



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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BOSTON, MA 02109-3912

September 27, 2016

Doug Elliott, Manager
Engineering Services
103 South Main Street
Waterbury, Vermont 05671-0301

Dear Mr. Elliott:

Title V of the CAA, as amended in November of 1990, requires each state to develop and implement an operating permits program for stationary sources of air pollutants. As provided for in 40 CFR 70.10 and as a continued part of EPA's obligation to oversee and review title V programs, EPA conducted a program review on September 16, 2016.

Enclosed please find EPA's results from our recent review of Vermont's title V operating permit program. We appreciate the time and effort in providing the state's responses to our inquiries prior to the evaluation. EPA is pleased with Vermont's implementation of the program and the continued efforts in making improvements to the permits. The state continues to excel in providing a comprehensive record for each permit. We look forward to continue working with you in implementing the title V program. If you have any questions please call me at (617) 918-1653 or Donald Dahl at (617) 918-1657.

Sincerely,

A handwritten signature in blue ink that reads "Ida E. McDonnell".

Ida E. McDonnell, Manager
Air Permits, Toxics, and Indoor Programs Unit

Enclosures

Enclosure 1

Questionnaire for Vermont's Title V Program Evaluation

I. Resources & Internal Management Support

1. Has your agency re-organized or made changes to address title V permit issuance since the last program evaluation?

The state has not reorganized since EPA's last evaluation in 2009. The Vermont Air Program has a small permitting section of five engineers and each work on both state and federal PSD construction permits and state and title V operating permits.

2. Has your agency made any revisions to their title V regulations since the last program evaluation?

Vermont has made several minor revisions to its program since our last evaluation. On February 8, 2011 a revision was made to section 5-1003(b) to address area sources subject to an NSPS or NESHAP standard. The state adopted the following language:

- a. Applicability provisions of 5-1003 was revised as follows: "Any owner/operator of a *stationary source* category that the *Secretary*, in his/her discretion, exempts by declaratory ruling, so long as such exemption is consistent with Vermont statutes at Title 10, chapter 23 and with the federal Clean Air Act, as amended [42 U.S.C. 7401, et seq.], and the regulations promulgated thereunder, is not subject to the requirement to secure an *operating permit* regarding such *stationary source* under this subchapter."

The revision was made to clarify a source's obligation when it is determined the source is an area source under a section 111 or 112 standard under the CAA and EPA did not address area source title V program applicability when promulgating the standard.

- b. The state eliminated the public notice provision in section 5-1007 for when a title V application is received. The title V permit program does not require a state to notify the public when a source submits a complete application. Information contained in a source's application may not be presented in a manner that is easily understood by the public. The additional notice also results in extra cost for the state as it has to publish a newspaper notice twice for each permit issuance. Removing the public notice upon receipt of a complete application further aligns

the state's title V program with the CAA.

- c. Lastly, the state recently proposed to revise the timeframe for when a complete renewal application is due from twelve months to six months prior to the current permit's expiration date. A condensed timeframe could inadvertently impact Vermont's ability to renew the title V permit prior to the expiration date. EPA suggests Vermont leave the due date for a timely renewal application to twelve months prior to the current permit's expiration date.

- a. If yes, have these revisions been submitted to EPA for approval?

EPA was made aware of these changes but the state has not submitted the revisions at this time. Over the last several years, EPA and the state have allocated their resources to addressing the backlog of state implementation plan (SIP) revisions. With the SIP revisions impacting new source review permitting programs completed, the region plans on working with the states in addressing revisions made to title V program regulations since EPA's full title V program approvals.

3. Are there any competing resource priorities for your "title V" staff in issuing title V permits?

As stated above, the same staff work on other air permitting activities. Having the same person responsible for all air permitting at a facility allows Vermont to optimize its limited resources by having only one staff person familiarize themselves with a source's operations instead of having several staff people learn the same source operations.

4. Overall, what is the biggest internal roadblock to permit issuance from the perspective of resources and internal management support?

Although at this time Vermont's management believes the title V program is currently well staffed with a diverse knowledge base of CAA requirements, this has not always been the case due to staff turnover. High personnel turnover and new staff impede permit issuance due to the technical details of emission sources and nuances of complicated and complex permitting and emission regulations.

