

**COMMENTS ON PROPOSED CHANGES TO THE
TITLE V PERMIT STANDARD TERMS AND CONDITIONS**

PORTER, WRIGHT, MORRIS & ARTHUR, LLC

September 16, 2011

Porter, Wright, Morris & Arthur offers these comments on Ohio EPA's proposal to modify the Standard Terms and Conditions in Title V permits on behalf of numerous and diverse clients subject to the Title V permit program. The comments address the proposed changes appearing on the agency's website, and propose additional changes. The comments appear in the order of the numbered paragraphs in the Standard Terms.

Paragraph 1. We suggest two changes to this paragraph. First, the reference in subparagraph (3) to the malfunction rule should be removed. That rule, OAC 3745-15-06, is in the SIP, and is thus federally enforceable. It is to the permittee's advantage that the rule is federally enforceable, so that a permittee may invoke the rule in defense of an enforcement action in federal court regarding emissions caused by a malfunction. Accordingly, the rule should not be mischaracterized in this paragraph as being state enforceable only.

Second, Standard Term A.21, requiring compliance with the nuisance rule, OAC 3745-15-07, should be added to the list of terms that are not federally enforceable. That rule is not an "applicable requirement" that is federally enforceable. "Applicable requirement" is defined in OAC 3745-77-01(H)(1) as being a provision in an approved SIP "that implements the relevant requirements of the Act". Although the nuisance rule (erroneously) is in the approved SIP, it does nothing whatever to implement the Clean Air Act. The similar nuisance rule in Michigan is not a Title V applicable requirement in that State, and there is no basis for a different status in Ohio. Accordingly, the Ohio nuisance rule should be listed as state-enforceable only.

Paragraph 2(c)(2) and (3). A change to both subparagraphs is proposed that deletes the reference to a postmark on submitted reports. This reflects the new proposed Paragraph 30, which requires electronic submission of all reports. There is no language in ORC Chapter 3704 that empowers the agency to prohibit submission of reports and applications on paper, and thus legislation is needed to accomplish that. Thus, the Standard Terms should give the permit holder the option of submitting reports by mail or electronically. Accordingly, these two subparagraphs should include, "submitted (i.e., postmarked or submitted electronically)". See comments below on proposed Paragraph 30.

Paragraph 2(c)(5). We concur with the proposed new language.

Paragraph 7(a). We concur with the deletion of the first sentence in this subparagraph.

Paragraph 7(b). We concur with the proposed additional language.

Paragraph 7(g). We suggest the addition of a new subparagraph providing that compliance with the all terms and conditions in the Title V permit applicable to an emissions unit

constitutes compliance with all prior PTI's, PTO's, or PTIO's issued for the unit. This justifiably relieves the permit holder from the obligation of searching such prior permits for requirements that have not been carried over into the Title V permit, or are inconsistent with terms in the Title V permit, and separately complying with those terms. We suggest the following language:

"Compliance by the permittee with all terms and conditions in this permit that apply to an emissions unit shall constitute compliance with all permits to install, permits to operate, and permits to install and operate that were issued for the emissions unit prior to issuance of this permit."

Paragraph 13(d)(2). We support the intended purpose of authorizing the "short form" ACC. However, we suggest clearer language, as follows:

"Identification of each term or condition that is the basis of the certification. The identification may include a statement by the Responsible Official that every term and condition that is a federally enforceable emission limitation, standard, or work practice has been reviewed, and such terms and conditions with which there has been continuous compliance throughout the year are not separately identified."

Paragraph 24(b). Another reference appears to a "postmark" on the submittal of reports. That reference should be "(i.e., postmarked or submitted electronically)".

Paragraph 30. As noted above, the agency is not authorized to prohibit paper submissions without legislation providing authority to do so. Thus, this paragraph should be altered to encourage, but not require, electronic submissions. That can be accomplished by deleting the first two sentences, and inserting a new first sentence, "Ohio EPA encourages and requests the electronic submission of all applications, notifications and reports required by this permit via the Ohio EPA's eBusiness Center." The language in the current third sentence through the end should remain unchanged.

