

US EPA ARCHIVE DOCUMENT

Environmental Management System Permit Project Update Report: December 2004

Development of the Regulation

The Department and various stakeholders began to meet to discuss the regulations that the Department was required to develop pursuant to Title 25, Colorado Revised Statutes (C.R.S.), Article 6.6. The meetings began in March of 2004 and continued through the rulemaking hearing. The regulatory workgroup was comprised of representatives from industry, environmental organizations, local government, and Department employees from programs within air, water, and sustainability. The regulatory workgroup process was enlightening in many ways and resulted in a regulation, which all parties could support and endorse.

The EMS Regulation hearing occurred on August 23rd at 1 pm. Mr. Douglas Benevento, Director of the Department, was the rulemaking authority. In attendance was also Tony Trumbly from the Office of the Attorney General representing Mr. Benevento. Representing the Department, was Jill Cooper who gave the presentation and Casey Shpall of the Office of the Attorney General. The Department's presentation occurred without incident or questions. After the Department's presentation several stakeholders made comments in support of the program, including Mely Whiting representing the environmental organizations, Jim Spaanstra representing various business interests, and Meg Collins representing the Colorado Livestock Association. At the Department's request, Mr. Benevento kept the record open for 30 days after this hearing to allow additional public comment. During this time, the Department met with US EPA to resolve various concerns and issues. The Department also consulted with local governments, the regulatory workgroup, and other interested parties during this period of time. No other changes were made to the regulation and Mr. Benevento adopted the regulation on October 8, 2004. The regulation was approved by the Secretary of State in October of 2004 and became effective November 30th (5 CCR 1004-1 <http://www.cdphe.state.co.us/op/regs/ExecutiveDirector/5CCR1004-1environmentalmgmtsyspermitprogram.pdf>).

The Department wishes to thank and recognize the regulatory workgroup for all of their time, effort, support, and patience over the 6 months we developed the regulation. The following is a list of the participants:

- Dave Akers, Water Quality Control Division, the Department
- Janell Barrilleaux, Denver International Airport
- Matt Burgett, Air Pollution Control Division, the Department
- Meg Collins, Colorado Livestock Association, Livestock Government Affairs Project
- Jill Cooper, Sustainability Program, the Department
- Sue Crane-Jennings, Aeroflex Colorado Springs
- Laura Davis, Ball Aerospace & Technologies Corp.
- Ridge Dorsey, Pretreatment Program at City of Boulder, Public Works Department
- Kirsten King, Air Pollution Control Division, the Department
- Sudy Koupal, FGI Environmental Services
- Doug Lempke, Technical Secretary Air Quality Control Commission, the Department
- Nicole Mathis, formerly with Denver International Airport, now with the Department
- Shannon McMillan, Air Pollution Control Division, the Department
- Michael Mueller, Sierra Club, hired by the environmental organizations
- Dave Ouimette, Air Pollution Control Division, the Department
- Jim Spaanstra, Faegre & Benson
- Poppy Staub, EnviroGroup, Ltd.

- Mely Whiting, hired by the environmental organizations
- Phyllis Woodford, Sustainability Program, the Department
- Julie Wrend

Community Involvement and Communications Plan

The Department has committed a portion of the federal grant to assist the participants in the development of a community involvement and communications plan (CICP) for each facility. The regulatory workgroup spent some time discussing what would be required in a CICP and regulation does provide some guidance.

The CICP workgroup met on September 13, 2004 and provide additional insight and guidance to the Department. Representatives from the Department's Hazardous Materials and Waste Management Division (HMWMD) were in attendance and presented on how community plans are generally developed when required by federal waste laws. The CICP workgroup agreed that the participating facilities could use these general guidelines when developing the CICP, but also agreed that the CICP needs to be uniquely tailored to the facility's and company's needs. The workgroup agreed that the companies are to be given latitude in the development of the CICP, but also wanted to be able to review those portions of the CICP that are not confidential for business purposes.

The Department, including representatives from HMWMD visited with each participating facility in October. The HMWMD staff agreed to work with each facility in conducting interviews, developing CICPs, and providing other guidance as necessary. The companies are all in the process of developing the CICPs and Ball Aerospace's CICP has been sent to the workgroup for comments.

Environmental Management System Development

The project partners are each at different stages of developing or refining their EMSs. Ball Aerospace has been in the Gold Level of the Department's leadership program since 1997, but agreed to update and modify their EMS to meet the requirements of the regulation. Those modifications are underway and will be concluded before the permit is issued. Aeroflex joined the Department's leadership program in 2004 and is also reviewing its EMS to ensure it complies with the regulation.

The project is bringing the first EMSs to Colorado livestock producers. All three of the partners are using different methods to develop and implement their EMSs. This diversity provides a unique perspective to the benefits and challenges that producers are experiencing and may continue to realize with respect to working with an EMS. Murphy Brown of Yuma's EMS has been certified to meet ISO 14001 standards and they are reviewing the EMS to ensure it meets the regulatory requirements. The other two are still developing their EMSs but will be completed prior to submitting the permit application.

Baseline Assessments and Environmental Management System (EMS) Audits

The Department hired contractors to perform most of the baseline assessment and EMS audits at the facilities. Also, some of the work conducted at the animal feeding operations were done under a separate grant. The baselines at all five facilities have been conducted.

An EMS audit has been conducted at the Murphy Brown of Yuma facility, and will be conducted at the other four partners in January through February of 2005.

Measurements and Metrics

The measurements and metrics workgroup has not yet met and will be meeting in January. The first measurements collected were during the baseline assessments and environmental management system

audits. Other metrics will be gathered through the CICP and continual improvement projects. The companies have yet to select the continual improvement projects.

Permit Application Development

The EMS Permit Applications for industrial facilities and CAFOs are in draft form and are under review by the air and water divisions.

Permit Application Submittal

The permit applications submittals depend upon completion of the application form, CICP, EMS, EMS audits, and selecting continual improvement projects and goals. The Department is working with Ball Aerospace and a draft application has been completed. The document has been commented on by Boulder and the Water Division and comments will be incorporated. The Department will schedule a time to meet with Aeroflex to start drafting their application.

Next Steps

- CDPHE will continue assisting producers with development of EMSs.
- Environmental baselines have been completed for all five partners. Final reports are anticipated in mid-January.
- One third-party EMS audit has been done with the remaining four are scheduled for January through February 2005.
- The EMS Permit Applications for industrial facilities and CAFOs are in draft form and are under review by the air and water divisions.
- CDPHE is assisting the partners in completing the application.
- Completed applications will undergo public review prior to development of the EMS Permit.
- CDPHE will draft the EMS Permit and put out for public comment.
- The partner's CICPs are under development and Ball Aerospace's CICP has been sent for the EMS regulation workgroup's review and comment.
- The measurement team will meet in January.