



REGION 5

CHICAGO, IL 60604

November 7, 2024

Ms. Robert Hodanbosi
Chief, Division of Air Pollution Control
Ohio Environmental Protection Agency
50 West Town Street
Columbus, Ohio 43215

Dear Mr. Hodanbosi:

I am pleased to transmit to you the final 2024 Ohio New Source Review and Title V Program Evaluation Report. The enclosed report provides information regarding the U.S. Environmental Protection Agency's program evaluation findings, including program strengths and highlights as well as areas that both agencies will continue to focus on for improvement.

We greatly appreciate your assistance and thoughtful responses during the program evaluation, and we look forward to continuing our cooperative working relationship. If you have any questions, please contact me or Genevieve Damico, Air Permits Section Supervisor, at (312) 353-4761.

Sincerely,

**JOHN
MOONEY**

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MOONEY
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John Mooney
Director
Air and Radiation Division

Enclosure



Review of Ohio Environmental Protection Agency's New Source Review and Title V Permit Programs

2024 Evaluation Final Report

United States Environmental Protection Agency, Region 5
Air & Radiation Division
77 West Jackson Boulevard
Chicago, Illinois 60604

November 7, 2024

Executive Summary

On June 17, 2024, as part of its ongoing oversight of state and local air permit programs, the United States Environmental Protection Agency conducted an on-site evaluation of the Ohio Environmental Protection Agency's New Source Review and Title V permit programs. The on-site evaluation occurred at Ohio EPA's Central Office in Columbus, Ohio. This office is responsible for reviewing and issuing all NSR and Title V permits in the state, which are developed by the district offices and local air pollution control agencies. The EPA staff met with Ohio EPA Central Office supervisors. Prior to the on-site evaluation, the EPA provided Ohio EPA with a questionnaire addressing various NSR and Title V permit program implementation topics and discussed the questions and answers in four separate conference calls.

This final report summarizes the EPA's findings and conclusions regarding Ohio EPA's implementation of the statutory and regulatory requirements for NSR and Title V permitting programs, based on Ohio EPA's answers to the questionnaire, our discussion of Ohio EPA's responses during the conference calls and the face-to-face meeting, follow-up discussions regarding responses, and the EPA staff knowledge of the program, based on experience with reviewing Ohio EPA's permits and programs. However, this program evaluation is not comprehensive in its scope, and did not evaluate all facets of Ohio EPA's implementation of its permit programs.

The EPA found that Ohio EPA has been responsive to suggestions to consider environmental justice in certain permit actions, including using EJScreen to identify areas with environmental justice concerns. The EPA also appreciates Ohio EPA's openness to communicate with Region 5 on complex permitting issues and share information. Ohio EPA has also developed and implemented strategies to reduce their Title V permit issuance backlog. We also identified several opportunities for improvement, including ensuring sufficient detail in permit strategy write-ups to justify permit decisions, streamlining public access to permit documents, and ensuring synthetic minor limits are practicably enforceable. We have summarized these and other findings, as well as our recommendations, in this report.

Evaluation Findings

A. Background

Ohio EPA implements a State Implementation Plan-approved NSR program, which consists of a Prevention of Significant Deterioration program for attainment areas and a nonattainment NSR program for nonattainment areas. The EPA approved Ohio's PSD program on January 22, 2003 [68 FR 2909]. The EPA approved Ohio's NNSR regulations on January 10, 2003 [68 FR 1366]. The EPA approved revisions to the PSD and NNSR rules on February 25, 2010, to incorporate NSR Reform provisions [75 FR 8496].

Ohio EPA's state operating permit program for major sources, which establishes the requirements of Title V of the Clean Air Act and 40 C.F.R. Part 70, is found in Ohio Administrative Code 3745-77. The EPA fully approved Ohio's operating permit program on August 15, 1995 [60 FR 42045].

In 2003, as part of its oversight role, the EPA began an initiative to review the implementation of the Title V and NSR permit programs by permitting authorities across the country. Subsequently, the EPA has conducted program evaluations of each Region 5 permitting authority approximately every five years. The EPA last conducted an on-site evaluation of Ohio EPA's NSR and Title V permit programs on May 20, 2019, and issued a report summarizing its findings on September 9, 2019.

B. Follow-up from the 2019 Program Evaluation

As part of this program evaluation, we revisited our recommendations from the 2019 report to assess progress on the identified issues.

In the 2019 report, the EPA identified the use of "if required" permit language for testing requirements as a topic for further discussion regarding appropriate use of such language. In response to our 2024 questionnaire and during our conference call discussion, Ohio EPA referenced their Engineering Guide 16, which serves as their main guidance document to help permit writers determine whether emission testing should be required in a particular permit and for which pollutants. Ohio EPA also uses Engineering Guide 94 to determine testing requirements for asphalt plants. The EPA does not consider this to be an ongoing programmatic issue. Since requirements for testing can vary on a case-by-case basis, we will continue to review testing requirements in individual permits and provide comments if necessary.