Thank you for considering these comments, and for the opportunity to submit them. Given the importance of the Standard Terms to administration of the Title V program, we request that the agency solicit another round of comments on a revised draft of the Standard Terms that incorporate comments on the first draft. Please contact Rob Brubaker (227-2033) or Dave Northrop (227-2072) if you wish to further discuss these comments.



PPG Industries Ohio, Inc.
3800 West 143 Street
Cleveland, Ohio 44111
(216) 671-0050

September 2, 2011

Ynes Arocho
Environmental Compliance Specialist
Cleveland Division of Air Quality
Ohio EPA Agency 13
75 Erieview Plaza – 2nd Floor
Cleveland, Ohio 44114-1839

SUBJECT: PPG Industries, Inc. Comments on Renewal Title V Permit P0094207

Dear Ms. Arocho:

PPG Industries, Inc. (PPG) Cleveland facility would like to provide additional comments on the Preliminary Proposed Title V permit renewal P0094207.

PPG supports Ohio EPA's proposed changes to the Title V Standard Terms and Conditions set forth in Mike Ahern's e-mail dated August 24, 2011, except that we object to the proposed elimination of the option to submit hard copy reports. In paragraph A.1, the reference to "postmarked" should be retained, and the words "or submitted electronically" should be added to the parenthetical "(i.e. postmarked)" after "postmarked." We also request that the nuisance rule be listed as a state-only requirement, because it does not meet the criteria for a federally-enforceable Title V "applicable requirement." We request that a term be added to the Standard Terms and conditions to the effect that: "This permit incorporates all currently relevant terms and conditions from prior permits to install emission units at this facility, and subsumes those permits to install."

PPG appreciates Ohio EPA's efforts to write a renewal permit that is streamlined and efficiently integrates the newly-applicable MACT standards. The current Title V permit, generated from original PTI conditions, as well as the Miscellaneous Coatings Manufacturing MACT (via reference to 40 CFR 63 Subpart SS) require temperature monitoring, recordkeeping, and reporting for the Cleveland facility's RTO unit to control organic emissions. Where a given unit/pollutant combination's emissions are regulated in both the unit's PTI or Title V permit as well as a subsequent MACT standard, PPG requests that the monitoring, recordkeeping, and reporting be streamlined. PPG believes that the monitoring, recordkeeping, and reporting in the MACT provide a reasonable assurance of ongoing compliance with both standards and that the PTI monitoring, recordkeeping, and reporting should be subsumed into the MACT monitoring, recordkeeping, and reporting requirements. These modifications would not result in increased risk to the environment or affect the compliance obligation of the facility; rather, they would only serve to streamline the requirements, easing the burden on both OEPA and the facility. PPG would like to setup a time to discuss these comments

with OEPA and your earliest convenience.

With the streamlined temperature monitoring, recordkeeping, and reporting requirements, PPG would like to streamline the reporting obligation of the MACT and Title V permit to combine the reporting obligations into a single report submittal, rather than submitting multiple reports on the same frequency.

In addition to streamlining with the MACT requirements, PPG also requests the following terms to be modified to the language below in accordance with OEPA's Engineering Guide 16.

Section C: Term 1: K201 f) (2) (a), Term 2: P201 f) (2) (a)

- a. *The emission testing shall be conducted within 5 years of the date of the most recent compliance test.*

PPG appreciates the opportunity to provide feedback on the draft Title V renewal permit and is prepared to assist, as necessary, to facilitate the issuance process. PPG respectfully requests a conference with the Director to discuss our concerns with regard the preliminary proposed permit, in accordance with OAC Rule 3745-77-08(A)(3).

Sincerely,



Cheri Brent
Midwest Region EHS Manager
(216) 535-3163 - Work
(216) 701-3334 - Cell

**West Lorain Plant
Title V Preliminary Proposed Permit
Permit # P0105031, Renewal
FAC ID # 0247080487**

FirstEnergy Generation Corp. Comments and Request for Informal Conference

REQUEST FOR INFORMAL MEETING

FirstEnergy Generation Corp. (FirstEnergy) requests an informal conference on the West Lorain PPP Title V permit as allowed for in the PPP transmittal letter dated 3/9/11.

