Title V Air Permits Guidance Manual

Virginia Department of Environmental Quality
Division of Air Programs Coordination
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Introduction: Purpose and Policy

This Title V Guidance Manual updates the previous Title V Guidance Manual dated June 15, 1999 and is intended to assist the regional permitting staffs of the Department of Environmental Quality (DEQ) in carrying out the federal operating permits program mandated by Title V of the federal Clean Air Act Amendments of 1990, federal regulations implementing the Act, and state law and regulation. This Guidance Manual is prescriptive where possible and descriptive where necessary.

The stated purpose of the Title V regulations is to reduce violations of air pollution and improve enforcement of those laws. Title V permits do this by the following:

a. Including all applicable requirements into one document. Federal applicable requirements include permit conditions, existing source requirements, federal and state requirements and new requirements such as: MACT, acid rain, NOx SIP call, and the CAIR requirements.
b. Provide regulatory authority to evaluate reporting, recordkeeping and/or testing requirements to insure that these requirements are adequate for compliance determination and when necessary add additional reporting, recordkeeping or testing requirements.
c. Provides for public participation from citizens and affected states.
d. Requires periodic certification of compliance and emissions.
e. Provide regulatory authority to assess emission fees.

This manual only addresses permitting issues and does not address emission fee assessment and periodic compliance certifications.

Title V is an operation permit program. BACT is not revaluated when processing a Title V permit. However, during processing of Title V permits violations have been found many of these had to be corrected by the issuance of new source review (NSR) permits. The NSR changes were then subsequently incorporated into the Title V permit.

The Regulations also state that issuance of Title V permits shall not take precedence over or interfere with the issuance of pre-construction permits (new and modified sources, PSD majors, non-attainment majors) (see 9 VAC 5-80-150 C.). While this provision may appear to conflict with the mandate for timely Title V permit issuance, it should be understood to mean that Title V permitting shall not interfere with the accomplishment of new source review permitting within mandated time frames. (See discussion in Chapter 7, section C.)

Virginia's federal operating permits program is based on Article 1 (9 VAC 5-80-50 et seq. of part II of 9 VAC 5 Chapter 80) and Article 3 (9 VAC 5-80-360 et seq. of part II of 9 VAC 5 Chapter 80). The articles are based upon *Virginia Code* 10.1-1300 et seq. and on the federal rules governing state implementation of Title V of the federal Clean Air Act Amendments of 1990 (PL 101-549). These rules, by the U.S. Environmental Protection Agency, are found at Title 40; Code of Federal Regulations at Part 70 (promulgated July 21, 1992). Part 70, as it is called in this Guidance Manual, governs state and local development and implementation of Title V permit programs.

This Title V Air Permits Guidance Manual is intended to be used with the current version of DEQ Form 805, the Air Permit Application Form is available on the DEQ external web site at the following: http://deqnet/programs/airpermitting/forms.asp. Both documents are produced by the Office of Air Permit Programs in the DEQ Division of Air Program Coordination. This Guidance Manual can be found at the following: http://deqnet/programs/airpermitting

Chapter 1 – Title V Applicability and Voluntary Limits

Introduction

This chapter discusses Title V applicability and way to exclude stationary sources from Title V applicability.

A. Potential to Emit Definition (9 VAC 5-80-60 C)

Title V applicability is based upon a stationary sources potential to emit. The potential to emit is defined as follows:

> the maximum capacity of a stationary sources potential to emit any air pollutant under its physical and operational design. Any physical or operational limit on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is state and federally enforceable.

1. Under the definition, the limitations include, but are not limited to, the following:
   a. Air pollution control equipment (example: a scrubber or a baghouse required by a federally enforceable permit condition);
   b. Restrictions on hours of operation (example: the permit allows the plant to run no more than 8 hours a day, 50 weeks a year);
   c. Restrictions on material processed or fuel used or both (examples: the plant may process a maximum of 100 tons a day of raw material; or it may burn a maximum of 100 gallons of fuel oil a day in the winter and 1000 cubic feet of natural gas a day during the summer).

2. Fugitive Emission Definition
   The definition of major source contains a list of 26 specific industrial categories and two regulatory categories that require fugitive emission to be included when summing up a stationary sources potential to emit. The Title V definition of fugitive emissions is listed below:

   > "Fugitive emissions" are those emissions which cannot reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

3. Fugitive Emission Specific Source Types
   When reviewing stationary source Title V applicability the fugitive emissions definition does affect the emissions which are counted towards the applicability emissions sum. The specific industrial categories that require fugitive emissions to be included are listed below:

   (1) Coal cleaning plants (with thermal dryers).
   (2) Kraft pulp mills.
   (3) Portland cement plants.
   (4) Primary zinc smelters.
   (5) Iron and steel mills.
   (6) Primary aluminum ore reduction plants.
   (7) Primary copper smelters.
   (8) Municipal incinerators capable of charging more than 250 tons of refuse per day.
   (9) Hydrofluoric, sulfuric, or nitric acid plants.
   (10) Petroleum refineries.
   (11) Lime plants.
   (12) Phosphate rock processing plants.

