

Ronald W. Gore, Chief
Air Division
Alabama Department of
Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Dear Mr. Gore:

This correspondence is being sent to provide you with a final copy of the U.S. Environmental Protection Agency Region 4 report, which was completed as a result of the EPA title V and New Source Review program evaluation conducted on June 25-26, 2013, (see Enclosure). The purpose of this program review was to evaluate the status and the ability of the Alabama Department of Environmental Management (ADEM) to carry out the duties and responsibilities required to effectively run the title V program, as well as find out how the EPA can best assist ADEM in meeting these commitments.

If you or your staff have any questions regarding the report, please do not hesitate to contact Randy Terry of the EPA Region 4 staff at (404) 562-9032.

Sincerely,

Beverly H. Banister
Director
Air, Pesticides, and Toxics
Management Division

Enclosure

Alabama Department of Environmental Management Title V Program Review

The Alabama Department of Environmental Management (ADEM) initial program review was conducted February 8 -10, 2005, in Montgomery, Alabama. The program evaluation report was issued on May 11, 2005. Copies of this report are kept on the U.S. Environmental Protection Agency website and on file at the EPA Region 4 office in Atlanta, Georgia. Based on the information gathered from the title V program evaluations and the implementation of new title V permit requirements, the EPA committed to conduct a second round of title V program reviews for all state and local programs that had at least 20 title V major sources within their jurisdiction by the end of FY 2010.

The second program evaluation of the ADEM title V program was conducted December 3 - 4, 2007, in Montgomery, Alabama. Seven title V sources, including two with compliance assurance monitoring (CAM) plans, were reviewed by EPA as part of the program evaluation. An entrance interview between EPA and key staff of ADEM was conducted, where the EPA explained the details that Region 4 would be addressing during their State office visit. The following parties attended the initial meeting: Randy Terry (EPA Region 4); Katy Lusky (EPA Region 4); Gracy Danois (EPA Region 4); Brandi Jenkins (EPA Region 4); Larry Brown (ADEM); Tim Owen (ADEM); Doug Carr (ADEM); and Jeff Kitchens (ADEM). The final program evaluation report was issued on July 24, 2008. Copies of this report are kept on file on the EPA website and in the EPA Region 4 office.

The EPA conducted a third program evaluation of the ADEM title V program on June 25-26, 2013. This evaluation consisted of a review of the title V budgeting and accounting process, permit file review, public participation, and follow-up from previous evaluations. ADEM personnel in attendance included Larry Brown, Doug Carr, Christy Monk, Jimbo Carlson, M. Lynn Battle, and Lisa Cole. The EPA staff in attendance included Randy Terry and Art Hofmeister. Upon finalization, this report will be kept on file at the EPA Region 4 office and posted on the EPA website.

Program Review

ADEM's organizational structure for air permitting resides at their central office in Montgomery. All title V permits are processed in the Montgomery office. ADEM's title V permitting jurisdiction covers all of Alabama except for Jefferson County and the City of Huntsville, which have their own permitting programs.

Executive Summary

Positives:

- (1) ADEM staff has been able to remain consistent in processing the majority of their title V permits and significant modifications within the required timeframes. Within the past year, ADEM staff received 32 title V renewal and significant modification applications, and processed a total of 36 actions, reducing their inhouse total of title V renewals and modifications to 58.

- (2) ADEM's budget process is well organized, easily followed and very thorough. The discussion with ADEM staff regarding the establishment of the annual budget reflected that the staff has an excellent understanding of the overall budget process and clearly differentiates and identifies title V revenue and expenses from non-title V revenue, such as Section 105 grant monies, and expenses. Additionally, the use of biweekly timesheets to track time spent on title V activities allows management to remain abreast of the amount of work hours being dedicated to implementing the requirements of the title V program.
- (3) ADEM's use of their database is an excellent tool that aids in ensuring that management and staff remain constantly vigilant of impending due dates for title V actions, such as renewal permits and synthetic minors.
- (4) Based on review of several title V permits, ADEM's permits are well organized, easy to read and practically enforceable (exclusive of greenhouse gas (GHG) requirements). In addition, during content review of permit files, all the administrative components were present and easily located. Several of the permits reviewed were still within the EPA 45 day review period and our office had minor comments on them. These comments were provided outside of the program evaluation as they were not deemed as programmatic concerns.