GENERAL COMMENTS:

FirstEnergy appreciates the opportunity to comment on the proposed preliminary permit (PPP) (P0105031) for the West Lorain facility (FAC ID #0247080487). FE also appreciates the work the Ohio EPA has put into both the original draft and this follow-on PPP. FE also appreciates that the PPP generally reflects both the permit-to-install (PTI) (#02-13376) issued on November 17, 2004 and the original Title V permit issued November 19, 2004, effective January 3, 2005.

FirstEnergy has several specific comments concerning the Standard Terms and Conditions, several typographical errors that should be corrected, and some language changes needed to reflect that the new permit format groups like units together while previously each unit was listed individually. Those comments are articulated below.

SPECIFIC COMMENTS:

A. STANDARD TERMS AND CONDITIONS

In the Ohio EPA response to comments, the Ohio EPA states that "(a)ny revision to the Standard Terms and Conditions must be accomplished through the PAG". The Ohio EPA also states that FirstEnergy's comments will be considered and they will be subject "to a review before the PAG".

However, FirstEnergy believes these comments are important enough to raise again. Our comments on the Standard Terms and Conditions are reiterated below.

Page 3 of 49, 1. a) (3) Standard Term and Condition A. 27, Scheduled Maintenance/Malfunction Reporting is listed here in error. This provision is federally binding as it is part of Ohio's State Implementation Plan (SIP).

Page 5 of 49, (2) and 5 of 49, (3) In the second paragraph of each, the permit requires that reports "be submitted (i.e. postmarked)". Please add to the parenthetical "or submitted electronically".

Page 6 of 49, (5) As written, this term seems to require "any" required monitoring or recordkeeping to be reported. It would be clearer to state, "Any reports required to be sent to the Ohio Environmental Protection Agency will be sent to Ohio EPA DAPC, Northeast District Office unless otherwise directed by the specific

term or condition". It is important to note that not all reports required by this permit go to OEPA, for example some go directly to the Clean Air Markets Division of USEPA.

Page 7 of 49, 7. a) Please remove the first sentence of this term or add "federally enforceable" between "all" and "terms". As written, the term contradicts term **12. Federal and State Enforceability** on Page 9 of 49, and the statutory and regulatory directive to distinguish federally-enforceable applicable requirements from state-only terms.

Page 7 of 49, 7. b) As a public utility, it is possible that FE may be required to keep a plant in operation due to an emergency effecting electric system integrity and reliability or "an obligation to serve." In such a situation, we believe there should be an exemption from the provisions in Section A. 16. We propose the following language be inserted at the end of the sentence, "*except where electrical energy is necessary for the protection of public health and safety or for the prevention of unnecessary or avoidable damage to property.*"

Page 8 of 49, f) The first sentence should be modified to reflect that a Title V permit may be in effect past the expiration date if a "timely" application has been submitted and a new permit has not been issued.

Page 15 of 49, 27. Scheduled Maintenance/Malfunction Report As mentioned previously, this should be listed as a federally enforceable term and condition.



Landing Gear Plating Operations
2800 East 33rd Street
Cleveland, Ohio 44115
Tel: 216 429 4011
www.goodrich.com

9/20/11

Ohio EPA / DAPC
Permit Review / Development Section
Attn: Andrew Hall
50 West Town Street, Ste 700.
Columbus, OH 43216

Facility ID: 1318005949
Re: Comments to Preliminary Proposed Air Pollution Title V Permit # P0094494

Dear Mr. Hall,

I have reviewed the preliminary permit, which we received on Sept. 8, 2011. I have just a few comments, all of which describe minor inconsistencies within the document. I have no substantive concerns.

- 1) Page 3, Paragraph 1.a)(2): Standard Term and Condition "A. 25" should be "A. 24".
- 2) Page 3, Paragraph 1.a)(3): Standard Term and Condition "A. 27" should be "A. 26".
- 3) Page 3, Paragraph 1.a)(4): Standard Term and Condition "A. 29" should be "A. 28".
- 4) Page 5, Paragraph 2.c)(2): "See A.29 below..." should be "See A.28 below...".

