

Lauren Anderson, Director
Air Pollution Control District
of Jefferson County
850 Barrett Avenue, Suite 200
Louisville, Kentucky 40204

Dear Ms. Anderson:

This correspondence is being sent to provide you with a copy of the final report prepared by the U.S. Environmental Protection Agency Region 4 on the Louisville Metro Air Pollution Control District's (the District) implementation of its Clean Air Act title V operating permit program. This report reflects the results of an EPA program review conducted on July 27, 2011. The purpose of this program review was to evaluate the status and the ability of the District 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 the District in meeting these commitments.

During the evaluation process, several areas were noted as needing improvement. These concerns were subsequently detailed in a separate letter dated March 16, 2012. Included within that letter were specific tasks to be completed in order to resolve all of these issues and an acceptable timeline in which these tasks should be completed. On April 27, 2012, the District provided a detailed response to the tasks detailed in the March 16, 2012, letter. The EPA concerns and the District's responses have been incorporated into this final report on the title V program evaluation.

I would like to thank you and your staff for your cooperation throughout the program review. The EPA Region 4 looks forward to continuing to work closely with the District in resolving all of these concerns and to improve the overall quality of the title V program. If you or your staff have any questions regarding this 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

Louisville Metro Air Pollution Control District Title V Program Review

Background

The Louisville Metro Air Pollution Control District (the District), initial Clean Air Act title V permit program review was conducted on March 11, 12, 15 and 16, 2005, in Louisville, Kentucky and is kept on file at the U.S. Environmental Protection Agency Region 4 office in Atlanta, Georgia. Based on the information gathered from the initial 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 fiscal year 2010.

The second program evaluation of the District title V program was conducted November 19-20, 2008, in Louisville, Kentucky. Based on the findings of the initial program evaluation, the EPA focused the second round evaluation on permit issuance, resources, staffing, implementation of compliance assurance monitoring (CAM) and follow-up of concerns from the March 2005, initial program evaluation. The EPA did not review any permits as part of this program evaluation, as none had been issued since the 2005 program evaluation. The final report was issued on January 22, 2010, and is on file at the EPA Region 4 office in Atlanta, Georgia.

Executive Summary

The EPA conducted its third program evaluation of the District title V program on July 27, 2011. This evaluation consisted of a brief discussion of the title V budgeting and accounting process, permit file review, public participation and follow-up from previous evaluations. Program improvements noted within this report include:

- Overall reduction in unresolved deviation reports. The District had a backlog of over 350 unresolved upset reports at the time of the November 2008 program evaluation. Since then they have restructured, creating a new compliance section and have reduced their unresolved upset reports by more than 90%.
- The overall improvement of the District's file room/filing system. The District has greatly improved their file room and organization of their title V files. Their electronic file system was easy to navigate and the desired information was easy to find.
- Staff retention has improved. The District had one employee leave in the past three years. The District attributes the improvement to increased salaries, more promotional opportunities, the development of an engineer career path and a focus on professional development.
- The issuance of the final initial title V permit application. The District completed permitting their initial universe of title V sources (2009) with the issuance of the General Electric permit.

Items of concern noted within the report include:

- Overall title V permit issuance.
 - In 2010 the District issued 3 title V permits and at the time of the program evaluation in 2011 they had issued one title V permit.
 - The District has 27 title V applications in-house waiting to be processed. All 27 of these applications belong to sources operating under their permit shield and have “expired” permits. Fifteen title V sources are operating under a permit shield from permits expired for longer than 5 years. Since title V permits have an expiration date five years from the date of issuance, these 15 sources have essentially missed a round of permit issuance.
 - Failure to process modifications within regulatory timeframes. The District is still waiting until issuance of title V renewals to address their backlog of administrative, minor, and significant modifications.
 - The District has a significant number of unprocessed requests for synthetic minor limits to avoid title V status. These synthetic minor applications date back as far as 2002 with the most recent submitted in 2010. Please provide the EPA with the total number of unprocessed synthetic minor requests and the dates these requests were submitted.
- Staff dedicated to title V permit issuance.
 - The District is organized to have permit writers develop both title V and construction permits. The District informed the EPA during the review that construction permits have become so voluminous that the permit writers do not have the time necessary to issue both construction and title V permits. As a result, the title V permits are not issued in a timely manner.
 - Based on overall output of title V permits, the EPA has questions about current work responsibilities and if additional staff is necessary to timely process the title V workload in addition to construction permits and other actions.
- Title V budgetary concerns
 - According to conversations with the District and the completed questionnaire, the District allocates 53 percent of their time to title V. However, the work output indicates that the majority of their time is spent working on construction permits.

