

United States
Environmental Protection Agency

Office of Enforcement and Compliance
Assurance

Enforcement Update

National Association of Clean Air Agencies

Fall 2008

Air Enforcement

What have we been doing?



Air Enforcement

By the Numbers . . .

Fiscal Year '08 Numbers

- **Injunctive Relief:**
 - Air: ~\$5.0 billion
- **Pounds reduced:**
 - Air: ~1.7 billion
- **Health Benefits:**
 - ~\$40 billion annually in avoided health-related costs (upon full implementation).

Fiscal Year '08 Numbers (cont'd)

- **Civil Penalties**

- Air: ~\$35 million

- **SEPS**

- Air: ~\$15.0 million (not including mitigation valued at ~\$70 million)

Fiscal Year '08 Numbers (cont'd)

Mobile Source Enforcement

~33 resolved matters (judicial and administrative)

~104,447 pieces of illegal engines and equipment

~\$14,000,000 value of illegal engines and equipment seized and exported

~\$3.5 million in civil penalties



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Salt River Project Agriculture Improvement and Power District

- Lodged August 12, 2008
- Coronado Generating Station (Central Arizona)
- Injunctive relief -- \$400 million
 - SCR (to meet .080 lb/mmBTU)
 - First retrofit in the eleven-state western region
 - 2 flue gas desulfurization units (to meet .080 lb/mmBTU or 95%)
- 21,000 tpy of emission reductions
- \$950,000 civil penalty, \$4.0 million in mitigation (for clean school buses, solar photovoltaic panels in two school districts, and woodstoves)

St. Mary's Cement, Inc.

- Lodged September 8, 2008
- Dixon, Illinois (due West of Chicago)
- Injunctive relief –
 - \$1.9 million
 - SNCR (BACT)
 - First cement settlement
- 2,700 tpy of emission reductions
- \$800,000 civil penalty

Merit Energy and Shell Exploration

- Lodged October 1, 2008
- Natural gas processing facility
- Manistee, Michigan
- Injunctive relief –
 - Acid gas injection into depleted natural gas fields
 - “0” emissions of SO₂
- Emission reductions
 - NO_x – 179 tpy, SO₂ – 170 tpy, CO₂ – 3800 tpy
- \$500,000 civil penalty, \$1 million for SEPs

Colorite Specialty Resins

- Lodged August 19, 2008
- State Partner: New Jersey
- PVC plastic and vinyl chloride manufacturing
- Burlington, NJ
- Injunctive relief –
 - Accept lower emission limits
 - Compressor replacement project
 - Enhanced LDAR, 3rd Party-Audit
- Emission reductions – 11,000 lbs. of vinyl chloride
- \$1.3 million civil penalty, \$1 million for SEPs
- 6th VC settlement – 151,000 lbs. reduced

Petroleum Refinery Settlements

- 22 settlements
- 87% of the nation's refining capacity
- 96 refineries
- 28 states
- Emission reductions
 - 86,000 NO_x
 - 245,000 SO₂
- FY '08 – Four additional settlements
 - Valero, Sinclair, Hunt and Holly

Wabash (Terra Haute, Indiana)



United States vs. Cinergy

- Remedy Trial (December 8th)
 - Wabash only
- October 14th favorable decision
 - Court determined that:
 - “[I]t has the authority to take appropriate actions that remedy, mitigate and offset harms to the public and the environment caused by the Defendants’ proven violations of the CAA.”

Commonwealth of Pennsylvania v. Allegheny Energy Corp.,

- September 2, 2008 Report and Recommendation
- Magistrate held that:
 - “RMRR exclusion should be analyzed by looking at whether a project was routine in the industry as a whole.”
- But, the Magistrate found that none of the projects were “routine.”
 - *e.g.*, Tube replacements, waterwall and slope replacement
- Significance?
 - Under the test most generous to the industry, court found that the projects were not routine.