(13) Coke oven batteries.
(14) Sulfur recovery plants.
(15) Carbon black plants (furnace process).
(16) Primary lead smelters.
(17) Fuel conversion plant.
(18) Sintering plants.
(19) Secondary metal production plants.
(20) Chemical process plants.
(21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.
(22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
(23) Taconite ore processing plants.
(24) Glass fiber processing plants.
(25) Charcoal production plants.
(26) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

4. Fugitive Emissions General Categories
The regulatory categories that require fugitive emissions to be counted when summing potential emissions for Title V applicability are listed below:

(27) Any other stationary source category regulated under §111 or §112 of the federal Clean Air Act for which the administrator has made an affirmative determination under §302(j) of the Act

- Section §111 of the clean air act contains the authority for the NSPS regulations.
- Section §112 of the clean air act contains the authority for the MACT regulations and initial NESHAP regulations.

B. Fugitive Emissions Application Inclusion

Once the applicability determination has been made all quantifiable fugitive emissions for all emission units are required to be included in the Title V permit. This is stated in the 9 VAC 5-80-90 D.1.c.

C. Federal verses State Definition of a Major Source

The Title V Federal major source definition has changed. The definition was changed to be the same as the major source definition in the nonattainment and PSD regulations. The federal Title V definition now states that any stationary source categories that were regulated under Section §111 and Section §112 prior to **August 7, 1980** do not have to include fugitive emissions in their applicability calculation.

The State's definition of a major source did not change. The State's regulations do not include the **August 7, 1980** date. This means that the state may require more facilities to count fugitive emissions to determine Title V applicability than the federal regulations. So far this has not affected any facilities in Virginia. Please inform the central office if the date inclusion results in a Title V applicability determination that would not other wise apply.

D. Title V Applicability Threshold

Title V permitting requirements apply to sources which are defined as major. A source is considered a Title V major source if it has a potential to emit of or great than the following:

- 100 tons per year of any criteria pollutant;

- 50 tons per year of VOC or NO_x in serious non-attainment areas for ozone (i.e., the Northern Virginia region as listed in 9 VAC 5-20-204);
- 25 tons per year of VOC or NO_x in severe non-attainment areas for ozone (non currently listed in 9 VAC 5-20-204);
- 10 tons per year of a single hazardous air pollutant; or
- 25 tons per year of any combination of hazardous air pollutants.
- 100,000 tons per year CO_2 Equivalent, defined as the GHG emissions on a mass basis multiplied by the corresponding Global Warming Potential of the GHG, (CO_2e) and 100 tons per year of Greenhouse Gasses (GHGs) on a mass basis.

E. Specific Inclusions and Exemptions

The regulations contain a specific inclusion for solid waste incineration subject to the existing or new source regulations contained in Chapter 40 and 50 of the regulations.

The regulations contain specific exemptions for sources that would be subject to Title V because of the only applicable requirement relates asbestos and woodstoves. However, if a stationary source is subject to Title V for other reasons then the asbestos general condition if applicable should be included in the Title V permit.

F. Title V Source Determinations Common Control and Support Facility

The regulations specifically state that dividing up a facility in order to avoid Title V applicability is circumvention. The basis of a source determining is the definition of a Stationary Source and support facility determinations. The Department has a policy for determining common control it is titled: Memo Number 98-1002: Common Control for Determination for Title V and Permit Applicability located at the following: http://deqnet/programs/airpermitting

EPA has made many determinations concerning common control and support status that can be used as examples. These determinations at the location that follows:
http://www.epa.gov/region07/programs/artd/air/title5/title5pg.htm

G. Title V Applicability for Greenhouse Gas Emissions

After July 1, 2011 a stationary source may be a major source subject to Title V permitting requirements solely on the basis of the source's GHG emissions, provided the source exceeds the applicability thresholds established in the Tailoring Rule. GHG emission sources which emit or have the PTE at least 100,000 tons per year CO_2e, and also emit or have the PTE 100 tons per year of GHGs on a mass basis will be required to obtain a Title V permit if the source is not already required to obtain a Title V permit. The requirement to obtain a Title V permit will not, by itself, result in the triggering of additional substantive requirements for control of GHG. The newly required Title V permits will simply incorporate whatever applicable CAA requirements, if any, apply to the source being permitted.

Both of the following conditions need to be met in order for title V to apply under Step 2 of the Tailoring Rule to a GHG emission source:

(1) An existing or newly constructed source emits or has the PTE GHGs in amounts that equal or exceed 100 TPY calculated as the sum of the GHGs emitted on a mass basis.

(2) An existing or newly constructed source emits or has the PTE GHGs in amounts that equal or exceed 100,000 TPY calculated as the sum of the six well-mixed GHGs on a CO_2e basis. CO_2e is calculated by multiplying the mass of the GHG by the GHG's Global Warming Potential (GWP), defined in table A-1 of 40 CFR Part 98.

