



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
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Boston, MA 02109-3912

October 18, 2024

David DelSesto, Deputy Administrator
Rhode Island Department of Environmental Management
Office of Air Resources
235 Promenade St.
Providence, RI 02908

Dear Mr. DelSesto:

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 EPA's obligation to oversee and review Title V programs, EPA conducted a program evaluation on August 27, 2024, of the Rhode Island Department of Environmental Management's (RI DEM) Title V operating permits program.

We value RI DEM's time and effort in providing responses to our inquiries when conducting the evaluation. EPA is pleased with RI DEM's implementation of their Title V operating permits program and their continued efforts in making improvements. We appreciate your partnership and look forward to working with you in implementing the Title V program into the future. Enclosed, please find EPA's annotated Title V program evaluation questionnaire from our recent review of Rhode Island's Title V Operating Permit Program. EPA has two significant findings and recommendations. Below are highlights from our evaluations:

- RI DEM currently maintains a significant backlog of approximately 46% and has hired an FTE dedicated to the Title V program to reduce the backlog. EPA recommends that RI DEM continue to track progress and reassess organizational capacity needs periodically to ensure timely permit issuance and continued backlog reduction. EPA recommends that RI DEM implement a formal backlog reduction plan and submit a copy to EPA by January 6, 2025. The plan should outline strategies to reduce the existing backlog by 5-10% annually over the next three years. EPA believes that this approach will help ensure incremental progress and help RI DEM achieve compliance with program requirements.
- RI DEM collected fees greater than the presumptive minimum fee in 2021, 2022, and 2023 but did not generate revenue greater than the annual program cost for 2023. There was a significant drop in total revenue (about 37%) from 2022 to 2023, although the total emissions increased by approximately 13%, contributing to an end of year deficit in 2023 of \$63,663.91. The notable decrease in revenue in 2023 appears to be due to a decrease in the emission fee rate from \$474.44/ton in 2022 to \$287.97/ton in 2023. Historically, RI DEM's emission fee rate averaged around \$450/ton, since 2016, but there appears to be a downward trend, with the preliminary fee for FY 2025 set at \$277.46/ton.¹

During a follow up conversation on October 17th, 2024, RI DEM identified discrepancies in their financial data report, completed by RI Management Services, that do not accurately reflect the program's accounting. RI DEM will collaborate with the RI Management Services Department to

¹ [RI DEM OAR FY 2025 Preliminary Fee Determination](#)

resolve the issue. RI DEM will submit the correct financial data report to the EPA by January 6, 2025. EPA will reevaluate the financial data report upon its submission at that time.

If you have any questions, please call Andre Turner at (617-918-1216).

Sincerely,

Morgan McGrath, Acting Manager
Air Permits, Toxics, and Indoor Programs Unit

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

**Questionnaire for EPA's 2024 Title V Program Evaluation for
Rhode Island's Department of Energy and Environmental Protection**

The **red text** represents Rhode Island's Department of Environmental Management (RI DEM) responses the State provided to EPA questions prior to the program review on August 27, 2024. The **blue text** represents EPA's findings or commitments made during the program review.

Title V Program and Regulatory Updates

1. Please describe any significant changes your agency has made to the following aspects of your title V program in the last 6 years. What prompted the changes and how have the changes impacted the permitting process? If no changes have been made, write "N/A":
 - a. Organizational structure/reorganization.
N/A
 - b. Title V application forms.
Minor Revisions – mostly changed file type from word version to excel. Reason was to make it easier for the facilities when they needed to revise their TV application or submit a TV modification. Instead of sending all the forms I can now send the applicable sections.
 - c. Permit and Statement of Basis development and templates.
N/A
 - d. Public notification and participation procedures.
N/A
 - e. Waivers, exemptions, general permits and permits by rule.
N/A
 - f. Permit process in general, including any streamlining efforts.
N/A
 - g. Internal guidance, including any updates made to internal guidance on a) periodic monitoring, b) streamlining, and c) practical enforceability of title I limit; and
N/A
 - h. Other - please describe.
2. Have any revisions been made to your agency's title V regulations within the last 6 years, including fee requirements, public notice requirements and judicial review? If yes, what is the nature of these revisions?

The regulation has been updated to the current RI Code of Regulations (RICR). Revisions were also made to Operating Permits, 250-RICR-120-05-29 to remove affirmative defense provisions and to amend the emissions cap requirements.

EPA Response: EPA acknowledges that RI DEM has revised its TV regulations, including updates to the RICR, removal of affirmative defense provisions and amendments to emission cap requirements.

