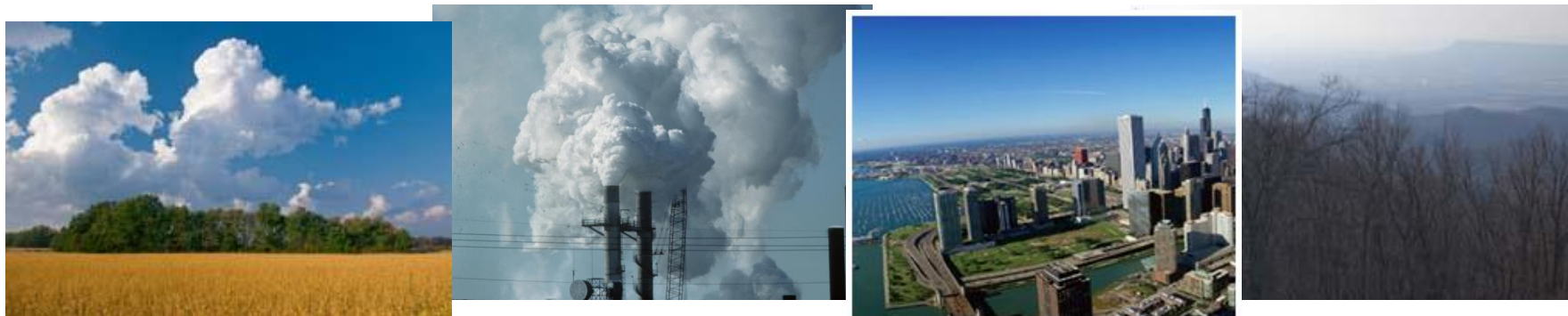


Introduction/Welcome

Vera Kornylak
Operating Permits Group
Air Quality Policy Division, OAQPS
NACAA Permitting and Enforcement
Workshop
December 2014

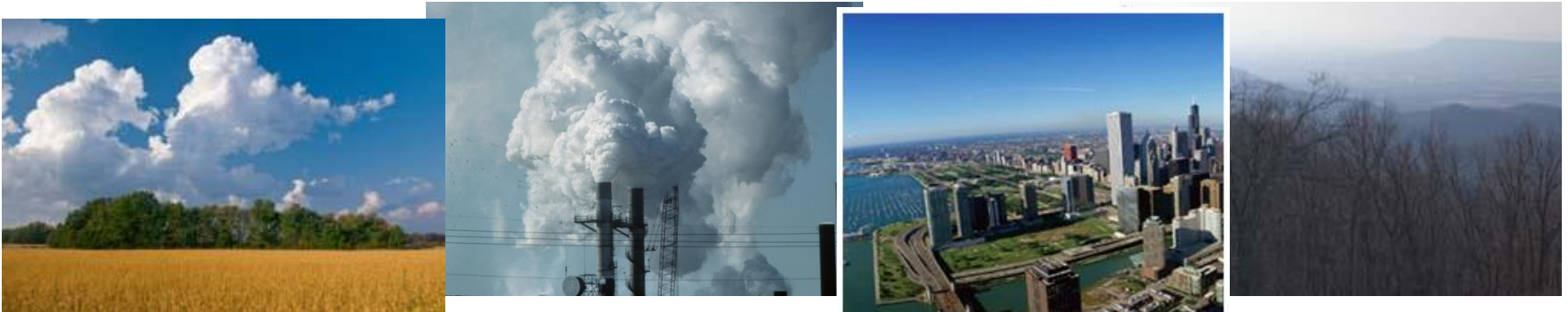


Overview of OAR

- Office of Air and Radiation
 - OAQPS – Office of Air Quality Planning and Standards
 - AQPD – Air Quality Policy Division
 - Operating Permits Group
 - New Source Review Group

Title V Permitting Updates

Vera Kornylak
Operating Permits Group
Air Quality Policy Division, OAQPS
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Title V Guidance Updates

- On April 30, 2014, EPA issued a Memorandum titled “Implementation Guidance on Annual Compliance Certification and Statement of Basis Requirements for Title V Operating Permits”
 - The guidance is responsive to the 2005 Title V Office of Inspector General Report, the Title V Task Force Report, as well as stakeholder interest in this type of guidance
 - The guidance describes the CAA and regulatory elements surrounding annual compliance certification and statement of basis and also provides key guidance on those programmatic elements
 - <http://www.epa.gov/Region7/air/title5/t5memos/20140430.pdf>

Title V Rulemaking Updates

- On July 28, 2014, EPA published a final rulemaking titled, “Amendments to Compliance Certification Content Requirements for State and Federal Operating Permits Programs” (79 FR 43661)
 - This action restored a sentence that was inadvertently removed from the operating permits program rules (found in 40 CFR parts 70 and 71) due to an editing error.
 - This rule amended the compliance certification requirements in 40 CFR 70.6(c)(5)(iii)(B) and 71.6(c)(5)(iii)(B).
 - The restored sentence is: "If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information."

OIG Title V Fee Report

- On Oct. 20, 2014, the OIG released a report titled, “Enhanced EPA Oversight Needed to Address Risks from Declining Clean Air Act Title V Revenues.”
- The Report recommends a number of actions to ensure that state and local permitting authorities are collecting adequate fees to cover the costs of the title V permit programs, even in the face of declining emissions.
- As a general matter, the EPA agreed that a guidance document that discusses the fee aspect of the oversight program evaluation in additional detail would be useful.

