



# Title V Compliance Certification

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A Permittee's Perspective



# Title V Permitting Program

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- ✍ Included in 1990 CAA Amendments.
- ✍ Established state-issued operating permits to incorporate all current CAA requirements.
- ✍ DID NOT impose new substantive requirements.
- ✍ Consolidated existing applicable requirements into a single document.



# Title V Permitting Program

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Sources must:

- ✍ determine compliance with permit conditions &
- ✍ periodically certify compliance.
  - ✍ “certified as accurate” by RO.
  - ✍ truth, accuracy and completeness based upon reasonable inquiry.

# Compliance Components of the Amendments

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CAA §114(a)(3):

- ✍ Applicable Requirements,
- ✍ Methods Used for Determining Compliance,
- ✍ Whether compliance is “continuous or intermittent” and
- ✍ Such other facts as required to determine compliance status of source.

# Enforcement Components of the Amendments

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## CAA §113(a)(3):

- ✍ Violations result in penalty orders, compliance orders, consent orders, civil actions, and/or criminal actions.

## CAA §113(c)(2):

- ✍ Making false certification.
- ✍ Knowingly altering, concealing or failing to file.

# Compliance Certification Requirements

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- ✍ In July 1992, EPA published rules implementing State air quality permitting systems, mandated by Title V.

# Compliance Certification Requirements

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- ✍ 1997 Revisions to Part 70 & Promulgation of Part 64 [CAM].
  - ✍ Replaced “continuous or intermittent” requirement with a statement of whether the “data” used to determine compliance are “continuous or intermittent”.
  - ✍ Consider “other material information” when certifying compliance.

# Compliance Certification Requirements

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March 1, 2001 –

- ✍ EPA published a direct final rule:
  - ✍ Included required statutory language and
  - ✍ Included the 1997 CAM Guidance.
- ✍ EPA indicated withdrawal of rule if adverse comments received.
- ✍ April 30, 2001 effective date of direct final rule.

# Compliance Certification Requirements

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- ✍ November 5, 2001, EPA withdrew the direct final rule (published March 1).
  - ✍ Invoked the 'good cause' exception under the Administrative Procedures Act.
- ✍ Action restored the regulatory text that existed prior to the direct final rule.

# Compliance Certification Requirements

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June 27, 2003, EPA published Final Rule.

- ✍ Eliminated requirement to specify whether data are “continuous or intermittent”.
- ✍ Added requirement to:
  - ✍ identify each permit term & condition and
  - ✍ state whether compliance with each is “continuous or intermittent”.
- ✍ Removed language that RO must consider “any other material information”.



# Compliance Certification Requirements

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- ✍ “Continuous or intermittent” conditions - deviations from corresponding monitoring, recordkeeping and reporting permit terms.



# Determining Compliance Status

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- ✎ Monitoring – any form of collecting data routinely such as:
  - ✎ Instrumentation (CEMS or COMS);
  - ✎ Visible Emissions observations;
  - ✎ EPA, ASTM or other test methods;
  - ✎ Emission estimates and engineering calculations;
  - ✎ Fuel or raw material usage; or
  - ✎ Any other methods or means for assessing compliance with emissions standards or limitations.



# Determining Compliance Status

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## Recordkeeping Requirements (utilities) -

- ✍ Maintain files containing all measurements, data, reports and other required information in a form suitable for inspection.
- ✍ Retain for at least 3 years.



# Components for Determining Compliance

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## Exceedance and Excursion

- ✍ Defined in 40 CFR §64 - CAM

## Deviation

- ✍ Defined in federal operating permit program only.
- ✍ Individual States define & determine whether or not to include the term in certifications.
- ✍ Results in non-uniform certifications.



# Title V Programs in the Carolinas

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- ✍ Both programs based on the federal program.
- ✍ Both programs differ from the federal program in several respects.

# Certification by the RO

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- ✍ Review of documentation.
- ✍ Review team.
- ✍ Know:
  - ✍ facility operations;
  - ✍ how compliance is documented;
  - ✍ corrective actions to minimize deviations & exceedances; and
  - ✍ permit terms & conditions.



# USEPA

## Office of Inspector General

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- ✍ Recently conducted a review and issued a report, published March 9, 2005 – “Substantial Changes Needed in Implementation and Oversight of Title V Permits If Program Goals Are To Be Fully Realized”.

# USEPA

## Office of Inspector General

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Concerns identified:

- ✍ Permit Clarity,
- ✍ Statement of Basis,
- ✍ Monitoring Provisions,
- ✍ Annual Compliance Certifications, and
- ✍ Practical Enforceability.

# USEPA

## Office of Inspector General

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### Comments -

- ✍ Completeness differed substantially from state to state,
- ✍ Certifications did not consistently address compliance for the same permit terms & conditions,
- ✍ Lack of guidance from EPA (or inconsistent guidance from different regions of EPA)

# Clean Air Act Advisory Committee ("CAAAC") Title V Task Force

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- ✍ Formed May 2004.
- ✍ Reports to CAAAC
- ✍ Reviews inputs on Title V programs.