

Title V Permitting Program for Major Air Pollution Sources

Title V of the federal Clean Air Act reauthorization (1990) requires each state to develop a permit-to-operate system and emission fee program for major sources of air pollution. Ohio's rules for this program became effective on April 20, 1994.

The Title V permit for major sources is enforceable by Ohio EPA and U.S. EPA. Major sources must certify compliance with the terms of their permits annually. This fact sheet outlines the permitting process for Title V permits and summarizes some of the program requirements.

What is a Major Air Pollution Source?

Under Title V, major sources are those with a potential to emit:

- 100 tons per year or more of any one regulated pollutant (particulate matter, nitrogen oxides, sulfur dioxide, carbon monoxide, volatile organic compounds and lead);
- 10 tons per year or more of any one hazardous air pollutant; or
- 25 tons per year or more of any two or more hazardous air pollutants (U.S. EPA currently lists 187 hazardous air pollutants in Section 112 of the 1990 Clean Air Act).

Monitoring, Reporting, Compliance and Certification

A Title V permit includes emission limits and standards, as well as monitoring, record-keeping and reporting requirements. Records of required monitoring must be submitted periodically. Deviations from any federally enforceable permit requirements must be reported no later than three days after discovery.

All Title V permit holders must certify annually that they have complied with the terms of their Title V permit.

Fees

Fees are assessed on the actual amount of emissions of particulate matter, sulfur dioxide, nitrogen oxides, organic compounds and lead. The fee for reporting year 2009 is \$43.83/ton. Fees are calculated based on a base fee of \$25/ton in 1989 dollars.

Small Business Assistance

As required in Title V, Ohio EPA has developed a program to help small businesses comply with complex Clean Air Act requirements. This service offers technical assistance, an ombudsman to represent small business concerns and a clearinghouse of information regarding compliance methods and technologies. For more information, go to www.epa.ohio.gov/ocapp/sb/index.aspx.

Steps of the Title V Permitting Process

1. Ohio EPA receives an electronic Title V permit application through the Air Services Web site www.epa.ohio.gov/dapc/airservices.aspx.
2. Ohio EPA performs a preliminary completeness review of the permit application to determine if it contains the necessary information. If the application is not complete, Ohio EPA will advise the applicant to submit additional information. If Ohio EPA does not determine preliminary completeness within 60 days, the application is deemed to be complete. If a timely and complete application is filed, the applicant may lawfully operate the facility until Ohio EPA either determines the application is incomplete or takes a final action to issue or deny the permit.

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3. Ohio EPA conducts a detailed technical review of the completed application.
4. Ohio EPA makes a preliminary decision to issue or deny the permit. Notice of the decision is published in a local newspaper and provided to affected states (neighboring states whose air quality may be affected or states within 50 miles of the facility) and to U.S. EPA. This begins a 30-day public comment period. If there is significant interest, Ohio EPA will hold a public hearing at which interested persons may ask questions and comment on the draft decision.
5. Ohio EPA reviews all comments received during the public comment period. If the preliminary decision is to issue the permit, a written response to comments is prepared, and a preliminary proposed permit is submitted to the applicant. This preliminary permit may contain special terms and conditions in response to public comments. The applicant may request a conference with Ohio EPA to discuss the preliminary proposed permit. The applicant has 14 days to request a conference.
6. Ohio EPA submits the proposed permit to U.S. EPA. Ohio EPA must give reasons, if necessary, for refusing to accept any recommendations from neighboring states. U.S. EPA must decide within 45 days whether to object to the proposed permit.

If U.S. EPA objects to the proposed permit, Ohio EPA cannot issue it as written.

- Ohio EPA has 90 days to consult with U.S. EPA and the applicant and send a revised proposed permit to resolve the issue. Or, Ohio EPA may determine that U.S. EPA's suggested revisions are inconsistent with the law. If that is the case, Ohio EPA has 90 days to notify U.S. EPA of the determination.
- U.S. EPA can issue a federal-only final permit to the applicant if Ohio EPA disagrees with U.S. EPA's objections. If the final permit is issued or denied by U.S. EPA, it can be appealed to the U.S. Sixth Circuit Court.

If U.S. EPA does not object to the proposed permit:

- Ohio EPA has 10 days to issue a final Title V permit.
- Third parties, including citizens, have 60 days to petition U.S. EPA to reconsider its decision not to object. Objections must be based on comments made during the official comment period. If U.S. EPA responds to a petition by objecting after Ohio EPA has already issued a permit, the permit will be revised or revoked.

Title V Permit Appeal Procedure

If Ohio EPA issues a final Title V permit, an appeal can be made to the Environmental Review Appeals Commission (ERAC). An appeal to ERAC must be in writing and specify the action being appealed and the grounds on which the appeal is based. A copy of the appeal must be received by the director of Ohio EPA within three days of filing with ERAC. File the appeal with:

Environmental Review Appeals Commission
309 South Fourth St., Room 222
Columbus, OH 43215
(614) 466-8950
www.erac.ohio.gov/

Also, third parties can petition U.S. EPA to reconsider the issuance of a Title V permit (see Step 6 of the Title V permitting process outlined previously).

For More Information

For more information about Ohio EPA's Title V Program, please contact the Division of Air Pollution Control directly, or go to: www.epa.ohio.gov/dapc/title_v/titlev.aspx.