In the 2019 report, the EPA identified some instances where permits did not include sufficient level of detail for requirements from supplemental plans to be practicably enforceable. As a follow-up to this issue for this program evaluation, Ohio EPA described the procedures used to determine the level of detail from supplemental plans to be included in permits. The EPA considers this issue to be addressed on a programmatic level. The EPA will continue to review the level of detail of supplemental plans during permit reviews and provide comments if necessary.

In the 2019 report, the EPA raised concerns with the level of detail in the Permit Strategy Write-Ups for two permits that were subject to a file review. As part of the 2024 evaluation, the EPA said it continues to have concerns with PSWU level of detail sufficient to document decision-making in some permits. In response, Ohio EPA reported that Central Office staff reviews PSWUs to ensure they include a sufficient level of detail. Ohio EPA is aware of the importance of establishing a sufficient decision-making record when issuing permits. The EPA will continue to work with Ohio EPA on a permit-by-permit basis to address any instances where we find a

lack of sufficient detail in the PSWU of a draft permit.

C. 2024 Program Evaluation Findings

1. Environmental Justice and Climate Change

The EPA included questions about how Ohio EPA considers Environmental Justice concerns in its process of issuing air permits in the current round of program evaluations (FY 2023-2027) for Region 5 states, and we have worked with the state permitting authorities over the last few years to implement the principles outlined in December 22, 2022, EPA memo entitled [Principles for Addressing Environmental Justice in Air Permitting](#). As an example of a permitting authority's inclusion of EJ considerations in a permitting action, Ohio EPA conducted an EJ analysis for Permit-to-Install and Operate P0132799 issued on February 14, 2024. This effort included extensive outreach to the community and the addition of testing and monitoring to the permit to demonstrate compliance with emissions limits and address community concerns. Ohio EPA has a permit staff person assigned to examine the experience with this permit and determine what best practices can be applied to future permitting actions with potential EJ concerns. Another Ohio facility has withdrawn a draft Title V permit renewal application in order to review EJ considerations and is working with Ohio EPA to have additional public outreach and an EJ analysis as part of the permitting action. Ohio EPA intends to address EJ principles in future permitting actions on a case-by-case basis. Ohio EPA is familiar with EJScreen and uses it as a tool to identify areas with EJ concerns. We will continue to work with Ohio EPA on EJ implementation strategies moving forward.

The program evaluation questionnaire included questions about climate change. In response, Ohio EPA said it addresses climate change issues as required by the EPA regulations with greenhouse gas Best Available Control Technology in PSD permits and methane limits under New Source Performance Standards. Ohio EPA requested additional guidance or training on what constitutes "good combustion practices" to reduce greenhouse gas emissions for various source categories in such a way that does not adversely affect criteria pollutant emissions. The EPA will work with Ohio EPA to provide guidance on this issue. The EPA will also continue to review any Ohio EPA permits that include a BACT analysis for greenhouse gases as well as provide guidance on existing and future rules to reduce greenhouse gas emissions.

2. Title V Fees

Consistent with past Region 5 program evaluations, the EPA included questions about funding for Ohio EPA's Title V permit program in the questionnaire. In response to a [January 12, 2022, Office of Inspector General report](#) on Title V program fees, the EPA included a financial data form that assessed whether incoming fees were adequate to cover program expenses. Ohio EPA provided financial data for the period from July 1, 2022, to June 30, 2023. The data showed total program expenses exceeded revenue by approximately \$1.5 million dollars. Ohio EPA explained this gap is due to ongoing emission reductions from existing Title V sources statewide and was filled with surplus Title V emission fees from previous years, but these surplus funds

would not be available going forward. Ohio EPA stated they are exploring options to increase program revenue to cover expenses, as required by part 70 of the CAA. The EPA is concerned that the current fee structure is not sustainable and will lead to a shortfall in Title V funding. Ohio EPA must explore ways to increase the current Title V fees to cover the cost of the Title V permitting program. We understand in Ohio this requires legislative action given fees are authorized by state statute.

3. Program Implementation

Ohio EPA maintains good communication with the EPA. Our two offices have two monthly conference calls to discuss air permitting issues and updates. The EPA also appreciates Ohio EPA's willingness to share information, discuss issues as they arise, and keep the EPA informed of significant permit projects and permits that garner public interest, including sharing permit applications with the EPA early in the permit process when needed.