All new and existing sources otherwise subject to Title V for non-GHG pollutants will need to meet the applicable Title V application and permitting requirements as they pertain to GHG applicable requirements established under other CAA programs (such as BACT requirements resulting from PSD review). Existing sources should address GHG permitting requirements when submitting the application for a modification which increases GHG emissions above 75,000 tons per year CO_2e or upon renewal of their Title V permit.

H. Area Source NESHAP

On December 19, 2005, EPA finalized permanent exemption from the Title V operating permit program for five categories of non-major (area) sources which are subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAP). The exempted area source NESHAPs are:

Subpart M - Perchloroethylene Dry Cleaning

Subpart N – Chromium Electroplating and Chromium Anodizing

Subpart O – Commercial Ethylene Oxidizers

Subpart T – Halogenated Solvent Degreasers

Subpart RRR – Secondary Aluminum Production

Title V applicability for area source NESHAP promulgated after December 19, 2005 should be determined by reading the individual requirements for the NESHAP. Some area source NESHAP, such as the Glass Manufacturing Area Sources (40 CFR Part 63, Subpart SSSSSS), require a Title V permit. EPA maintains a list of area sources which are required to obtain a Title V permit on their website under the Compilation of Area Source Rules webpage. While the Compilation of Area Source Rules webpage should be referred to for the most up-to-date Title V area source exemption statuses the following list of area source NESHAP exempt from Title V permitting is as follows:

Subpart HH - Oil & Natural Gas Production

Subpart VVV - Publicly Owned Treatment Works

Subpart ZZZZ - Reciprocating internal combustion engines (RICE)

Subpart WWWWW - Hospital Ethylene Oxide Sterilizers

Subpart ZZZZZ - Iron and Steel Foundries

Subpart BBBBBB - Gasoline Distribution Bulk Terminal, Bulk Plant and Pipeline Facilities

Subpart CCCCCC - Gasoline Distribution, Gasoline Dispensing Facilities

Subpart DDDDDD - PVC & Copolymer

Subpart HHHHHH - Paint Stripping Operations, Misc. Surface Coating, Auto body Refinishing

Subpart JJJJJJ - Industrial, Commercial and Institutional Boilers and Process Heaters

Subpart LLLLLL - Acrylic/Modacrylic Fibers Production

Subpart OOOOOO - Flexible Polyurethane Foam Fabrication and Production

Subpart PPPPPP - Lead Acid Battery Manufacturing

Subpart QQQQQQ - Wood Preserving

Subpart RRRRRR - Clay Ceramics Mfg

Subpart TTTTTT - Secondary Non-Ferrous Metals

Subpart WWWWWW - Plating and Polishing

Subpart XXXXXX - Metal Fabrication and Finishing

Subpart YYYYYY - Ferroalloys Production

Subpart ZZZZZZ - Aluminum, Copper and Other Nonferrous Foundries

Subpart AAAAAAA - Asphalt Processing & Asphalt Roofing Mfg

Subpart BBBBBBB - Chemical Preparations Industry

Subpart CCCCCCC - Paint and Allied Products Manufacture

Subpart DDDDDDD - Prepared Feeds

Subpart VVVVVV - Chemical Manufacturing Area Sources: Non-synthetic minor area sources exempt only. (Note: The requirement for chemical manufacturing area sources which have become synthetic area sources by installing air pollution control devices to reduce HAP emissions to below the major source thresholds to obtain Title V has been stayed by the final rule published in the Federal Register notice on March 14, 2011.)

Note: The exemption from TV permitting based on area source MACT applicability is provided the facility is not otherwise required to obtain a Title V permit.

I. NSPS Minor Stationary Source Deferral

Minor stationary sources that are subject to NSPS are still deferred under the initial regulations. EPA's OAQPS section stated in an e-mail that the NSPS deferrals contained in 40 CFR 70.3 (b) (1) still applies to minor NSPS sources. The deferral for NSPS sources did not end on December 6, 2004. The initial deferral continues to apply. There are currently no plans to change the deferral status for NSPS emission units located at minor stationary sources. However, this may change in the future.

Please note all areas source MACT and NSPS requirements that apply to stationary sources that are major or Title V applicable must include these requirements in the Title V applications and final permit. The MACT and NSPS regulations contain applicable requirements.

J. State Operating Permits

State operating permits may be used to limit the potential to emit below Title V applicability. This has been used for new sources, existing sources and sources that have been previously permitted as Title V stationary sources. Several stationary sources that initially received a federal operating permit have found that they operate as synthetic minor facilities. These facilities have received state operating permits that limit their potential to emit below Title V applicability. A procedure for revoking Title V permits is located in Chapter 11 of this manual.

State operating permits are used to establish limits that preclude Title V applicability. These limits make facilities synthetic minor facilities. The term synthetic minor is not defined in the Title V regulations; however, it is defined in the state operating permit rules (9 VAC 5-80-810 C.) as follows:

"Synthetic minor" means a stationary source whose potential to emit is constrained by federally enforceable limits, so as to place that stationary source below the threshold at which it would be subject to permit or other requirements in regulations of the board or in the federal Clean Air Act.

