processing cost for Ecology is estimated at ~\$45,000.

A detailed discussion of agency specific results follows.

Individual Agency Audit Reviews

Ecology Programs – Reviewed by April Westby, all lapsed permits (not just 2008) identified

AQP – CRO Site visit conducted on May 5, 2009 from 10:00 am to 4:30 pm with Lynnette Haller

During 2008, Ecology's Air Quality Program Central Regional Office (CRO) had five sources subject to the AOP program. One permit lapsed - SDS Lumber. SDS Lumber's permit was lapsed from October 6, 2008 until the renewal permit was issued on October 22, 2008. Currently, there is one lapsed permit, Greater Wenatchee Landfill. The AOP for Greater Wenatchee Landfill expired on April 2, 2009. CRO deemed the source's renewal application complete on March 11, 2008, therefore the permit shield is in place. However, notice of the agency's determination that a complete application had been received was not found in the state permit register.

According to activities reported in EPA's AFS database, no NOV's were issued to AOP sources in 2008. However, review of CRO's files showed one Notice of Violation issued to SDS Lumber on August 27, 2008 for failure to submit a source test plan 30 days prior to testing. This NOV was not reported in AFS. In general, CRO does not issue NOV's to AOP sources unless it is an HPV, which is not consistent with the other Ecology offices.

Five full compliance evaluations (FCEs) were reported in the AFS database in 2008; Greater Wenatchee Landfill on September 30, 2008; Roosevelt Landfill on August 16, 2008; SDS Lumber on September 23, 2008; PUD No. 1 of Klickitat County on July 31, 2008; and Goldendale Generating Station on September 30, 2008. CRO also enters all reports reviewed as Partial Compliance Evaluations (PCEs) in AFS.

The random permit selected for the audit was SDS Lumber, issued on October 22, 2008. The Statement of Basis for SDS Lumber contained a detailed and thorough description of emission units and associated control equipment, and potential emission estimates. However, the listing of the pollutants for which the source is considered major did not include oxides of nitrogen (NO_x) even though the potential to emit table showed a potential to emit NO_x at greater than 100 tons per year. Applicability of Section 112(r) of the Federal Clean Air Act (FCAA) was not documented in the Basis.

Within the permit itself, emission units were well described, but the control equipment associated with the emission units could be better identified.

Procedural requirements for permit issuance were met for the SDS Lumber permit.

NWP Site visit conducted on May 6, 2009 from 8:00 am to 2:00 pm with Doug Hendrickson and Oliver Wang

Ecology's Nuclear Waste Program (NWP) has only one source in its jurisdiction, US Department of Energy Hanford (Hanford). Although the permit for the source includes "sub-permits" issued

by Washington State Department of Health and Benton Clean Air Agency in addition to the sections issued by NWP, NWP is the “permitting authority” for the entire permit.

Preaudit comments were received regarding the lack of opportunity that a public commenter has for judicial review by the Pollution Control Hearings Board (PCHB) for the requirements created and enforced by the Washington Department of Health (Health) contained in the Hanford permit. According to the comments, the PCHB cannot adjudicate actions regarding Health or Health’s regulations due to a lack of jurisdiction. The focus of this audit is limited to the requirements listed in WAC 173-401-920(3)(b) and (c), which does not include a review of the appeal process for Washington Department of Health rules. However, per consultation with the Washington Department of Health and the Ecology NWP, opportunities for appeal may be afforded to citizens in the Department of Health laws and/or rules, the Adjudicative Service Unit may hear a citizen appeal of an EIS (see paragraph 5 of WAC 246-10-107), and/or a citizen could petition Superior Court to hear an appeal if legal standing can be proven.

According to activities reported in EPA’s AFS database, no NOVs were issued in 2008. However, review of NWP’s files showed that Order DE08NWP-001 was issued to US Department of Energy Hanford on August 14, 2008 for installation of an emergency generator without a permit. This enforcement action was not reported in AFS. No full compliance evaluations (FCEs) were reported in the AFS for 2008. Per NWP, a FCE is conducted at the facility once every three years. Partial compliance evaluations (PCEs) are conducted every year. NWP does not report PCEs in AFS.

The random permit audited for NWP is US Department of Energy Hanford, which was originally issued on December 29, 2006 and has been revised four times since it was issued. The version reviewed during the audit was Revision D, which was issued by Ecology on December 23, 2008. The Statement of Basis does not identify why the source is subject to the AOP program (i.e., which pollutants the source is major for, etc). Emission units are described in the permit, but control equipment associated with those units are not well described. During the audit, it was noted that control equipment is listed in the text of each NOC, but was not included in the permit table with the permit. Applicability of Section 112(r) of the Federal Clean Air Act (FCAA) was documented in the permit (does apply to source). It was not easy to identify which requirements were gapfilled in the permit.

Procedural requirements for permit issuance were met for the Hanford permit, although notice of the latest permit revision (D) issued in December 2008 was not found in a search of the state permit register.