Staffing Resources/Management Support

3. How many full-time equivalent (FTE) staff does your agency have dedicated to implementing your title V permit program? Please provide a breakdown in terms of permit writer, compliance, monitoring, etc.

(NOTE: Staff listed below under Compliance, Monitoring/Stack testing, and Fees are not dedicated to the title V program full-time.)

Permit writer = 1.2; Compliance = 2.2 ; Monitoring/Stack testing = 0.5; Fees = 0.7

4. What are the number of Part 70 sources in the agency's jurisdiction?

24

5. What is the ratio of FTE working on the Part 70 title V program to Part 70 source?

Writing permits is 1.2 / 24

Compliance/fees/testing is 3.4 / 24

Total 4.6 / 24

6. Is your title V program currently fully staffed? If not, please describe.

Yes

7. Please describe title V staff turnover over the past 3 years.

A new TV permit writer/program coordinator has been hired.

- a. How does this impact permit issuance?

Increased the backlog time significantly.

- b. How does the permitting authority minimize turnover and/or ensure consistency of implementation when there is turnover?

The position was filled as soon as possible with experienced staff.

8. Do your title V permit writers work full-time on title V? If not, please describe the other activities and the approximate percentage of time spent on title V permits.

During the initial transition to fill the vacant TV position, time had to be spent completing preconstruction permit projects. Currently, the TV permit writer works full-time on TV.

9. Are there any competing resource priorities for your title V staff in issuing title V permits? If yes, please describe.

No

10. Please describe any best practices and internal concerns with respect to staffing resources or management support that affect permit issuance.

Staffing availability to assist permit writer with supporting documentation.

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

Not enough staff working on TV permits.

EPA Response: EPA acknowledges that staffing constraints are a common challenge across New England states, including RI DEM. EPA encourages RI DEM to continue to hire new staff and cross-train existing staff to help mitigate capacity issues.

12. Is there anything that EPA can do to assist/improve your training? If yes, please describe.

No

EPA Response: EPA remains open to providing targeted training or resources as needed to support staff in navigating any future regulatory changes or program updates.

Permit Development and Issuance

Permit Issuance Rates:

13. What is the current title V permit backlog? What is the title V permit backlog that is greater than 24 months?

11 permits expired.
8 greater than 24 months.

EPA response: As of September 11, 2024, RI DEM has a total of 24 Title V sources. The Title V permit backlog stands at 11 permits. This backlog represents approximately 46% of the total Title V permits.

14. If one exists, does your program have a plan in place to reduce and eventually eliminate the Title V backlog? Please describe or provide.

Permit writer is working full-time on TV permits. Plan is to complete 3 to 4 permit per year. This will gradually reduce the backlog.

EPA Response: RI DEM's approach of hiring an FTE dedicated to Title V permitting is a positive step toward reducing the backlog. EPA encourages RI DEM to continue to track progress and reassess organizational capacity needs periodically to ensure timely permit issuance and continued backlog reduction.

15. Please describe any additional comments on resources and internal management support or permit issuance.

NA

16. Please describe any factors that you find affect your ability to issue title V initial, renewal, or significant modification permits within 18 months.

None

Compliance Related Factors:

17. Does your agency verify that the source is in compliance before a permit is issued, and if so, how?

Compliance inspections are conducted on a regular basis.

18. In cases where the facility is known to be out of compliance, or may be out of compliance (based on pending NOVs, or other evidence suggesting a compliance problem), are specific milestones and dates for returning to compliance included in the permit, or do you delay issuance until compliance is attained?

The TV permit will not be issued if there is an active compliance/enforcement issue pending.

19. Have any unresolved permit violations created a delay in issuing title V renewals? If so, please describe.

No

20. What practice or guidance does your agency use to ensure that each limitation of PTE of a source is enforceable as a practical matter? (e.g., inclusion of throughput limits, short-term averaging periods, etc.).

Throughput limits, maximum design capacity, maximum fuel usage, monitoring/recordkeeping provisions, with executable reporting requirements.

Other Questions Related to Permit Development

21. Describe the process by which the permit writers ensure all requirements from applicable construction permits are incorporated into the title V permit.

All issued preconstruction and general permits are incorporated to the TV permit.

22. Are synthetic minor limits specifically identified in title V permits, and if so, how?

Our synthetic minor sources have their own emissions cap permit and are not identified in title V permits.

23. Does your agency have a formal process for quality assuring permits before issuance? What are the steps in the typical review process for the final permit before it is issued (*i.e.*, attorney, inspector, technical expert, compliance, manager, or peer review)? Does the involvement in review differ based on whether comments were received?