If you follow the internal references in the document as it currently exists, you will be able to confirm the need for the suggested corrections. Please contact me if you have any questions or require additional information.

Sincerely,

Jay Finegan, CHMM
EHS Manager
Phone: 216-429-4525
Cell: 216-798-5068
E-mail: jay.finegan@goodrich.com

Encl: Marked up copies of Pages 3 and 5 of Preliminary Proposed Title V Permit #P0094494

Cc: Cleveland Department of Public Health, Division of Air Quality
Attn: Ynes S. Arocho, Environmental Compliance Specialist
75 Erieview Plaza, 2nd Floor
Cleveland, OH 44114



1. Federally Enforceable Standard Terms and Conditions

- a) All Standard Terms and Conditions are federally enforceable, with the exception of those listed below which are enforceable under State law only:
- (1) Standard Term and Condition A. 24., Reporting Requirements Related to Monitoring and Record Keeping Requirements of State-Only Enforceable Permit Terms and Conditions
 - (2) Standard Term and Condition A. ²⁴25., Records Retention Requirements for State-Only Enforceable Permit Terms and Conditions
 - (3) Standard Term and Condition A. ²⁶27., Scheduled Maintenance/Malfunction Reporting
 - (4) Standard Term and Condition A. ²³28., Additional Reporting Requirements When There Are No Deviations of Federally Enforceable Emission Limitations, Operational Restrictions, or Control Device Operating Parameter Limitations

(Authority for term: ORC 3704.036(A))

2. Monitoring and Related Record Keeping and Reporting Requirements

- a) Except as may otherwise be provided in the terms and conditions for a specific emissions unit (i.e., in section C. Emissions Unit Terms and Conditions of this Title V permit), the permittee shall maintain records that include the following, where applicable, for any required monitoring under this permit:
- (1) The date, place (as defined in the permit), and time of sampling or measurements.
 - (2) The date(s) analyses were performed.
 - (3) The company or entity that performed the analyses.
 - (4) The analytical techniques or methods used.
 - (5) The results of such analyses.
 - (6) The operating conditions existing at the time of sampling or measurement.

(Authority for term: OAC rule 3745-77-07(A)(3)(b)(i))

- b) Each record of any monitoring data, testing data, and support information required pursuant to this permit shall be retained for a period of five years from the date the record was created. Support information shall include all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit. Such records may be maintained in computerized form.

(Authority for term: OAC rule 3745-77-07(A)(3)(b)(ii))

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Environmental
Protection Agency

Preliminary Proposed Title V Permit
Goodrich Landing Gear-Plating Operations
Permit Number: P0094494
Facility ID: 1318005949

Effective Date: To be entered upon final issuance

measures taken, shall be promptly made to the appropriate Ohio EPA District Office or local air agency. Except as provided below, the written reports shall be submitted (i.e., postmarked) by January 31, April 30, July 31, and October 31 of each year; and each report shall cover the previous calendar quarter.

In identifying each deviation, the permittee shall specify the emission limitation(s), operational restriction(s), and/or control device operating parameter limitation(s) for which the deviation occurred, describe each deviation, and provide the estimated magnitude and duration of each deviation.

These written deviation reports shall satisfy the requirements of OAC rule 3745-77-07(A)(3)(c) pertaining to the submission of monitoring reports every six months and to the prompt reporting of all deviations. Full compliance with OAC rule 3745-77-07(A)(3)(c) requires reporting of all other deviations of the federally enforceable requirements specified in the permit as required by such rule.

If an emissions unit has a deviation reporting requirement for a specific emission limitation, operational restriction, or control device operating parameter limitation that is not on a quarterly basis (e.g., within 30 days following the end of the calendar month, or within 30 or 45 days after the exceedance occurs), that deviation reporting requirement satisfies the reporting requirements specified in this Standard Term and Condition for that specific emission limitation, operational restriction, or control device parameter limitation. Following the provisions of that non-quarterly deviation reporting requirement will also satisfy (for the deviations so reported) the requirements of OAC rule 3745-77-07(A)(3)(c) pertaining to the submission of monitoring reports every six months and to the prompt reporting of all deviations, and additional quarterly deviation reports for that specific emission limitation, operational restriction, or control device parameter limitation are not required pursuant to this Standard Term and Condition.