AQP – ERO Site visit conducted on May 28, 2009 from 9:15 am to 1:15 pm with David Wendland and Brenda Smits

During 2008, Ecology’s Air Quality Program Eastern Regional Office (ERO) had ten sources subject to the AOP program. One permit lapsed – Boise Plywood. Boise’s permit expired July 1, 2008 and is currently still lapsed. ERO deemed the source’s renewal application complete on August 27, 2008, therefore the permit shield is in place. However, notice of the agency’s determination that a complete application had been received was not found in the permit register. Permit register entries were reviewed from January 2005 forward; however no application completeness determinations for any permits were found that were posted by ERO.

According to activities reported in EPA's AFS database, two NOV's were issued to AOP sources in 2008. NOV #6061 was issued to Vaagen Brothers Lumber on September 10, 2008 for issues discovered during the FCE performed on August 25, 2008. NOV #5683 was issued to Boise Cascade Plywood on June 12, 2008 for CO and VOC violations that occurred during a October 30, 2007 source test.

Six full compliance evaluations (FCEs) were reported in the AFS database in 2008, and review of files matched the FCEs performed by ERO; Ponderay Newsprint on September 30, 2008; Stimson Lumber on August 21, 2008; Boise Plywood on September 11, 2008; Boise Cascade Lumber on January 23, 2008; Vaagen Brothers on August 25, 2008; and Guy Bennett Lumber on August 8, 2008. One partial compliance evaluation (PCE) was reported in the AFS database in 2008, and review of files matched the PCE performed by ERO at Avista – Kettle Falls on November 20, 2008.

The random permit audited for ERO is Boise Plywood. The permit is currently lapsed and is undergoing renewal, but has not been issued to date. The permit reviewed as part of this audit was issued on June 27, 2003 and has been revised twice on December 28, 2004 and April 25, 2005. Emission units and control equipment were well described in the permit. The Statement of Basis also contained a good explanation of CAM applicability for emission units. Applicability of Section 112(r) of the Federal Clean Air Act (FCAA) was not documented in the Basis.

FCE documentation follows the AOP permit layout and clearly identified the information ERO evaluated during the FCE process to determine the compliance status for each emission unit.

Procedural requirements for permit issuance were met for the Boise Plywood permit, except that notice of the final permit issued on June 27, 2003 was not found in a search of the state permit register.

Industrial Section Site visit conducted on June 4, 2009 from 7:40 am to 2:40 pm with Merley McCall and Marc Heffner

During 2008, Ecology Solid Waste and Financial Assistance Program's Industrial Section (Industrial Section) had eleven sources subject to the AOP program: seven pulp mills, two active aluminum smelters, and two sources that were closed but maintaining their AOPs (one smelter and one pulp and paper mill). One permit lapsed – Weyerhaeuser Longview. Weyerhaeuser Longview's permit expired on March 16, 2006. Industrial Section's web-site states that the permit has been "extended", but does not give an expiration date. Industrial Section deemed the source's renewal application complete on December 8, 2005, therefore the permit shield is in place. Currently, there are three lapsed permits – Weyerhaeuser Longview, ALCOA and Intalco. ALCOA's renewal application was deemed complete on October 7, 2008, therefore a permit shield is in place. However, Industrial Section has not determined that Intalco's renewal application, received on October 15, 2008, is complete. Permit register entries were reviewed from January 2005 forward; however no application completeness determinations for any permits were found that were posted by Industrial Section.

Industrial Section issued six Notices of Violation (NOVs) in 2008. The violations were for both high priority violations (HPVs) and other federally reportable violations (FRVs).

Five full compliance evaluations (FCEs) were reported in the AFS database in 2008. They were: Georgia-Pacific Consumer Products Camas (on-site September 29, 2008; date achieved listed as September 30, 2008); Longview Fibre Paper and Packaging (on-site June 24, 2008; date achieved listed as September 29, 2008); Weyerhaeuser Longview (on-site October 2, 2008; date achieved listed as September 29, 2008); Port Townsend Paper (on-site November 12, 2007; date achieved listed as September 29, 2008); Simpson Tacoma Kraft (on-site June 7, 2007; date achieved listed as September 22, 2008); Kimberly Clark Tissue (on-site October 22, 2007; date achieved listed as September 22, 2008); and Boise Paper Solutions (on-site December 18, 2007; date achieved listed as September 22, 2008). Review of FCEs reported in AFS show that on-site inspections may occur prior to, and in some cases substantially prior to, the agency's full compliance evaluation determination, which is scheduled just prior to the end of the federal fiscal year cycle.

The random permit selected for the audit was Longview Fibre Paper and Packaging, issued on February 23, 2007. The Statement of Basis does not identify why Longview Fibre Paper and Packaging is subject to the AOP program (i.e., pollutants for which the source is major for, etc.). The permit does not include a list of control equipment associated with any of the emission units. Applicability of Section 112(r) of the Federal Clean Air Act (FCAA) was documented in the Basis (does not apply). The Statement of Basis does not include an explanation of CAM applicability for emission units. The agency should cite WAC 173-400-075 for MACT requirements in addition to 40 CFR Part 63 and WAC 173-400-115 for NSPS requirements in addition to 40 CFR Part 60 because the legally enforcement provision comes from the State Regulation, which adopts these rules by reference. It was not easy to identify which requirements were gapfilled in the permit.

The inspection report reviewed separates out each emission unit and lists inspection operating conditions (e.g., CEMs readings, etc). However, the inspection report does not follow the AOP and does not address each permit condition applicable to the emission units. Therefore, the compliance status for each emission unit could not be determined.