The permit must ensure that the potential to emit (PTE) is below all major source thresholds.

The state operating permit may be used to permit part of a facility or specific pollutants. A state operating permit may be drafted such that it limits the PTE of only the pollutant for which the source is major, or it may be drafted to only cover one piece of equipment that makes the source major. The state operating permit may not need to address all emitted pollutants or all emission units located at the stationary source. However, the state operating permit must apply to enough of the pollutants and emission units to ensure that the potential to emit of the entire facility is below the threshold for Title V major source status.

K. Minor New Source Review Permits

There have been occasions where a minor new source review permit could be used to make a source a synthetic minor. This could be done by including an enforceable emissions cap or throughput limit on part or all of the facility in addition to requirements applicable only to the new or changed unit.

When new equipment is installed at a facility, the control required as a result of the Best Available Control Technology (BACT) review may make a source a synthetic minor. A permit writer should pay close attention to a source's potential to emit when drafting a minor new source review permit for a source that is close to becoming a Title V major source. The new equipment may make the source a Title V major source if the emission limits are too high (over the Title V potential to emit threshold). A source may wish to take lower emission limits to avoid Title V.

If, during the review of a Title V application, it is noted that additional equipment has been installed, then the permit writer should evaluate the new equipment to see whether it requires minor new source review permitting. Once the determination is made, and a permit has been issued (if necessary), then the facility's PTE should be reevaluated. The issuance of the minor new source review permit may have made the source a synthetic minor.

L. Voluntary Emission Caps (9 VAC 5-80-100)

The Title V regulations specifically state that facilities emissions can be limited below applicability thresholds. Limits can be added to Title V permits to preclude applicability to MACT or other standard. The regulations contain some specific criteria that allows Title V permit to be directly precluded Title V applicability (see 9 VAC 5-80-100 B2). If a change does not meet all the criteria contained in 9 VAC 5-80-100 then the change must be made in a NSR or State Operating Permit prior to inclusion in a Title V permit. The criteria are listed below:

a. The applicant must request the emissions cap.
b. The permit must make the emissions caps permanent and enforceable to insure that any limits are met.
c. Each limit or standard shall be based upon an appropriate averaging time. Appropriate averaging times are base upon air quality standards, emission standards, emission unit or control equipment operations.
d. The emissions limits cannot exceed any previous allowable emissions and cannot exceed an emissions unit or facilities potential to emit.

Please not any changing to limits that do not have underling requirements must be changed using significant modification procedures. This qualifies as a significant modification under 9 VAC 5-80-210 A4 and 9 VAC 5-80-230 A3.

M. Exclusionary General Permits Are no Longer Being Issued

Exclusionary general permits are no longer being issued. These permits were used to preclude Title V applicability for stationary sources that had actual annual emissions below 50% of the applicability threshold. The stationary sources that received exclusionary general permits have been either issued state operating permits or have been determined to be true minors.

Chapter 2 - Application Processing and Notification

Introduction

For each stationary source, the owner or operator should submit a single application for a Title V permit. Each application must be timely and complete, within the meanings in the Regulations and as explained in this chapter, in order to provide legal protection to the applicant during permit processing. The timeliness of an application depends on its due date, which in turn depends on when the source became subject to Title V. Completeness of an application depends on a number of factors explored in this Chapter.

A. Initial Notification of Sources Subject to Title V

When a source becomes subject to Title V by virtue of the applicability provisions of the Article (9 VAC 5-80-50), the Department must provide notification. (See Appendix A, Sample Source Notification Letter.) The notification must state:

1. That the source is subject to Title V;
2. The reason that the source is subject to Title V;
3. The date that the source became subject to Title V;
4. The due date for the application.

B. Changing Established Submittal

The Regulations do not make allowance for extensions of time for application submittal (see section **A.** (1) above), but they also do not prohibit early submission of applications. However, a source may avoid a Title V application by demonstrating, to the satisfaction of DEQ and within the Title V application deadline, its eligibility for alternative permitting. See Chapter 1, "Voluntary Emission Limits."

C. Early Application Submittals

Early submission of applications is subject to these constraints:

1. The 60-day review clock begins upon receipt of the application even if the application is submitted prior to the date in the initial notification letter. The application must be date-stamped by the regional office upon receipt. The Department cannot hold an application upon receipt, nor can it review an application before it is date-stamped.

2. The source may submit a draft unsigned application for preliminary review prior to the formal submittal date established by the Department. The amount of time and effort devoted to such review is to be determined by each regional office. Once the applicant has submitted a signed application, however, DEQ must start the 60-day clock for application completeness review.

D. Timely Applications Initial Round Submissions

Applications for Title V sources identified at the beginning of the Title V program were all due on or before March 12, 1999. After this date, they cannot be timely, and so cannot receive the protection of the application shield. See section F below.

