

NACAA Permitting & Enforcement Workshop

June 14-15, 2011

- ▶ Title V Permit Improvement
- ▶ Bob Hodanbosi, Chief, Division of Air Pollution Control
 - ▶ Ohio EPA

Background

- ▶ Charge by CAAAC Permits Subcommittee, May 2004 to form Title V Task Force
- ▶ 3 public hearings and 2 conference calls held, Jun 2004-Feb 2005
 - Extensive participation
- ▶ Written comments accepted until Mar 31, 2005
 - Even more extensive written submittals
- ▶ Task Force (TF) deliberations Feb 2005 – Mar 2006
- ▶ Final Report April 2006
- ▶ www.epa.gov/airquality/permits/taskforce.html



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Task Force Charge

- ▶ Representatives from States, Locals, Environmental Groups, Industry
- ▶ Gather input from all stakeholder groups
- ▶ Determine how well the title V program is performing
- ▶ Determine what elements of the program are working well vs. working poorly
- ▶ Report may characterize consensus, however, if consensus is not achieved, report should reflect all views



Task Force Issue Areas

- ▶ Program Overview Papers
 - Costs & Benefits
- ▶ Content Issues
 - Incorporation of Applicable Requirements
 - Insignificant Emission Units
 - Monitoring
 - Title I/Title V Interface
 - New Substantive Requirements
 - Permit Definitiveness
 - Compliance Certifications
 - Startup, Shutdowns and Malfunctions
 - Compliance Schedules
- Process Issues
 - EPA Review of Proposed Permits
 - Public Access to Documents
 - Public Hearings
 - Public Notice throughout Process
 - Statement of Basis
 - Responses to Public Comments
 - Permit Revisions and Operational Flexibility
 - Petitions and Appeals



Incorporation of Applicable Requirements

▶ **Issues**

- TF addressed how to record applicable *rule* requirements in the Title V permit, particularly MACT, *e.g.*, restate verbatim, cite (general or detailed), or paraphrase/ translate.
- TF addressed how applicable requirements from construction permits should be recorded.

▶ **Recommendation Topics**

- Majority supported citation approach for incorporating MACT (and other standards) into Title V permits.
- For construction permits, terms and conditions should be repeated in Title V permit; citation to construction permits should be used only if construction permit is available for review.

Insignificant Emission Units

▶ **Issues**

- EPA has required insignificant emissions units (IEUs) be included in Title V permit with applicable rules identified.
- Once IEUs are identified, permittee must provide annual compliance certification for them.
- TF discussed concern re focus on IEUs detracting from significant units & imposing high costs for little environmental benefit and also potential cumulative emissions from multiple IEUs.

▶ **Recommendation Topics**

- Majority believes administrative burden associated with the permitting and certification of IEUs outweighs environmental benefit of including these small sources in program and that IEUs can be handled in a more streamlined manner.
- Majority recommends eliminating them from inclusion in the program, but any unit not included in program would not have a permit shield.

Compliance Certifications

Content

▶ **Issues**

- What should the format of compliance certifications be?
- Wide ranging discussion on the pros and cons of the various forms:
 - Long form can obscure compliance issues for the regulators, company management and the public.
 - Some view long form as management tools.
 - Core recognition that identifying deviations is the key.

▶ **Recommendation Topics**

- Majority of TF recommends short form.
- Remainder of TF split among three options from a modified short form to the full long form.
- Consensus on several “nagging” issues re certification forms:
 - should provide space for permittee to clarify or explain its certification.
 - should not require certification for requirements that don’t impose an obligation on the source.
 - should include space to indicate where permittee relies on monitoring not specified in the permit in cases when permit specifies a particular method.



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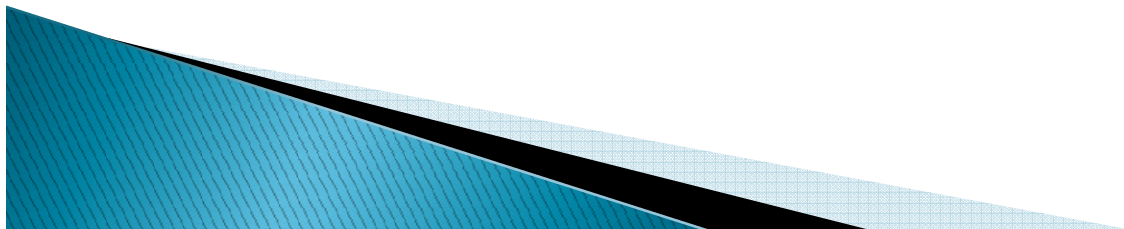
Public Notice throughout Process

▶ **Issues**

- Degree to which public notification of permit proceedings has been effective.
- Potential improvements to address any problems that do exist in state implementation of notice requirements.

▶ **Recommendation Topics**

- Majority agreed that states should
 - explore effective alternatives to newspaper notice;
 - make greater use of the internet; and
 - notify commenters throughout process of key permit development actions.



Statement of Basis

▶ ***Issues***

- Production, content, and use of statements of basis.

▶ ***Recommendation Topics***

- Consensus on:
 - most items that should be included in a statement of basis for initial permits, renewals, and revisions; and
 - consequences for permits issued without a statement of basis and state programs that routinely do not issue a document satisfying the intent of the statement of basis with their permits.