Procedural requirements for permit issuance were met for the Longview Fibre Paper and Packaging permit, except that a permit register entry could not be found for the issuance of the final permit for Longview Fibre Paper and Packaging in a search of the state permit register.

Local Air Agency Programs – Reviewed by Crystal Alford (unless otherwise noted, only those permits that lapsed during 2008 are identified)

Yakima Regional Clean Air Agency site visit conducted May 5, 2009 11:30 am to 4:30 pm with Hasan Tahat

Yakima Regional Clean Air Agency (YRCAA) does not have any permits or Statements of Basis available on their web-site. Electronic copies of these documents were requested prior to conducting the site visit.

During 2008, YRCAA had five AOP sources subject to the AOP program. One permit lapsed - Terrace Heights Landfill. Terrace Heights Landfill's permit expired July 17, 2007. A renewal application was submitted to the agency on July 16, 2007. YRCAA deemed the source's renewal application complete in July 2008, therefore the permit shield is in place. On January 2, 2009 the renewal permit was issued. Issuance of the final permit in the October 10, 2008 permit register was the only permit action reported in 2008 for YRCAA.

According to activities reported in EPA's AFS database, no NOV's were issued to AOP sources in 2008. No full compliance evaluations (FCEs) were reported in the AFS database, however, review of YRCAA files show FCEs were conducted at Terrace Heights Landfill on June 24, 2008; at Canam on September 10, 2008; at Dunollie on August 4, 2008; at Pactiv on February 28, 2008; and at Shields on December 12, 2008. This information was reported to EPA for AFS entry, however it did not get entered into the system by EPA.

The random permit selected for the audit was Terrace Heights Landfill Y-004-01. The Statement of Basis identifies the source as being subject to the requirements of 40 CFR 63 Subpart AAAA. The permit identifies applicable requirements from 40 CFR 60 Subpart WWW. 40 CFR 60 Subpart WWW applies to municipal solid waste landfills that were constructed or reconstructed on or after May 30, 1991. The Basis states that the source began receiving municipal solid waste in 1973. It appears that the source may be subject to an emission guideline for an existing source, such as WAC 173-400-070(9), which is triggered by 40 CFR Part 60, Subpart Cc.

The Basis identifies this source as subject to the AOP program because it is a major source, however no potential to emit estimates are included in the Basis. If the landfill is subject to WAC 173-400-070(9), the landfill would be subject to the requirements of the AOP program because of its operating status (i.e., open – receiving waste) and size (i.e., design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters), regardless of its major source status. When listing the applicable requirements, the agency should cite the state regulation (WAC 173-400-070(9)) in addition to 40 CFR Part 60 because the legally enforcement provision comes from the State Regulation.

In the permit, Condition 15 in Table 1, lists as an applicable requirement 40 CFR Part 60 60.11(d) with the following description "Any affected facility shall be operated and maintained at all times consistent with good air pollution control practices to minimize emissions." The monitoring, recordkeeping and reporting requirement specified for this condition includes two monitoring methods that list WAC 173-401-615 as the Basis for the monitoring. If the source is subject to an applicable requirement from a post 1990 NSPS, EPA considers there to be sufficient monitoring contained in that particular rule to assure compliance, and gapfilling by the permitting agency should not be necessary.

The permit includes requirements for flares/active landfill gas collection and control system, but there is not a clear explanation that these requirements apply if/once the equipment is installed or required.

Benton Clean Air Agency site visit conducted May 6, 2009 8:45 am to 12:30 pm met with Robin Priddy

Preaudit comments were received about fees collected by Benton Clean Air Agency (BCAA) for asbestos notifications and special outdoor burning permits, as outlined in Attachment 3 to US Department of Energy Hanford's Statement of Basis. Neither activity is AOP fee eligible, per WAC 173-401-940(1), therefore it is appropriate that these fees are assessed by BCAA and not as part of the AOP fees assessed by Ecology to the US Department of Energy Hanford.

BCAA does not have permits and Statements of Basis available on their web-site. Electronic copies of these documents were requested prior to conducting the site visit.

During 2008, BCAA had two sources subject to the AOP program. One permit lapsed – Agrium. Agrium's permit expired January 14, 2008. A renewal application was submitted to the agency on June 21, 2007. BCAA deemed the application complete August 14, 2007, therefore a permit shield was in place. The renewal permit was issued June 11, 2008. Issuance of one draft permit and one final permit were entered in the permit register for Agrium. One application for Northwest Pipeline was determined complete and posted in the permit register.

According to activities reported in EPA's AFS database, no NOV's were issued to AOP sources in 2008. No full compliance evaluations (FCEs) were reported in the AFS database, however, review of BCAA files show a FCEs was conducted at Northwest Pipeline on September 16, 2008. This information was reported to EPA for AFS entry, however it did not get entered into the system. Agrium's last FCE was conducted September 6, 2007, and no FCE was due in 2008.