E. Timely New Application Submissions

All newly applicable Title V sources must submit applications within one year after becoming Title V applicable. The exceptions and special circumstances are discussed below:

1. New major sources must turn in Title V applications within one year of starting up.

2. Sources which exceed synthetic minor permit limits must apply for Title V permits, if they cannot come into compliance with the synthetic minor limits, within one year of Title V applicability. The exceedance of the synthetic minor limit may be a violation subject to enforcement actions. The application should be submitted within one year applicability so that the stationary source receives an application shield. The application shield does not preclude the Department from taking enforcement actions. The application shield protects a facility from any potential actions resulting from the fact that the stationary source does not have a Title V permit.

3. Minor sources that become subject to an NSPS or area source MACT requirement are currently deferred.

4. Sources which, through modification or new construct become subject to a NESHAP or major MACT must apply for Title V permits within one year of startup. The stationary source is required to be in compliance with MACT requirements upon startup.

F. Application Completeness

9 VAC 5-80-90, application information required, specifies application completeness requirements that must be met, and Form 805 is designed to assist the applicant and the permit writer in making sure the application is complete. The application must contain sufficient information to allow the permit writer to determine major source status, to verify applicability of requirements, to verify compliance with those applicable requirements, and to compute permit program fees. To ensure consistency among the regional offices in applying criteria necessary to determine administrative completeness, a completeness review discussion is provided here.

1. <u>Is the document certification signed by a responsible official?</u> - The permit writer needs to answer the following questions in order to properly address this item of the checklist: Is the official a responsible official as defined in the 9 VAC 5-80-60? Does the certification have the same wording as listed in the rule?

2. <u>Is facility information provided?</u> - On pages 1 and 2 of Form 805, the application must contain the following items:

   - company name and address

   - owner's name and agent

   - name of site manager or contact

   - description of source processes and products, and

   - primary NIACS code.

3. <u>Failure to provide the secondary and tertiary NAICS codes need not be a basis for denying administrative completeness</u>. The source should provide a description of the process consistent with the flow diagrams for the facility.

4. <u>Are calculations upon which emission estimates and process rates are based provided</u>? - Calculations are supposed to support emission rates in tons/year, and include fuels, fuel use, raw materials, production rates, loading rates, work practices, hours of operation limitations, and operating schedules as needed. These calculations are required for all significant emissions units. While the

minute detail need not be checked, the calculations should be logical and make sense to the permit writer. Also, in general, the permit writer needs to ensure that the quality of the emission factors is acceptable. Emission factors can be based on generally available information rather than new studies or testing. However it is not necessary to confirm and agree with every calculation in order to determine that an application is complete.

5. Equipment listing of significant units, including size, type, and rated capacity - The permit writer should review pages 3 thru 9 of Form 805 and look for a good-faith effort by the applicant to include the significant emissions units (i.e., all emissions units that do not fit the definitions or listing of insignificant emissions units found in 9 VAC 5-80-710 and 9 VAC 5-80-720) at the facility. Ensure that all columns are filled out as best can be determined. Even if tons-per-year estimates are not necessary, applications must describe all significant emissions units including any that are not subject to an applicable requirement. If the applicant is relying on test results to verify the actual control efficiency of a device, then the applicant must include, or refer to, a copy of the test results. The permit writer should see that these are provided, or available. On the other hand, if the facility cannot provide a manufacturer's name and/or model number, the permit writer should consider the application complete as long as the equipment is adequately described.

6. Pollution control equipment listing with efficiency or operational parameters - The air pollution control equipment should be listed for the facility on page 10 of Form 805. The applicant has the choice of listing either the actual or design control efficiency. The source may list the operating parameters for the piece of equipment in lieu of the control efficiency on page 11. If the source was required to test the actual control efficiency of the device, then the tested actual efficiency must be included in the application. The permit writer needs to evaluate the significance of a control device with respect to environmental impact, existing regulations, permit conditions, etc. before requiring that the control device be listed in the application for administrative completeness purposes. For instance, it may not be necessary to list every conservation vent on every small tank as a control device with operating parameters since the amount of pollution abated by the control equipment is small and there is no regulatory requirement for it.

7. All emissions for which a source is major and all emissions of regulated air pollutants - The purpose of emissions information is to allow the source, with review by the Department, to determine major source status, to verify applicability of the Title V rules or other applicable requirements, and to compute permit fees. This is in keeping with guidance from the EPA's White Paper I.

8. Are all pollutants emitted by the facility identified? All pollutants emitted by the facility must be listed in the application. The application must include all pollutants for which the stationary source is classified as major and minor. The actual emissions in TPY of all pollutants where needed to determine the applicability of a federal requirement.

9. Are emission estimates supported by adequate documentation? Is there enough information to support a reasonable belief as to compliance or the applicability or non-applicability of requirements will be acceptable for completeness. The permittee has the option of confirming that the AFS update for the previous calendar year is accurate, and using that information in lieu of providing a list of emissions on page 12 of Form 805. In view of the purpose of emission estimates, there are three instances where emission estimates are not needed:

    a. where no useful purpose is served by them;
    b. where the quantifiable rate of emissions does not apply, as in information pertaining to accidental releases (section 112(r) of the Clean Air Act) or to work practices;
    c. where the emission unit is only subject to generic requirements.

