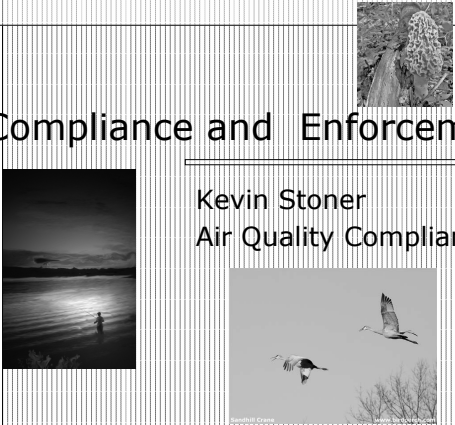



Compliance and Enforcement



Kevin Stoner
Air Quality Compliance

Disclaimer

- This presentation is for educational purposes only. It is not intended as a strict guideline, rather as general information on the compliance and enforcement process.



Compliance Inspection - Who should you expect

- Eight air inspectors in the state
 - Five in Lincoln office
 - One each in Holdrege, North Platte, and Norfolk

Compliance Inspection - What to expect

- Prior to inspection – file and regulation review (permits, MACTS, NSPS, etc.)
- Unannounced inspection
- Inspect facility perimeter



Compliance Inspection

- Permits contain four basic elements
 - Standards and Limitations
 - Monitoring provisions
 - Recordkeeping requirements
 - Reporting requirements

Possible Records

- Fuel Consumption / Supplier Guarantee
- Hours of operation
- Control Equipment inspections & repairs
- VOC/HAP content of material
- Amount of material used
- Emissions calculation
- Production records
- Grain received, milled, or processed
- Startup, shutdowns, & malfunctions
- Monthly & rolling totals

Emission Point Records

- The permittee shall not cause or allow emissions, from any emission source, including those emission units considered as insignificant activities, which are of opacity equal to or greater than twenty percent (20%)



Control Equipment Records

- Routine observations (at least once each week of dust collector operation) shall be conducted to determine whether there are visible emissions from the stack, leaks or noise, atypical pressure differential readings, or other indications which may necessitate corrective action. Corrective action shall be taken immediately if necessary.



VOC/HAP Content

- Document amount of VOC/HAP in each coating, thinner, adhesive, or cleaner
 - Material Safety Data Sheets (MSDS)
 - Certified Product Data Sheet (CPDS)
 - Technical Data Sheet, Method 24 etc.
- If these do not have the VOC/HAP content, call manufacturer & obtain the info
- Must use highest number if range is given

Material Consumption

- Purchase records
- Actual metered/measured usage
 - Make sure to account for each material used
- Estimated daily usage
 - Make sure that if the gallons are estimated daily, you correct at the end of the month (or after the emptying of a container)



Emission Calculations

- Must calculate VOC & HAP emission calculations each month (or day if required)
 - Must use equation if provided in permit
 - Must document equation used
 - Must have all other documentation
 - VOC/HAP content & quantity used for each material



Monthly and Rolling Totals

- Add up all of units for the month by the 15th of the following month
 - Hours of operation / Fuel consumed
 - Grain received / Oil used
 - Amount of product used (I.E. coating, thinner, adhesive, or cleaner)
- Rolling 12 month total
 - A "rolling" 12 month total is a consecutive 12 month period moving over time. As the consecutive 12 month period "rolls" over time, each new month is added as its one year old counterpart is deleted

Records – Retention, Location & Accessibility

- Maintained **on-site** for a minimum period of five (5) years.
- Updated to be current through the end of the month (no later than the 15th day of the following month).
- Clear & readily accessible to Department representative upon request.

Reporting

- Emission Inventories
- Certification of Compliance
- Deviation Reports
- Performance Testing



Emission Inventories

- Class I major and Class II - annually
- Low emitting sources – triennial
- Inventories due March 31
- Class I fees due July 1

State of Nebraska
Department of Environmental Quality
2016 AIR EMISSIONS INVENTORY

FORM 14 GENERAL INFORMATION

Facility Name Husker Coal Company		Facility ID # 64381		NE Code(s) 3498	
Facility Location (Address OR Direction) 520 E. 23rd Street		City/Town/Village/County Fremont, NE		Zip Code 68025-2310	
Facility Mailing Address (if different from above) 310 N. Cotner Blvd.		City/State Lincoln, NE		Zip Code 68505-1820	
County Name Dodge	Classification Class II	Facility Phone Number 402-471-3389	Facility Contact David Brown		
		Facility Fax Number 402-471-2909	Email Address David.Brown@ndeq.state.ne.us		

Fill out the information below after completing all applicable forms.