For each of the items of concern noted above, EPA and the District have held multiple discussions to address the resolution of these concerns. These concerns were detailed in a separate letter dated March 16, 2012 from EPA to the District. Included within that letter were specific tasks to be completed in order to resolve all of these issues and an acceptable timeline in which these tasks should be completed. On April 27, 2012, the District provided a detailed response to the tasks detailed in the March 16, 2012 letter outlining acceptable steps to resolve each of these concerns. On July 18, 2012, the District provided a status update to EPA indicating that the District is on track to resolve each of these concerns within the established timeframe. Each of these items of concerns are discussed in greater detail within the body of this report.

Program Review

The District's organizational structure for air permitting resides at the office in Louisville, Kentucky. All title V permits for the Jefferson County area are processed in the Louisville office. The District's title V permitting jurisdiction covers all of Jefferson County. The Commonwealth of Kentucky operates the permitting agency that covers the remainder of Kentucky.

EPA's review of the District title V program focused on programmatic knowledge/ implementation, resources (staffing and financial), public participation, initial and renewal permit issuance and an administrative file review.

Programmatic Knowledge/ Implementation

During discussions of the title V questionnaire and prior discussions, it was clear that the District senior staff had a good knowledge and understanding of title V program requirements as well as an overall commitment to implementing a plan to improving the productivity of the title V program. Facilitation of that knowledge throughout the staff is important as the District works to build up its foundation of title V permit writers capable of developing quality title V permits that are clear and enforceable. In order to ensure consistency within the workforce, the District has developed a written training manual that serves as the primary training tool used by all new employees. This training manual is very detailed, well organized and an excellent resource for ensuring consistency among the permit writers. In addition the District works with the Kentucky Department for Environmental Protection, Division for Air Quality, the EPA and other agencies to provide quality training of a relevant nature to as many employees as possible. Continued implementation of training such as this will help ensure that when staff turnover occurs, the disruption and delay of permit issuance will be minimized.

A. Resources and Internal Management Support

The District's title V fee rate for FY 2011 is \$48.20 per ton of pollutant up to 4000 tons and is expected to increase to \$48.92 per ton in FY 2012. Projected title V revenue for 2011 is expected to be approximately \$1,295,204.00.

Since 2008 the District has collected the following title V revenue:

FY2008 - \$1,383,997.61
FY2009 - \$1,376,100.17
FY2010 - \$1,340,579.20

In order to ensure that the District's title V program was fully funded, the Louisville Metro Government's Office of Management and Budget (OMB) performed a detailed reconciliation of title V revenues and expenditures for fiscal years 2010 and 2011 in response to EPA's March 16, 2012 correspondence. The reconciliation determined that the District's title V program has been fully funded for both of the years reviewed. For the years under evaluation, (identified as years ending June 30, 2010 and 2011), personnel-related title V program costs were recorded using the District's worktime program. Eligible title V program expenditures were allocated to the title V cost center at the end of the year from a separate general operating cost center using a general ledger entry.

Permit writers do not work exclusively on title V permits. The District uses the "worktime" program which tracks their work hours and activities allocation based upon user entry. Initially, based upon the

“worktime” program, approximately 53% of each permit writer’s time is allocated to title V activities. Based upon measurable outputs, however, it appeared that most of the permit writers’ time was spent on other job responsibilities, including processing minor and major new source review permit applications, and promulgating local regulations. District regulations require construction permits before beginning all construction activities and these permits are considered the District’s top priority. On average, the District issues over 300 construction permits annually. This equates to approximately 30 construction permits completed on an annual basis for each permit writer. The concern over title V time tracking accuracy and accounting was previously brought up in the 2010 program evaluation report.

During the reconciliation process, the District discovered that when the worktime was initially developed in 2007, it automatically allocated one-half of all vacation time earned agency wide to title V. Correcting this automatic allocation results in the Districts new time allocation percentage of 26%. In the reconciliation prepared by OMB, vacation time charged to title V has been corrected.