10. Is there enough information Page 13 of Form 805 asks for pollutants for which the source is major. Sources need not list pollutants for which they are minor on this page. However, the fee determination depends on listing those pollutants as well. They should appear on the latest emission inventory or on Page 12 of Form 805, Annual Air Pollutant Emissions.

11. List of insignificant activities - The approach to listing of insignificant activities is determined by the EPA's White Paper I as well as by the Regulations, and its purpose is to eliminate excessive discussion of pollutant-emitting activities involving no applicable requirements or insignificant pollutant emissions or both. The obligation of the source to list insignificant activities may be met as follows:

    a. There is no need for the applicant to list activities appearing in one of two lists, at all, unless the listing is necessary to ensure compliance with or identification of an applicable requirement. The lists are:

        (i) The list of named insignificant activities in 9 VAC 5-80-720 A; and

        (ii) The trivial activities list accompanying EPA's White Paper I. White Paper I, dated July 10, 1995, is available at the following location: http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Manuals/Title5_Manual/EPA%20White%20Papers

    b. The applicant must list emission units with insignificant emission levels, as described in 9 VAC 5-80-720 B. Here the pollutants should be named, but quantities of each (below the uncontrolled emission rates specified in the cited regulatory provision) need not be specified. (See 9 VAC 5-80-710 A.2.)

    c. The applicant must list emission units deemed insignificant by virtue of size or production rate, as described in 9 VAC 5-80-720 C. Here the size or production rate that enables the unit to qualify as insignificant should be listed; see 9 VAC 5-80-710 A.3.

12. Do any of the questions on page 19 of Form 805 indicate that a compliance plan is needed? If so the compliance plan section should be filled out. The Regulations require a plan and schedule for achieving compliance to the extent the source is out of compliance at the time of application. The permit writer should verify that for every instance of non-compliance, the applicant has submitted a detailed schedule of remedial actions leading to compliance. The permit writer should also determine whether the compliance schedule is at least as stringent as any consent order previously issued to the source.

13. Is the compliance certification on page 21signed by a responsible official. There must be a signature on page 21 of Form 805 certifying compliance or non-compliance, and the person signing the form must be a responsible official as defined in 9 VAC 5-80-60 C. (see section **E**(1) above).

G. Completeness: Permit Writer's Analysis and Response

9 VAC 5-80-90 specifies the requirements for the information needed to make the application complete. 9 VAC 5-80-80.D.1 states that to be complete, an application must contain all information required in 9 VAC 5-80-90. However, 9 VAC 5-80-80 D.3. indicates that an application can contain enough information to allow processing to begin without being complete.

1. Within 60 days of receipt of an application, the Department must indicate to the source, in writing, whether the application is complete.

2. The permit writer may find an application complete as submitted or incomplete within the 60-day review period. If 60 days pass without a determination from the permit writer, the application is deemed complete. The permit writer may seek additional information in any of three circumstances:

   After a finding, within the 60 days, that the application is not complete;

   After a finding of completeness, when more information is needed to allow writing of the permit;

   Same, if the 60 days passed without a completeness determination.

3. If the permit writer needs additional information from the applicant to make the application complete, to evaluate it, or to take final action, the permit writer must request the information in writing, setting a reasonable date for response by the applicant. Model letters on completeness appear as Appendices B (for a complete application) and C (for an incomplete application) of this Manual. Regular conversation with the applicant would be helpful in setting realistic deadlines and identifying what additional information is needed.

4. The permit writer may request additional information and specify a date for response even after the application has been determined to be complete.

H. Application Shield

If an applicant submits a timely and complete application for a Title V permit, the failure of the source to have a permit or the operation of the source without that permit is not a violation of Chapter 80, Article 1. This is the concept known as the "application shield." It is a legal status conferred by 9 VAC 5-80-80 F.1 and F.5, and subject to loss under F.6. The permit writer's finding that the application is complete and on time creates the legal status, protecting the applicant from enforcement action for failure to have a permit or operation without one.

1. Completeness by default. If the regional office does not notify the applicant, in writing, whether a timely application is complete or not within 60 days of receipt of an application, the application is deemed complete and the applicant receives the application shield.

2. Failing to obtain the application shield. An applicant may fail to gain the application shield by submitting an application that is late or incomplete.

3. Additional note on lateness. If an applicant failed to submit additional information needed to process an application by the deadline for that submission, the application cannot be timely, even if it is complete, and the application shield does not arise.