The random permit selected for review was Agrium No. 05-0002. The Statement of Basis contains a thorough discussion of emission units in Table 8, emission levels (major for NOx and PM) in Section 4.0, discusses MACT inapplicability (not major for HAPs) in Section 3.8, identifies monitoring per WAC 173-401-615 but does not call out this monitoring as "gapfilling", discusses review of changed regulations for new applicable requirements (WAC 173-400 & 173-401 – there were no new requirements), and states that no new applicable MACTs have been promulgated since the last permit renewal. Insignificant emission units are listed in Table 7, 8 & 9 with the basis for the determination. The Basis did not include a discussion of CAM applicability or discussion of leaving out any one-time or already fulfilled requirements.

All emission units, insignificant emission units and associated air pollution control equipment are identified at the end of the permit and Statement of Basis. Information regarding size, capacity, rating, installation year, and associated new source review permits was not included. Permit condition 1.30 identifies that Section 112(r) is triggered for this source. The applicable requirements cited in the permit conditions are not paraphrased.

FCE documentation includes a review of each condition directly from the permit, but doesn't include headers for the specific emission units (permit and Basis list them out, but the inspection checklist doesn't include them), making it difficult for determining the compliance status of each emission unit.

Procedural requirements including permit register notice of complete application on September 10, 2007, draft permit on April 24, 2008, and issuance of final permit on June 25, 2008 were listed in the permit register. The proposed permit was sent to EPA April 17, 2008. Legal notice was placed in the local paper on April 20, 2008. The final permit was sent to EPA and affected states on June 11, 2008.

Southwest Clean Air Agency site visit conducted on May 2, 2009 8:15 am to 2:45 pm with Paul Mairose, Wess Safford, and Natalia Kreitzer

During 2008, Southwest Clean Air Agency (SWCAA) had twelve sources subject to the AOP program. Two permits lapsed – Hampton Lumber Mill Morton and Noveon Kalama. Hampton Lumber Mill Morton’s permit expired January 28, 2003. A renewal application was submitted January 28, 2002 and deemed complete by SWCAA on February 14, 2002, therefore the permit shield is in place. Noveon Kalama’s permit expired December 4, 2006. A renewal application was submitted June 5, 2006 and was deemed complete August 7, 2006. Three final permits were issued. They were Attbar Inc, TransAlta Centralia Generation, and TransAlta Centralia Mining. One draft permit was issued to TransAlta Centralia Mining; and one complete application was received for Clark Public Utilities River Rd per the permit register.

Twenty-three NOVs were listed in the agency database for calendar year 2008. Of those, one was not listed in EPA’s AFS database, Sierra Pacific Industries Centralia, Field NOV4309 (FNOV) issued March 10, 2008, NOV4309 issued September 9, 2008.

Twenty-two NOVs were listed in EPA’s AFS database. They were:

Attbar Inc:

NOV4256 issued June 3, 2008

Northwest Pipeline Corp Washougal:

NOV3410 issued October 16, 2008

Mint Farm Generation:

NOV3574 issued May 8, 2008

NOV3579 issued August 4, 2008

Trans Alta Centralia (Pacificc):

NOV3528 issued March 10, 2008

NOV3530 issued March 10, 2008

NOV3531 issued March 10, 2008

NOV3542 issued May 15, 2008

NOV3544 issued August 1, 2008

NOV3529 issued March 10, 2008

Northwest Pipeline Corp Chehalis:

NOV3407 issued February 13, 2008

Hampton Lumber Mills Morton:

NOV3310 issued March 18, 2008

NOV3316 issued March 4, 2008

Cardinal FG Company:

NOV3568 issued May 7, 2008

NOV3570 issued February 7, 2008 (agency database lists this as FNOV date, NOV date not in AFS)

NOV3571 issued February 7, 2008 (agency database lists this as FNOV date, NOV date is not listed in AFS)

NOV3572 issued February 8, 2008 (agency database lists this as FNOV date, NOV date is not listed in AFS)

NOV3576 issued June 2, 2008

NOV3575 issued June 11, 2008

NOV3577 issued July 1, 2008

NOV3578 issued July 15, 2008

NOV3581 issued January 1, 2008 (agency record indicates September 25, 2008)

Ten FCEs were performed for twelve AOP sources according to EPA's AFS database. Partial compliance evaluations (PCEs) were reported for Clark Public Utilities River Rd and Noveon Kalama, but no FCEs.

In addition to appeal language written into individual permits, of special note is the appeal page on SWCAA's web-site, "Currently being appealed".

The random permit selected for review was Northwest Pipeline - Washougal SW98-7-R1. The Statement of Basis and permit contained a thorough description of emission units, identified that there was no air pollution control equipment for those emission units, and included equipment descriptions (e.g., size, rating, fuel burned, etc). Discussion of monitoring, recordkeeping and reporting requirements in the Statement of Basis included a clear identification of and basis for gapfilled monitoring. However, there was no discussion of the exemption from Section 112(r) of the FCAA for this facility in the Statement of Basis, so it was not clear that this requirement had been considered.

FCE documentation follows the AOP permit layout and clearly identified the information SWCAA evaluated during the FCE process to determine the compliance status for each emission unit.

Northwest Pipeline – Washougal's permit expired April 5, 2005. A renewal application was submitted February 27, 2004. The renewal application was deemed complete on April 14, 2004, therefore the permit shield was in place. The renewal permit was issued March 31, 2006.

Procedural requirements included notice of issuance of the final permit posted in the permit register April 1, 2006, however, no entries for were found for the complete application determination nor issuance of the draft permit. Notice to affected states was distributed with the draft permit to EPA on December 2, 2005. Legal notice was published in the local paper December 7, 2005.

