

Title V Program Evaluation Report:  
Ohio Environmental Protection Agency

USEPA Region 5  
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## Table of Contents

I.	Executive Summary.....	3
II.	Introduction.....	3
III.	Program Description.....	4
IV.	Findings.....	5
	A. Strengths and Benefits.....	5
	B. Challenges.....	6
V.	Recommendations.....	7
VI.	State Recommendations.....	7
Appendix A: Title V Program Evaluation Questionnaire.....		9
	A. Title V Permit Preparation and Content.....	11
	B. General Permits.....	23
	C. Monitoring.....	25
	D. Public Participation and Affected State Review.....	27
	E. Permit Issuance/Revision/Renewal.....	42
	F. Compliance.....	51
	G. Resources & Internal Management Support.....	60
	H. Title V Benefits.....	68
	I. Miscellaneous.....	75
Appendix B: Title V Program Evaluation Document Review Questionnaire.....		76
	A. Scope of Review.....	77
	B. What to look for in applications.....	77
	C. What to look for in permits.....	79
	D. What to look for in the Statement of Basis.....	85
Appendix C: Emission Units Not Accounted For by permits in Document Review		87

## I. Executive Summary

On May 23-25, 2005, the United States Environmental Protection Agency (USEPA) conducted an evaluation of the Ohio Environmental Protection Agency's (Ohio's) Title V operating permit program. This evaluation is part of USEPA's ongoing Title V program oversight of state and local Title V operating permit programs.

Based on the evaluation USEPA finds that Ohio's Title V program carries many benefits, such as bringing sources into proper regulatory and compliance status, unifying a source's applicable air requirements into an enforceable and easy-to-follow document, promoting the proper implementation of regulations, providing the public with more opportunities for involvement in air issues, and increasing the public's, staff's, and regulated community's awareness and understanding of air pollution regulations. Furthermore, Ohio has been one of the leaders in managing a massive permitting workload with quality, public service, and reasonable timeliness.

However, like many other states, Ohio has significant challenges in staff retention, staff training, and adequate program funding. Ohio notes other difficulties such as frequent changes in federal regulations and the relative lack of guidance to implement those regulations. There are also concerns regarding permit content, such as proper incorporation of Maximum Achievable Control Technology (MACT), and what constitutes adequate monitoring in permits. The Statement of Basis (SB) requirements identified in Part 70 also continue to be an interpretive issue with respect to what constitutes an adequate SB absent cohesive Agency interpretation and/or guidance.

## II. Introduction

As part of USEPA's ongoing Title V operating permit program oversight,<sup>1</sup> and as a result of USEPA's commitment to the USEPA Inspector General, USEPA developed a standard program evaluation protocol for reviewing Title V programs within 4 years.<sup>2</sup>

The purpose of the program evaluation is to meet with each permitting authority to evaluate its implementation of the operating permit program, note practices from which other permitting authorities could learn, document areas needing improvement, and learn how USEPA can assist permitting authorities and improve the national program. USEPA believes that the evaluation results will identify areas where the national

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<sup>1</sup>See 40 C.F.R. § 70.10.

<sup>2</sup>USEPA committed to review all Title V programs with more than 10 Title V sources by fiscal year 2006.

program can be improved, areas where the state programs can be improved, and areas where state and local permitting authorities' unique practices may be of benefit to other permitting authorities.

The program evaluation consists of a detailed program questionnaire and a file review questionnaire. The completed Ohio questionnaires are the result of a joint collaboration between USEPA and Ohio, and are included in this report as Appendices A and B. (Appendix C provides detailed information regarding one of the questions in Appendix B.) USEPA provided an advance copy of the evaluation forms to Ohio in preparation for the program review. Ohio drafted preliminary answers to the program questionnaire, which were further expanded during USEPA's onsite evaluation.

The onsite evaluation was conducted in the Central Office of the state agency's Division of Air Pollution Control (DAPC) in Columbus, Ohio on May 23-25, 2005. During the visit, USEPA<sup>3</sup> met with Ohio program managers and permitting staff to discuss Ohio's preliminary answers, gather additional information for the questionnaire, and begin the source-specific file review. USEPA also asked Ohio to highlight any concerns with the national Title V program; this feedback is summarized in Section VI of the report. As USEPA developed the final program evaluation report, the Agency sought additional input from Ohio to ensure accuracy of the final product.

### III. Program Description

Pursuant to Title V of the Clean Air Act and the implementing regulations at 40 C.F.R. Part 70, state and local permitting authorities developed, and submitted to USEPA for approval, programs for issuing operating permits to all major stationary sources and to certain other sources. USEPA proposed full approval of Ohio's Title V program on April 13, 1995 (60 Fed. Reg. 18790) and finalized approval on August 15, 1995 (60 Fed. Reg. 42045).

DAPC is responsible for implementing Ohio's Title V operating permit program. The program is decentralized, with 12 district offices and local air agencies (DOLAAs) involved in reviewing Title V permit applications and developing Title V permit recommendations, and with DAPC Central Office responsible for issuing Title V permits. The DOLAAs report to the Central Office, which oversees and approves their work. The DOLAAs write the permits and send them to the Central Office for final approval and issuance. In resolving issues related to a permit's content, USEPA's primary contact is the Central Office, which in turn consults the appropriate DOLAA to address the issues and revise the permit if necessary.

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<sup>3</sup>USEPA's Title V program evaluation team included staff responsible for Ohio's Title V program oversight and staff responsible for overseeing the Region's Title V program evaluations.

As of the writing of this report, Ohio had completed 100 percent of its initial Title V permit commitment, 85 percent of all initial Title V permits, and 10 percent of its renewal permits.

