



FINAL Report:
Olympic Region Clean Air Agency
Title V Program Review

EPA Region 10
September 28, 2007

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Attachments

- I. Completed Questionnaire

Introduction

This report documents the Title V program review for Olympic Region Clean Air Agency (ORCAA) located in western Washington.

Overview and Program Review Objective

In response to recommendations in a 2002 Office of Inspector General audit, EPA has set an aggressive national goal of reviewing all state and local Title V programs. Specifically, EPA has developed an action plan for performing reviews of state and local Title V programs and has committed to continuing the Title V fee reviews begun in 1998. The objective of the broader program reviews is to identify good practices that other agencies can learn from, document areas needing improvement, and learn how EPA can help improve state and local Title V programs and expedite permitting.

EPA Region 10 has completed a review of 8 Title V programs including Idaho Department of Environmental Quality, Oregon Department of Environmental Quality, Lane Regional Air Pollution Authority (located in west-central Oregon), Spokane County Air Pollution Control Agency (located in eastern Washington), Northwest Clean Air Agency (located in northwestern Washington), Puget Sound Clean Air Agency (located in Western Washington), Washington Department of Ecology (WDOE) and Alaska Department of Environmental Conservation. In addition, EPA Region 10 is in the process of completing a Title V program review for Southwest Clean Air Agency (located in southwest Washington).

We would like to acknowledge and express EPA's appreciation for the cooperation and patience of ORCAA management and staff throughout all stages of our review of their Title V program. Receiving the timely and complete questionnaire response in advance of the on-site interviews was very helpful, allowing EPA to narrow the focus of our on-site interviews. ORCAA's efforts to make management, staff, and space available to EPA for the interviews also helped make the on-site time very productive.

General ORCAA Title V Program Background

ORCAA is a local air pollution control agency with jurisdiction in six counties located in western Washington: Clallam, Grays Harbor, Jefferson, Mason, Pacific and Thurston. Exceptions to ORCAA's authority in those counties include: EPA regulates sources in Indian Country; WDOE is the Title V authority for all chemical pulp mills and aluminum smelters; and the Washington Energy Facility Site Evaluation Council (EFSEC) regulates all thermal electric energy projects that are 350 megawatts or more in size.

ORCAA has its own Title V fee regulation but requires sources to comply with the WDOE Title V regulation found in Washington Administrative Code (WAC) 173-401. EPA granted ORCAA, along with WDOE, six other local agencies and EFSEC, interim approval of its Title V program effective December 9, 1994, and full approval effective September 12, 2001, 66 FR 42439 (August 13, 2001).

ORCAA issues Title V permits to approximately 14 sources. There are 4 full-time permit engineers at ORCAA that divide their time between Title V permits and several other duties including minor source program, open burning and asbestos.

Program Review Basis

EPA's review of ORCAA's Title V program, which began in July 2007, is based on answers ORCAA provided to an EPA questionnaire, review of a selection of issued permits and statements of basis and

interviews with ORCAA representatives during a site visit on August 20 and 21, 2007. This information was analyzed with regard to Part 70 regulations and policies and ORCAA and WDOE state regulations.

A questionnaire, developed by EPA Headquarters with input from the Regions and revised by Region 10 to include a table titled State/Local Title V Program Fiscal Tracking Evaluation Document (the protocol developed by EPA in 1997 and used in previous Title V fee program reviews), was sent to and completed by ORCAA in advance of Region 10's on-site visit to the agency. We reviewed the completed questionnaire (Attachment I) and other available information prior to the on-site visit, including two issued permits: Sierra Pacific Industries located in Aberdeen and Simpson Timber Company located in Shelton.

While on site at the ORCAA office, we interviewed the air permits supervisor, finance staff and one permit engineer. The purpose of the interviews was to confirm and clarify what we learned from our review of the permits and questionnaire and to ask questions that developed during our pre-visit review.

EPA's review team included two Region 10 staff members. Key elements of each individual's observations, as well as observations from the on-site interviews, are highlighted and discussed in the report.

Program Review Report

This program review report is formatted consistent with the program review questionnaire. Within each of the topic areas, the report describes good practices, concerns, and other notable observations. The fee protocol information is addressed in the Resources and Internal Management Support section of the report. The report addresses the following topic areas:

- A. Permit/Review Report Preparation and Content
- B. General Permits
- C. Monitoring
- D. Public Participation and Affected State Review
- E. Permit Issuance/Revision/Renewal
- F. Compliance
- G. Resources and Internal Management Support
- H. Title V Benefits
- I. Document Review (Rules/Forms/Guidance)

With the exception of Section H, each section of the report highlights and discusses good practices, concerns, and other general observations. In response to the program review questionnaire and during the on-site interviews, ORCAA identified a number of benefits that have resulted from the implementation of the Title V program. The notable benefits realized by ORCAA, which reflect the value that can come from responsible implementation of such a comprehensive air quality program, are listed in Section H.