4. Losing the application shield once it is gained. An applicant may lose protection of the application shield if the applicant does not submit information requested by the regional office in writing by the date specified in that request. Determining that an application shield has been lost may be a case decision by the Department.

   a. A case decision is defined as follows in the Regulations (9 VAC 5-170-20):

      "any determination that a named party as a matter of past or present fact, or as a matter of threatened or contemplated private action, either is or is not, or may or may not be (i) in violation of any law or regulations, or (ii) in compliance with any existing requirement for obtaining or retaining a permit or other right or benefit. Case decisions include, but are not limited to, consent

orders, consent agreements, orders, special orders, emergency special orders, permits, waivers, and licenses. Case decisions do not include notices of violations, variances, regulations, or inspection reports."

b. Case decisions require scrupulous attention to the rights of the parties affected by them. Accordingly, in regard to completeness and timeliness, particularly for follow-up information requested by the Department, the applicant must be guaranteed the following:

(i) the opportunity to rebut the Department when it asks for more information, essentially asserting that there is no need for the information requested; and

(ii)the opportunity to justify additional time required to provide information requested by the Department.

c. Additional pre-requisites to the loss of the application shield include the following determinations by the regional office:

(i) that the information is necessary to continue application processing and/or permit writing, and

(ii) that the deadline for submission of the additional information is reasonable.

d. Additional procedural safeguards. The administration chapter of the Regulations defines a case decision but does not prescribe a procedure defining the rights of the parties to it. For this reason, there may be a need for additional procedural safeguards when a determination of incompleteness or lateness of a Title V application is made. To fill this gap, the Department's Office of Air Program Development in the Division of Air Programs Coordination is developing a regulation on the making of case decisions, since the administration chapter of the Regulations defines case decision but does not prescribe a procedure. In the meantime, the steps in sub-section (4) above may be augmented by the following procedural steps where DEQ determines that it is necessary to preserve the rights of the applicant or to facilitate the processing of the permit. The assumption here is that the source indicates it finds either the information request unreasonable (e.g., the information should not be needed by the Department), or the deadline for provision of the information too stringent.

e. The regional office may ask the source to explain why providing the additional information in the time allowed is unreasonably difficult. This showing cause would lead to a determination by the regional office whether the explanation was convincing. If it was, then the regional office would adjust the inquiry or the time allowed for provision of the information. (There would still be a need to define what constitutes convincing.)

f. The regional office may attempt to fill in missing information itself, show it to the applicant, and ask the applicant to agree that the information is correct or to explain why it is not, and to certify its correctness.

g. The regional office may indicate to the source that the application shield will be lost if the incomplete information is not provided by a certain date, and that a hearing will be held on the need for and timing of the information.

h. The regional office may consult, at its discretion, with the central office or with EPA or other states to verify that the demand for additional information is reasonable.

I. Certification of Fee Payment

Chapter 80, Article 2 of the Regulations requires that any major source, deferred source, affected source (i.e., acid rain source), and any other source subject to Chapter 80, Article 1 pay an annual permit program fee. Fees are due 30 days after the postmarked date of the bill sent to the source by the Department.

1. An affected source in this case means a source that contains an emission unit subject to any federal acid rain emissions reduction requirement or acid rain emissions limitation under 40 CFR Part 72, 73, 75, 77 or 78.

2. The permit fee is an applicable requirement which appears in 9 VAC 5 Chapter 80, Part II, Article 2. Accordingly, the source must meet this requirement in order to receive the application shield. In regard to permit fees, a source must have performed one of the following:

   (i) paid the permit fee bill in full; or
   (ii) Agreed upon an alternative payment schedule with the Department.

3. The status of a stationary sources permit fee can be checked in CEDs. There is a fee status button in the emissions inventory section of CEDs.

4. Sources will be required to pay the permit fees to the Office of Financial Management, which is part of the DEQ Division of Administration. The Office of Financial Management will provide proof of payment for each source to the appropriate Regional Office.

5. Refer any questions regarding permit fees, permit fee submittal, or the development of an alternative permit fee schedule to the Office of Air Quality Programs, Air Data Analysis in the Division of Air Program Coordination.

J. Application Review Package

Once the permit writer has determined whether the application has sufficient information to proceed with review of the application, the complete application package should contain the following information:

1. The original application submitted by the applicant, stamped with the receipt date;

2. A copy of the Initial Notification Letter sent to the applicant;

3. A copy of the Completeness Letter sent at the end of the 60-day review period (see Appendix B or Appendix C);

4. Proof of Permit Program fee payment or proof of inclusion in an approved permit fee payment schedule;

5. Any additional information submitted by the applicant; and

6. Any determinations provided by compliance personnel regarding the processing of the application.

K. Confidentiality of Information

Title V of the clean air act does not allow confidential information to be included in permits. EPA is not allowed to keep any information contained in a Title V permit confidential. In order to over come this problem the Department has developed a confidential policy (03-1005.Confidentiality _&_FOIA_ Guidance.080103.pdf) that

encourages the use of optional parameters or combining requirements. The policy is located at the location that follows:
http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Policy_Guidance/Memos/03Memos

Since the majority of the initial batch title V permits have been issued most confidentiality issues will be resolved during the processing of any new source review permits. It is unlikely that the confidentiality will have to be revisited when processing a Title V permit.