OIG Title V Fee Report

- In addition, EPA agreed to provide for completion of EPA Regional Office fee oversight reports within a reasonable time following completion of the audit, as well as the public posting of such reports.
- Most work products are due in the 4th Quarter of 2017 with some interim milestones.
- The complete report and the EPA's response is available online at: <http://www.epa.gov/oig/reports/2014/20141020-15-P-0006.pdf>

OIG Fee Report – EPA Activities

- EPA agreed to
 - assess existing fee guidance and to re-issue, revise, or supplement such guidance, as necessary.
 - develop and issue a guidance document that sets forth a fee oversight strategy. In developing this guidance document, the EPA will consider the scope and frequency of fee assessments and their relationship to the National Program Guidance element that currently provides for each region to conduct at least one title V program evaluation each year.
 - work with the regions to develop a guidance document that includes a fee oversight strategy including, for example, a fee review checklist that will provide a framework for the EPA regions to use when performing fee assessments for state permit programs.
 - work with the EPA regions to identify a reasonable timeframe in which to complete the evaluation reports and post such reports on the internet.
 - ensure that fee assessments are performed periodically as part of the EPA program oversight functions.

Permitting Best Practices

Vera Kornylak
Operating Permits Group
Air Quality Policy Division, OAQPS
NACAA Permitting and Enforcement
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Title V Permit Order Updates

- EPA continues to receive title V petition orders from various types of parties including environmental groups and regulated entities
- In 2014, EPA issued 6 title V petition orders.
- All orders can be viewed online at:
<http://www.epa.gov/region7/air/title5/petitiondb/petitiondb.htm>
- In addition, notice of issuance of final orders is published in the Federal Register

Commonly Raised Issues in Title V Petitions

- Common issues include:
 - Pollutant-specific claims surrounding monitoring adequate to assure compliance with applicable requirements;
 - Adequacy of terms and conditions in title V to incorporate state implementation plan approved rules; and
 - Adequate inclusion of terms associated with NESHAPs and PSD.

QUESTIONS OR COMMENTS

Greenhouse Gas Permitting Updates

Vera Kornylak and Raj Rao
Title V and NSR Groups
Air Quality Policy Division, OAQPS
NACAA Permitting and Enforcement
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GHG Supreme Court Decision

- The Supreme Court (SCOTUS) issued its decision on June 23, 2014 in *Utility Air Regulatory Group (UARG) v EPA*
 - At issue was whether EPA permissibly determined that its regulation of GHGs from new motor vehicles triggered permitting requirements under the CAA for stationary sources that emit GHGs
 - Key outcomes of SCOTUS decision:
 - EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD or title V permit
 - EPA could continue to require that PSD permits otherwise required based on emissions of non-GHG pollutants, contain limitations on GHG emissions based on the application of BACT
- The case is now with the D.C. Circuit Court of Appeals and parties have filed motions to govern the next steps to implement the Supreme Court's decision.

Preliminary Views of SCOTUS Decision

- EPA memorandum dated July 25, 2014 to Regional Administrators provided preliminary information on how to proceed:
 - EPA will continue to require carbon pollution limits in permits for the largest sources
 - EPA will no longer require permits for “step 2” sources (sources that triggered permitting requirements based solely on their GHG emissions)
- The memo provided EPA’s preliminary views in response to questions regarding ongoing permitting requirements for “anyway sources” and some additional issues regarding permitting requirements for “step 2” sources
- EPA does anticipate that many SIPs and approved title V programs will need to be revised in light of the SCOTUS decision

- 5-Year Study and Step 4 Tailoring Rule
 - SCOTUS eliminated need for the 5-year study
 - EPA does not intend to take further action on Step 4 Rule
 - EPA recommends that Regional Offices confer with state, local and tribal permitting authorities and permit applicants to discuss how to handle permit applications pending with those agencies

- Treatment of Biogenic CO₂ Emissions
 - SCOTUS decision did not directly address application of PSD and title V permitting requirements to biogenic CO₂ emissions
 - The Deferral Rule expired on its own terms July 21, 2014
 - EPA Memorandum dated November 19, 2014 provides more details on next steps associated with treatment of biogenic CO₂ emissions

GHG BACT Determinations (cont.)

- Carbon Capture and Storage (CCS)
 - BACT Step 1 – EPA views CCS as an available technology for most facilities emitting CO₂ in large amounts and with high purity CO₂ streams
 - BACT Step 2 – If any of the 3 components (capture, transport or storage) is technically infeasible, then CCS is technically infeasible for the source in question
 - CCS is often evaluated in BACT Step 4, which considers costs and other impacts
 - At least 3 PSD permits issued since 2011 with CCS

- A BACT evaluation is a case-specific analysis, and BACT decisions should be supported by the record and well documented

Global Warming Potentials (GWP)

- Revision to GWP values (Part 98, Table A-1)
 - Final rule published November 29, 2013
 - Aligns Reporting Rule GWPs with IPCC's 2007 Report
 - Some values increased and some decreased from 2009 Part 98 rule (e.g., CH₄'s GWP increased from 21 to 25; N₂O and SF₆ decreased)
 - New GWPs were effective on 1/1/14 for EPA permits and in states if their rules automatically update when Table A-1 is revised
 - No Retroactivity – PSD permits issued prior to the rule's effective date will continue to use the GWPs that were in effect at issuance

- Addition of chemical-specific and default GWPs to Table A-1
 - Proposed rule published July 31, 2014; finalize by early 2015
 - Adding these values for the remaining fluorinated GHG compounds will mean that all possible GHG compounds will have a GWP value
 - Negligible increase in permit activity expected

QUESTIONS OR COMMENTS