Title V Task Force Report EPA Response

- ▶ Report Contained 100 Recommendations to Consider and Prioritize
- ▶ Current plan for what to do first
 - Guidance document addressing several recommendations at once
 - Rule addressing three recommended regulatory changes
 - Additional rule addressing petition process
 - If resources allow, possible work on best practices



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Title V Task Force – EPA Response Planned Guidance

▶ Guidance Document

- Affirm WP2 generic treatment of I.E.U.
- Reiterate that citation-based incorporation of applicable requirements is ok, and citations can be general or detailed
 - However, paraphrasing generally unacceptable
- Selected examples clarifying current permit revision procedures
- Clarify expected content of Statements of Basis
- Address use of “short form” for compliance cert.
- Encourage public notices to specify type of facility



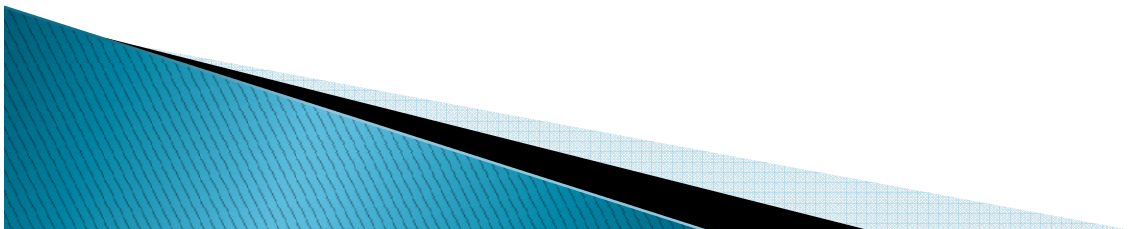
Title V Task Force – EPA Response Planned Rules

- ▶ Rulemaking on three specific recommendations
 - Allowing alternative forms of public notice
 - Excluding I.E.U. from permit
 - Possible additions to allowed list of administrative and minor permit revisions
- ▶ Petition process rulemaking
 - Recognize flaws in current process
 - Considering possible improvements via rule



Why Improvements Needed?

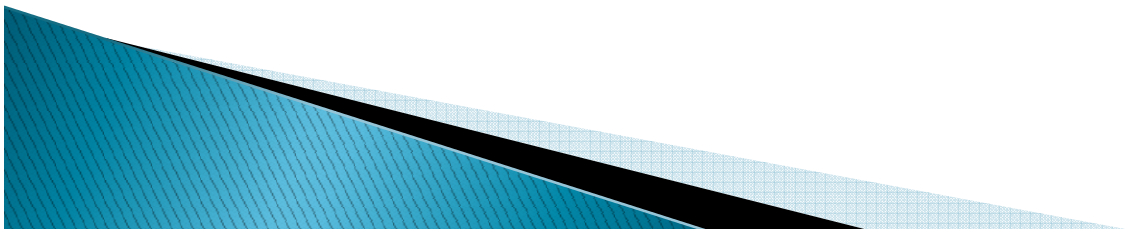
- ▶ Task Force Report raised at EPA/NACAA Retreat in January 2010
- ▶ Issues are still outstanding
- ▶ Title V fees decreasing – improvement/efficiencies more important than ever



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Why Improvements Needed?

- ▶ EPA upper management all have state experience
 - willing to push for improvements
- ▶ Need to take advantage of “window of opportunity”



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NACAA Draft

Priorities for Guidance for Title V

- ▶ Affirm WP2 generic treatment of IEUs until rulemaking can be completed.
- ▶ Clarify expected content of Statement of Basis. This should not be a “wish list” of what EPA would like to see, but the absolute “bare bones” content in the Statement of Basis. (EPA needs input from permitting authorities)
- ▶ Reiterate that citation based incorporation of applicable requirements is ok and citations can be general or specific. Also, agencies should not try to paraphrase MACT, NSPS or NESHAPS.



NACAA Draft

Priorities for Guidance for Title V

- ▶ Provide for use of “short form” compliance certification
- ▶ Encourage public notices include minimum amount of information on Title V facility. (This becomes more feasible if implementing 2 (A)(ii) and not using newspaper ads).
- ▶ There should be clarification on the definition of “common controls” on multiple emission units.



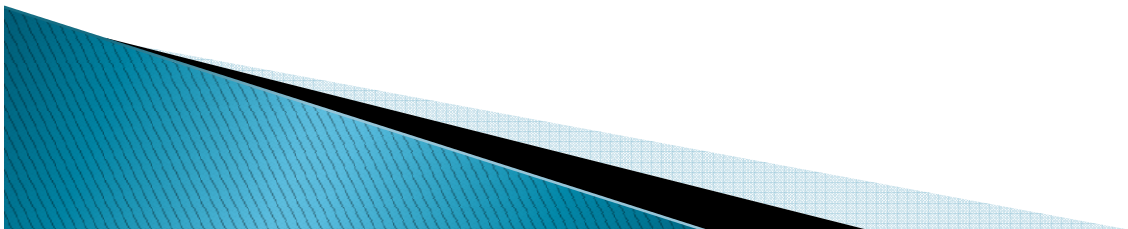
NACAA Draft Priorities for Rulemaking

- ▶ Expand the allowed list of administrative and minor permit revisions.
- ▶ Allow alternate forms of public notice to reflect the new means of communication that would be more effective and less costly than the traditional forms of public notice.
- ▶ Allow permitting authorities the ability to exclude IEUs from Title V permit.



NACAA Draft Process

- ▶ EPA should provide opportunity to the State/Locals to review the draft guidance and rules. There should be a representative group of willing volunteers to review material and provide feedback to U.S. EPA.



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