Northwest Clean Air Agency site visit conducted on May 13, 2009 6:45 am to 10:30 am with Lynn Billington, Mark Buford, and Erica Miller

During 2008, Northwest Clean Air Agency (NWCAA) had twenty sources subject to the AOP program, three of which had not received initial permits – Chemco, Sierra Pacific Burlington, and PSE Sumas. Three permits lapsed – Ershigs, Inc, ConocoPhillips Ferndale Refinery, and BP West Coast Refinery.

Ershigs, Inc's permit expired on February 4, 2008. A renewal application was submitted July 31, 2007. The application was deemed complete on January 8, 2008, therefore the permit shield was in place. ConocoPhillips Ferndale Refinery's permit expired May 20, 2008. A renewal application was submitted November 20, 2007. The application was deemed complete January 7, 2008, therefore the permit shield was in place. BP West Coast Refinery's permit expired June 18, 2008. A renewal application was submitted December 14, 2007. The application was deemed complete January 8, 2008, therefore the permit shield was in place.

Three modifications (MAAX US Corp, and two for Tenaska Washington Partners), and one renewal application (PSE Encogen) were received. The permit register listed one draft permit for Pacific Woodtech Corp, one final permit for Pacific Woodtech Corp and one modification to a final permit for MAAX US Corp. Neither PSE Encogen nor Pacific Woodtech Corp's applications were listed as complete in the permit register.

Sixteen NOVs were listed in EPA's AFS database. They were:

General Chemical:

NOV #3718 issued August 26, 2008 and penalty issued October 15, 2008

Puget Sound Refinery:

NOV #3710 issued July 28, 2008 and penalty issued October 13, 2008

NOV #3695 issued August 6, 2008 (no penalty reported in '08)

NOV #3702 issued August 6, 2008 (no penalty reported in '08)

NOV #3704 issued July 11, 2008 which was rescinded (should be deleted from AFS)

NOV #3703 issued August 6, 2008

NOV #3726 issued October 17, 2008

NOV #3740 issued November 13, 2008

Sierra Pacific – Skagit Lumber:

NOV #3668 issued February 25, 2008 (no penalty reported in '08)

Pacific Woodtech Corp:

NOV #3711 issued July 31, 2008 and penalty issued October 16, 2008

ConocoPhillips:

NOV #3712 issued August 6, 2008 and penalty issued October 13, 2008

BP West Coast Products:

NOV #3650 issued April 10, 2008 (no penalty reported in '08, penalty issued April 6, 2009)

Chemco:

NOV #3736 issued October 15, 2008 and penalty issued November 18, 2008

NOV #3737 issued October 15, 2008 and penalty issued November 18, 2008

NOV #3738 issued October 15, 2008 and penalty issued November 18, 2008

NOV #3739 issued October 15, 2008 and penalty issued November 18, 2008.

Sixteen FCEs and four PCEs at mega sites were performed in 2008, per EPA's AFS database.

The random permit selected for the audit was Northwest Pipeline Mt Vernon. The Statement of Basis and the permit thoroughly identify the applicable requirements. The Basis includes a summary of changes to the permit, and both the sources' compliance and permitting history. All emission units were identified in the Statement of Basis and permit (Section I), including associated air pollution control equipment, equipment description (e.g., size, rating, fuel, etc), and installation date. The Basis included a good discussion of CAM inapplicability and NSPS applicability. There was also discussion of gapfilling for opacity and particulate matter limits. It was not clear if the source was subject to Section 112(r) of the FCAA. The agency should cite WAC 173-400-115 for NSPS requirements in addition to 40 CFR Part 60 because the legally enforcement provision comes from the State Regulation, which adopts these rules by reference.

NWCAA encouraged the source to participate in the Gas Star Program (voluntary program) as part of their pollution prevention discussions. Participation in the program resulted in identification of a gas leak which the source corrected, thereby reducing emissions from engines.

FCE documentation identified all emission units, however, there was no definitive statement of compliance with the AOP conditions, which made it difficult to determine the compliance status for each emission unit. The compliance issues identified in the September 17, 2008 report were not well linked to the various emission units in the report. Review of the source files found zero NOVs, one FCE, one upset reported which occurred during the annual shutdown and upon review was determined to be unavoidable, stack test results, and correspondence log.

Procedural requirements are tracked in a table of the permit checklist used by NWCAA. Northwest Pipeline Mt Vernon's permit expired December 3, 2003. A renewal application was received February 28, 2002. The application was deemed complete December 4, 2002, therefore the permit shield was in place. The draft permit was circulated to interested citizens and published in the legal notice section of the local newspaper November 17, 2006. The draft permit was posted in the permit register November 7, 2006. The proposed permit was sent to EPA December 11, 2006. Notice of the issuance of the final permit was posted in the permit register December 13, 2006. No complete application determinations were found posted in the permit register.

Puget Sound Clean Air Agency site visit conducted on May 13, 2009 12:15 pm to 4:15 pm with Steve Van Slyke, Agata McIntyre, Gretchen Juttner and Rosemary Busterna

During 2008, Puget Sound Clean Air Agency had thirty-five sources subject to the AOP program. Four permits lapsed that year – US Bakery 6th Ave, US Bakery Weiler St, Puget Sound Naval Shipyard, and Todd Pacific.