5. How many title V permit writers does the agency have on staff (number of FTE's)?

Vermont has five permit engineers, including the supervisor, that work on both state and federal PSD construction permits and state and title V operating permits.

6. Do the permit writers work full-time on title V? No

- a. If not, describe their other activities and what percentage of their time is spent on title V permits.

Construction permits and program development: 50% of staff time.

State Operating Permits and program development: 25% of staff time.

Special projects: 10% of staff time

title V permits and program development: 15%

7. Are you currently fully staffed? **Yes.**
8. How many title V permits are your permit writers responsible for?
Vermont currently has 14 active title V permitted sources. Two additional sources have been issued new source review permits but have not commenced construction at this time. Vermont is currently drafting initial permits for four additional facilities. These new permits are required due to either multiple title V permits at a single source or are sources that were previously considered minor sources. Responsibility for issuing title V permits to sources is assigned to staff based on their past experience and expertise.

9. Please describe staff turnover (if applicable).

As stated above, Vermont has experienced significant staff turnover in the past. Permit staffing levels have fluctuated from 3 to 5 staff for many years with typically no more than 3 experienced engineers at any one time. They are now currently staffed with four senior engineers and one new recruit with 6 months experience.

- a. How does this impact permit issuance?

Short staffing and inexperience have significantly impacted past title V permit issuance due to new staff obtaining the skill and knowledge necessary for drafting a title V permit.

10. Is there anything that EPA can do to assist/improve your training?

None at this time.

11. What was your title V fee (dollars per ton) for FY 2015?

\$67 per ton of emissions plus a \$1500 base fee for all title V sources.

12. What is your title V fee (dollars per ton) for FY 2016?

\$67 per tons plus a \$1500 base fee for all title V sources. This amount does not include an additional emission fee for stationary sources, including title V sources, which became effective in 2016.

13. How does Vermont track title V expenses?

For each pay period, staff code their actual work hours on title V related activities.

14. How do you track title V fee revenue?

Annual registration fees for both the emissions fee on a per ton basis and the base fee for title V sources are coded and deposited as title V revenue.

15. Annually what is your projected title V revenue for 2015 and 2016?

2015: \$200,000

2016: \$165,000. Vermont stated the title V fee revenue should stabilize because their sources have finished their fuel burning conversion from oil to compressed natural gas.

16. Have you noticed a trend in the amount of title V revenue collected?

Title V revenue has steadily declined over the years due to the state's older, dirtier manufacturing facilities lowering their emissions due to controls or fuel conversions or going out of business.

17. Does your title V revenue cover all of your title V expenses?

The title V revenue is equal to staff time spent directly on Vermont's title V sources for permitting, compliance, and registration. Even if allowed by the Clean Air Act, the title V fees are not sufficient to fund an overall air program that requires a base level of funding in order to devote staff time to specific tasks.

18. Are you able to roll over title V funds from one fiscal year to the next?

Yes, however this is not common practice.

19. Do you have title V funds that you currently carry over? **No**

II. Permit Issuance

20. Does your program have a plan in place to reduce and eventually eliminate the title V permit renewal backlog?

Yes, all expired title V permits are under current active review and are expected to be issued within the next year.

III. Public Participation

21. On average, how much does it cost to publish a public notice in the newspaper (or state publication)?

\$550 (per publication)

22. On an annual basis how much is spent on public notices?

All notices, including title V permits and federal major PSD permits are published in Vermont's online Environmental News Bulletin (ENB) for which there is no fee. They currently only place newspaper ads for title V permits and federal major PSD permits of which there are no more than 2-3 ads per year for a total cost of less than \$1,650.

23. What information do you post on your website during the public notice period?

The Environmental Notice Bulletin (ENB) provides the following for all in-house applications and is not limited to only those out to draft: facility name, project ID, brief project description, location, staff contact info, permit application status, date received, date noticed, date for end of public comment period, date of final action if issued, permit appeal period if issued. Projects remain on notice for 30 days following issuance. The state also notices draft title V permits and draft federal PSD permits on their own website with links to all draft documents.

24. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

As required by 40 CFR part 70, the state maintains a list of interested parties that are notified when permits are issued draft for public comment. The ability for someone to be added as an interested party for any project is advertised on the state's website. The state will be enhancing the ENB to enable interested parties, once they sign up, to receive automatic email notifications of project changes based on a subscription service that they can sign up for. Vermont's enhancement is scheduled for public launch mid-2017. EPA supports Vermont's efforts to enhance public involvement when issuing title V permits and simplifying the process for involving the public.

25. What is your opinion on the most effective avenues for public notice?

Direct notification of abutting landowners or a subscription service that enable electronic alerts for any permitting activity at sources the individual is interested in. The enhanced ENB will assist in achieving this objective.

26. Do you provide notices in languages besides English? **No**

IV. Environmental Justice Resources

27. How is the permitting authority considering and addressing EJ issues in permitting actions?

The state has very few new significant projects being proposed at this time. Most projects are small or are modifications of existing sources. The state holds all applicants to the same standards regardless of location.

28. List any specific examples where the permit decision or permit process was substantively altered in order to address EJ concerns. For each example, please specify how the permit decision was altered to address EJ concerns. (Examples might include extending the length of the public comment period, a decision to hold a public hearing, or enhancements to permit terms and conditions.) **None**

V. Incorporation of MACT Requirements into Permits

29. How does the permitting authority incorporate MACT requirements into the permit?

a. Describe the permitting authority's MACT permit content structure and approach for both major and area source standards.

The state has few sources subject to major source MACT rules. Where applicable, the state summarizes the requirements of the rule such as "the Permit shall comply with the applicable requirements of 40 CFR 60.xxx including the following: In accordance with 40 CFR 63.xx, the Permittee shall...".

b. How does the permitting authority make clear which compliance option the source is using?

The state includes only the compliance option(s) the source is currently using or may likely use in the permit term. Including unlikely compliance options adds

unnecessary confusion and complexity to a permit that is intended to clearly identify the source obligations.

- c. What process does the permitting authority have for incorporating new or revised MACT requirements into permits?

Although not an issue for Vermont, the state waits until permit renewal unless the new requirements take effect during the first two years of the permit term.

VI. State Feedback

30. What concerns does the permitting authority have with the national program that are not addressed elsewhere in the program evaluation?

Looking at our own permits and those of many other states, I fear the complexity and varied formats of these permits render them of little value to the facility or the public.

31. What issues, if any, are affecting the title V program in your state right now that you consider particularly important? None

32. What recommendations does the permitting authority have for EPA regarding the implementation or oversight of the national title V program?

It may be too late given each state has developed their own permit format, but Vermont thinks a federal model permit template would (have) been useful to identify the various issues that need to be addressed in the permit and updated periodically to reflect changes.

33. What are the permitting authority's title V program priorities?

Address backlog in FY'17

34. What can EPA do to help foster a successful title V program in your state?

Nothing at this time.

Enclosure 2

EPA Review of Title Permits during FY'16

During the 2016 federal fiscal year, Vermont issued two title V permits for operations at a landfill in Coventry. This was the first title V source located in Vermont where the state decided to issue more than one title V permit for the single source. With guidance provided by EPA, Vermont issued the two permits on March 4, 2016 to New England Waste Services of Vermont, Inc. and Coventry Clean Energy Corporation. Issuing multiple permits to a single source can help a facility when it wants to have more than one responsible official for its operations. The risk in having multiple permits is the enhanced difficulty in ensuring all applicable requirements are addressed since the state will be allocating the applicable requirements between the respective permits.

Due to this additional complexity, review of the title V permit included regional expertise regarding Clean Air Act requirements for landfills. Vermont worked closely with EPA during the development of the individual permits resulting in Vermont addressing all of EPA's questions and concerns prior to Vermont issuing the draft title V permits for the two entities. Being able to collaborate between EPA and the state early in the process optimizes both agencies resources.

Enclosure 3

Graph of Title V Permit Backlog since July 2006

All states are required to report data to EPA on a semi-annual regarding their progress in issuing title V permits that require public noticing. Below is a chart that shows Vermont's progress over the years in addressing existing title V permits that have been extended beyond the five year permit term.

Vermont also reports data to EPA regarding its ability to issue significant modifications to existing title V permits within 18 months of receiving a complete application from a source. A graph of this data is not provided since Vermont has issued all significant permit modifications within 18 months since July 2006.