In general, we included in the report only those good practices that are unique to ORCAA or seem particularly worth noting and passing along to other permitting authorities. ORCAA's implementation of the program includes many other good practices that are not specifically discussed in the report because they are widely used among other Title V permitting authorities.

A summary of concerns is also provided that identifies those issues that will need to be addressed. Some concerns identified in this review will need to be resolved as ORCAA revises and renews their operating permits. EPA Region 10 expects ORCAA to respond to each of the concerns identified in this report. EPA will work with ORCAA to address the identified concerns and will schedule follow-up as needed.

A. Title V Permit Preparation and Content

Good Practices

1. ORCAA has a good internal review process for Title V permits as well as standard internal procedures and checklists. Each permit is reviewed by ORCAA's compliance and enforcement staff, professional engineer and agency director. Permit engineers routinely consult with permit engineers from other agencies throughout the state and nation. This collaboration likely results in better, more comprehensive and more enforceable permits.
2. ORCAA's statements of basis (called Technical Support Documents) contain useful information including technical descriptions and process flow diagrams, NSR and regulatory histories and "MACT road maps" that explain how each provision of the applicable MACT apply to the source. A table showing how construction permit requirements have been incorporated into the Title V permit was very useful.
3. ORCAA has redesigned their NSR permit format with Title V in mind so applicable requirements can be more easily incorporated into Title V permits.

Concerns

1. In at least one permit, ORCAA has incorporated an NSPS requirement by reference, citing only the subpart and listing none of the specific requirements that apply to the source. To be an effective compliance tool, permits should be as clear as possible about the requirements that apply and add specific monitoring that assures compliance. Simply referencing at the NSPS subpart level is not an adequate level of detail for Title V. ORCAA should specifically list in each permit the requirements from any NSPS that apply.
2. In ORCAA's permits, the Standard Terms and Conditions section presents off permit change provisions but did not specify that off-permit changes require notification to the agency. This should be added. ORCAA should also consider adding generic language that addresses the requirements in 40 CFR 52.21(r)(6), which becomes an applicable requirement when sources determine PSD applicability using a specific technique.

Other Observations

1. During the on-site interviews, ORCAA's permit format was discussed. Suggestions for changes were made based other formats used by permitting authorities in the northwest. While it would likely take a considerable effort to change all of the permits to a different format (see permits issued by Oregon or Idaho), ORCAA should consider the benefits of making practical changes during permit renewals.
2. ORCAA should become familiar with CROMERR as it applies to electronic submittals to their agency.

B. General Permits

ORCAA has not developed or issued any general permits.

C. Monitoring

Good Practices

1. ORCAA bases their monitoring decisions on their experience regulating the source in the past which includes past emission tests, enforcement history and monitoring plans for similar sources.
2. ORCAA appears to have created a generic opacity survey requirement which can be used on a plant-wide basis. The approach incorporates observation concepts from RM22, is graduated to address opacity observations and possible violations and includes adequate documentation. This is a practical way to address generally applicable opacity requirements for emission units that normally do not emit visible emissions.

Concerns

1. Permits often required monitoring of several parameters, but not all of the parameters were always referenced as monitoring for a related applicable requirement. Where several monitored parameters can indicate how an emission unit is performing, there is no reason to not rely on all of them in some way. ORCAA should consider more cross-referencing between applicable requirements and monitoring in their requirements tables.
2. Some permits listed the option to require testing as the monitoring technique for assuring compliance for certain generally applicable emission limits. In some cases, there was no explanation why no testing (or other monitoring) was being required or what circumstances could lead to a requirement to test. In other cases, periodic testing was required without any explanation as to why that frequency adequately assured compliance. ORCAA should assure the permit includes monitoring that assures compliance or clearly explain why no monitoring is necessary in the Statement of Basis.
3. While ORCAA appears to thoroughly document their CAM-related decisions, in at least one application of CAM, ORCAA required monitoring a parameter to indicate compliance with a PM standard without establishing the relationship between the parameter level and PM compliance. In general, surrogate parameter levels, whether for CAM or not, should be established relative to compliance with the standard in question. Without that, monitoring that parameter does not assure compliance.

Other Observations

None

D. Public Participation and Affected State Review

Good Practices

1. In addition to publishing public notices in a local newspaper and sending them to their maintained mailing list, ORCAA uses the WDOE Air Operating Permit Register and posts them on the ORCAA website. They also will publish press releases on specific permit actions. Notices are also sent to a list of affected states and tribes. To improve public understanding and involvement, ORCAA also encourages sources to be more proactive in public outreach by holding general information workshops and plant tours.

