

Memorandum of Understanding
between
Region V of the U.S. Environmental Protection Agency
and the
Illinois Environmental Protection Agency

I. Scope

This Memorandum of Understanding (MOU) provides a framework under which the Illinois Environmental Protection Agency (Illinois EPA) may, at its discretion,¹ issue combined permits under both Title I² and Title V of the Federal Clean Air Act³, applicable United States Environmental Protection Agency (USEPA) regulations and corresponding Illinois programs ("combined Title I/Title V permits"). The Illinois EPA may issue such permits (1) to sources that failed to obtain a Title I construction permit prior to construction and must obtain both Title I and Title V permits; and (2) to sources that obtained Title I construction permits prior to construction which seek to revise Title I permit conditions and have such revised conditions reflected in a combined Title I/Title V permit.

II. Terms

In the situations covered in the Scope section, above, Illinois EPA will issue combined Title I/Title V permits in accordance with the following:

A. Permit Language Requirements

1. Combined Title I/Title V permits will be titled or labeled to reflect that they are issued under both Title I and Title V of the Clean Air Act, the Illinois State Implementation Plan (SIP), and

¹ This MOU does not alter existing Federal or State law or affect the scope of Illinois EPA's authority under Federal and State law. This MOU is intended merely to set forth Illinois EPA's and the United States Environmental Protection Agency's (EPA's) understanding and agreement about how combined Title I/Title V permits will be issued.

² In this MOU, the term "Title I permit" includes minor and major New Source Review (NSR) permits, and Prevention of Significant Deterioration (PSD) permits.

³ For purposes of this MOU, "Title I" means Subchapter I of the Clean Air Act, 42 U.S.C. §§ 7401-7515, and "Title V" means Subchapter V of the Clean Air Act, 42 U.S.C. §§ 7661-7661f.

corresponding State laws and regulations, including Illinois' Clean Air Act Permit Program (CAAPP).

2. Combined Title I/Title V permits will state that the combined permit serves as both a Title V, or CAAPP, permit, pursuant to Illinois Code 415 ILCS 5/39.5 and a Title I permit (specifying minor NSR or major NSR, PSD as appropriate), pursuant to Illinois Code 415 ILCS 5/39 for identified conditions. The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
3. To the extent that a combined permit does not serve as the Title I permit for one or more emissions units at a source, Illinois EPA will maintain separate Title I permits for these units.
4. The Illinois EPA shall prepare a draft CAAPP permit and a statement that sets forth the legal and factual basis for the draft CAAPP permit conditions, including references to the applicable statutory or regulatory provisions. Illinois EPA shall provide this statement to any persons who request it.
5. Combined Title I/Title V permits will reference the status of each Title I permit term or condition as follows:
 - a. ("T1") may be placed next to each condition initially established in a previously issued Title I permit and carried over from such permit without change;
 - b. ("T1R") will be placed next to each condition initially established in a previously issued Title I permit, but revised in the combined Title I/Title V permit;
 - c. ("T1N") will be placed next to each condition established under Title I of the Clean Air Act and set forth for the first time in the combined Title I/Title V permit.

The "T1R" or "T1N" indicators, together with the statements required in point 8b, below, establish the permanency of the Title I conditions.

6. For each new Title I permit term or condition, or revised Title I permit term or condition originally issued under the PSD or major NSR program, Illinois EPA will indicate in the combined Title I/Title V permit under which program the term or condition was issued. Any new or revised Title I term or condition not specifically identified as major NSR or PSD will be considered developed in a State minor NSR permit to avoid major NSR or PSD.
7. The Illinois EPA will identify in the combined Title I/Title V permit any previously established applicable requirements that it is deleting, and the basis for the deletions.
8. Combined Title I/Title V permits will indicate that:
 - a. For purposes of Title V and corresponding State law, terms and conditions in a combined permit expire on the earlier of the date specified in the permit or in five years unless renewed pursuant to regulations governing Title V permit renewal; and
 - b. For purposes of Title I and corresponding State law, terms and conditions in the combined permit that were established or revised pursuant to Title I, whether previously in a separate Title I permit, or initially in the combined Title I/Title V permit, do not expire.

B. Process Requirements

1. The issuance, renewal or revision of terms and conditions in combined Title I/Title V permits must satisfy the substantive and procedural requirements of both Title I and Title V, corresponding State law and the Illinois SIP, as applicable.

2. The public notice shall state that both a Title V and Title I action is occurring. A Project Summary or other technical support document will accompany the Title I/Title V permit at public notice. The Project Summary or technical support document will state that the combined Title I/Title V permit serves as both the Title V, or CAAPP, permit and the Title I permit. It also will state that the Title I/Title V permit may include new or revised Title I conditions.
3. The Illinois EPA's use of a combined permit shall not affect the ability of any person to appeal a PSD permit to EPA's Environmental Appeals Board (EAB) in accordance with 40 C.F.R. Part 124. Appeal to the EAB of a PSD permitting action may result in a stay of the effectiveness of the permit for purposes of Title I, as provided by 40 C.F.R. 124.19. Appeal of the permit for purposes of Title I, and review and objection of the permit for purposes of Title V shall follow the procedures at 40 C.F.R. Part 124 and the procedures at Illinois review and objection rules and 40 C.F.R. Part 70, respectively.
4. Where a Title I permit already exists for emission units at a source, and the conditions established in the existing Title I permit for the unit are not revised in the combined permit, the status of the Title I permit is not altered by this MOU or by issuance of the combined Title I/Title V permit.

III. Authority

The Illinois EPA has undertaken a thorough review of existing Illinois laws and regulations and has concluded that it has the authority to enter into this MOU and to have a combined Title I/Title V permit serve as a Title I permit under 415 ILCS 5/39, the Illinois SIP, and 40 CFR Part 52 and a Title V permit under 415 ILCS 5/39.5 and 40 CFR Part 70. Illinois EPA has provided EPA with a written legal opinion setting forth these conclusions. The USEPA has reviewed Illinois EPA's legal opinion and agrees with its conclusions.

IV. Approval

Region V of the USEPA and the Illinois EPA hereby agree to the terms of this MOU.

/s/

/s/

Cheryl L. Newton
Associate Director
Air and Radiation Division
Region V, EPA

Dennis Lawler
Manager
Division of Air
Pollution Control
Illinois EPA

2/14/00

2/8/00

[Date]

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