See A.2²⁻³ below if no deviations occurred during the quarter.

(Authority for term: OAC rule 3745-77-07(A)(3)(c))

- (3) All reporting required in accordance with the OAC rule 3745-77-07(A)(3)(c) for other deviations of the federally enforceable permit requirements which are not reported in accordance with Standard Term and Condition A.2)c)(2) above shall be submitted in the following manner:

Unless otherwise specified by rule, written reports that identify deviations of the following federally enforceable requirements contained in this permit; Standard Terms and Conditions: A.3, A.4, A.5, A.7.e), A.8, A.13, A.15, A.19, A.20, A.21, and A.23 of this Title V permit, as well as any deviations from the requirements in section C. Emissions Unit Terms and Conditions of this Title V permit, and any monitoring, record keeping, and reporting requirements, which are not reported in accordance with Standard Term and Condition A.2.c)(2) above shall be submitted (i.e., postmarked) to the appropriate Ohio EPA District Office or local air agency by January 31 and July 31 of each year; and each report shall cover the previous six calendar months. Unless otherwise specified by rule, all other deviations from federally enforceable requirements identified in this permit shall be submitted annually as part of the annual compliance certification, including deviations of federally enforceable requirements not specifically addressed by permit or rule for the

Ahern, Mike

From: Clinefelter, Christopher <clinefcd@rapca.org>
Sent: Friday, September 16, 2011 4:09 PM
To: Ahern, Mike
Cc: Marsee, Jenny
Subject: Standard Ts & Cs

Mike,
RAPCA reviewed the terms and conditions and have no comments.
Thanks,
Chris

RYAN D. ELLIOTT
614.463.9441
relliott@slk-law.com

September 16, 2011

Mike Ahern
Ohio EPA, Division of Air Pollution Control
50 West Town Street, Suite 700
P.O Box 1049
Columbus, Ohio 43216-1049

Re: Comments on Ohio EPA's Standard Terms and Conditions for Title V Permits

Dear Mr. Ahern:

On July 25, 2011, Ohio EPA, Division of Air Pollution ("DAPC") proposed changes to the Standard Terms and Conditions for Title V permits based on the Agency's evaluation of previous comments and issues raised through specific permit appeals. The following are the comments of the Ohio Utility Group and the specified member companies:

Buckeye Power, Inc.
Columbus Southern Power Company (a unit of AEP)
The Dayton Power and Light Company
Duke Energy Ohio
FirstEnergy
Ohio Power Company (a unit of AEP)
Ohio Valley Electric Corporation

hereinafter, "the Utilities."

I. Introduction

As a general matter, the Utilities support the concept of Ohio EPA developing Standard Terms and Conditions ("STCs") for Title V permits in an effort to ensure clear, consistent, and efficient permitting throughout the state. The Utilities have reviewed the Agency's proposal and have developed comments highlighting the revisions through which significant improvements to the Title V program were made as well as those that need further consideration and modification.

II. Support for Terms & Conditions that Improve Title V Permitting

The Utilities applaud Ohio EPA's recognition of, and willingness to correct, deficient STCs in Ohio's Title V permits. Ohio EPA's consideration of issues addressed in past Title V appeals and comments is a substantial step forward and, in this section, the Utilities identify those revisions that promote improvements to the state's Title V permitting program. As major sources have changed dramatically since Title V permits were first issued, Ohio EPA should consider more recent emerging issues, in addition to its evaluation of past issues.

One of the most significant improvements to the Title V Standard Terms and Conditions is the addition of term A.30. This new term allows (requires) all permit-required documents to be submitted electronically via Ohio EPA's ebusiness Center: Air Services. Electronic submissions will reduce paperwork mistakes and the organizational headache associated with hard copy reporting, thereby increasing the efficiency of the permitting process. In conjunction with the incorporation of term A.30, the Utilities suggest that Ohio EPA consider making any necessary improvements to the Air Services program.

