



A&WMA

THE AIR AND WASTE MANAGEMENT ASSOCIATION NEWSLETTER
Northern Ohio Chapter

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EPA's proposed ozone/PM standards spark heated debate

Health benefits

Industrial impact

by Marilyn Wall,
Sierra Club volunteer



The proposed standards for ozone and particulate matter are health-based. Setting a health standard is an issue entirely separate from an implementation and enforcement strategy.

The National Ambient Air Quality Standards are to be set at levels to provide a margin of safety for protecting public health, including sensitive populations (people with asthma or emphysema, children and the elderly) and the environment. Overwhelming scientific evidence shows that the current standards do not meet that criterion. The standards proposed by USEPA are a necessary step towards improved public health.

According to the American Lung Association (ALA), "numerous epidemiological studies have documented that as ozone levels rise, so do emergency room visits and hospital admissions. At ozone levels 33 percent below the current NAAQS standard, children at summer camp and healthy, exercising adults cannot breathe normally, suffering from shortness of breath,

Continued on pages 4 & 6

by T.E. Wood, P.E.,
Corporate Environmental Mgr.,
Cooper Tire & Rubber Co.



Yea! We all agree! For once, on this one point, industry, the EPA, communities, even the environmentalists all agree. Air quality in the U.S. is

improving! The recently released 1996 Air Quality and Emissions Trends Report clearly shows that nationwide air quality for all pollutants has improved over the past 10 years. An obvious sign of this improvement is the reduction in the number of areas across the country that are designated as nonattainment with National Ambient Air Quality Standards (NAAQS). Today, there are 66 ozone nonattainment areas, compared to 98 such areas in 1990. So, why has the EPA proposed to reduce the NAAQS for ozone?

Where's the benefit? Scientific data indicates that exposure to ozone causes moderate adverse health effects such as decreased exercise performance. However, the data does not indicate whether the proposed ozone standard would protect public health better than any other standard, including the current standard. According to the chair-

person of the Clean Air Scientific Advisory Committee (CASAC), a congressionally mandated group of independent scientific and technical experts that makes recommendations to the EPA on the standards, George T. Wolff, there is no threshold level below which ozone does not affect health. Neither is there a "bright line" to distinguish any of the proposed standards as being significantly more protective of human health.

Where's the science? There are substantial unaddressed concerns raised by the CASAC, such as the influence of other environmental factors such as weather and other irritants, and uncertainties associated with the risk assessments conducted. In addition, the results of the health studies cited by the EPA are inconsistent. The CASAC closure letters and subsequent articles and letters from CASAC members indicate little support for the numerical levels proposed and raise many questions concerning the technical bases for the proposals. One basic question is: Are the new standards attainable? Certainly they are attainable in many areas of the country, but what about areas

Continued on page 6

☞ Of note inside:

- Message from the chairman- p.2
- Regulatory update- p. 3
- Environmental Center- p. 4

Message from the Chairman

Mike Horvath

An Environmental Engineer bakes a pie



Let's face it, the life of an environmental engineer is bizarre! While our companies go on producing everything from widgets to washing machines, we are relegated to the dark world of regulations, catastrophic planning and paperwork. When the operation is in full swing and going well, we are off in some corner looking for what environmental issues may surface next, planning a path through the next mine field, and getting noticed when a compliance issue goes sour. And everyone I know in the business loves what they do.

Recently I helped my wife bake a pie and wondered what this would be like if our personal lives were as regulated as our business. She asked if I could help by washing the apples. I was busy reading the discharge standards making sure our home outfalls would remain in compliance. We would have to watch suspended solids loadings when the garbage disposal was operating but everything else seemed OK.

She laboriously peeled and cut the apples as I compared our expected emissions to local standards, making

sure the oven had recently been inspected and backwashing the filter so that total emissions stayed below the threshold.

She began to accumulate the ingredients as per the family recipe. I accumulated and reviewed the MSDSs in search of any potentially hazardous air pollutants. I still don't know what allspice is! What were the chemical and thermal reactions that would take place? At any point in time there could be an upset condition. I made sure we were ready—baking soda, emergency phone numbers, oven mittens.

I noticed she tediously mixed the ingredients as I carefully monitored the recipe. I briefly asked her to stop dusting the flour until I could get her a dust mask. The minor delay did not create a problem. We managed to keep the fugitive dust to a minimum.

I detected slight irritation in her voice as she asked if I could help assemble

the pies. However, reports on the dust incident had to be completed immediately. Regulatory levels in the kitchen were dangerously high should our son walk in.

As the pies cooked in the oven and she cleaned up, I monitored for emissions and vibration. The result was zero non-compliance.

