

# Inter-office communication

To: District Office Air Unit Managers and Local Air Agency Directors (link<sup>1</sup> via e-mail and via hard copy)  
From: Mike Ahern, DAPC/PIDM  
CC: Bob Hodanbosi, Mike Hopkins, Jim Orlemann, Andrew Hall, John Paulian, Erica Engel-Ishida  
Date: March 31, 2010  
Re: Title V Technical Incompleteness Procedures (Answer Place ID 2172)

---

## What this memo covers

This memo updates the previous version of the *Title V Technical Incompleteness Procedures* memo from Tom Rigo dated January 10, 2000 and my previous memo titled *Title V Denial Steps* dated February 20, 2008.

The purpose of this memo is to:

- Identify steps involved in making a final technical incompleteness determination by the Director.
- Clarify who is responsible for contacting the applicant and in what manner.
- Reference templates for Title V application technical incompleteness correspondence (available in STARS2)

## What this memo does not cover

- Central Office steps involved in getting the Director's signature on a final letter terminating authority to operate (contact Mike Ahern, DAPC, Permit Issuance and Data Management)

## Four steps to final Technical Incompleteness Determination by the Director

The following clarifying guidance identifies how to obtain timely additional information from the applicant during the technical completeness phase of the Title V permit review. It is important that we follow these procedures to ensure timely technical completion of applications, provide reasonable time for response to additional information requests, and ensure due process in the event that the final determination is that the application is technically incomplete. As you know, Title V applicants have an obligation under OAC rule 3745-77-05(B) to provide additional information that Ohio EPA or its agent determines is necessary to complete the application. The rule requires that we follow prescribed procedures in an effort to obtain a technically complete application before the Director makes a finding that the application is technically incomplete. A final finding that the application is technically incomplete means that the applicant loses their authorization to operate under the application shield. Since the penalty is very severe in making a final determination of an incomplete application, we anticipate most applicants will be cooperative in completing their applications. However, it is important that you follow the prescribed procedures to ensure that the company understands what is requested, the basis for the request, and the ramifications of not responding in a timely manner. Two of the steps are formal correspondence, and two steps are informal communication that you should document. All

---

<sup>1</sup> You must be logged into the Answer Place to access the topic

the steps are designed to ensure that a final determination of technical incompleteness is well understood by the applicant before an application gets to that significant final determination. These are minimum steps. Additional informal communication is encouraged, as is providing adequate time for applicants to respond to requests.

It is recognized that informal communication with the applicant (usually the primary contact and/or the consultant if one is involved) frequently occurs as the technical review progresses (or occurs once the application reviewer completes their technical review and has a list of items that need to be addressed to continue the permit development process). Generally, most informal communications that request additional information and/or a supplemented application are handled informally and resolve permit application issues efficiently (though they should be documented in STARS2). However, there may be instances where this informal process breaks down or where a deadline requires quick action by the company to supplement the application. The following procedure is intended to address such situations. It is up to the DO/LAA and Central Office management to determine when the following procedure should be invoked.

The prescribed procedures are as follows:

### **Step 1 Formal**

---

After the DO/LAA permit writer technically reviews the application and finds the application not to be complete, a phone call to the company's environmental representative should be made that immediately puts the company on notice that you need additional information in order to process the application. This verbal communication should be noted in STARS2<sup>2</sup>. It is important to then prepare a letter<sup>3</sup> to fax/e-mail to the company's primary contact by certified mail return receipt requested (see suggested Step 1 letter). It is also important that the letter be signed by the appropriate Ohio EPA, District Air Unit Manager (AUM) or local air agency (LAA) Director, or in his/her absence, his/her designated representative (see the Attachment 1, delegations of authority). A **minimum** of 15 days from receipt of the certified letter is the required response time frame. If the permit writer believes that more time than 15 days is necessary to provide the additional information that is requested, then provide a reasonable deadline beyond 15 days. Also, *if a company contacts the permit writer and requests additional time, the permit writer should extend the time frame, if appropriate, and follow the verbal agreement with a letter documenting the extension and reason for the request/approval.* Any deadline extension needs to be documented in a letter to the company signed by the appropriate District AUM or LAA Director.

***Letters associated with technical review are not automatically logged into STARS2. A signed copy of each letter should be scanned and uploaded into STARS2 in the "Correspondence" area of the Facility Profile.***

### **Step 2 Informal**

---

If we failed to receive a response or received an inadequate response from the Step 1 letter, then the application reviewer should call the primary contact offering a meeting to discuss the outstanding issues (Central Office permit review staff should be included). This is an informal step that should be documented. If the company is not interested in meeting or fails to remedy the application deficiencies, you should let the primary contact know (via e-mail or phone) that we will proceed to the next step which involves notifying the Responsible Official (RO) of the deficiencies and responsibilities/options the RO has pursuant to the rule.