OMB and the District has established new procedures to ensure that title V emissions fees are being used solely to support title V program activities in accordance with applicable requirements. Since December 2011, the District has transitioned to using Metro Government’s PeopleSoft human resources management system for timekeeping. District personnel who do title V work use a task code developed for the District for this purpose. Based on the task coding, PeopleSoft automatically allocates direct salary costs and fringe benefits to the appropriate cost center. Time entry is reviewed weekly by direct supervisors and payroll processing personnel for accuracy and proper coding. Eligible direct program related expenditures are now charged directly to the title V cost center, rather than to a separate “general operating” fund. The District will verify these expenditures monthly. Indirect program expenditures, including expenses for clerical and administrative staff, rent, vehicles, equipment, supplies, and computers will be charged annually to the title V cost center based on the percentage of total District salaries worked on the title V program.

As part of the review, the EPA requested a copy of the title V fee determination developed by the District when submitting their initial program approval package to the EPA and any updated fee determinations since that time. Since then, the District provided EPA with a copy of their 1994 title V fee determination. In addition, the District included a copy of their 1999 title V fee program update, which details the title V accounting procedures used at that time to derive wages, supplies, equipment and other indirect costs for the title V program, as part of the response. The EPA used this information, plus the OMB report and permit tracking data, to evaluate the Districts use of title V fees as part of an evaluation on acceptable title V program expenses.

At the time of the evaluation, the District was fully staffed with 10 permit writers, including both engineers and non-engineers. Title V permits are assigned by the supervisor based on current staff workload and experience. Staff retention, once a significant concern, (discussed in the March 2005 program evaluation), has ceased to be a major issue. Since 2008, the District has only had one permit writer leave and he was replaced. The District’s improved salary structure appears to be a success in staff retention (discussed in the 2010 program evaluation report.)

The District seeks to provide opportunities for staff to obtain key training throughout the year. These training activities include courses provided internally by the District and by the EPA. In conjunction with the visit to conduct the program evaluation, the EPA conducted a one-and-a-half day training course on title V permit writing. Topics covered during the training course included environmental justice, differences between a title V permit and a statement of basis, permit modifications, and petitions.

In an effort to maximize personnel and reduce the buildup of title V actions awaiting resolution, the District restructured the Engineering program staff into two permitting sections and a compliance monitoring section. As a result of this reorganization, Jefferson County, which had a backlog of over 350 unresolved upset reports at the time of the November 2008 program evaluation (discussed in January 2010 report), has reduced its unresolved upset reports by more than 90%. At the time of the July 2011, program evaluation, the District had 30 upset reports in-house and was in the process of addressing those.

B. Public Participation and Affected State Review

Title V public participation requirements mandate that public notices be published in a newspaper of general circulation and that the permit applications, draft permits, statement of basis, and all relevant supporting materials be made available for review by interested parties. The District is exceeding public participation requirements by providing access to all public notices via their website at <http://www.louisvilleky.gov/APCD/Docket.htm> as well as in the local newspaper. The average cost of publishing a public notice in the newspaper is \$700.00. In addition, during the public comment period, the public can obtain permit-related information such as the public notice, draft permits, and statement of basis, either from the District website or the District office. A nominal fee to cover printing costs is applied if the interested party requests their own hard copy of permit-related documents. In addition, the District notifies the public by listing all actionable permits on their web site and by mailing, free of charge, notification to those groups or individuals that have requested inclusion on their mailing list. The District schedules title V hearings only upon request.

C. Permit Issuance, Modification, and Renewal

The District has 37 active title V sources and issued its last remaining initial title V permit (General Electric) in February 2010. Since the EPA's January 2010 program evaluation report, the District has issued four renewal title V permits, (three in 2010 and one in 2011). This represented a significant shortcoming from the 15 title V permit renewals projected by the District at the time of the EPA's 2010 evaluation report. Dating back to the 2005 program evaluation, the EPA has had ongoing, significant concerns about the District's title V permit issuance rate and has worked with the District to assist it in reducing the backlog of title V sources operating on extended permits (i.e. title V permits that remain in effect after the expiration of the permit term because the permittee submitted a timely application for a renewal permit and the application is still pending). Nonetheless, at the time of the July 2011 program evaluation, 23 of the District's 37 active sources were operating under extended permits (62.1%). Twenty-two of these sources were operating under permits that had been issued in 2004 or earlier, 15 were operating under permits that had been issued in 2001 or earlier. EPA is concerned that the program has a significant number of sources (42%) not only operating under extended permits, but which have effectively skipped an entire 5-year title V permitting cycle. In part due to the significant amount of time that has elapsed since these sources submitted their permit renewal applications, the District is now having to request additional information and in some cases entirely new applications to process these renewals.