For some reason she was upset as she removed the pies from the oven and I reviewed new regulations from the Department of Pie Emissions regarding proposed thermal limits in the kitchens. We could meet the standards at least until the year 2010.

She wouldn't tell me why she was angry, and why I was not allowed to have a piece of the finished pie. She wasn't impressed that the operation went without incident. Oh well, at least she left me the peels, cores and excess dough so that I could prepare a recycling plan.

Spring Conference to Focus on the CAAA of 1990: Seven Years Later

The environmental manager's involvement with the CAA Amendments of 1990 did not end with the submission of the Title V permit application. Critical issues will need to be made. The Spring Technical Conference, to be held on April 16 at the Tech Center at Cuyahoga County Community College, will deal with some of the current hot issues. Conference topics include a status report on the processing of those Title V permit applications you submitted and what you should be doing in the meantime to prepare for the issuance of a permit.

Another session will address the Accidental Release Prevention Program. Does it apply to you? If it does, what should you be doing now? The conference will address the new Credible Evidence Rule, which promises to be a significant trap for the unwary, espe-

cially if you are subject to the new CAM monitoring rule, which should be final this summer. The final session will be longer and will address U.S. EPA's proposed controversial ambient standards for $pm_{2.5}$ and ozone. Will it affect you? Do the benefits on health justify the impact? Look for more information in the mail or call Bob Perry at (216) 447-3217.

A Reminder

It is time to elect a new slate of officers for our Northern Ohio A&WMA Chapter. You will find a ballot enclosed with this newsletter.

Please do your part and complete the ballot and send it in immediately!

FROM THE EDITOR

The Northern Ohio Chapter Newsletter, is published semiannually for members of A&WMA. David Marczely serves as editor. Dr. Marczely may be contacted at (330) 375-5123 at Environmental Mitigation Group, 450 Grant St., Akron, OH 44311. Membership dues include subscriptions to the newsletter. For membership information contact Michael L. Horvath at (330) 384-5964 or at Ohio Edison 76 S. Main St., Akron 44308.



Regulatory changes on Credible Evidence

by David W. Marczely, Ph.D., J.D., Environmental Mitigation Group

On February 13, U.S. EPA issued a final rule to allow credible evidence, other than the referenced test methods found in 40 CFR, to demonstrate compliance with emission limits. EPA claims to have satisfied the Rulemaking Notice provision of the Administrative Procedure Act by proposing the concept as part of the proposal for Enhanced Monitoring on October 22, 1993. EPA suspended the Enhanced Monitoring proposal, and last summer substituted a less restrictive Compliance Assurance Monitoring (CAM) proposal.

Use of other evidence

In principal, the Credible Evidence rule allows facilities to use monitoring data that is less costly and more representative than the referenced methods. However, the rule allows state and federal agencies also to use other evidence to prove noncompliance, even where the reference method indicates compliance. In theory, both the reference method and the other credible evidence would be presented in some litigation forum, with the referenced method given more credibility.

In practice, the referenced method may not prevail in litigation against the other credible evidence. Compliance is often demonstrated by a periodic stack test using the referenced method. Between testing, the facility needs only to demonstrate that the control equipment is properly functioning, such as by measuring a temperature or a pressure drop. The referenced test method assumes that the unit is operating at full load. However, the emission limits generally are more absolute. Credible evidence that the emission unit did not meet the applicable emission limit during start up or low load could therefore prevail against the referenced method.

EPA claims that they would use their prosecutorial discretion and not enforce such minor infractions. Even if this is

true, under the CAA citizen suits provisions, individuals and public interest groups could bring the enforcement action for proper or nefarious reasons. The basis of the Credible Evidence rule is that the data are relatively cheap and available to regulatory agencies and to the public. Record keeping requirements in permits often go beyond the specific need to demonstrate compliance by the methods stated in the permit. These public records may be used as credible evidence against the facility.

Nullifies permit shield

The rule also seems to nullify the permit shield that the CAA Amendments of 1990 built into Title V permits. Under the shield, if a facility complies with the method of compliance stated in its permit, then the facility may certify compliance and should be deemed in compliance with the permit. By allowing state and federal agencies, private agencies, and private citizens, to use other evidence, neither stated in the permit nor in 40 CFR, to demonstrate noncompliance, the Credible Evidence rule has effectively written this protection out of the CAA. The purpose of the Permit Shield was to give definition to compliance by allowing the facility to clarify emission limits and methods of compliance explicitly in the permit. The Credible Evidence rule leaves compliance open to interpretation and litigation.

