UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OCT 20 2015

REPLY TO THE ATTENTION OF:

Lynn Fiedler
Chief, Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909

Dear ~~Ms.~~ Lynn Fiedler:

I am transmitting to you the final 2015 Michigan Title V Operating Permit Program evaluation report. U.S. Environmental Protection Agency staff met with Michigan Department of Environmental Quality (MDEQ) managers on January 27-28, 2015 in Grand Rapids, Michigan, to discuss MDEQ's program implementation efforts. This review is part of the third round of EPA's state and local Title V program evaluations nationwide.

Please see the enclosed report for further information regarding EPA's program evaluation findings, including program strengths, areas for improvement and/or follow up, and MDEQ concerns and recommendations. We appreciate MDEQ's assistance and responsiveness during the program evaluation.

If you have any questions, please contact Beth Valenziano at (312) 886-2703.

Sincerely,

George T. Czerniak
Director
Air and Radiation Division

Enclosure

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Title V Operating Permit Program Evaluation Report
Michigan Department of Environmental Quality (MDEQ)
September 2015

I. Executive Summary

On January 27-28, 2015, the U.S. Environmental Protection Agency conducted an on-site evaluation of Michigan's Clean Air Act Title V Operating Permit Program in MDEQ's Grand Rapids District Office. The evaluation focused on the topics in the EPA Region 5 questionnaire developed for the third round of state permit program reviews. The questionnaire addresses the following items: follow up from EPA's 2012 Michigan program evaluation, permit forms and documents, permit processing and public comment procedures, and state feedback on the national operating permit program.

This report summarizes EPA's findings based on the input MDEQ provided for the questionnaire, discussions at the January on-site visit, and EPA staff knowledge of MDEQ's program, permits, and documentation. Additional information is available in the January 27-28, 2015 Michigan Title V Program Evaluation Questionnaire.

Program strengths- MDEQ works towards continual improvement of the state's Title V program, including initiatives to streamline applications, pursue rule changes, address fee program reauthorization and accounting, and update program documentation such as permit templates and guidance. MDEQ also maintains well developed, comprehensive program procedures, actively manages its permit workload, and maintains a low permit issuance backlog.

Areas of improvement/follow up- Permit Statement of Basis documents (known as Staff Reports in Michigan) rely heavily on the standard MDEQ template choices and are lacking in source-specific detail. MDEQ should provide training for staff and consider revising the Staff Report Template to ensure that the reports include more detailed, source-specific information. In addition, MDEQ will need to update its Title V program submittal to EPA to address MDEQ's program revisions and updates, including the fiscal year 2016 fee reauthorization and the upcoming state operating permit program rule revisions.

MDEQ concerns and recommendations- MDEQ is concerned about state resource burdens resulting from complex Maximum Achievable Control Technology (MACT) standards and also potentially from EPA's Environmental Justice (EJ) Screen tool. MDEQ recommends that EPA develop tools and training specifically geared toward MACT applicability and permitting, as well as offer basic program training, including Clean Air Act introduction, new inspector and High Priority Violator training, and Compliance Assurance Monitoring (CAM) development and review. In addition, MDEQ would like to see improved EPA enforcement/permitting communication and coordination when consent decrees include permitting actions.

II. Evaluation Summary and Findings

A. 2012 Michigan Program Evaluation Follow Up

Program submittal updates- On November 9, 2010, Michigan submitted its revised Part 70 operating permit program to EPA. The comprehensive submittal included all operating permit program elements, and completely replaced the comprehensive package Michigan previously submitted on June 1 and September 20, 2001. On August 3, 2012, and May 9, 2013, MDEQ submitted revisions to the November 2010 program submittal that included several changes, including rule updates, a streamlined renewal application form, and inclusion of greenhouse gas (GHG) requirements.

Since the 2013 submittal, MDEQ has made several minor changes and corrections to its permit templates and processing procedures. Michigan also recently passed fee reauthorization legislation, and MDEQ has several program changes currently in process, including operating permit rule revisions and streamlined initial application forms. See Section I.A. and Section II.A. of the 2015 Michigan Title V Program Evaluation Questionnaire for more information.

MDEQ will need to submit the additional program changes to EPA as revisions to its previous submittals. EPA will work with MDEQ to address these changes and move forward with updating Michigan's Title V program approval.

Staff Report- In the 2012 Michigan Program Evaluation Report, EPA found that the quality and level of detail varied in individual Staff Reports. MDEQ uses a Staff Report template, supervisory reviews, and staff training to ensure comprehensiveness and consistency. However, EPA's review of Staff Reports for permits issued in 2014 indicated that over half of the reports consisted only of language from the template's choices, without adding additional source-specific information. In addition, about half of the Staff Reports with additional information only minimally addressed one or two additional topics. See Sections I.B. and II.A.2. of the 2015 questionnaire for more information.

MDEQ should provide training for staff and consider revising the Staff Report Template and staff instructions to ensure that the reports include more detailed, source-specific information. For additional Staff Report guidance, see the information in the 2015 questionnaire appendices, including the April 20, 2014 memorandum from Stephen D. Page, EPA, entitled "Implementation Guidance on Annual Compliance Certification Reporting and Statement of Basis Requirements for Title V Operating Permits."

