
TITLE V OPERATING PERMIT PROGRAM ON-DEMAND TRAINING

@ CLEAN AIR ACT TRAINING PLATFORM



Instructor:
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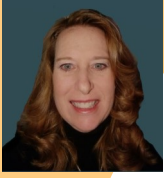
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About the Instructor



Lynn E. Hutchinson is General Counsel and Senior Project Manager with RTP Environmental Associates, Inc. (RTP). Before joining RTP, she worked for the U.S. Environmental Protection Agency (EPA) for over two decades, where she served as a Senior Policy Advisor in the Office of Air Quality Planning and Standards on New Source Review (NSR), Title V permitting, and State Implementation Plans, and as a consultant and expert witness for EPA and the Department of Justice (DOJ) on matters pending administrative or judicial review. She authored numerous policy memorandums and dozens of federal register notices during her tenure at (EPA) as Project Manager for the 2002 NSR Reform and other permitting rules, and working on such issues as regulation of minor sources, oil and gas permitting on the Outer Continental Shelf (OCS), NAAQS development, agricultural emissions quantification, and Maximum Achievable Control Technology (MACT) standards. For the past seven years, she has brought her innovative problem-solving skills to work on complex NSR applicability assessments, BACT and air impacts analyzes, title V permitting, and State Implementation Plan (SIP) submissions. In addition, she provides enforcement and litigation support, and develops comments on federal and state regulatory actions for state, industry, and association clients. Ms. Hutchinson is licensed to practice under the California Bar, and is a member of the North Carolina Bar Association.

Course Description

This 13-hour course covers the basics of the title V permit program from submitting a permit application through issuance and resolution of challenges to the permit while also providing a background on the underlying policy and legal foundation for requirements. Upon completing the training, students will understand the difference between application and permit shields; regulated pollutants for purposes of fees vs. for applicable requirements; inherent vs. non-inherent process equipment; federally enforceable operating permit programs vs. title v operating permit programs, and the difference between periodic, enhanced and compliance assurance monitoring. Students will gain an understanding of the importance of timely reporting; handling confidential business information; determining compliance using the Laxton Method vs. other approaches to significant digits and considering credible evidence in compliance certifications; crafting appropriate "averaging" language; recognizing SIP gaps; and addressing affirmative defenses related to startup, shutdown, and malfunction emissions; and writing permits to improve readability and compliance. Relevant judicial and administrative decisions will be reviewed in each topic area.

Module Topics:

Module 1: Title V Applicability (Introduction, Exemptions, and Definition of Major Source)

57 mins. + 21 question quiz (Runtime = 73 mins.)

This video includes an introduction that discusses the reasons Congress created Title V of the Clean Air Act Amendments, and EPA's and NGO's goals for the program. It also discusses the roles states played in forming the Title V program and the interrelationship between State Enforceable State Operating Permit Programs (SESOPs), Federally Enforceable State Operating Permit Programs (FESOPs), and the Title V Operating Permits Program.

The Exemptions and Major Source Applicability sections explain the criteria for determining which stationary sources must obtain a Part 70 or Part 71 permit. The discussion compares the statutory definition of "air pollutant" to "regulated air pollutant" and the history of EPA's "subject to regulation" definition with respect to regulation of greenhouse gases (GHG) under the Title V Operating Permits Program. The video also reviews relevant case law (such as Alabama vs. Costle; Asarco vs. EPA) and the concept of "SIP-gap."

Module 2: Potential to Emit

49 mins. + 15 question quiz (Runtime = 61 mins.)

This video reviews the history of EPA's "potential to emit" definition while discussing "inherent controls" and other factors to consider in determining a stationary source's or emissions unit's PTE for purposes of Part 70 or Part 71 applicability. This video also reviews relevant case law such as *National Mining Association vs. EPA*.

Module 3: Stationary Source

75 mins. + 15 question quiz (Runtime = 90 mins.)

This video provides an in-depth look at the history and current approach of EPA's stationary source definition, as well as the concepts of "common control," "contiguous and adjacent property," and "major industrial grouping." It reviews recent EPA policy memorandum and administrative decisions related to making stationary source determinations.

Module 4: Fugitives, Fees and CBI

58 mins. + 28 question quiz (Runtime = 79 mins.)

