



Air Pollution Control Board
Greg Cox District 1
Dianne Jacob District 2
Pam Slater District 3
Ron Roberts District 4
Bill Horn District 5

Air Pollution Control Officer
R. J. Sommerville

ADVISORY REGARDING THE TITLE V PERMIT PROGRAM

This advisory discusses a new nationwide operating permit program for stationary sources of air contaminants. This new federal program was enacted under Title V of the 1990 Clean Air Act Amendments and is detailed by the U.S. Environmental Protection Agency's (EPA) regulations adopted in Part 70 of the Code of Federal Regulations. As a result, the program is often referred to as either the Title V permit program, Title V or the Part 70 permit program.

The Clean Air Act requires that states or local air districts develop a program to issue federal operating permits to affected facilities. San Diego County Air Pollution Control District Regulation XIV (Title V Operating Permits) describes how the District will implement the Title V permit program. Regulation XIV was approved by EPA on February 5, 1996 and became effective on March 6, 1996.

Currently, Title V permits are only required for major stationary sources of air pollution, but EPA could require smaller air pollution sources to obtain Title V permits in the future (post 1999). EPA considers a facility to be a major source if its *potential* emissions are above certain levels. Potential to emit is defined as the maximum capacity of a facility to emit a pollutant based on its physical and operational design. Facilities whose actual emissions are below major source levels can be affected by the Title V permit program if they have a theoretical potential to emit above major source levels. The implications for such facilities, and possible steps they can take to avoid Title V permit requirements, are discussed later in this advisory in the section entitled "Sources with Actual Emissions Below Major Source Thresholds" page 4.

The District intends to merge the Title V permit program with its local air permit program in order to minimize duplication and conflicts. The District's local permit program will remain for both major sources and non-major sources, but will change for major sources in order to incorporate Title V program requirements. Authorities to Construct will still be required before constructing or installing new or modified emission units. Startup Authorizations and District Rule 24 provisions will still be used to allow temporary operation of new or modified equipment. Permits to Operate will still be issued for operation of emission units, and must still be renewed annually.

SOURCES WITH ACTUAL EMISSIONS AT OR ABOVE MAJOR SOURCE THRESHOLDS

TITLE V APPLICABILITY

At this time, the District intends to require Title V permits for those facilities which have actual emissions above major source thresholds as follows:

Pollutant	Major Source Threshold
Oxides of nitrogen (NO _x)	50
Volatile organic compounds (VOC)	50
PM ₁₀ particulate matter	100
Carbon monoxide (CO)	100
Sulfur oxides (SO _x)	100
Any single hazardous air pollutant (HAP)	10
Any combination of HAP's	25
Any other regulated pollutant (e.g. CFC's, HCFC's, ammonia)	100

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The District also intends to provide steps that facilities whose actual emissions do not exceed any of the above major source thresholds can use to opt out of Title V permit requirements (see the Section below entitled "Sources with Actual Emissions Below Major Source Thresholds").

DATES FOR SUBMITTAL OF TITLE V PERMIT APPLICATIONS

Facilities that are major sources are required to submit applications for Title V permits to the District by **March 6, 1997**. A few specific major sources (separately notified) were requested to submit their Title V permit applications to the District by September 6, 1996. Copies of these applications are available for review in the District's library. The District is required to issue all initial Title V permits by March, 1999.

TITLE V PERMIT APPLICATIONS

A District Title V permit application forms package is now available and can be obtained by contacting Juanita Ogata at (619) 694-8851. The package includes instructions and process flow charts. Title V permit applications must be submitted with an initial processing fee deposit of \$22,200. Actual District costs of evaluating, processing and issuing a particular facility's Title V permit(s) may be more or less, depending on the complexity of permitting issues. Fees will be charged to cover actual District costs for each affected facility.

Recent federal EPA policy on implementation of the Title V permit program has allowed for streamlining of the application process. District staff and industry representatives have developed the Title V application forms and instructions to take advantage of these changes. In addition, electronic versions of the Title V application forms should be available on diskette later this year.

By the end of this month, the District will supply each known major stationary source with Title V application forms and instructions, a copy of current permit descriptions and conditions, and a list of any applicable rules that the District currently has in its permit database. If the permit information is current and complete, the facility may reference this information in its Title V permit application. Facilities may propose corrections and/or revisions to the descriptions or conditions in their current permits. Changes that can result in emissions increases may require a separate Authority to Construct application and reviews for compliance with New Source Review and other applicable District rules.