National Priority Updates

Beckjord (New Richmond, OH)



NSR/PSD – Priority Sectors

- Coal-fired Utilities
- Glass manufacturing (Container, Flat, Fiber)
- Sulfuric and nitric acid production
- Cement Manufacturing

Coal-Fired Utilities Update

- 4 filed cases (Cinergy, Duke, Alabama Power, Kentucky Utilities)
- 3 new cases to be filed
- 14 settlements
 - ~1.9 million tpy of reductions
 - ~\$11 billion – injunctive relief
 - >\$62 million – civil penalties
 - >\$175 million – mitigation
- 30 to 40 investigations/settlements
- Recent NOVs
 - Minnesota Power, Midwest Generation (Homer City), Duke (Zimmer) and Dayton Power and Light (Hutchings)

NSR Priority Areas

- Acid Manufacturing
 - Information Requests – 43
 - Notices of Violation -- 8
- Cement Manufacturing
 - Information Requests – 48
 - Notices of Violation -- 9
- Glass Manufacturing
 - Information Requests – 64
 - Notices of Violation -- 5

Air Toxics Priority Strategy for FY 2008-2010

- National Problem Areas:
 - Leak Detection and Reporting (LDAR),
 - Flares,
 - Surface Coating
 - Selected:
 - History of non-compliance and opportunity for emission reductions
 - Regional capacity (LDAR)

Leak Detection and Repair (LDAR)

- Leaking equipment -- largest source of hazardous air pollutant emissions in the petroleum refinery and chemical manufacturing sectors
- Widespread noncompliance and the potential for significant emission reductions
 - EPA's LDAR compliance evaluations revealed higher leak rates than industry's
 - EPA -- 5% leak rate
 - Industry -- 1% leak rate

Flares

- Parts 60 and 63 (“General Provisions”)
 - Flares that are control devices required to combust gases with heat content of 300 Btu or greater; and
 - Meet flare design specifications
- Flares -- Two major problems:
 - Combustion of gases with low Btu content, and/or
 - Over-steaming
- Causing --
 - Incomplete combustion, and
 - Significant HAP emissions

Surface Coating

- 16 surface coating MACT standards
- Many facilities in urban areas and non-attainment areas for ozone
- Widespread non-compliance
 - Not operating controls within parameters established during performance test

General Approach of Air Toxics Strategy

- Regions select MACT category(ies) or a MACT requirement(s) within National Problem Areas
- Selections generally based on greatest potential for noncompliance and environmental harm
- Can subdivide MACT category and focus on specific provision (e.g., elevated flares at petroleum refineries)
- Regions required to address identified percentage of selected universe

<u>Region</u>	<u>Selected Universe(s) for FY 2009-2010</u>
1	Surface Coating: Fabric Coating
2	LDAR: MON Surface Coating: Misc. Metal Parts, Paper and Other Web Flares: Petroleum Refineries
3	LDAR: HON
4	Surface Coating: Misc. Metal Parts LDAR: MON, Oil and Gas Flares: HON, Oil and Gas
5	LDAR: MON Surface Coating: Fabric Coating (polymeric coating) Flares: Polymers and Resins IV, HON , Petroleum Refineries
6	LDAR: HON Flares: Polymers and Resins IV
7	Surface Coating: Plastic Parts
8	LDAR: Municipal Landfills
9	Surface Coating: Can Coating
10	Surface Coating: Misc. Metal Parts

Training Update

First Session -- Region 4 and its States

Atlanta -- September 17th and 18th, 2008.

Second Session – Region 6 and its States

Dallas -- Date to be determined

Training Workshop Purpose

- Two-day workshop
- Explore relationship between enforcement and permits
- Explore opportunities for coordination;
- Highlight “best practices” to ensure effective coordination

Training Workshop Purpose

- Enforcement and Permit Coordination
- NSR Regulations and Case Law Overview
- NSR Enforcement and Permit Priorities
- NSR Permit Implementation
- Enforceable Permit Elements and Post-case Permitting

Training Workshop Purpose

- NSR Case Development Tools and Techniques
- Case Settlements
- Enforcement/Permitting – Lessons Learned
- Criminal Enforcement

Air Enforcement Managers

- **Pam Mazakas – Associate Director**
 - Stationary Source matters (except refineries)
 - 202-564-4028
- **Matthew Morrison – Associate Director**
 - Mobile, some Stationary and Budget
- **Edward Messina – Stationary Source Branch Chief**
 - 202-564-1191
- **Jacqueline Werner – Mobile Source Branch Chief**
 - 202-564-1036