In this three-topic video, students will first learn about EPA's fugitive emissions policies including its interpretation of such terms as "reasonably pass" and "captured or collected" and EPA's consideration for distinguishing "fugitive" from "point source" emissions. In the second topic, students will review EPA's policies for establishing title V fees, as well as, the difference between "regulated pollutants" and "regulated air pollutants." Finally, the video closes with a discussion of confidential business information handling procedures. This section discusses the definition of "emissions data; "how a source may claim CBI; what a permitting authority must do to protect CBI; and how to clear information claimed as CBI for public release.

Module 5: Permit Application and Plans

61 mins. + 20 question quiz (Runtime = 76 mins.)

This video discusses the mandatory elements of a title V permit application, including compliance plan and schedules. It discusses "applicable requirements" for purposes of title V and when applicable requirements need to be included in a permit application. It also explains the term "regulated air pollutant" for purposes of title V permit application requirements.

Module 6: Permit Content and Issuance

57 mins. + 25 question quiz (Runtime = 76 mins.)

This video discusses the mandatory elements of a title V operating permit, and the legal significance of the permit and application shields. It also discusses the importance of including appropriate legal citation authorities for applicable requirements, and reviews the requirements for incorporating SIP approved general duty provisions into a permit. The video briefly touches on some best practices for incorporating requirements such as approved replicable methodologies (ARMs); alternative operating scenarios (AOS), and equivalency determinations.

Module 7: Permit Revisions

48 mins + 15 question quiz (Runtime = 61 mins.)

This video discusses the available processes for revising a permit, and the policy history related to Section 502(b)(10) and off-permit changes, while providing examples of changes that fall within the various permit revision authorities.

Module 8: Monitoring

71 mins + 18 question quiz (Runtime = 90 mins.)

In this video, students will walk through a chronological history of EPA's periodic and enhanced monitoring, credible evidence and compliance assurance monitoring rules and the legal challenges that ensued over the initial decade of the title V permit program. Students will learn about a permitting authority's obligations



to impose new monitoring provisions in a Part 70 or Part 71 operating permit, and the differences in using credible evidence to certify compliance for CAM vs. non-CAM units.

Module 9: Reporting and Administrative and Judicial Review

69 mins. + 18 question quiz (Runtime = 84 mins.)

Students will review Part 70 and Part 71 reporting requirements including certified progress, monitoring, deviation, and compliance certification reporting. The definition of deviation will be explained as well as what it means to submit "prompt" reports of deviations. The video also touches on EPA's new electronic reporting requirements. In the second part of the video students will review the Title V Petition Process including the new requirements that apply for submitting a petition, and the grounds EPA uses to determine whether to object to a permit. The process for administrative and judicial review of final agency actions on petitions is also explained along with case reviews of relevant decisions.

Module 10: Affirmative Defense and Enforcement

52 mins. + 15 question quiz (Runtime = 64 mins.)

In this two subject video, students will learn about the history of EPA's affirmative defense enforcement policy including early policy memorandums, and later codification in the Part 63 MACT standards program which lead to an overturn of that policy for the Section 112 program and the effect of that decision on the title V permit program. EPA, citizen and enforcement authorities will be discussed including the requirements for notice, and a repeated or continuing violation.

Module 11: Writing the Permit

60 mins. (no quiz) (Runtime = 60 mins.)

This video provides practical advice for writing clear and understandable permit conditions. The video discusses the importance of writing in active voice and aligning MRR requirements with specific emissions limitations, and clearly expressing averaging times. In addition, EPA's policies on permit streamlining are reviewed.

CLE – This course has been approved for Continuing Legal Education (CLE) credits in the states listed below:

- North Carolina: Approved for 13.5 CLEs
- Illinois: Approved for 13.0 CLEs

For more information on obtaining CLEs from another state, contact [Lynn Hutchinson](mailto:Lynn.Hutchinson@rtpenv.com) at (919) 845-1422, ext. 29 OR lhutchinson@rtpenv.com.

Pricing

We offer a tiered pricing structure, for 90 days access to the on-demand materials, based on the number of students enrolled from a company:

- 1 - 4 students = \$600*/student
- 5 - 14 students = \$480/student
- ≥15 students = \$450/student

*Attorneys requesting IL MCLE credit for the course and who are experiencing financial hardship may qualify for at least 50% reduction in the course fee.

Title V Reference Manual (1st Edition) - a compilation of policy guidance, administrative orders, and court decisions relating to the title V permitting program.

- With training course = \$185
- As a separate purchase = \$300

For individual course registration and payment, or to purchase the Manual, go to <https://caatplatform-rtpenv.thinkific.com/courses/title-v-operating-permits-program> to pay with PayPal. For group enrollment, or other payment options, contact Karen Santala at santala@rtpenv.com.