---

<sup>2</sup> Enter the note in the **Workflow Note List**

<sup>3</sup> In STARS2 – Tools/Document\_Generation/Applications/ [Title V App Technical Incomplete 1st Warning \(not logged\)](#)

### *Step 3 Formal*

---

A certified letter<sup>4</sup> (return receipt requested) must be sent to the applicant's RO that documents the deficiencies and summarizes the progress or lack thereof to-date. The letter will also offer setting up a meeting between the RO, the appropriate LAA Director (or designee) or DO AUM, and one or more of the delegated DAPC Central Office management staff delegated to meet on behalf of the Director and the technical staff involved in review of the application. The offer to conference meets the procedural requirements to offer to conference within seven days of notifying the applicant of the failure to submit requested information<sup>5</sup>. The template letter requires the RO to submit the required information within seven days of receipt of the letter or to contact the LAA Director (or designee) or DO AUM within seven days or risk the Agency proceeding with a formal determination of technical incompleteness. If a meeting is to be set, an informal period to establish the meeting date can be established. Finally, a revised submission date can be established based on the meeting results or request by the RO.

### *Step 4 Informal*

---

As a courtesy, the appropriate LAA Director (or designee) or DO AUM should attempt verbal contact with the RO if there is no response or contact from the RO after seven days from the date the company received the Step 3 letter. If no contact is made, the appropriate LAA Director (or designee) or DO AUM should contact Mike Ahern and Andrew Hall to coordinate a formal final determination of application technical deficiency for the Director's signature.

Mike Ahern and Andrew Hall will coordinate the signature/review steps involved in having the Director sign a final technical incompleteness determination. Once signed, the final action of the Director is not effective for 20 days from the date the formal determination is received<sup>6</sup> by the company. The determination will not become effective if all the information indicated in the technical incompleteness determination is submitted via Air Services by midnight of the 20<sup>th</sup> day from the day the company signs for receipt of the final determination letter. Once midnight passes, the only action that will stay the loss of authority to operate under the application shield is a stay issued by the Environmental Review Appeals Commission (the final determination letter will indicate that the letter is a final action of the Director subject to appeal). Once midnight passes, this ceases to be an application issue and further activity proceeds under enforcement. The DO/LAA should begin steps to draft a Notice of Violation at this time if the company continues to operate.

---

<sup>4</sup> In STARS2 – Tools/Document\_Generation/Applications/ [Title V App Technical Incomplete 2nd Warning \(not logged\)](#)

<sup>5</sup> See OAC rule 3745-77-05(B)(3)

<sup>6</sup> Sent via certified mail

DELEGATION OF AUTHORITY REGARDING:  
NOTIFICATION LETTERS FOR INCOMPLETE TITLE V APPLICATIONS

I, Chris Korleski, Director of Environmental Protection, hereby delegate to all Ohio Environmental Protection Agency District Air Unit Supervisors and Local Air Agency Directors, or in their absence, their designated representatives, the authority to sign on my behalf, as my agent, all notification letters of incomplete Title V permit applications as required by Ohio Administrative Code Rule 3745-77-05 (B), provided that the person signing any such letter shall specifically state in so signing that he or she is signing as my agent.

This Delegation supersedes any previous Delegation made with respect to the subjects specified herein.

  
\_\_\_\_\_  
Chris Korleski  
Director

\_\_\_\_\_  
Date 2/1/07

DELEGATION OF AUTHORITY  
REGARDING  
TITLE V PERMIT APPLICATION CONFERENCES

I Chris Korleski, Director, hereby delegate to the Chief of the Division of Air Pollution Control (Bob Hodanbosi) or his successor, the Assistant Chief of SIP & Enforcement (Jim Orlemann) or his successor, the Assistant Chief of Permitting (Mike Hopkins) or his successor, the Manager of the Enforcement Section (Tom Kalman) or his successor, and the Manager of the Permit Review Section (Andrew Hall) or his successor the authority to meet on my behalf with a Title V permit applicant that has requested a meeting with the Director, under OAC rule 3745-77-05(B)(3), to discuss the applicant's Title V permit application completeness.

This Delegation of Authority supersedes any previous Delegation made with respect to the subjects specified herein.

  
\_\_\_\_\_  
Chris Korleski, Director

\_\_\_\_\_  
Date 2/1/07