Areas of Concerns:

- (1) The program has a backlog of 22 renewals, two initial applications and two significant modification title V permit applications older than 18 months past the title V permit expiration date. All of these applications were certified by ADEM as being timely and complete, so they are extended and not expired.
- (2) ADEM received only 24 title V renewals in the past year, but has a total of 316 active title V sources. 32 title V permits were issued in the past year. This would result in 284 permits to be issued in the next four years, or 71 permits per year. In addition, there are title V applications currently in-house to be issued. Title V permit issuance must remain a point of emphasis or the backlog could steadily increase in future years.
- (3) As a result of the turnover of the ADEM permit staff (seven title V staff lost within the last year, 11 lost within the past two years, and none replaced), combined with the lengthy and uncertain process to backfill these positions, the concern over permit issuance as well as other title V activities remains constant.

Method for addressing these areas:

- (1) The EPA has requested an explanation to better clarify why the title V permitting actions older than 18 months have not been issued. The EPA will monitor the issuance of these permits through the semiannual submission of the Title V Operating Permits System (TOPs) data from the permitting authority.

- (2) The EPA will monitor the productivity from ADEM staff, through the TOPs reports, to ensure the title V permit issuance output is being maintained at a sufficient level to prevent the buildup of a permitting backlog.

A. Resources and Internal Management Support

ADEM currently funds 15 full time equivalent (FTE) permit writer positions that work primarily with title V. Title V permit writers estimate their time allocation to be 30 percent writing permits, 60 percent enforcement of those permits, and 10 percent other activities. In order to adequately track time spent on title V and non-title V activities, ADEM employees must turn in bi-monthly time sheets that identify title V and non-title V activities. ADEM's permit writers generally have a workload of 21 permits per permit writer, although this number varies based on the complexity of the permit and the number of title V applications in-house for a particular industry category. Management is kept abreast of permit issuance with monthly status reports on specific projects and by checking the ADEM permitting database.

With improving conditions in the economy, multiple ADEM engineers have left the agency to work in the private sector. In the past two years ADEM has experienced a staff loss of 11 employees, including seven within the past year. None of these staff have been replaced due to an overall statewide hiring freeze. In addition, ADEM has not had a cost of living salary adjustment for five years due to overall statewide budget constraints. At the time of the program evaluation, ADEM had submitted requests to begin backfilling the vacant positions. Upon approval, many of these positions could be filled in as short a time period as six months. ADEM has some flexibility in determining starting salaries for incoming employees. Based on work experience, ADEM can increase their starting salaries within the pay band.

Title V applications are assigned to permit writers based on the industrial source category, so the staff turnover has tended to create more of a localized impact on permit issuance in the affected industry category rather than a program wide impact. The competing priorities of New Source Review (NSR), enforcement, and non-title V sources have remained the largest internal roadblock to title V permit issuance from the perspective of resources and internal management support.

Title V sources send their title V payment into a separate account established by ADEM's Fiscal Division to track title V revenue. Funds are received and deposited into separate accounts and funds are withdrawn based on necessary expenditures. ADEM's accounting procedures allow for the individual tracking of both title V and non-title V expenses.

At the time of the 2008 program evaluation, one issue that concerned the ADEM management was the steady decline in billable tons of emissions for the title V program. This decline had been a slow decrease over the years and the program had been able to compensate for this with the annual increase in the title V presumptive minimum.