Additional improvements include eliminating superfluous and seemingly contradictory terms, taking steps to clarify federal and state enforceable terms,¹ and providing language to harmonize separate terms. The Utilities also support the statement in term 2.c)(1) providing that "an exceedance of the visible emission limitations under Ohio Administrative Code ("OAC") 3745-17-07(A)(1) that is caused by a malfunction is not a violation and does not need to be reported as a deviation if the owner . . . complies with OAC 3745-17-07(A)(3)(c)."

III. Proposed Terms & Conditions that Require Further Consideration

While many of the proposed revisions will improve Title V permitting, the Utilities have also identified revisions that are unreasonable, unnecessary, or would exceed the Agency's permitting authority. For example, proposed term A.2.c)(1) imposes an excessive reporting requirement by, essentially, requiring the permittee to "double-report" malfunctions. The proposed term requires malfunctions – previously reported pursuant to OAC 3745-15-06 – to be reported again in the quarterly reports to satisfy the reporting requirement under OAC 3745-77-07(A)(3)(c). The Utilities suggest that Ohio EPA replace this requirement to double-report with a term providing that the reports submitted pursuant to OAC 3745-15-06 shall satisfy the requirements of OAC 3745-77-07(A)(3)(c).

Ohio EPA's proposed term A.13.d)(2), regarding compliance certifications, is also inappropriate. Under this term, to properly certify compliance, the permittee will

¹ As discussed in Section III, the Utilities note that a few terms included in Ohio EPA's proposal are still improperly characterized as federally enforceable.

Mike Ahern
September 16, 2011

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need to complete a line-by-line review of the permit and document compliance with each requirement. In addition to creating a significant burden on the regulated community, the proposed term exceeds Ohio EPA's authority by requiring expanded monitoring beyond the reach of the current Title V rules. Therefore, term A.13.d)(2) must be revised before the standard terms and conditions are finalized.

With respect to proposed STCs that are beyond the scope of Ohio EPA's permitting authority, the Utilities also object to Ohio EPA's characterization of certain Standard Terms and Conditions as federally enforceable. Most notably, the following STCs should not be included in the federally enforceable section as they are not "applicable requirements" under 3745-77-07(H):

- 19 – Insignificant Activities or Emissions Levels
- 20 – Permit to Install Requirement
- 21 – Air Pollution Nuisance

These STCs and other terms – properly characterized though flawed in their own regard – are currently under appeal and, thus, should not be included *anywhere* in a Title V renewal until the appeal has been properly resolved. As such, the Utilities urge the Director to abandon the initiative to issue Title V renewals, retaining STCs pending appeal for the sole purpose of reducing the backlog of Title V renewals. Doing so is administratively improper under Ohio laws and regulations, and would result in unanticipated consequences for the Agency and regulated community alike.

IV. Conclusion

The Utilities appreciate the opportunity to participate in the development of STCs for Title V permits and may submit supplemental comments as more information becomes available. While every permitted source is unique and subject to site-specific requirements, the development of clear, appropriate common terms will ease the burden of the Title V permitting process and facilitate increased compliance of all permitted facilities. To maximize the efficacy of STCs in Title V permits, the Utilities respectfully request that Ohio EPA consider incorporate the revisions discussed herein.

Feel free to contact me if you have any questions regarding these comments.

Very truly yours,



Ryan D. Elliott

RDE/md
O23415-043592
cc: Ohio Utility Group
Michael E. Born

OCT 03 2011

RYAN D. ELLIOTT
614.463.9441
relliott@slk-law.com

September 30, 2011

Mike Ahern
Ohio EPA, Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

Re: Clarification of Comments Submitted by the Ohio Utility Group on September 16, 2011, Regarding Ohio EPA's Standard Terms and Conditions for Title V Permits

Dear Mr. Ahern:

The purpose of this letter is to supplement the Ohio Utility Group's (the "Utilities") comments of September 16, 2011, on Ohio EPA's proposed Standard Terms and Conditions ("STCs") for Title V permits. Specifically, the Utilities wish to clarify comments that were made regarding proposed STC #30 (**Submitting Documents Required by this Permit**), and provide additional comments on issues that were not previously addressed. As the STCs were not proposed within the constraints of a formal comment period governed by R.C. 119, the Utilities respectfully request that Ohio EPA give equal consideration to the comments submitted herein.