B. Operating Permit Program Forms and Documents

MDEQ updated its permit renewal application forms as part of the Lean Process Improvement initiative, and is in the process of making similar changes to the initial permit application forms. MDEQ has also updated its change notification, amendment/modification application form (M-001 Form), permit shell template, Staff Report, CAM guidance, MACT and New Source Performance Standards templates, and permit processing procedures. Further, MDEQ has also updated the Life after ROP Guidebook that addresses ongoing source permitting and reporting requirements.

As discussed in Section II.A. above, EPA reviewed Staff Reports for permits that MDEQ issued in 2014. In its review, EPA focused on whether the reports included additional source specific, non-template generated information. 58% (36/62) of the Staff Reports included language from the template without any additional source-specific information. Of the 26 Staff Reports with additional information, about half of those minimally addressed one or two additional topics, and half provided more detailed information on several topics. In addition, the amount of information in the source description section varied widely. In late summer 2015, MDEQ convened a workgroup of Title V permit writers that will be looking for ways to improve permits and Staff Reports and increase consistency across the state.

MDEQ's forms, templates, and procedures are available to the public on the Internet at http://www.deq.state.mi.us/aps/. MDEQ has customarily given EPA an opportunity to review any changes. Also, a stakeholder group consisting of industry, consultants, and environmental groups are given the opportunity to review any major revisions.

For additional information regarding MDEQ's forms, templates, and guidance, see Sections I.A., II.A.1., II.A.2., and Appendix C of the 2015 questionnaire.

MDEQ actively seeks continual program improvement, and regularly updates permit forms and documents, including permit templates and guidance. As discussed in the previous section, MDEQ should provide training for staff and consider revising the Staff Report Template and staff instructions to ensure that the reports include more detailed, source-specific information.

C. Permit Processing and Public Comment Procedures

MDEQ has comprehensive permit processing and public notice and comment procedures, referred to as the Renewable Operating Permit (ROP) Manual. To help ensure consistency, MDEQ has numerous fill-in, multiple choice templates posted on a central server available to staff to ensure they are using the most up to date versions. In addition, MDEQ has a secretarial review process to verify that the permits include the latest templates and are consistent across the District Offices.

Appendix B of MDEQ's Public Participation Procedures (contained in the ROP Manual) includes detailed instructions for addressing public comments on draft permits. The procedures explain how to document the results of the public comment period. The guidance also includes EPA and affected state contact information, as well as information regarding source-specific interested persons mailing lists.

MDEQ has a low permit issuance backlog. As of June 30, 2015, MDEQ has issued 375 active permits out of 382 total active permit applications. MDEQ has no initial applications older than 18 months, and only 12 renewal permit applications older than 18 months. In addition, MDEQ has a 300 day metric for permit renewals imposed by the Governor. Because this metric has such a tight timeframe, Air Quality Division's upper management closely monitors the backlog.

For additional information regarding MDEQ's permitting process and public comment procedures, see Section II.A. of the 2015 questionnaire.

MDEQ maintains well developed, comprehensive program procedures, actively manages its permit workload, and has a low permit issuance backlog.

III. MDEQ Concerns and Recommendations

MDEQ is concerned about EPA's new publicly available tool, EJ Screen. The Department questions how it will be used and how EPA will educate the public on its use and limitations. MDEQ anticipates that citizens may expect the data generated by the tool to be used in Title V permitting actions. Michigan is also concerned that MDEQ will receive concerned citizen/stakeholder questions regarding the data taken from the Toxics Release Inventory. MDEQ intends to refer any such calls to EPA.

MDEQ also has concerns about the quantity of new and revised federal regulations and the lack of guidance and education provided to implement these regulations. MDEQ believes that EPA's general fact sheets are not specific enough for regulators and the regulated community. The new standards are complex, often include multiple unit categories and applicability levels, and can be unclear. MDEQ recommends that EPA develop improved guidance documents specifically geared toward assisting states and the regulated community understand what sources and units are subject and what they are required to do.

MDEQ would also like EPA to better coordinate its permitting and enforcement activities to address inconsistencies, permit processing delays, and communication concerns. For example, the complexity and ambiguity of global consent agreements are difficult to address in source specific permit actions. The federal consent decrees that require sources to obtain a permanent, enforceable state permit do not clearly identify the expected permit content requirements. In addition, enforcement actions should rectify noncompliance issues without leaving sources vulnerable to ongoing applicability concerns that are inherent in the underlying federal standard.

Due to the aging workforce and need to backfill positions due to retirements, MDEQ anticipates the need for new staff training. MDEQ recommends that EPA provide broad based, nationally available training similar to what EPA provided when the Title V program first began. Useful new hire topics include basic Clean Air Act, Compliance Assurance Monitoring, High Priority Violators, and new inspector training. Theses trainings would be helpful in educating the new MDEQ employees as well as foster regional and national consistency.

For additional information regarding MDEQ's program concerns and recommendations, see Section III of the 2015 questionnaire. With respect to EJ Screen, the recently launched website, http://www2.epa.gov/ejscreen, includes information to help the public understand the tool, its uses, and its limitations. Also, EPA agrees that is appropriate for MDEQ to refer EJ Screen inquiries to EPA. With respect to implementing federal standards and staff training resources, Region 5 will highlight MDEQ's recommendations to EPA's Office of Air Quality Planning and Standards as part of the national Title V program evaluation workplan commitments. Finally, with respect to the enforcement and permit programs interface, EPA is currently working on several initiatives to address permit requirements, communication, review, and training needs with the enforcement program.