Concerns

1. Like many of the permitting authorities across the country, ORCAA provides the permittee with a pre-draft permit for review and comment before the draft permit goes out for public comment. Soliciting the permittee's input on the factual aspects of the permit can help to reduce errors in the permit and help educate the permittee on its obligations under the permit. Working with the permittee on developing the substantive requirements of the permit, however, can create the impression that the permit issuance process is not an open process. ORCAA should carefully balance these interests as it works with permittees during the development and issuance of Title V permits.

Other Observations

None

E. Permit Issuance / Revision / Renewal

Good Practices

1. ORCAA has created permit processing checklists which ensure consistent procedures and enables effective training of new staff.

Concerns

1. ORCAA's fee structure bases part of the fee on the number of emission units to account for permit complexity. The emission unit concept in Title V generally allows useful flexibility in grouping or non-grouping of plant site activities based on a number of factors such as similar applicable requirements or operations. This can make implementation of the permit requirements more practical. Placing a price (by basing the fee) on the number of emission units can put these intentions at odds with each other. To deal with that, ORCAA defines the number of emission units for fee purposes differently than the emission units identified by the permit. While this may work, ORCAA should clarify this distinction some place, possibly including the statement of basis.

Other Observations

None

F. Compliance

Good Practices

1. ORCAA requires all deviations to be reported no later than 30 days after the end of the month in which they were discovered, with some reported sooner. This should allow ORCAA to ensure more timely mitigation and enforcement as needed.

Concerns

None

Other Observations

1. The focus of this Title V program review was on ORCAA's implementation of its Title V program. Accordingly, in conducting this Title V program review, EPA reviewed ORCAA's compliance certification and semiannual monitoring report forms, but did not review completed forms submitted by Title V facilities to determine the extent of compliance with Title V requirements in ORCAA's jurisdiction and whether ORCAA is taking appropriate enforcement actions in response to noncompliance. EPA also conducts periodic reviews of state and local Clean Air Act enforcement programs which look at, among other things, source compliance and enforcement actions.

2. **G. Resources and Internal Management Support**

Good Practices

1. ORCAA appears to have a sound accounting system which effectively tracks Title V revenues and expenses separate from non-Title V revenues and expenses. They recently created a small “slush fund” for Title V to account for unexpected expense variations at the end of each fiscal year. This fund should prevent temporary funding deficits in the Title V program.
2. ORCAA has been able to limit staff turnover through a number of techniques: variety of work, career advancement ladder, competitive salaries and close-knit internal working relationships.

Concerns

1. ORCAA generally distributes non-labor Title V costs based upon FTE spent in each separately funded program. This is an efficient way to account for costs which are otherwise very difficult to track separately. Expenses, such as travel to Title V training, might be an exception to this approach that could be easily attributed to only Title V.

Other Observations

1. ORCAA would like to EPA to clarify terms like excuse, permit deviation, and violation.

H. Title V Benefits

Benefits Identified by ORCAA

In response to the program review questionnaire and during the on-site interviews, ORCAA identified a number of benefits that have resulted from implementation of the Title V program.

1. ORCAA staff better understand NSPS, SIP and NSR/PSD requirements, how to design enforceable monitoring terms to assure compliance, and how to write enforceable permit terms.
2. Since Title V began, ORCAA has more complete information and knowledge about their source universe, including facilities previously unknown to ORCAA, source operations, emission inventories, program applicability and more enforceable permits.
3. In issuing Title V permits, ORCAA noted inconsistencies in how sources had previously been regulated and is now taking steps to assure better regulatory consistency within source categories and between sources. ORCAA also consults with other agencies and participates in industry associations.
4. While compliance problems were occasionally identified prior to permit issuance, after permit issuance compliance problems were frequently identified. ORCAA now uses Title V to target inspections and enforcement and works more closely with their sources to address compliance issues.
5. Permittees have increased the use of self-audits and environmental management systems, increased staff and resources devoting to environmental management, controls and compliance monitoring, and improved their awareness of compliance obligations.
6. Title V has resulted in improved emission inventories, records management, enforceability of PTE limits, identification of persistent compliance problems, clarity of NSR permit terms, and documentation of the basis for applicable requirements (in the statement of basis). In fact, Title V has changed the way NSR permits are written and documented.
7. Title V fees have stabilized funding for ORCAA and provides for better training, more resources, better funding for travel and incentives for hiring and retaining quality staff.
8. ORCAA has received positive feedback about the Title V program from citizens.

I. Document Review (Rules/Forms/Guidance)

Good Practices

1. ORCAA's web site contains all of their Title V permits and statements of basis, as well as many of the supporting documents such as construction approvals and consent decrees. This is a very effective way to make these permit-related documents available to industry and the general public.

Concerns

None

Other Observations

1. Noting that the state of Washington audits their program, ORCAA suggested that EPA program review could possibly be combined with the state audit to save agency time and resources.