Re-evaluate data

Barring a court challenge to the rule, a facility operator would be wise to re-evaluate the range of data that is being generated for an emission unit. Diligent record keeping can be a liability even if the data is not reported to the EPA. It can be obtained from the facility during discovery as part of litigation, provided there is enough other evidence to initiate the litigation.

As part of the Title V permit process, the facility should work with the local permit writer to eliminate any unnecessary record keeping and reporting

obligations in the Terms and Conditions. This may not be easy in Ohio. As anyone who has recently been issued a PTI in Ohio will know, standard language for Terms and Conditions in Ohio EPA's STARS library seem to give the local permit writer less discretion. A stated goal for the STARS library is uniformity. But in reality, one size fits all means no size fits anyone. The result can be unnecessary record keeping and reporting that go beyond what is absolutely needed to demonstrate compliance, record keeping and reporting that become credible evidence for potential litigation.

David Marczely is the Environmental Data Manager at EMG, Inc. The Credible Evidence Rule will also be covered in the Spring Conference in April.

Resources Conference provided wealth of welcomed information

Over 60 people attended the A&WMA Fall Conference on "Resources & Assistance for Environmental Projects & Programs" at Cleveland State University.

Ohio EPA provided advice on air and water PTIs. Information was given concerning pollution prevention loan money that is available as well as brownfield financing from the Ohio Department of Development. Accessing recycling grants from the Ohio Department of Natural Resources and the Small Business Assistance Program was explained in detail. Then staff from Eaton Corporation and Brouse & McDowell teamed up to provide technical and legal advice on choosing an environmental consultant. Finally, the director of Ohio EPA-Northeast Office explained how Ohio EPA has been working hard to set its mandate and chart a course of action by assessing their client needs and organizing their efforts to meet those needs.

All in all, the conference provided a wealth of information and insight.

Cuyahoga Community College establishes new Environmental Assistance Center for small businesses

Today's environmental regulations affect every business in every sector. But they're a particular challenge for small companies — which lack both the information to understand the regulations and the internal expertise to implement them properly. So where do they turn?

In Greater Cleveland, they can now look at the "Small Business Environmental Assistance Center" (SBEAC) at Cuyahoga Community College for help. Supported with funds from the U.S. Small Business Administration, the SBEAC has a simple and direct mission: to help small companies operate as cleanly and as profitably as possible. All assistance is provided on a strictly confidential basis, and is available to any company with 499 employ-

ees or fewer that operates within the Center's seven-county area: Cuyahoga, Geauga, Lake, Medina, Lorain, Portage, and Summit.

"The SBEAC is a truly unique project in northeastern Ohio," notes Director Sharon L. Fain. "We're able to provide links and access to the information and expertise that small companies need, as well some of the financial support to obtain that expertise. That means that we can work as partners to make sure the problem gets corrected — and that the company stays in business."

Besides helping with specific technical or production problems, the SBEAC sponsors short-term training opportunities, conducts research on industry-wide issues, and maintains an open-access reference library (including

Internet resources). The Center is also working to establish several "technology demonstration sites" to further interest and awareness in the use of alternative production materials and processes.

"Our first site will focus on the dry cleaning industry," said Fain, "where the use of new detergents and machines may make it possible to reduce or even eliminate the use of chemical solvents. Dry cleaning may soon become 'wet cleaning' — with plain water the main ingredient."

All services of the Small Business Environmental Assistance Center are available at low cost or no cost to qualified companies. For additional information, contact the SBEAC at (216) 987-3060 or via e-mail at sbeac@tri-c.ccc.oh.us.

Health benefits • Continued

coughing, painful breathing and loss of lung function."

The ALA further states "This body of research includes over 350 studies involving a wide variety of laboratory animal, controlled human exposure, and epidemiological studies. Some of the more recent research has prompted great concern over human exposure to lower levels of ozone over longer periods. The Clean Air Scientific Advisory Committee (CASAC), which included industry representatives, endorsed the establishment of an ozone NAAQS measured over eight hours to respond to concerns over the public health threat posed by prolonged ozone exposure.

CASAC unanimously supported replacing the current ozone NAAQS with

an eight-hour standard. CASAC also found the range of concentrations (0.07-0.09) and number of allowable exceedances (1-5) proposed for review by EPA to be appropriate for the protection of public health."

Similarly the Harvard School of Public Health shows that 64,000 people die prematurely each year because of lung and heart disease aggravated by particulate air pollution. The USEPA proposed particulate standard will reduce premature deaths by 50% and reduce asthma episodes by more than a quarter million cases each year. Additionally the proposed particulate standard will reduce hospital admissions by 9,000 per year and will reduce emergency room visits. Acute childhood respira-

tory problems will be reduced by more than a quarter million occurrences per year. The proposed particulate standard will reduce chronic bronchitis by an estimate 60,000 cases each year.