US Bakery 6th Ave's permit expired December 18, 2008. A renewal application was submitted August 10, 2007. The application was deemed complete January 11, 2008, therefore the permit shield was in place. US Bakery Weiler St's permit expired June 11, 2008. A renewal application was submitted May 30, 2007. The application was deemed complete June 7, 2007, therefore the permit shield was in place. Puget Sound Naval Shipyard's permit expired December 31, 2008. A renewal application was submitted November 26, 2007. The application was deemed complete January 11, 2008, therefore the permit shield was in place. Todd Pacific's permit expired February 4, 2008. A renewal application was received February 5, 2007. The application was deemed complete April 4, 2007, therefore the permit shield was in place.

According to the permit register, one final permit was issued for Boeing Everett, one draft permit was issued for Boeing Everett and one issuance of a modification to a final permit was issued for Nucor Steel.

The following summarizes the actions reported in EPA's AFS database:

(83) NOVs, (44) written warnings, (10) penalties, (5) stipulated penalties, (3) AODs were listed, (35) Full compliance evaluations performed for (31) sources ((2) FCEs were performed at Saint Gobain Containers, Ash Grove Cement, PS Naval Shipyard, and Brunswick Family Boat Co); PCEs were reported for Boeing Auburn, King Co Natural Resource Wastewater Treatment, Lafarge, and Boeing NBF Plant 2, but no full compliance evaluations. Inspections include both the permit writer and inspector.

PSCAA has set a fee in PSCAA Reg I Section 1.07 (c)(3) for renewal permit processing of 20% of the annual source fee, up to \$10,000.

The random permits selected were Boeing Commercial Airplane Group – Auburn and Boeing Commercial Airplane Group – Fredrickson.

The Statements of Basis for both sources contains a detailed explanation of the permit requirements and the basis for the requirements. Aerospace NESHAP applicable equipment, non-aerospace NESHAP equipment, NSPS applicable fuel burning equipment and non-NSPS applicable fuel burning equipment are broken out and discussed separately. Both permits identified Section 112(r) of the FCAA as an applicable when triggered requirement. The agency should cite WAC 173-400-075 for NESHAP requirements and WAC 173-400-115 for NSPS requirements (or the appropriate section of PSCAA's Regulations, if adopted by reference in the local regulations) in addition to 40 CFR Part 63 and 40 CFR Part 60 because the legally enforcement provision comes from the State or Local Regulation, which adopts these rules by reference.

In both Boeing permits, emission units are identified in tables prior to the listing of applicable requirements for those emission units. A brief description of the process is provided, emission units and any associated air pollution control equipment are identified, size/rating/capacity information is provided (if applicable), the Boeing equipment identification number, reference to location within the building, specific NESHAP/ NSPS applicable to the units, and any associated NSR approval orders are specified.

FCE documentation in the files of both sources includes individual lists of equipment reviewed during each site visit and the particular AOP requirements evaluated during that visit. If there were compliance issues identified, the source was notified by a warning letter or NOV. The warning letter and NOVs identified the compliance issues and listed the associated emission units involved.

Of special note is the database developed and used by PSCAA to track permits, inspections, correspondence with the source, enforcement actions, source test results, emission inventory, report reviews etc for each source.

Boeing Commercial Airplane Group – Fredrickson’s permit expired June 20, 2007. A renewal application was submitted June 20, 2006. The application was deemed complete June 26, 2006, therefore the permit shield was in place. Procedural requirements for the current permit include notice of issuance of a final permit January 26, 2004 in the permit register. No other entries for complete application or draft permit were found. Notice of the draft permit was published in the local newspaper June 19, 2003. Notice of the draft permit was posted on the agency web-site and circulated to affected states and interested parties on June 18, 2003.

Boeing Commercial Airplane Group – Auburn’s permit expired February 2, 2009. A renewal application was submitted January 30, 2008. The application was deemed complete on February 1, 2008, therefore the permit shield was in place. No permit register entries were found for this permit.

Spokane Regional Clean Air Agency site visit conducted on May 28, 2009 9:00 am to 12:00 pm with April Westby

During 2008, Spokane Regional Clean Air Agency (SRCAA) had ten sources subject to the AOP program. Three permits lapsed – FiberTech, City of Spokane Northside Landfill and Kaiser Trentwood. FiberTech’s permit expired January 29, 2008. A renewal application was submitted January 3, 2007. The application was deemed complete January 16, 2007, therefore the permit shield was in place. The renewal permit for Fiber-Tech was issued on February 22, 2008. City of Spokane Northside Landfill’s permit expired January 1, 2008. A renewal application was submitted December 29, 2006. The application was deemed complete January 12, 2007, therefore the permit shield was in place. Kaiser Trentwood’s permit expired January 1, 2008. A renewal application was submitted December 28, 2006. The application was deemed complete May 7, 2007, therefore the permit shield was in place. The renewal permit for Kaiser Trentwood was issued on May 19, 2008.