EMISSIONS STATEMENT

Total Plant Emissions (Tons Per Year)

CO	NH ₃	NOx	Lead	PM ₁₀	PM _{2.5}	SO _x	VOC	Greater Single HAP	Other HAPs
0.23	0.01	0.28	0.00	1.03	1.03	0.01	14.47	2.16	0.89

Chargeable Emissions (Tons)

CO	NH ₃	NOx	Lead	PM ₁₀	PM _{2.5}	SO _x	VOC	Greater Single HAP	Other HAPs
NO FEES	NO FEES								


CERTIFICATION OF TRUTH, ACCURACY, AND COMPLETENESS

I certify under penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information contained in this inventory are true, accurate, and complete.

Signature of Responsible Official	Name & Title (print)	Date
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Inventory Audits

- Conducted randomly
- Verify emission points
- Check throughputs
- Review MSDS Sheets
- Check emission and control factors



Certification of Compliance (COC)

- Due March 31st of each year
- All Class I sources must send their reports to NDEQ & EPA Region VII
- Must certify compliance with all limitations or standards that have a method for compliance determinations
- Certifying compliance for previous calendar year – January - December
- Must be signed by a responsible official

COC

- Must include
 - Identification of each term or condition of the permit that is the basis for certification;
 - Compliance status & all deviations from permit requirements;
 - A determination of whether compliance was continuous or intermittent; and
 - The methods used for determining the compliance status

Simple Format for Illustration Purposes

Guidance Document for Annual Certification of Compliance And/Or Semi-Annual Report of Deviations

Facility Name _____ Facility ID# _____
 Facility Address _____ Facility Contact _____
 Phone Number _____

This Certification of Compliance is being submitted for January 1, ___(Year)___ through December 31, ___(Year)___ to satisfy Operating Permit Condition # _____.

Permit Condition	Compliance Status or Intermittent		Method for Determining Compliance(Comments (include applicable testing or monitoring methods))
	In-Compliance	Continuous or Intermittent	
XVII (A) The amount of grain processed shall be limited to a maximum of 22,700 tons per any period of 12 consecutive calendar months.	In-Compliance	Continuous	Grain is weighed by load and receiving record is generated. The received quantities are input into a computer database from which quantities received are monitored. (22,500 tons were received in ___(Year)___)
XVII (B) Particulate emission control equipment shall consist of bag houses on the following emission points: receiving, transfer, load out.	In-Compliance	Continuous	All emission control equipment remains in full operation, no modifications to dust systems in previous 12 months.
XVIII (C) Opacity from the bag houses shall be less than 20%.	Out-of-Compliance	Intermittent	Method 9 observations are made and recorded daily. On June 3, baghouse #2 exceeded 20% opacity due to a torn bag. The operation was immediately shut down and the Department was notified. One hour later, after the bag was replaced, we were back in operation. (We were out-of-compliance for not more than two hours.)
XVIII (D) Records shall be kept on site, of the following, for a minimum period of 5 years: 1. Monthly and 12 consecutive monthly totals of the quantity of grain received. _____ 2. The hours of operation of the dryer shall be recorded daily on any day that the dryer is operated.	In-Compliance	Continuous	Receiving reports and computer database.
	In-Compliance	Continuous	Operator logs record hours of operation and any maintenance performed.

Simple Format for Illustration Purposes
Annual Certification of Compliance and/or Semi-Annual Report of Deviations
Page 1 of 4

Semi-annual Deviation Reports

- **Class I Sources**
 - Due
 - March 31st (for reporting period July – December) and
 - September 30th (for reporting period January – June)
 - Do not have to send to EPA
 - Must be signed by a responsible official

Deviation reports

- **Class II Sources** are not required to submit deviation reports BUT
 - If "intermittent" compliance is reported, then information regarding deviation is required.
 - Can be submitted with Certification of Compliance stating how times deviations occurred.
 - **Do not** have to send to EPA
 - Must be signed by a responsible official

Deviation Reports

- Deviation
 - A departure from an indicator range or work practice established for monitoring
 - Examples
 - Required to record pressure drop every day, missing a day is a deviation
 - Fugitive dust crossing property line
 - Opacity greater than 20%

Sample Format for Illustration Purposes

Guidance Document for Annual Certification of Compliance And/Or Semi-Annual Report of Deviations

Facility ID# _____

This Semi-Annual Report of Deviations is being submitted for the period of

January 1 through June 30, (year) ____ (Due by September 30th of the same year)

July 1 through December 31, (year) ____ (Due by March 31st of the following year)

_____ through _____, (year) ____ (Alternative dates per permit condition)

Applicable Requirement	Cause of Deviation	Date and Time	Corrective Action Taken
XVIII (C) Opacity from the bag houses shall be less than 20%.	Torn bag in baghouse #2 (Emission Unit (EU or name))	June 3, 1999 @ 8:50 AM	The operation was immediately shut down and the Department was notified. One hour later, after the bag was replaced, we were back in operation. (We were out-of-compliance for not more than two hours.)