The EPA noted that it can be difficult to find specific permits on Ohio EPA's eDoc system, specifically when searching by permit number. Supporting documents, such as permit applications, are not posted online to download along with draft permits, which requires users to request applications and other supporting documents. The EPA recommends Ohio EPA make improvements to their online resources to make them more user-friendly and to facilitate better public access.

As part of the file review portion of this program evaluation, the EPA requested at least eight synthetic minor permits that utilized the Major MACT to Area MACT "MM2A" policy. The EPA noted that several permits contained synthetic minor emissions limits for hazardous air pollutants that were very close to the major source threshold (10 tons per year for an individual HAP and 25 tons per year for total combined HAPs). Consistent with the [July 8, 2021, Office of Inspector General report](#) on synthetic minor permitting, the EPA recommends establishing synthetic minor limits with a sufficient buffer below the relevant threshold to account for margins of error when determining emissions. A sufficient buffer can prevent the source from accidentally exceeding the limit or triggering additional permit requirements. For instance, if compliance with a limit is determined through monthly emissions calculations based on AP-42 emission factors, the margin of error for those emission factors should be considered when setting the limit. If compliance is determined through continuous monitoring of actual source emissions, such as with a Continuous Emissions Monitoring System, the limit can comfortably be closer to the major source threshold. The EPA also noted that not all synthetic minor emission limits were supported by physical or operational limits, which the EPA recommends to ensure emission limits are practicably enforceable. The EPA will continue to review synthetic minor limits in permits and provide comments on a case-by-case basis when questions about practical enforceability arise.

4. Title V Backlog

Each permitting authority provides the EPA with updated Title V backlog numbers every six months. Over the last few reports, we have seen an increase in Ohio EPA's backlog. Ohio EPA has recently begun distributing Title V permit renewals from offices with high concentrations of major sources to offices with fewer major sources to prevent the backlog from increasing. In addition, Ohio EPA is exploring options to streamline the permit processing time and to even out the schedule of when existing permits are due for renewal.

Ohio EPA also expressed concerns that updates to the New Source Performance Standard Subpart OOOOb for new oil and gas wells would add significant resource demands that could compete with attempts to reduce the Title V backlog. Ohio EPA and the EPA discuss status updates on the Title V backlog during monthly calls between our two offices. The EPA is satisfied with Ohio EPA's ongoing efforts that have allowed them to maintain a low backlog percentage.

5. Permit Program Updates

Ohio EPA is currently working on several permit program regulatory updates. Permitting regulations in Ohio Administrative Code Chapter 3745-31 are being revised as part of a five-year review process. This will include updates to the list of activities that qualify for a permit exemption. Ohio EPA has made revisions to its OAC 3745-77 Title V rule as part of a five-year review and submitted these revisions to EPA for approval on July 1, 2024. In addition, Ohio EPA is in the process of developing revisions to OAC 3745-77 to remove the Title V emergency affirmative defense provision consistent with EPA's July 21, 2023, rulemaking. [88 FR 47029]

D. Ohio EPA Priorities and Feedback

A top priority for Ohio EPA is reducing the Title V permit renewal backlog. This entails issuing Title V permit renewals that have been backlogged for over 18 months and continuing to issue Title V permit renewals at such a rate to avoid an increase in the current backlog. Ohio EPA is anticipating an uptick in Title V permit renewal applications in the next year due to the number of renewals that the state issued five years ago, which they are factoring into their backlog management.

Ohio EPA requested guidance on appropriate operational limits and monitoring, recordkeeping, and reporting requirements for sources required to operate using Good Combustion Practices. This is a common requirement for fossil fuel combustion sources and is meant to limit emissions of fuel combustion such as greenhouse gases and nitrogen oxides. The EPA will continue to work with Ohio EPA to provide guidance on this issue.

Ohio EPA expressed concerns that recent updates to the New Source Performance Standard for oil and gas facilities, 40 CFR Part 60 Subparts OOOOb and OOOOc, would require substantial resources due to the number of these facilities in the state. The EPA will work with Ohio EPA so

they understand the new requirements and their options for implementing them.

E. Summary

This report concludes our evaluation of Ohio EPA's NSR and Title V permit programs, which is conducted every five years. EPA identified several positives during this program evaluation. We commend Ohio EPA's efforts to implement EJ principles permitting process. In this report, we also noted ongoing good communications between our two offices on air permitting issues. Ohio EPA also continues its efforts to maintain a low percentage of backlogged Title V permits. EPA will continue to work with Ohio EPA to ensure that permit documents are adequately accessible to the public. One item of concern discussed during this program evaluation was the adequacy of Ohio EPA's Title V fees to sufficiently fund the program in future years. While there have been enough surplus Title V funds from previous years, that surplus is no longer available, and the current fee structure is not sustainable. Overall, we are satisfied with Ohio EPA's implementation of its air permitting programs and look forward to our continued collaboration on air permitting issues.