



ARKANSAS  
Department of Environmental Quality

October 13, 2016

Administrator Gina McCarthy  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, NW  
Washington DC 20460

**Re: Docket ID No. EPA-HQ-OAR-2016-0194; Comments on Revisions to the  
Petition Provisions of the Title V Permitting Program**

Administrator McCarthy:

The Arkansas Department of Environmental Quality ("ADEQ") Office of Air Quality appreciates the opportunity to provide comments to the EPA regarding the "Revisions to the Petition Provisions of the Title V Permitting Program," ("Proposed Rule") which was published in the Federal Register on August 24, 2016. While ADEQ appreciates EPA's goals of improving clarity, transparency, and efficiency of the Title V permitting process, certain proposed changes undermine those important goals. ADEQ submits the following comments to assist EPA in more effectively accomplishing its stated objectives.

First, the Proposed Rule would vastly increase the time necessary to issue permits during the Title V permitting process. Under Arkansas's EPA-approved program, ADEQ sends draft permits to EPA concurrently with public notification and opening of the public comment period. The submittal to EPA starts the EPA's 45-day review period, and the 30 day public comment period runs at the same time as EPA's review. Responses to comments received and issues raised during the public comment/EPA review period are prepared at the conclusion of the combined comment/review period. This allows ADEQ to address concerns from both EPA and the public at the same time, which both saves time and allows a comprehensive review of all issues arising the during the review/comment period. The Proposed Rule's requirement that the response to comments (RTC) be prepared prior to and submitted with the draft permit to EPA would extend ADEQ's permitting process by a minimum of 45 days, thus unnecessarily delaying a final decision on the draft permit. This delay will adversely affect the permittees who depend on swift and timely permitting decisions for their operations. ADEQ strongly opposes the proposed requirement for the inclusion of a completed RTC prior to initiation of EPA's 45-day review period. Instead, ADEQ requests that the final rule allow greater flexibility in order to



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accommodate ADEQ's EPA-approved, Title V, permitting process. This is especially important in Arkansas where a combined construction and operating permit program is used. A delay in permitting often means delays in new operations.

Second, the Proposed Rule's treatment of any response to an EPA permitting objection as a new proposed permit has the potential to further delay ultimate permitting decisions and potentially create a situation in which multiple EPA objections could lead to delays of indefinite duration. In the Proposed Rule, EPA explains that once EPA objects to a permitting authority's decision, a state must resolve EPA's objection and terminate, modify, revoke, or reissue the permit within 90 days. The Proposed Rule states that "EPA has generally treated the permitting authority[sic] response as a new proposed permit which is subject to the agency's opportunity to conduct a 45-day review per CAA 505(b)(1) and 40 CFR 70.8(c), and an opportunity for a petition if the EPA does not object." 81 FR 57822 at 57842. Generally, this interpretation doubles the time during which the permit is subject to EPA review. If EPA and the permitting authority do not agree on the outcome and EPA objects once again, then process starts over again. At best, EPA's interpretation substantially delays issuance of complex permits to which EPA objects and reasonable minds may disagree on the solution, and, at worst, binds Title V permits into a review process that potentially continues until the state acquiesces to EPA's specific interpretation of the proper solution to a particular objection.

Third, ADEQ disapproves of EPA's new requirement under 40 C.F.R. § 70.7(h)(7) for additional public notice that the proposed permit and responses to public comments "have been transmitted to EPA." This publication will result in unnecessary additional costs being incurred by states.

Fourth, ADEQ approves of the use of EPA's electronic submittal system when that is possible. Use of the electronic submittal system will assist with streamlining the petition review process. ADEQ supports the language encouraging the use of this system. However, ADEQ does not see the need for every Title V application to be transmitted to EPA. This is an unnecessary burden since regional offices do not review every application.

Fifth, ADEQ generally agrees that providing petitioners with mandatory petition content and standard formatting information would be beneficial to the petition review process. Similarly, ADEQ supports requiring the petitioner to submit copies of the petition to both the permitting authority and the permit applicant.



A R K A N S A S  
Department of Environmental Quality

Sincerely,

A handwritten signature in blue ink, appearing to read "Stuart Spencer", is written over the word "Sincerely,".

Stuart Spencer

Associate Director, Office of Air Quality

Arkansas Department of Environmental Quality

cc: Becky Keogh, ADEQ Director