Inquiries related to submitting a Title V permit application should be made to Stan Romelczyk at (619) 694-3323.

TITLE V PERMITS FOR MAJOR SOURCES

The District has had a program for construction and operating permits for stationary air pollution sources for over twenty years. Title V permits for major sources will require substantial changes to the existing District Permits to Operate and procedures for applying for, modifying and renewing permits. Title V is designed to increase public and EPA involvement in permitting actions, to standardize permit content and enforcement following EPA guidance, to consolidate a facility's air pollution requirements into a single document, and to increase each affected facility's awareness and accountability for compliance.

Major sources which submit complete Title V permit applications by March 6, 1997, and provide additional information requested by the District, are protected from the requirement to have a Title V operating permit until the District issues the initial permit. The District will have until March 1999 to issue all initial Title V permits to major sources. These initial permits must be

reviewed and accepted by EPA before they can be approved by the District. Proposed initial permits must also be publicly noticed and available to the public for review and comment.

Once the initial Title V permit is issued, changes at the facility (e.g., adding new emission units, modifying existing units, changing permit conditions, etc.) that affect the Title V permit will need to follow procedures prescribed by EPA and the District. Depending on the environmental significance of the change, these procedures may require additional EPA and public reviews.

Because Title V permits will be incorporated into the existing District permit program, permits will continue to be administratively renewed annually. However, EPA requires that Title V permits expire after five years and must be re-evaluated and re-issued every five years. This will require facilities with Title V permits to submit an application for permit renewal 18 months prior to the five year expiration of the permit.

PUBLIC PARTICIPATION

Under Title V, public participation will increase substantially. Title V requires that the District publish proposed permit actions (e.g. initial permits, re-issued permits, five-year renewals, certain permit changes) in the newspaper and that the public be given 30 days to comment. The public can also petition the EPA to object to the issuance of a permit. The District must consider public comments before issuing Title V permits.

FEDERAL EPA AUTHORITY

Federal EPA has little authority over the form or content of local District operating permits. Under Title V, the EPA will have an active role in determining the content of Title V permits and enforcing the permits. EPA can also object to the issuance of a Title V permit, and can implement its own permit program if it finds that a state or local Title V permit program is inadequate.

COMPANY RESPONSIBILITY

Company responsibilities have increased under Title V. Facilities will be required to identify the air pollution control, monitoring, recordkeeping, and reporting requirements applicable to them and indicate how those requirements will be met. Companies are also responsible for knowing whether they are required to apply for a Title V permit, knowing what requirements apply, and ensuring compliance with their permits and applicable requirements.

IDENTIFYING SOURCES REQUIRED TO HAVE TITLE V PERMITS

The District is currently updating its emissions inventory information and preparing a revised list of sources that are likely major and may be required to apply for Title V permits. Facilities on the revised list will be contacted in November to advise them of the need to file a Title V permit application by March 6, 1997. These facilities can opt out of the Title V permit program if they can demonstrate to the District that their air pollution emissions have dropped below all of the major source thresholds listed earlier and if they agree to apply for and accept conditions on their local District operating permits limiting their emissions to below major source levels.

Facilities who know that they are major sources should not wait for a District notice. They should begin to prepare, or contract an agent to prepare their Title V permit applications as soon as possible. Despite the streamlining that has been accomplished, Title V permit applications are complex, and can require considerable resources in gathering and compiling the information required with the application.

SOURCES WITH ACTUAL EMISSIONS BELOW MAJOR SOURCE THRESHOLDS

As discussed above, the District intends to focus initial Title V permit requirements on major sources whose actual emissions are above the major source thresholds. However, because EPA has designed this program to apply to major sources based on their potential emissions rather than actual emissions, non-major sources can be affected, if only to be at some risk of EPA or citizen enforcement of the requirement to apply for a Title V permit based on potential emissions above major source thresholds. EPA allows a facility to opt out of Title V permit requirements by limiting its potential emissions below major source thresholds.

EPA is currently developing a rule to establish nationwide requirements for non-major sources that want to opt out of the Title V permit program but the rule is not expected before next year. In the interim, EPA has published a transition policy that allows facilities whose actual emissions are less than the major source thresholds to opt out of Title V permit requirements. This transition policy applies through July 1998.