I. Clarification of Comments Regarding Proposed STC 30

Ohio EPA's proposed STC 30 states that "all applications, notifications or reports... shall be submitted electronically via the Ohio EPA's eBusiness Center: Air Services web service ("Air Services")." The addition of this new term creates a requirement, the scope of which may be unreasonable in some situations. In their initial set of comments, the Utilities highlighted the advantages of electronic submission in general, but neglected to address the *requirement* to submit all documents electronically *via Air Services*. Such a requirement eliminates alternative means for submitting documents that, currently, do not require Director approval and, practically, may be more appropriate than submission via Air Services. Ohio EPA should maintain these options without imposing administrative prerequisites to employ them.

While Ohio EPA “preserves” the use of alternative submission mechanisms through specific permit terms or administrative approval, STC 30 is rendered contradictory and, thus, unnecessary when those alternative means are so provided. *Standard* terms and conditions are essentially reiterations of permit regulations, applicable to all units regardless of physical and operational differences and, thus, are appropriately incorporated into all Title V permits. They are included to provide regulatory consistency and increase the efficiency of the permitting process. STC 30, the applicability of which is not absolute, does not fit the mold. The Utilities suggest that Ohio EPA revise the term by limiting its scope, or eliminate the term altogether as document submission can be sufficiently addressed through specific terms.

Furthermore, the requirement to submit *all* permit-required documents via Air Services, in itself, imposes an additional signature requirement for which Ohio EPA lacks authority. All documents that are submitted via Air Services must be signed by a Responsible Official (“RO”). Title V regulations, on the other hand, only require an RO’s signature for “documents required to be submitted *and* required by a federally applicable requirement.”¹ Therefore, only documents required by terms and conditions (general or specific) listed in the “*State and Federally Enforceable*” sections of the permit must be signed by a Responsible Official. With that, the documents submitted via Air Services have been properly limited to those requiring an RO’s signature – i.e. applications, quarterly and semi-annual deviation reports, annual compliance certifications, and Title V fee reports.

STC 30 is enforceable by State law *only*² and, thus, through its own terms, cannot require a Responsible Official’s signature on documents required by terms that are not federally enforceable. However, STC 30 does just that. By mandating all documents “required by [any] terms and conditions” – federally enforceable or not – to be submitted via Air Services, documents that, pursuant to the current rules, do not require an RO’s signature, such as Intent to Test Notifications and reports for malfunctions under OAC 3745-15-06(B), will require an RO’s signature.

The Utilities urge Ohio EPA to reconsider dictating the means of submitting permit-required documents through an all-encompassing General Term. STC 30 should be revised by reducing the scope of the term or eliminating it altogether. Most importantly, Ohio EPA should maintain alternative options for submitting documents, and must be careful to avoid imposing requirements for which the Title V rules do not provide the authority.

II. Additional Comments on Issues not Previously Addressed

In addition to clarifying their position with respect to STC 30, the Utilities wish to comment on an issue that was not addressed in the September 16th comments. Specifically, the Utilities suggest that Ohio EPA include a new general term specifying that compliance with the terms and conditions in the Title V permit applicable to an emission unit constitutes compliance with all prior permits-to-install, permits-to-operate, and permits-to-install and operate issued for the unit. Inclusion of this new term will promote consistency across permitting programs.

¹ See STC 13; See also OAC 3745-77-07 and RC 3704.03.

² STC 1.a)(5).

Mike Ahern
September 30, 2011

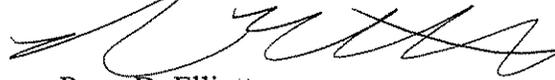
- 3 -

III. Conclusion

The Utilities appreciate the opportunity to submit supplemental comments on Ohio EPA's proposed Standard Terms and Conditions for Title V permits. A copy of the Utilities' initial set of comments is attached for the Agency's convenience.

Feel free to contact me if you have any questions regarding these comments.

Very truly yours,



Ryan D. Elliott

RDE/md
O23415-043592
cc: Ohio Utility Group
Michael E. Born