



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION I**

**5 POST OFFICE SQUARE SUITE 100**

**BOSTON, MASSACHUSETTS 02109-3912**

September 23, 2019

Eric Kennedy, Director  
Licensing and Compliance  
Bureau of Air Quality  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333-0017

Dear Mr. Kennedy:

Title V of the Clean Air Act, as amended in November of 1990, requires each state to develop and implement an operating permits program for stationary sources of air pollutants. As provided for in 40 CFR 70.10, and as a continued part of the EPA's obligation to oversee and review title V programs, the EPA conducted a program review of Maine's title V operating license program on August 13, 2019.

Enclosed please find EPA's results from our recent review. We appreciate the time and effort in providing the State's responses to our inquiries prior to the evaluation. The EPA is pleased with Maine's implementation and continued efforts in making improvements to the State's operating license program. We look forward to continuing to work with you in implementing the title V program. If you have any questions, please call me at (617) 918-1287 or Donald Dahl at (617) 918-1657.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Bird".

Patrick Bird, Manager  
Air Permits, Toxics, and Indoor Programs Branch

Enclosure

## Questionnaire for Maine's Title V Program Evaluation

Participating in the program evaluation were:

Jane Gilbert, ME DEP

Eric Kennedy, ME DEP

Donald Dahl, US EPA, Region 1

The **red text** represents Maine's Department of Environmental Management (ME DEP) responses to EPA questions prior to the program review on August 13, 2019. The **blue text** represents EPA's findings or commitments made during the program review.

ME DEP refers to permits as licenses. Therefore, throughout this document the terms "license" and "permit" have the same meaning.

### I. Resources & Internal Management Support

1. Has your agency re-organized or made changes to address Title V permit issuance since the last program evaluation? **No**
2. Has your agency made any revisions to their Title V regulations since the last program evaluation? **No**

If yes, have these revisions been submitted to EPA for approval?

3. Are there any competing resource priorities for your "Title V" staff in issuing Title V permits? **Yes**

If yes, please describe.

**We do not have staff exclusively tasked with Title V permitting. Rather, all types of licensing tasks are assigned to all air licensing staff, sometimes resulting in competing resource priorities for Title V permitting.**

**Licensing staff are mostly not responsible for compliance. The exception is some compliance responsibilities are assigned to the licensing staff for general permits.**

4. Overall, what is the biggest internal roadblock to permit issuance from the perspective of resources and internal management support?

NSR and new source applications are given priority over renewal applications. This sometimes results in Title V renewals, normally more complex than other types of applications, being set aside until other, smaller applications are concluded before work on Title V renewals commences. In addition, staff turnover has required the training of newer staff, which has impeded Title V license issuance due to the technical details of emission sources and nuances of complex permitting and emission regulations.

5. How many Title V permit writers does the agency have on staff (number of FTE's)?

There are six air licensing engineers whose tasks include Title V permit writing.

6. Do the permit writers work full-time on Title V? No

If not, describe their other activities and what percentage of their time is spent on Title V permits.

Staff who write Title V permits also write minor source permits. Other tasks assigned to individuals within air permitting staff are management of the general permits program including compliance assistance and inspections, rule writing, SIP support, data systems report, NSPS, and MACT/NESHAP support, air toxics, and other related areas. The percentage of time spent on Title V permits varies from one staff to the next and varies depending on project loads, but it ranges from approximately 20% to 70%.

7. Are you currently fully staffed? Yes

8. How many Title V permits are your permit writers responsible for? 52

The EPA notes 16 permits have been extended beyond the permit's five year permit term at the time of this evaluation. No source is operating with an expired permit due to a source's failure to submit a timely, complete renewal application. Historically, Maine has used enhanced outreach techniques to ensure sources submit timely, complete renewal applications.

9. Please describe staff turnover (if applicable).

How does this impact permit issuance?

In the last 4-5 years, Maine BAQ's Licensing Group has experienced significant turnover including some of our more experienced license writers. Although we have actively worked to fill vacancies, new hires rarely bring with them any direct experience. It takes several years to bring along new staff to the point where they have enough work experience to manage some of the more complex Title V sources. This is especially true as we attempt to navigate the ever-changing world of NSR permitting as well.