For preconstruction permits, the document is first reviewed by a principal or senior level permit writer, after that review the permit is given to the permit supervisor for their review. After which, the preconstruction permit will be sent to the facility for review and comment before final issuance. (general permits and minor permit revision typically do not go to facility review)

For TV permits, the document is reviewed by the supervisor, then sent to the facility for any comments before going out to public comment.

24. What do you believe are the strengths and weaknesses of the format of your agency's permits (e.g., length, readability, compliance certifications, etc.)? Why?

Our permits are laid out clearly and concisely so that the facility know exactly what their regulatory requirements are.

For TV permits we will not just list the conditions of the permit or regulations that are applicable to the facility, we will actually spell out and include all language from each preconstruction permit, state and federal regulation.

Public Participation & Community Engagement

25. What media (web, email, mail) and methods does your agency use for public noticing initial and renewal permits? Modifications?

RIDEM website, email (listserve),

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

Not many people read papers anymore so the best way is to post on our website have some notification of a new positing on our website so the public can be made aware. The other best way would be by utilizing social media

EPA Response: RI DEM's shift from newspapers toward posting on their website aligns with modern communication trends and offers a more effective way to engage the public. The agency indicated that they are working towards launching a social media platform to support public engagement and transparency. EPA supports this approach and encourages further development of these platforms to enhance public notices.

27. On an annual basis how much is spent on public notices?

For title v, less than \$125.00.

28. On average, how much does it cost to publish a public notice in the newspaper (or state publication), if applicable?

a. \$_____ (per publication)

For the most part we do not publish in the paper.

EPA Response: RI DEM publishes public notices via their website instead, as it is more accessible for the public. However, RI DEM noted that they will publish in the local newspaper if requested by the public.

29. Does your agency maintain mailing lists of people you think might be interested in the title V permits you propose?

Yes

30. How does a person or group get on the list (e.g., by calling, sending an email or other written request, filling out a form on the website)?

They will contact us if they want to be added to the group list. We have a link on our webpage if they want subscribe.

31. Does your agency provide notices in languages besides English? If yes, please list the languages.

No

EPA Response: RI DEM indicated that although they do not currently publish notices in languages other than English, they would consider if the public requested. In the past, the public has requested translators during public hearings and RI DEM granted those requests.

32. What information does your agency post on your website during the public notice period? How long is this information available on the website?

A copy of the draft TV permit along with a copy of the public notice is posted on the website until the public comment period is over.

EPA Response: The draft TV permit and associated documents are removed from the website after the public comment period. As of now, the public would need to FOIA request to retrieve the documents after the public comment period has ended. RI DEM indicated that eventually the agency will digitize the files for the public to improve access and transparency.

33. What is your agency's process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, monitoring reports, compliance certifications)?

If the public would like permit related information, the contact information is contained on the notice. Typically, they will contact the TV permit writer or supervisor and we will email the information they requested.

34. What criteria does your agency use to determine whether an informational meeting or public hearing will be held on a draft title V permit?

Public hearings will be held if requested by 10 or more people during the public comment period. Informational meetings may be requested.

35. Does your agency reach out to specific communities beyond the standard public notification processes? If so, how does your agency determine if a community will receive enhanced public outreach?

No

EPA Response: RI DEM indicated possibly considering public outreach related to environmental justice in the future. EPA encourages targeted public outreach strategies to help ensure inclusive and meaningful participation throughout the permitting process.

36. What do you believe is going well with respect to your agency's public notice procedures?

The information can always be found on our website.

37. What do you believe could be improved with respect to your agency's public notice procedures?

Public notices should be posted in the town paper where the source is located.

Environmental Justice Resources

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

We are waiting for the state legislator to pass an EJ bill. In the meantime we already have extremely stringent air toxics and permitting limits.

EPA Response: RI DEM's current focus on stringent air toxic and permitting limits is a proactive approach while awaiting state legislation on environmental justice. EPA acknowledges that RI DEM is awaiting formal regulations to guide their EJ policy and encourages the agency to continue to explore interim measures to address potential EJ concerns in the permitting process.

39. 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.)

40.

Regardless of whether it's an EJ area or not, if there is a request from a citizen to extend the PC period, we will grant it.

41. Does your agency have environmental justice (EJ) legislation, policy, or general guidance which helps to direct permitting efforts? If yes, please provide copies or online links to these documents.

Our agency's policy is found below. This policy does not drive permitting at this time.
<https://dem.ri.gov/environmental-protection-bureau/initiatives/environmental-justice>

Incorporation of MACT Requirements into Permits

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

All applicable conditions are incorporated into the TV permit line for line.

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

All applicable MACT requirements are incorporated into TV permits for both major and area sources.