#### IV. Findings

Below is a summary of the primary findings from the Ohio Title V program evaluation. For detailed information regarding Ohio's program, please refer to the program and document review questionnaires in Appendices A, B, and C.

##### A. Strengths and Benefits

In addition to highlighting Ohio's program strengths, this section includes specific examples of practices from which other permitting authorities could learn, as well as a summary of the benefits Title V has afforded Ohio's air program.

- Ohio demonstrates a willingness to continually improve its operating permit program by issuing official guidance documents (the "Engineering Guides"), procedural guidance documents (e.g., the modification guidance document), policy documents, use of information technology to make the permitting process more efficient, and making permits, regulatory developments, and other information available to the public through the internet and electronic mailing lists.
- Ohio supports its Central Office and DOLAA staff through the State Air Resource System (STARS) permit database, internal correspondence, conference calls and Central Office staff visits. Ohio provides training to its staff whenever possible, and has used the assistance of USEPA and other Federal and private experts to a significant degree in its training sessions.
- The DOLAA staff gains familiarity with the nature and compliance status of the local sources by serving as inspectors, which is helpful in generating effective permits and compliance certifications.
- Ohio's STARS permit tracking system helps Ohio manage and prioritize the program workload, providing key permit issuance data on a source-by-source basis. Adjunct tracking systems are able to generate specific reports. These systems ensure that a pending permit does not become neglected, and that the generated content has been reviewed by multiple persons along the management hierarchy. The review and tracking procedures help Ohio meet both internal and external deadlines in a decentralized system. Additionally, the STARS library, which contains standard language for many applicable

requirements, helps ensure that all appropriate requirements are placed in the permits in a consistent manner state-wide while maximizing flexibility to consider applicant proposed approaches to ensuring ongoing compliance with applicable requirements.

- Despite having a greater workload and level of public involvement than many other states, Ohio was the first state in Region 5 to complete its initial Title V permit commitment (the commitment date was September 1, 2003) and has completed most of its total initial Title V permits.
- The Title V operating permit program has resulted in many benefits, including: increased staff knowledge of Clean Air Act requirements, improved knowledge of sources and source operations, more accurate emissions information, emission reductions due to sources limiting emissions to avoid the program or reduce fees, increased compliance information, increased source awareness of compliance obligations, and improved public outreach and public access to information.

## B. Challenges

- It is unlikely that any permitting program will ever achieve a zero workload balance due to the ever changing population subject to Part 70 and other permitting requirements. Although Ohio has made great progress in reducing its initial Title V permit backlog, it needs to continue to be diligent with its permit activities in order to complete the remaining initial permits and to overcome its backlog of initial and renewal Title V permits. The backlog problem includes long processing times for permit revisions, both significant and minor. In addition to the remaining 70 initial permits, Ohio's workload includes permitting new Title V sources, renewing permits, modifying existing permits as necessary, and reviewing deviation reports and compliance certifications.
- Ohio needs to balance its resources so that its programs are optimally staffed and funded, and raise sufficient fees to fund necessary travel to sources and to hire and retain good staff. Ohio had been legislatively prevented from hiring additional staff until recently, and is now interviewing candidates for new staff positions in the permit program.
- General improvement has been made in the quality of Statements of Basis despite the lack of a national list of expectations, thanks in part to discussion between Ohio EPA and Region 5 regarding on the Region's expectations and various Title V petition responses in which Statement of Basis was an issue. However, varying problems were found in the Statements of Basis for four of the

five permits in the file review. The quality of the Statements of Basis may vary with the DOLAA writing them, and needs to be more consistent. Some permits do not adequately explain the lack of periodic monitoring requirements in Title V permits in the Statements of Basis in those instances where Ohio has determined that periodic monitoring is not warranted or appropriate for a given applicable requirement or set of applicable requirements. Ohio should continue to improve the quality and consistency of the Statement of Basis through the issuance of guidance, training and communication. Region 5 will continue to work with Ohio EPA to ensure that relevant tools are available to improve the Statements of Basis, including Title V petition responses which USEPA establishes as guidance with regard to Statement of Basis.

- Ohio allows permittees to have a high level of participation in the permit process, particularly through the additional “preliminary proposed review” stage that is for the sources only. OAC 3745-77-08(A)(3) sets a 14-day deadline for the source to request a meeting to discuss changes from the draft permit, but does not set a time limit for resolving any issues raised by the applicant in such a meeting. Although this involvement may help to resolve conflicts prior to permit issuance, it frequently delays issuance as the preliminary proposed review stage often extends beyond the 14 days.
- Ohio needs to establish a protocol for effective and enforceable incorporation of complex regulations such as MACT into its Title V permits. Ohio has stated that it intends to change how it incorporates MACT into Title V permits by referencing the federal requirements in the permits rather than attaching the entire MACT. In addition, Ohio will incorporate specific provisions of MACT requirements during permit modification or renewal for sources subject to MACT categories where the initial compliance demonstration date has passed.

## V. Recommendations

USEPA recommends that Ohio continue to improve the quality and efficiency of its Title V program through the issuance of guidance, training and communication, and use of the internet and electronic database management. Ohio should use these tools to particularly focus on reaching a balance in workload, obtaining adequate resources to train and retain staff, proper incorporation of complex standards into permits, and improvement of the coverage of periodic monitoring requirements and Statements of Basis.

## VI. State Recommendations

During the onsite evaluation, USEPA asked Ohio to highlight any concerns with the national Title V program. Ohio's feedback is summarized below.

- USEPA should be more expedient in issuing guidance after developing a new program. There is a particularly urgent need for guidance on the new ozone and PM-2.5 rules and implementation. More model CAM plans as well as guidance on the use of them would also be helpful, as would guidance on the incorporation of MACT rules and the level of detail needed in the Statement of Basis.