As a result of the findings during the July 27, 2011 program evaluation, EPA and the District have had multiple conversations developing a plan, including staff modifications, permit issuance timeframes and milestones to reduce and eventually eliminate the title V permit backlog. Based on these conversations, the District has assigned 4 permit writers with the primary task of drafting title V operating permits. The remaining permit writers may assist with reviewing submitted applications and technical

completeness determinations. The new organization arrangement along with a combination of additional efforts, leads the District to believe that they are on track to meet the EPA established timeframe of issuing 11 title V operating permits by June 15, 2013 and another 11 by June 15, 2014. The District has declared their intention of hiring two additional engineers in FY 12 for the District's minor source construction and operating permit program. Once hired, two more experienced permit engineers will then be dedicated full time to the title V and Federal Enforceable District Origin Operating Permit program. In addition, the District intends to evaluate the benefits of a combined construction/operating permit program as discussed with EPA.

At the time of the July 2011 program evaluation, the District had 31 significant permit modification applications in-house waiting to be processed. Though the EPA's part 70 regulations require that a permitting authority design and implement procedures to ensure that it completes review of the majority of significant permit modifications within 9 months after receipt of a complete application, 16 of these permit modification applications had been pending for more than 18 months.

In addition, the District's permitting staff informed the EPA that the synthetic minor permits were delinquent in being issued to facilities requesting synthetic minor limits to avoid being subject to title V permitting requirements. This has resulted in the District currently having a significant universe of unpermitted title V sources operating without either an active title V permit or a synthetic minor permit. These synthetic minor applications date back as far as 2002 with the most recent submitted in 2010.

Since the 2008 program evaluation, in an effort to ensure adequate and timely reviews of deviation reports, the District began implementing a comprehensive data management system called "Hansen" to integrate permit and compliance tracking and automate many routine permit actions. During the file review portion of the evaluation, it was apparent that the District has greatly improved organization of its title V files. With the District's electronic files, the system was easy to navigate and the desired information was easy to find. When reviewing a file that was still in hard copy form, everything was well organized and it was easy to determine the information that was present and that which was missing from the files.

In the 2010 program evaluation report, the EPA noted that the District was not processing title V permit modifications within the time frames required under 40 CFR part 70. Due to workload and other agency priorities, the District had adopted the practice of processing all modifications, (administrative, minor and significant) when they issue the title V renewal permit. This practice conflicted with the federal part 70 requirements and needed to be corrected. The District acknowledged these concerns and detailed several programmatic changes being implemented in order to meet these regulatory deadlines in the future. During this program evaluation, the EPA found that the District is still approving modifications at the time of title V renewals and continues to not meet title V processing timeframes established in part 70.

D. Permitting Files

The EPA conducted an administrative review of four title V permits and associated documentation as part of this evaluation. The purpose of this review was to determine if all materials relevant to the District's permit decision were included in the District's files. Such materials should include any comments submitted during the public comment period; any responses by the District to comments received; copies of the draft, proposed and final permits; proof of publications; statement of basis; and public notices. The EPA found the majority of the necessary information in the District's files. A couple of tear sheets, demonstrating proof of publication were absent from the files, but District personnel

quickly retrieved them for review. The EPA noted during its file review that the permits contained some information, such as comments regarding the emissions units, that should be limited to the statement of basis to avoid cluttering the permit. In addition it was noted that in the response to comment document it was difficult to determine if the District addressed all of the public comments. The EPA recommended that the District format their response to comment section in a manner that clearly pinpoints which responses address certain comments. These file review comments are minor in nature. Overall, the District's electronic file system was easy to navigate and the desired information was easy to find. When reviewing a file that was still in hard copy form, everything was well organized and easy to determine the information that was present and that which was missing from the files.

Conclusion

At the conclusion of the onsite portion of the title V program review, Region 4 personnel met with District officials to conduct an exit interview. During this exit interview Region 4 shared the findings of the review and looks forward to working with the District to continue improvement in the areas discussed within this report. Personnel in attendance from EPA Region 4 were Randy Terry, Art Hofmeister, James Purvis and Andrew Parks. District officials in attendance included Lauren Anderson, Paul Aud and Eva Addision.