

FOR DISCUSSION PURPOSES ONLY

This material is for discussion purposes only and does not represent any decision or position on the topic being presented.

Title V Air Permit Petitions – January 20, 2010 Public Meeting

ISSUE: How to handle various plans in permit applications and permit review/issuance. State and federal regulations require facilities to prepare and follow a number of plans. Some plans are required under the specific regulations to have Department approval and other plans do not require submittal for Department review unless specifically requested by the Department. (See attached spreadsheet for plans required under chapters NR 400 – 499, Wis. Adm. Code. Additional plans can be required under MACT (maximum achievable control standards that have not been incorporated into state code). Title V permits are required to contain the applicable requirements for the facility.

PRESENT PRACTICES: Currently only the CAM (compliance assurance monitoring) plan is incorporated into the permit in its entirety as a section of the permit and is therefore automatically part of the public comment period for the permit. While other plans may not be included in their entirety, many times permits contain elements from various facility plans. For example a pressure drop operating range for a control equipment which is also in the MPAP (malfunction prevention abatement plan) or a requirement to apply dust suppressants which is also part of the fugitive dust control plan. However, in these cases, the plan itself is not incorporated into the permit. Therefore, unless the plan is included as part of the application, the plan is not specifically available for comment during the public comment period for the Title V operating permit.

Title V permit conditions may require some plans to be submitted to the Department for review and approval and other plans are only required to be submitted to the Department upon request of the Department. Plans may or may not have been reviewed and approved by the Department prior to Title V permit issuance.

CONCERNS RAISED IN PETITIONS: Plans such as (a) the startup and shutdown plan (SSP); (b) the malfunction prevention and abatement plan (MPAP); (c) the Quality Control and Quality Assurance Plan (QA/QC plan); and, (d) fugitive dust control plan that are relied upon or referenced in an air permit in any way to determine compliance with any applicable limit or compliance demonstration method must be incorporated into the permit and made available for public comment. The concern is that what the plan contains is a basis for determining that the facility will comply with applicable requirements; therefore, the public needs the opportunity to review the plans to determine whether they are sufficient to ensure compliance and this opportunity is not available unless the plan is part of the permit and made available during the public comment period.

OPTIONS:

- (1) Include all plans that are relied upon or referenced in an air permit in any way to determine compliance with any applicable limit or compliance demonstration method in the Title V permit.

PROS	CONS
All plans that are relied upon or referenced in an air permit in any way to determine compliance with any applicable limit or compliance demonstration method will be available for public review and comment during the public comment period for a draft permit.	Limited compliance staff resources to review/approve plans prior to public comment. Delays permit issuance.
Finalized versions of such plans will be available to the public by means of the	Once a plan is part of a permit, any proposed changes to the plan would likely

FOR DISCUSSION PURPOSES ONLY

This material is for discussion purposes only and does not represent any decision or position on the topic being presented.

Title V Air Permit Petitions – January 20, 2010 Public Meeting

final permit	need to be made in a permit revision. Thus, this option hampers the department’s ability to revise a plan based on facility request or Department concerns whenever that plan is in a permit due to the need for staff resources and having to go through the revision process.
	This option hampers a facility’s ability to revise a plan to remove out-of-date conditions or to change conditions to ones that improve environmental performance (for example, a better bag material is available for capturing “sticky” particles; however, switching to this bag changes the normal operating pressure range of the baghouse).

- (2) Include permit language in Title V permits requiring all plans to be submitted for Department review and approval. (Plans are not part of permit)

PROS	CONS
The plan is available in the public files for interested parties to view once the plan submittal date has passed.	Unless the plan was submitted for a previous permit and is on file, the plan is not available for review during the public comment period. Potentially only plans submitted with the permit application would be available for public comment during the permit process.
The Department does review the plan and sends out an approval or a denial requesting revisions. Department review of plans promotes consistency in plan contents and the facility and other interested parties know what is expected in an approvable plan.	Limited compliance staff resources to do plan review/approval work.
Plans can be revised, with Department approval, without going through the more work intensive process of revising the permit when the plan language changes.	Plan revisions could occur without going through the Title V public comment period.
Facilities can adjust their plans as aspects of their operations change in potentially shorter time frames avoiding deviations of plan conditions that are out-of-date or preventing changes that improve environmental performance (for example, a better bag material is available for capturing “sticky” particles; however, switching to this bag changes the normal	Plans are not available to the public by means of the draft or final permit. Plans would be available in public files.

FOR DISCUSSION PURPOSES ONLY

This material is for discussion purposes only and does not represent any decision or position on the topic being presented.

Title V Air Permit Petitions – January 20, 2010 Public Meeting

operating pressure range of the baghouse).	
--	--

- (3) Include permit language in Title V permits requiring all plans to be submitted within 10 days of a request by the Department. (Plans are not part of permit) The Department does not necessarily review the plan and send out an approval or a denial requesting revisions.

PROS	CONS
The plan is available in the public files for interested parties to view within 10 days of Department request.	Unless the plan was submitted for a previous permit or previous request and is on file, the plan is not available for review during the permit public comment period
Use limited compliance staff resources to do plan review/approval work based on priorities (i.e. case-by-case based on inspection results, CEM quarterly reports, complaints, etc.)	Lack of Department review of all plans opens the door for plan content inconsistency across the state. The facility and other interested parties will not know if all the submitted plans are approvable plans.
Plans can be revised without going through the work intensive process of revising the permit when the plan language changes.	Plan revisions could occur without going through the Title V public comment period.
	Plans are not available to the public by means of the draft or final permit. Plans would be available in public files.

- (4) Require the facility to submit the plans to the Department as part of the Title V permit application and then determine key elements of a particular plan and incorporate those elements into the specific language of the Title V permit.

PROS	CONS
The plan is available in the public files for interested parties to view and as part of the Title V permit application is available for public comment during the comment period.	Determination of what the “key elements” of a particular plan is (i.e. which elements to include in the specific permit language) may be difficult and will involve a commitment of staff time.
Portions of the plans could be revised without going through the work intensive process of revising the permit and without additional time constraints of the permit process when the plan language changes.	Part of the plan could be revised without going through the public comment period until the next Title V renewal.
	Obtaining consensus on “key elements” from the facility, department, and other interested parties may slow down permit issuance.

FOR DISCUSSION PURPOSES ONLY

This material is for discussion purposes only and does not represent any decision or position on the topic being presented.

Title V Air Permit Petitions – January 20, 2010 Public Meeting

- (5) Title V permits with a mixture of language from (1) – (4) depending on the specific plan (i.e. determine which plans are to be included in the permit in their entirety, which plans will be submitted for Department review and approval outside of the permit, which plans will only need to be submitted when requested by the Department, or which plans should have key elements of the plan included as specific permit language).¹

PROS	CONS
Potential compromise as far as work loads, flexibility, and need for permit revisions.	Work load issues in regards to determining which plans to include in each category.
	Obtaining agreement between all affected parties on which plans belong in the permit.

¹ This option contains pros and cons for an individual plan based on which option in 1-4 above is used for that particular plan. Additional pros and cons included in the table are for using this hybrid option.