According to the permit register, three final permits were issued - FiberTech, GTN #6, and Kaiser Trentwood; three draft permits were issued - GTN #6, Kaiser Trentwood, and Mutual Materials, one complete application was received for Melcher Manufacturing; one issuance of a draft permit modification for Waste-to-Energy; and one issuance of a modification to a final permit for Waste-to-Energy. No complete application determinations for the lapsed permits were listed in the permit register.

Four NOVs were reported in EPA’s AFS database. They were:

Northside Landfill:

NOV #7701 issued October 21, 2008, dates of violation were September 21 - 24, 2008

Kaiser Trentwood:

NOV #7615 issued May 15, 2008, date of violation was April 18, 2008, penalty issued August 11, 2008

NOV #7659 issued October 13, 2008, dates of violation were May 19 – July 3, 2008, penalty issued December 3, 2008

Avista:

NOV #7614 issued April 28, 2008, date of violation on or after April 18, 2003 to February 28, 2008, penalty issued May 12, 2009.

Seven FCEs were reported for the ten AOP sources in AFS. Melcher Manufacturing, Mutual Materials, and City of Spokane Northside Landfill were not inspected during calendar year 2008. Only one source is subject to Section 112(r) of the FCAA – Waste-to-Energy. All other sources have a requirement stating that Section 112(r) is only applicable if triggered.

Detailed time accounting information tracked by the agency shows an average cost of permit issuance for SRCAA's sources for FY 08 was \$4025.

The random permit selected for review was City of Spokane Northside Landfill AOP-16. The Statement of Basis contains a detailed explanation of the permit requirements and the basis for the requirements. Gapfilled monitoring is clearly specified. The permit specifies Section 112(r) of the FCAA as an applicable when triggered requirement. All major emission units and any associated air pollution control equipment are identified in the permit table.

An FCE was not performed in 2008, so the FCE from August 30, 2007 was reviewed. This FCE appeared to only cover the operation of the flares and corresponding NOC. It did not match the emission units identified in the permit (municipal solid waste landfill, active landfill gas collection and control system and short list of both significant and insignificant emission units) and did not refer back to the requirements listed in the air operating permit.

Procedural requirements did not include a permit register notice for receipt of a complete application. The original final permit was provided to EPA January 2, 2003. Legal notice of the original draft permit was published in the local paper and circulated to the affected states on October 9, 2002.

Olympic Region Clean Air Agency site visit conducted on June 4, 2009 9:15 am to 1:45 pm with Mark Goodin and Robert Moody

Olympic Region Clean Air Agency (ORCAA) had fifteen sources subject to the AOP program. One permit lapsed – Westport Shipyard. Westport Shipyard's permit expired July 16, 2008. A renewal application was submitted December 21, 2007. The application was deemed complete on January 15, 2008.

One final permit for Weyerhaeuser Raymond was issued, one draft permit for Westport Shipyard was issued, and one complete application for Port of Port Angeles (fka Kply) were posted in the permit register.

Three NOV's were reported in EPA's AFS database. They were:

Grays Harbor Paper:

NOV 2569 issued May 12, 2008 and penalty issued June 19, 2008

Sierra Pacific Industries:

NOV 2722 issued March 6, 2008 (no penalty reported in '08)

Olympic Panel Products:

NOV 2754 issued September 9, 2008 and penalty issued December 8, 2008

Fourteen FCEs were reported in AFS. Kply was not operating, so no FCE was performed. No FCE was reported for Imperium.

ORCAA has detailed time accounting tracked by permit. Average cost of permit processing for a renewal was estimated at \$35,312, average cost of a permit revision was estimated at \$1565.

The random permit selected for the audit was Olympic Panel Products 02-AOP-2005. The Statement of Basis identifies this source as major for HAPs (THAP, Formaldehyde, Methanol) and PM (Table 4.2). The Basis discusses CAM inapplicability (Section 5.2). The Basis does not discuss the gapfilling performed in the permit, however monitoring that was gapfilled can be identified by citation of WAC 173-401-615. There is no discussion in the Basis of the applicability of Section 112(r) of the FCAA. Emission units are detailed in Attachment 2 to AOP and include EU, APCE, size/rating/capacity/fuel. Table 2.3, 2.4 and 2.5 in Attachment 2 include a list of IEUs.

The FCE follows a narrative format, not specific to emission units identified in the permit, but does list any specific emission units that are determined to be out of compliance. Source files contain tests, emission inventory, reports, correspondence, inspections, complaints, billing, NOC and AOP folders for each calendar year. It was very easy to find information and review each source's file.

Olympic Panel Product's permit expired March 25, 2004. A renewal application was submitted September 30, 2003. The application was deemed complete October 20, 2003, therefore the permit shield was in place.

The renewal permit was issued February 3, 2005. The draft permit notice was posted in the permit register November 24, 2004. Notice of the issuance of the final permit was posted in the permit register February 10, 2005. The issuance of the draft permit was published in the legal notice section of the local newspaper on November 18, 2004. The proposed permit was provided to EPA January 5, 2005. Documentation of notice to affected states was not found in the file.

Conclusions

Review of Washington's AOP program reveals opportunities for on-going improvement of permitting, compliance and enforcement activities carried out by each agency for sources subject to the AOP program. Each agency had permits that had lapsed. However, permit shields were in place for all but one permit. With the permit shield in place, the permit requirements continue to apply to the source. However, some permits have been expired for more than five years. Timely processing of lapsed permits should be a focus of agency programs. In addition, several permits may need to be reopened for cause. This audit did not evaluate how many permits had exceeded the eighteen month deadline for reopening the permit to include new applicable requirements.