Cost benefit analyses to date show that the benefits of the Clean Air Act from 1970 to 1990 exceeded the costs by at least twenty to one. Preliminary numbers for the proposed standards show that the benefits will again greatly exceed the costs.

Certainly the regulations will not call for immediately meeting the standards, with penalties immediately assigned. We've always had phase-in periods for meeting clean air goals. However, it should be clear that when there are
Continued on page 6

AIR AND WASTE MANAGEMENT ASSOCIATION

NORTHERN OHIO CHAPTER

1997-98 Election OFFICIAL BALLOT

Chairperson

Walt Kocher, Ph.D. is a tenured Associate Civil Engineering Professor at CSU teaching environmental undergraduate/graduate courses. Research in solid/hazardous waste reclamation/pollution prevention are Dr. Kocher's specialities. Walt has been instrumental in establishing A&WMA's student chapters.

_____ (write in candidate)

Vice Chairperson

Tom Kmiec is vice president of Creative Solutions. Compliance alternatives and EPA permitting are Tom's specialities. Tom has over 30 years of environmental experience as a consultant, engineer and attorney. He is a Diplomate of the American Academy of Environmental Engineers.

_____ (write in candidate)

Secretary

Daniel Loretta is Senior Project Manager with Middough Environmental. Dan is also a lawyer and works on a host of environmental issues for the company.

_____ (write in candidate)

Treasurer

Robert R. Perry is Corporate Environmentalist with Centerior Energy in Independence. He has been with Centerior Energy/Toledo Edison for 19 years and is responsible for numerous environmental issues dealing with the Clean Air Act and CERCLA.

_____ (write in candidate)

Director (3 yr. term)

David Marczely is the permitting and modeling manager at Environmental Mitigation Group. Dave has 25 years of environmental experience with a doctorate degree in meteorology and a law degree.

(write in candidate) _____



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Industrial impact • Continued

that are in nonattainment with current standards?

Show me the money. While the EPA maintains that cost and other practical factors cannot be considered when reviewing the NAAQS, their cost estimate for the proposed standards is \$8.5 billion. This estimate does not include all costs. Costs associated with SIP preparation, monitoring, unfunded mandates, implementation of the proposed secondary standards, and actually achieving nationwide attainment with the proposed standards are not included.

Back to the well. Industry has already borne considerable financial burden toward making the improvements in air quality achieved to date. There is no doubt that industry would be required to accept a large share of the future burden. In the face of fierce national and global competition, such burdens could be devastating, especially to communities in nonattainment areas as they would have a distinct disadvantage in retaining industry and luring expansion. As a result, jobs could be at risk in some areas. In addition, in areas that are not in attain-

ment with current standards, the EPA would have to focus on smaller businesses and consumers to garner the necessary improvements.

The EPA proposal disregards the progress that has been made to date and the progress that is sure to result as the control measures mandated by the Clean Air Act Amendments of 1990 continue to be implemented. The proposal does not show clear benefits, is based on questionable science, does not consider all associated costs, and comes with significant impact to industry, communities, and consumers.

Editor's Note on Proposed Standards

In response to a court-ordered deadline to revise the ambient air quality standards or to reject the need for revisions, U.S. EPA proposed on December 13, 1996, a revision of the standards for ozone and fine particulate matter (pm) smaller than 2.5 μm . The current pm standard is for particulates smaller than 10 μm . The proposed ozone standard is a third lower than the current standard, but allows for eight-hour averaging, rather than one hour, and is more generous on the number of exceedances to be nonattainment. Only the Cincinnati area is still nonattainment for ozone, and it may be attainment this year.

Likely, all of the former Ohio nonattainment areas, and a few additional areas, will be nonattainment under the proposed standard. The $\text{pm}_{2.5}$ standard is 60% lower than the pm_{10} standard. Only parts of Cleveland and Steubenville are nonattainment for pm_{10} . Likely, Ohio will have additional $\text{pm}_{2.5}$ nonattainment areas.

Because of the volume of submitted comments to the proposals, EPA has petitioned the court for a 60-day extension to about September 1. Congress has an additional 60 days to rewrite the CAA to override EPA, which the President may veto.

Health benefits • Continued

lives at stake, when public health is threatened, that we have no ethical right to delay. Speedily reaching these standards will improve our health, reduce health care costs and our quality of life. Measures such as energy efficiency and pollution prevention can save businesses money while moving us toward meeting the standards. Development of new pollution control technology and improved industrial processes are also both promising and offer rewards in jobs and economic development.

Marilyn Wall is a full-time volunteer for the environment working on air, water quality, transportation and toxics. She retired from the computer industry.

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