If no deviations occurred during the semi-annual period, a statement to that effect will meet the reporting obligation.

My source has had no deviations from any applicable requirements or operating permit conditions.

Signature by a responsible official (per Title 129, Chapter 1) is required. Certifications of Compliance and Semi-Annual Deviations Reports without a responsible official signature will be returned as incomplete.

****Class I, Title V, facilities are required to submit copies of the Certification of Compliance report to both the U.S. Environmental Protection Agency - Region VII and the Nebraska Department of Environmental Quality. The Semi-Annual Deviations reports need only be sent to NDEQ.

U.S. EPA Region VII
Air Permitting and Compliance Branch
901 North 2nd
Kansas City, KS 66101

NDEQ
Air Quality Compliance
P.O. Box 98622
Lincoln, NE 68509-8622

I hereby certify that based on information and belief formed after reasonable inquiry, the statements and information in this document are true, accurate, and complete.

Signature _____ Date _____

Name (printed) _____ Title _____

Performance Testing



- Purpose
 - Extract from a stack or emission point a sample that is **representative** of emissions from that equipment during **representative** operating conditions at the facility (40 CFR 60.8)
 - For compliance determinations, representative conditions may include a worst-case scenario that will allow the facility to demonstrate compliance at all times of operation

Performance Testing

- Testing Protocol – at least 30 days prior to test
- Results must be submitted within 45 days after test
- Report must include all results and operating parameters at time of test

Enforcement Process

- Any enforcement action starts with the identification of a violation
 - From an inspection
 - From a permit application review
 - Submitted reports
 - Self disclosure



Violation Evaluation

- Multiple Aspects are assessed when evaluating a violation
 - Regulatory aspect
 - Pollution potential
 - Compliance history
 - Mitigating circumstances

Violation Evaluation Regulatory Aspects

What is the significance of the violation- from a programmatic standpoint

- A federal standard like NSPS, MACT
- A synthetic minor violation
 - A limit that keeps you out of a federal standard like PSD, or major source threshold like Class I
- A limit taken for NAAQS purposes

Violation Evaluation Pollution potential

- Did the violation involve actual emissions
 - 81-1508.02 directs the courts when assessing fines to evaluate degree and extent of a violation –
 - Basically - how bad for how long



Mitigating Circumstances

- How did the source respond to the violation
 - Was the violation identified and fixed quickly
- Was the violation a result of a malfunction
 - Sudden and unavoidable – do records support that conclusion
 - Was the malfunction reported or discovered
- Are there other records that give you the same information

Compliance History

- Basically - as the name implies
 - Were there violations at the source before
 - How long ago were the violations
 - Typically we don't evaluate for other medias



Enforcement Options

- Several options are available to address a typical violation
 - Verbal
 - Informational letter
 - LOW
 - NOV
- Other options are available but less frequently used – Emergency orders, Administrative orders etc.

Verbal

- Basically given by the inspector while on site
 - Documented in the inspection report
 - More a compliance assistance effort



Informational letter

- Letter normally signed by Unit Supervisor
 - Typically used in complaints
 - Also can be considered compliance assistance
 - Normally informs the source of regulations and possible penalties for non-compliance
 - More formal than Verbal
 - May or may not have documentation of a violation

Letter of Warning - LOW

- Letter signed by Unit Supervisor
 - States violation discovered and regulatory citation
 - States potential penalties
 - May include action items to be completed
 - Typically doesn't go past Section Supervisor

Notice of Violation - NOV

- Signed by Division Administrator
 - States violation discovered and regulatory citation
 - States potential penalties
 - May include action items to be completed
 - Considered a "high priority violation" (HPV)
 - Likely will be referred to Legal for "further enforcement action"



High Priority Violation - HPV

- Both State and EPA have a HPV list
 - EPA's HPV criteria requires issuance of an NOV and enforcement action
 - Under some circumstances penalty can be avoided
 - EPA's 10 HPV criteria can be found by google- "the timely and appropriate enforcement response to high priority violations"

Enforcement Process

- Penalty Considerations
 - Enforcement referral package
 - Goes through Division Administrator, Deputy Director, and then Legal Division
 - Can be stopped at any one of the above levels
 - Legal Division sends enforcement package to Attorney's General Office

Penalties



- All penalties collected go to local school district where the violation occurred
- Supplemental Environmental Projects (SEP)
 - e.g. Retrofit all diesel county school buses with diesel particulate filters and catalyst mufflers

Summary

- READ and UNDERSTAND your permit
- If you have questions, please ask



Questions???

- www.deq.state.ne.us
- Kevin.stoner@ndeq.state.ne.us
- Air Quality Compliance Unit
402 471-2189