It appears that the permits in Washington are generally well written and contain a complete listing of applicable requirements. Some permits and their Basis will still need to be evaluated during renewal to provide additional clarity when specifying applicable requirements, such as identification of applicability of: the AOP program, MACT/NESHAP, NSPS, CAM (including why any CAM monitoring prescribed assures compliance), and Section 112(r) of the FCAA to the source. In addition, though not specifically required by regulation, EPA has suggested that the Statement of Basis should include discussions related to the need for enhanced monitoring (gapfilling) and how the enhanced monitoring assures compliance with the applicable requirement(s). In future permit renewals, each agency should ensure that legally enforceable provisions (i.e., WAC 173-400-070, WAC 173-400-075, WAC 173-400-115 or local regulations that have adopted federal regulations by reference) are included as an applicable requirement with the federal NSPS and MACT requirements.

In addition, having a complete listing of emission units, insignificant emission units, air pollution control equipment, equipment descriptions, installation year and associated NSR permits in the Basis and permit will help strengthen our enforcement program by making it obvious which equipment should be reviewed during FCEs and which requirements apply to those units.

The permit register was used extensively as an information source for data collected during this audit. Not all agencies are utilizing the register as discussed in WAC 173-401-800(2) and -805(2). The elements required in WAC 173-401-800(2) must be included. WAC 173-401-805(2) states that the register will give notice of public meetings or hearings on a draft operating permit, receipt of a complete application, permit appeals to the PCHB, the issuance or denial of final permit modifications, renewals, etc. There is disagreement amongst the agencies whether they are required to post these notices in the state permit register.

The semi-annual TOPS reports submitted to EPA were also used to collect and verify permit actions at various agencies. Most helpful were reports that didn't just provide a count of permit activities, but listed out which facilities were being counted in the report. Records of permit actions at several agencies did reflect the activities reported in TOPS.

EPA's AFS database was also relied on heavily to collect data relative to compliance and enforcement activities for AOP sources. Records of compliance and enforcement activities at several agencies did not match what was reported to EPA. Many agencies have addressed data recording inconsistencies found during the on-site audit visits.

In addition, the level of enforcement response across the agencies continues to be quite broad. Further review of the appropriate level of response, based on HPV and FRV guidance, may be helpful to ensure that enforcement action taken in the state is more consistent.

Recommendations

It is recommended that each agency and Ecology office individually address the issues identified in the report section pertaining to their agency / office. In addition, programmatic state-wide recommendations include the following:

Data Reporting:

- Resolve AFS data discrepancies and ensure that all required data are correctly entered into AFS;
- Enhance elements reported in TOPs semi-annual reports submitted to EPA; and
- Ensure state permit register contains notice of all required elements in permit process (e.g., issuance of draft permit or renewal, issuance of a draft permit modification, etc.). Other elements that would be useful to publish in the state permit register are receipt of a complete application, issuance of a final permit, etc.

Permit / Statement of Basis Content:

- Minimize length of time permits lapse before renewal
- Include complete listing of major emission units, insignificant emission units, associated air pollution control equipment, size/capacity/rating/fuel of emission units, year installed, and NSR actions in permit and/or Statement of Basis;
- Discuss why AOP program is applicable to source in Statement of Basis;
- Include permit and compliance history discussion in Statement of Basis;
- Include process description, plant schematics and flow charts in Statement of Basis;
- Include CAM applicability, gapfilling discussion, and 112(r) applicability in Statement of Basis; and
- Ensure legally enforceable provisions (i.e., WAC 173-400-075 and WAC 173-400-115) are cited with MACT and NSPS requirements.

FCE / Inspection Reports:

- Ensure that FCE documentation follows the AOP and clearly identifies the information evaluated during the FCE process to determine the compliance status for each emission unit.

Permit Availability:

- Post all permits and Statements of Basis on agency web-sites.

List of Abbreviations

112(r) – Section 112(r) of FCAA, Risk Management Plan
AOP – Air Operating Permit
BCAA – Benton Clean Air Agency
CAM – Compliance Assurance Monitoring
CRO – Ecology’s Central Regional Office
EPA – Environmental Protection Agency
ERO – Ecology’s Eastern Regional Office
FCAA – Federal Clean Air Act
FCE – Full Compliance Evaluation
FRV – Federally Reportable Violation
HAP – Hazardous Air Pollutants
HPV – High Priority Violation
MACT – Maximum Achievable Control Technology
NESHAP – National Emission Standards for Hazardous Air Pollutants
NOV – Notice of Violation
NSPS – New Source Performance Standards
NSR – New Source Review
NWCAA – Northwest Clean Air Agency
NWP – Ecology’s Nuclear Waste Program
ORCAA - Olympic Region Clean Air Agency
PCE – Partial Compliance Evaluation
PCHP – Pollution Control Hearings Board
PSCAA - Puget Sound Clean Air Agency
SRCAA – Spokane Regional Clean Air Agency
SWCAA – Southwest Clean Air Agency
WAC – Washington Administrative Code
YRCAA – Yakima Regional Clean Air Agency