

# Guidance on Streamlining Clean Air Act Title V Operating Permit Renewals: U.S. Environmental Protection Agency Issues Guidance



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The United States Environmental Protection Agency (“EPA”) issued on April 16th a guidance document titled:

*Guidance on Streamlining Clean Air Act Title V Operating Permit Renewals* (“Guidance”).

The Guidance is transmitted from Assistant Administrator for Air and Radiation Aaron Szabo to the Regional Administrators.

Title V of the Clean Air Act requires certain stationary sources of air pollution to obtain Operating Permits. Congress in 1990 added Title V to the Clean Air Act to assure stationary sources are subject to a comprehensive air permit. The Title V Operating Permit generally does not impose new substantive air quality control requirements. The Title v Permit must list the enforceable emission limitations and standards applicable to the source under the Clean Air Act. Most Title V Permits are issued by states (including Arkansas) or local agencies.

Title V only applies to “major sources.” EPA defines a major source as a facility that emits, or has the potential to emit, any criteria air pollutant or hazardous air pollutant at levels equal to or greater than the Major Source Thresholds. The Major Source Threshold for criteria pollutants may vary depending on the attainment status of the geographic area and the criteria pollutant or hazardous air pollutant in which the facility is located.

EPA maintains a document index of policy and guidance documents that are intended to help interpret the Title V permit requirements. The April 16th Guidance is the newest addition to this document index. The stated purpose is to streamline the Operating Permit renewal process. It is stated to reaffirm:

... EPA’s long-term position that the agency’s state, local, and Tribal air permitting partners do not need to require or be provided additional information from the original Title V application to meet CAA requirements when an entity is renewing an unchanged permit.

The federal agency further states that eliminating what it characterizes as burdensome and unnecessary red tape would permit its permitting partners to be able to focus time and resources on permits with substantive changes. It is stated to be the alleviation of permitting backlogs and the creation of renewed efficiency.

Some of the points in the Guidance include:

- If there are no changes to permit terms or underlying applicable requirements since the last permit application, permitting authorities may allow applicants to essentially resubmit the prior application with a current date.
- For permit terms that are not changing in a renewal permit, permitting authorities may allow applicants to satisfy their regulatory obligations by cross-referencing or incorporating by reference material submitted in previous applications (any cross-referenced documents must be made available for public review).
- Permitting authorities do not need to proactively explain the legal and technical basis of every permit term.
- Permitting authorities are encouraged to focus on explaining permit requirements that are new or different.
- If public comments raise specific challenges concerning the terms of a renewal permit—even if the permit terms at issue are unchanged—permitting authorities have an obligation to respond to those significant comments.
- Permitting authorities are encouraged to either use the prior Statement of Basis, editing only the portions addressing any changed or new requirements, or, to justify any unchanged permit terms, make the prior Statement of Basis available for public review.
- The memorandum is intended to alter the authority and discretion afforded to permitting authorities to request necessary information from permit applicants to evaluate completeness or take final action on a permit application, consistent with Clean Air Act requirements.

A copy of the Guidance can be found [here](#).