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

Only the applicable option is added into the permit. The source is given the opportunity to review and comment on the permit before the draft goes out to public comment.

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

The permit will be reopened to incorporate new or revised MACT requirements.

Title V Fees

43. Consistent with EPA's [2018 Program and Fee Evaluation Strategy and Guidance](#) and [2023 Fee Evaluation and Oversight Guidance for 40 CFR Part 70](#), please complete the Financial Data Form, provided as an attachment to this questionnaire. Include relevant financial information for the past three calendar years of 2021, 2022, and 2023.

EPA Response: RI DEM collected at least the presumptive minimum in 2021, 2022 but not in 2023. In 2021, total revenue was \$805,016, exceeding the presumptive minimum cost of \$759,860, resulting in an end of year surplus of \$38,678. In 2022, total revenue reached \$897,197, exceeding the presumptive minimum cost of \$850,357, however, total program costs led to a minor deficit of \$238.54 at the end of the year. In 2023, total revenue declined significantly (about 37%) to \$561,882, which was less than the presumptive minimum cost of \$581,975. Total emissions increased (about 13%) from 2022 to 2023, emission fee rates decreased (about 39%) from 2022 to 2023, resulting in an end of year deficit of \$63,661 against total program cost of \$625,544. The notable decrease in revenue in 2023 and the increase in total emissions raises potential concerns for the program's fee structure. RI DEM stated in their response that "the amount of FTE's dedicated to the Operating Permitting program was too high and was subsequently adjusted to lower the total amount of FTE's needed. Since there are less TV sources to write permits and perform inspections, less FTEs are required."

44. Describe the design of your title V program fee schedule, such as, fees based on allowable emissions or actual emissions; include any fixed fees for specific permit-related processes, complexity, application fees, etc.

TV fees are calculated based on actual emissions from the previous year, this emission information is provided by OAR's Air Inventory section. For facilities that emitted less than 10 tons/yr there is a fixed fee for those facilities. The fee amount varies year to year based on billable emissions and number of facilities in the Operating Permit Program.

EPA Response: RI DEM indicated that there are no TV permit application fees or renewal fees, and the legislator does not determine the TV fees or changes to the fee schedule. RI DEM is considering updates to their fee structure to include a tiered system for emission cap sources. EPA acknowledges this approach and encourages continued discussions on potential revisions to enhance program sustainability.

45. Describe your agency's process for revising the title V fee schedule. Discuss if the schedule is automatically updated based on previous year's expenditures and revenues.

The TV fees are calculated each year. We determine how the cost to operate the operating permit program will be and then based off air inventory data we determine how much the \$/ton will be for the upcoming year.

This determination also includes emission cap sources which have a flat fee of \$350. Once we calculate the \$/ton, using the inventory data we come up with the TV fee for that FY.

46. Provide a citation to your current title V fee rules and attach a copy of any state issued fee guidance. <https://rules.sos.ri.gov/regulations/part/250-120-05-28>

47. Does your agency collect at least the presumptive minimum as defined in part 70? If not, please discuss why.

Yes

48. How often does your agency re-evaluate whether the fees assessed for the title V sources in your program are sufficient to cover the costs of administering the title V program? Please describe the method used.

Yearly. The Administrator of Air Resources makes that determination based off of FTE's allocated to the TV program. This doesn't change much year to year if at all.

49. How does your agency track title V expenses and revenue (*i.e.*, separate accounts, work codes, etc.)? Specify how you track staff time allocated to title V activities versus non-title V activities.

We have account codes that are used to track when employees are working on TV sources. *i.e.* writing permits or conducting inspections.

50. Does your agency have any plans to update its title V fees or fee calculation methodology in the next 2 years? Please describe.

Possibly. With the reduction of TV sources, the burden on the existing TV sources continues to increase. With this in mind we have been talking about possible increasing the emission cap source fixed fee, as well as adding a complexity fee to cap sources and possible TV.

State Feedback

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

51. What concerns does the permitting authority have with the national program that are not addressed elsewhere in the program evaluation? **NA**
52. What issues, if any, are affecting the Title V program in your state right now that you consider particularly important? **NA**
53. What recommendations does the permitting authority have for EPA regarding the implementation or oversight of the national Title V program? **NA**
54. What are the permitting authority's Title V program priorities for the next two years? **Reduce Backlog**
55. What can EPA do to help foster a successful Title V program in your state? **Keep doing what you're doing.**

EPA Response: EPA appreciates RI DEM's positive feedback and will continue offering support. In addition, EPA remains open to providing targeted training or resources as needed to support staff in navigating any future regulatory changes or program updates.