From 2008 - 2011 the ADEM collected the following title V revenue:

FY2008 - \$9,130,540
FY2009 - \$8,854,119
FY2010 - \$8,098,346
FY2011 - \$8,010,822

From FY 2008 – FY 2011, ADEM’s title V fee increased slightly more than four percent from \$34.50 per ton to \$36.00 per ton. Over that same time frame their title V revenue collected decreased by more than twelve percent, due to a reduction in billable tons of emissions. As a result of this decrease, in 2012, ADEM increased their title V fee to \$37.50 per ton which generated \$8,513,121 in revenue. For FY 2013, ADEM has established its title V fee as \$37.00 per ton. ADEM does not maintain surplus title V funding from one fiscal year to the next. Any funds not spent in one fiscal year are considered part of the funding for the following year.

B. Public Participation

ADEM’s current policy is to proceed to the 30-day public notice period once the permit is in a final draft form. ADEM does not have a State publication that it uses for publishing their public notices. The public notice is generally published in the nearest newspaper to the source with a daily publication. When a community near the source has a weekly newspaper, ADEM will usually publish the public notice in the weekly paper as well. On several occasions, ADEM has published the public notice in the daily paper in an adjacent state (Georgia). The range of costs to publish a public notice typically falls between \$200 and \$300. In the past year ADEM spent \$14,500 publishing public notices in newspapers. ADEM also maintains a mailing list to notify any persons interested in title V permits. Anyone interested in being on this mailing list can submit a request, by phone, email, or mail to ADEM, to be included. There is no fee charged for inclusion on the list. New names are listed within the week of the request. Persons on the mailing list receive a copy of the public notice. The notice, draft permit and the statement of basis (SOB) can be downloaded from ADEM’s website, which is updated daily.

ADEM’s website includes information within each notice explaining where the public should go to view the documents and how to submit comments. Additionally, ADEM has added a document to their website entitled “Public Participation in the ADEM Rulemaking and Permitting Process” to assist the public. ADEM’s Office of Communication, Planning and Outreach acts as a liaison to the public. ADEM also has an environmental justice (EJ) ombudsmen to assist in reaching out to specific communities.

In an effort to ensure ADEM staff was trained to respond to EJ concerns each division has an EJ coordinator charged with providing oversight of EJ related activities. In addition, all title V permit writers were required to take a course on EJ.

C. Renewal Permits and File Review

ADEM has issued 100 percent of their initial title V permits and is currently working on issuing renewal permits. Full applications are required by ADEM for all renewals. From July 2012 to June 2013, ADEM issued 32 permit renewals and four significant modifications. At the time of the 2008 title V program evaluation, ADEM had 70 renewal applications in-house to be processed with only three backlog permits. Since then, their overall number of title V applications in-house has been reduced to 49, however the backlog permits number has grown to 24 title V applications (22 renewals and two initials) and two significant modifications. All of these applications were certified by ADEM as being timely and complete, so they are extended and not expired.

As a part of the program evaluation, the files of three recent permitting actions by ADEM were reviewed: an initial title V permit for *Colormaster* (#711-0066) and title V permit renewals for *Cherokee Nitrogen* (#701-0013) and *Daikin America* (#712-0061). The respective files contained all of the basic elements (*e.g.*, application summary form, public notice tearsheets, etc.). The only significant issue noted was that GHG emissions were not addressed (either in the application or the SOB) for what apparently are GHG-emitting sources. ADEM was advised to double-check the applications to ensure that GHG emissions were not improperly omitted. ADEM was also encouraged to address GHG emissions in the SOB (*i.e.*, to include GHG emissions as a minimum in a table), regardless of whether or not the source is subject to GHG-specific requirements.

Conclusion

At the conclusion of the onsite portion of the title V program review, Region 4 personnel met with key ADEM officials to conduct an exit interview. During this exit interview Region 4 shared the findings of the review. Personnel in attendance from the EPA Region 4 were Randy Terry and Art Hofmeister. ADEM officials in attendance included Larry Brown, Doug Carr, and Jimbo Carlson.

Overall, ADEM has demonstrated to the EPA that it is meeting the requirements of 40 CFR part 70 and the EPA looks forward to continuing to work with ADEM in the future.