Streamlining Clean Air Act Title V Operating Permit Process to Expedite Approvals: U.S. Environmental Protection Agency Issues Guidance

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The United States Environmental Protection Agency ("EPA") issued on May 11th a guidance document titled:

Guidance on Streamlining Title V Operating Permit Reviews ("Guidance").

The Guidance is transmitted from the Assistant Administrator for Air and Radiation Aaron Szabo to the EPA 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 May 11th Guidance is the newest addition to this document index. The stated purpose is to streamline and expedite Title V approvals.

The Assistant Administrator states that the Guidance is intended to promote:

... the statutory direction for a "streamlined" and "expeditious" permit review process by ensuring permitting authorities and EPA Regions are aware of opportunities to eliminate unnecessary delays in the beginning and end of the EPA's review periods, thus allowing for final permits to be issued more efficiently.

The Guidance clarifies EPA's position on the following:

- The Agency can concurrently review a proposed permit while the draft permit is going through the required public participation process;

- The Agency can expedite and conclude review of a proposed permit, and permitting authorities can finalize a title V permit, prior to the conclusion of the Agency's 45-day review period; and
- The correct method for calculating title V permit review deadlines.

Components of the Guidance include:

- Concurrent Public and EPA Review.
- Expedited EPA Review.
- Method for Computing Deadlines.

A copy of the Guidance can be downloaded here.