10. Is there anything that EPA can do to assist/improve your training?

If yes, please describe.

The EPA discussed with the State the possibility of conducting a one day training of the NSR permitting program at the State's Augusta Office. The State was interested in such training and the EPA plans to follow through and provide the training in FY'20.

11. What was your Title V fee (dollars per ton) for FY 2018?

Based on a sliding scale of licensed (PTE) emissions:

First 1,000 tons = \$9.08/ton

1,001 to 4,000 tons = 18.18/ton in addition to the first 1,000 tons

4,001 tons and above = 27.24/ton in addition to the first 4,000 tons

12. What is your Title V fee (dollars per ton) for FY 2019?

Based on a sliding scale of licensed (PTE) emissions:

First 1,000 tons = \$9.36/ton

1,001 to 4,000 tons = 18.79/ton in addition to the first 1,000 tons

4,001 tons and above = 28.11/ton in addition to the first 4,000 tons

13. How do you track Title V expenses?

Staff track hours working on Title V sources as part of their timesheet submission (TAMS).

14. How do you track Title V fee revenue?

Accounts Receivable, including air license fees, are tracked through the State's accounting system (Advantage). To determine the amount from Title V sources, a report of applicable accounts can be created from our licensing database (EFIS).

15. Annually what is your projected Title V revenue for 2019?

\$1,535,520.74

The EPA notes that since Maine bases its Title V fees on licensed emissions in lieu of actual emissions, the State may be meeting the presumptive minimum fee for the Title V program. The actual emissions of regulated air pollutants from Title V sources during 2017 (the most recent available year) tracked by Maine in its emission inventory, is 29.046 tons. Regulated air pollutants contained in the State's emission inventory are

carbon monoxide, ammonia, lead, sulfur dioxide, nitrogen oxides, volatile organic compounds, and particulate matter of both 10 and 2.5 microns in diameter, or less.

Using the presumptive dollar per ton fee for the period September 1, 2018 through August 31, 2019 of \$51.06/ton, one can calculate an approximate the statewide presumptive minimum to be \$1,483,088.76, which is slightly less than what the State projects to collect in 2019. At the time of this evaluation, the EPA did not have emissions data for all regulated air pollutants. However, the tons emitted of these other regulated air pollutants and the greenhouse gas adjustment factor is assumed to have minimal impact when calculating the presumptive minimum.

Actual emissions from Title V sources have been reduced significantly since the EPA approved the Maine Title V permit program. The State may no longer need to rely on a detailed fee demonstration to demonstrate it will collect sufficient Title V fees.

16. Have you noticed a trend in the amount of Title V revenue collected? **Yes: down.**
17. Does your Title V revenue cover all of your Title V expenses? **Yes**
18. Are you able to roll over Title V funds from one fiscal year to the next? **Yes**
19. Do you have Title V funds that you currently carry over?

The State did not have an answer to this question at the time of the evaluation.

## **II. Permit Issuance**

20. Does your program have a plan in place to reduce and eventually eliminate the Title V permit renewal backlog? **Yes**
21. Please describe any additional comments on resources and internal management support or permit issuance.

During the evaluation, the EPA noted there are 3 senior license writers and 3 relatively new license writers. Each license writer is responsible for licensing applications from approximately 8 or 9 different sources at a time. Most of the time, responsibility for licensing a source is assigned on an individual basis rather than on a team (more than one person) basis.

## **III. Public Participation**

22. On average, how much does it cost to publish a public notice in the newspaper (or state publication)? **\$300-400** (per publication)

23. On an annual basis how much is spent on public notices? This is not tracked since the source rather than the State is responsible for publishing and paying for the public notice.

24. What information do you post on your website during the public notice period?

For the public notice of draft availability, we post a copy of the draft, how the public can comment and the closing date for comments, and information on the date/time/location of the public meeting (if held).

Maine's draft and final licenses contain a section called Findings of Fact which serves as Maine's Statement of Basis, a required element for a draft Title V permit.