Non-major sources are considered in one of two groups, depending on their actual emissions -

- facilities whose actual emissions are (or can be limited to) between 50% and 100% of one or more major source thresholds, and
- facilities whose actual emissions are (or can be limited to) less than 50% of all of the major source thresholds.

The steps that a non-major source may take in order to protect itself from risk of federal or citizen enforcement of Title V permit requirements depend on which of these two groups it falls in.

FACILITIES WITH ACTUAL EMISSIONS BETWEEN 50% AND 100% OF MAJOR SOURCE THRESHOLDS

One set of procedures to opt out of Title V permit requirements apply to facilities whose actual emissions are more than 50% of a major source threshold for at least one of the air pollutants listed, but less than 100% of the major source thresholds for all pollutants. For example, a facility's actual emissions may be 36 tons per year of volatile organic compounds and less than 5 tons per year of all other pollutants.

The EPA transition policy requires that such facilities maintain District permits that limit actual emissions at the facility, that are practicably enforceable, and that contain sufficient conditions to ensure compliance with those limits. Sources that elect to add emission limits to their local District permits will need to apply for changes to their permits and reimburse the District for its costs in developing the necessary permit conditions, emission estimating techniques and record-keeping and reporting requirements to make these emission limits practical and enforceable. Depending on the complexity of the source, fees for modifying local permits could average \$5,000 to \$10,000 per facility.

A recent court ruling has, at least temporarily, removed a requirement that these emission limits be enforceable by the EPA. Because of the added costs to the facility and the District to create, implement and enforce such emission limits, and because this is an interim policy that may change significantly when EPA promulgates a national rule, the District is considering not making this process mandatory but rather at the option of facilities.

Under the optional process the District is considering a non-major facility in this group (based on actual emissions) could elect to apply for a Title V permit (based on potential emissions), OR apply for local permit conditions that limit total facility emissions, OR continue to operate under their current District permits during the transition period having decided that the risk of EPA or

citizen enforcement of Title V permit requirements is too low to warrant the expense of the first two options. Facilities will be able to apply for limiting permit conditions by March 6, 1997 under a rule being developed by the District in cooperation with a group of affected businesses.

These procedures can also apply to facilities whose actual emissions have been above major source thresholds but which reduce emissions below major source thresholds for all pollutants before March 6, 1997. These facilities should file applications with the District proposing to limit actual emissions below the major source thresholds. Such applications should be submitted to the District, with appropriate fees, by March 6, 1997. Emissions must be reduced below all of the major source thresholds by March 6, 1997 and maintained below those thresholds thereafter. While their District permits are being modified, such facilities should keep records sufficient to show emissions remain below major source thresholds, on a rolling 12-month basis.

FACILITIES WITH ACTUAL EMISSIONS BELOW 50% OF MAJOR SOURCE LEVELS

Facilities whose actual emissions are less than 50% of all major source emission thresholds are also covered by EPA's transition policy. For example, such a facility might have actual NO_x emissions of 15 tons per year, CO emissions of 20 tons per year, VOC and PM₁₀ emissions of 5 tons per year each, and aggregate HAP emissions of less than 2 tons per year.

EPA policy requires that such facilities keep records sufficient to show actual emissions below 50% of major source levels. Facilities in this group are not required to have local permit conditions enforcing such records or establishing specific facility emission limits. However, most facilities in this group have District permits and have already had to keep some of the required records.

FUTURE ACTIVITIES

The District is developing draft rules which will provide guidance on the records which facilities with actual emissions less than the major source thresholds should keep in order to opt out of Title V requirements. The rules will also provide a mechanism for sources with actual emissions between 50% and 100% of major source levels to seek emission limits in their local District permits. At this time, the District is considering having these rules be optional for facilities, not mandatory. There will be costs associated with modifying local District permits and additional recordkeeping. The District is considering whether these costs should only be incurred by facilities that choose to use these rules to protect themselves enforcement of the Title V permit requirements based on a source's potential emissions.

The draft rules are being developed in cooperation with a group of interested industry representatives. Steve Moore is the District lead on these rules. If you would like to participate in that group, please call Steve Moore at (619) 694-3198. Even if you do not participate in the group, you will receive a notice of a future public workshop to discuss the proposed rules.

There are still a number of unresolved issues regarding how Title V will be implemented and how it will function on an on-going basis. The District is trying to incorporate flexibility into the program. If you have any questions about whether or how the Title V permit program will affect your company, please contact Stan Romelczyk at (619) 694-3323.

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