Under State law, a requester must meet certain qualifications for a public hearing to be granted. Since these qualifications may be inconsistent with 40 C.F.R. part 70 requirements for holding a public hearing when one is requested, the EPA understands Maine offers the opportunity for a public meeting in lieu of a public hearing on every draft Title V permit and has historically provided a public meeting when requested.

25. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

Anyone who has requested to be considered an interested party on a given application is notified when the draft is available for comment.

26. What is your opinion on the most effective avenues for public notice?

Publication on the web is most effective for those with web access. It gives one consistent location for people to watch for notices. However, there is a notable portion of Maine's population who, by either choice or necessity, do not access electronic notices.

To reach the widest audience, Maine will continue to use the combination of a newspaper and the web for public notices.

27. Do you provide notices in languages besides English? No

a. If yes, please list the languages.

#### **IV. Environmental Justice Resources**

28. How is the permitting authority considering and addressing EJ issues in permitting actions?

We have not encountered any EJ issues in our permitting actions.

29. List any specific examples where the permit decision or permit process was substantively altered in order to address EJ concerns. For each example, please specify how the permit decision was altered to address EJ concerns. (Examples might include extending the length of the public comment period, a decision to hold a public hearing, or enhancements to permit terms and conditions.)

There have not yet been any circumstances leading to permit decisions or permit processes having to be substantially altered in order to address EJ concerns.

## V. Incorporation of MACT Requirements into Permits

30. How does the permitting authority incorporate MACT requirements into the permit?

- a. Describe the permitting authority's MACT permit content structure and approach for both major and area source standards.

Requirements of applicable MACTs are included in the Findings of Fact and Order section of each Title V license, whether major or area HAP sources, to the level of detail practicable.

When a Title V source relies on a specific air pollution control regime to meet a MACT standard, the Title V license will have all of the required monitoring, recordkeeping, and/or reporting requirements associated with that particular type of regime.

- b. How does the permitting authority make clear which compliance option the source is using?

If compliance options have been selected, more detailed requirements are included to clearly identify requirements and the specific compliance options. However, if the applicable MACT or MACTs allow for facilities to change compliance options without notification or approval from the regulatory agency, facilities often wish to leave their options open and do not identify a specific choice of compliance demonstration. In these cases, licenses include all compliance options and clear direction that sources will comply with applicable requirements via one of the allowed options and document appropriate selections and corresponding demonstrations of compliance.

The EPA notes these multiple compliance options should be listed as alternative operating scenarios and require the source to maintain a contemporaneous log indicating which operating scenario they are using for a given time.

- c. What process does the permitting authority have for incorporating new or revised MACT requirements into permits?

The facility can request a license amendment at any point to incorporate new/revised MACT requirements. In the absence of such a request, updated requirements are incorporated as the next renewal.

The EPA notes pursuant to Chapter 140, Section 3.E.(7)(a)(vii)(a), Maine will reopen and reissue Title V licenses when there is a) a new applicable requirement and b) when there is three or more years left on the license's term.

## VI. State Feedback

*Opportunity for the permitting authority to raise any issues and concerns*

31. What concerns does the permitting authority have with the national program that are not addressed elsewhere in the program evaluation?
32. What issues, if any, are affecting the Title V program in your state right now that you consider particularly important?
33. What recommendations does the permitting authority have for EPA regarding the implementation or oversight of the national Title V program?
34. What are the permitting authority's Title V program priorities?

Title V program priorities are as follows:

- To conclude the few lingering Title V renewals for which applications were submitted prior to 2017;
- to continue to initiate and conclude all other Title V applications in a timely fashion; and
- to issue accurate, organized, and well written licenses for clear communication of requirements and expectations, in order to facilitate compliance with each Title V license.

35. What can EPA do to help foster a successful Title V program in your state?

Guidance for the new source review permit program should be issued in standalone guidance and not solely within responses to Title V petitions.

The EPA provided Maine with guidance on Title V permit fees, NSR permitting, and other state regulations regarding emission reduction credits. Region 1 committed to



explore with Maine the possibility of conducting a workshop on new source review permitting.