Chapter 3 - Technical Review

Introduction

While each source is different from every other source in terms of its operation and the nature of the permit terms written for it, there are enough common features of Title V permit writing to enable us to make prescriptive guidance on many aspects of it. This part of the Guidance Manual analyzes several aspects of applicable requirements, which are the essence of Title V permits; it discusses the concept of streamlining multiple applicable requirements on a single emissions unit; and it assists the permit writer in identifying application review concerns. In the latter case, this chapter sets up any follow-up information inquiries that may need to be made by the permit writer.

A. Applicable Requirements

Applicable requirements are regulatory requirements associated with the prevention, control, testing, monitoring, record-keeping or reporting of air pollution emissions. The application submitted by the source should include a list of the requirements that are applicable to the source.

1. State-only requirements. When determining applicable requirements for a facility, it will be necessary to separate state-only enforceable requirements from federally enforceable requirements. Under 9 VAC 5-80-300, inclusion of state-only enforceable requirements in a Title V permit is voluntary on the part of the source.

2. Origins of applicable requirements. There are several sources of applicable requirements:

   a. Previously Issued Air Permits - A permit, or collection of permits, should either contain or make reference to most, if not all, of the applicable requirements for a facility.

   b. State Regulations - Irrespective of whether a unit is covered by an existing air permit, it will still have applicable requirements in the regulations. The following chapters in the Regulations should be reviewed when attempting to determine applicable requirements for a facility.

      (i) *Chapter 20* - Chapter 20 contains the malfunction requirements (9 VAC 5-20-180). These requirements will most likely be generally applicable and will be contained in a section of general conditions in the permit.

      (ii) *Chapter 40* - Chapter 40 establishes limits for various categories of existing units and is the source of many applicable requirements, especially for grandfathered sources. 9 VAC 5-50-10 D. extends the applicability of Chapter 40 to any new or modified source, to the extent that the emissions covered in Chapter 40 are not covered in Chapter 50 or in permits issued under Chapter 80, or in the event that Chapter 40 limits are for some reason more stringent than the limits in Chapter 50 or permits issued under Chapter 80.

      (iii) *Chapter 50* - Chapter 50 establishes limits for new and modified sources. Chapter 50 contains NSPS rules that have been incorporated into the Virginia rules by reference. If an NSPS has been promulgated by EPA, but has not yet been incorporated into the Virginia rules it must still be included in the permit as an applicable requirement.

(iv) *Chapter 60* - Chapter 60 is where NESHAPs and MACTs have been incorporated into the Virginia rules by reference.

(v) *Chapter 80* - Chapter 80 contains the requirements for new and modified source permits, PSD and non-attainment major permits, Title V permits, and state operating permits. Permits issued pursuant to this chapter contain applicable requirements, one of which is the requirement to obtain such permits.

c. Federal Regulations - While many federal regulations (including MACT, NSPS, and NESHAPs) have been incorporated into the Virginia rules in Chapters 50 and 60, it should be verified that there are not standards that have yet to be incorporated into the Virginia rules. Any federal standard that has been promulgated is an applicable requirement and should be included in the Title V permit.

d. Exceptions to applicable requirements in Title V permit. The Title V rules allow permit writers to make some exceptions to the strict application of only applicable requirements in a Title V permit. Examples include the following:

(i.)The permit may include alternative emission limits, equivalent to those stated in the applicable requirements, in limited circumstances (see 9 VAC 5-80-110 B.3.). Where the applicable requirement states that an alternate emission limit may be established, the permit must include the equivalency determination and contain provisions to show that the resulting emission limit is quantifiable, accountable, enforceable, and based on replicable procedures.

(ii)Sources may trade emissions increases and decreases pursuant to an emissions trading scheme articulated in the permit that meets the following criteria:

(a) the trading or economic incentive must be federally approved;

(b) to determine compliance, the permit must include all of the provisions mandated in the contents section of the Regulations (9 VAC 5-80-110 B through M) except for the provision (sub-section N) on enforceability;

(c) the permit shield applies. They also allow the source to request an emissions trading scheme, articulated in the permit, that allows emissions increases and decreases without resort to case-by-case approval (see 9 VAC 5-80-110 I.).

3. Pollution prevention efforts may be included in the permit, provided they meet applicable procedural requirements. For example, a source may have a requirement from a previous new source review permit for an incinerator to serve as a control device for VOC emissions. The previous permit set conditions on the operation of the incinerator -- temperature, percent destruction efficiency, and the like. The source changes to a low-solvent ink as a pollution prevention technique, eliminating the VOCs previously controlled by the incinerator. The Title V permit for the source may not ignore the incinerator: it may be necessary to modify the minor new source review permit such that it no longer requires operation of the incinerator as a pre-requisite to incorporating the minor permit into the Title V permit.

B. Streamlining Multiple Applicable Requirements

The Title V program is designed to incorporate all applicable federal requirements for a source into a single operating permit. To do this, it is important to incorporate all federal regulations applicable to the source in the

permit; these include NSPS, the applicable SIP requirements, and applicable requirements from permits issued under SIP-approved permit programs. All provisions contained in an EPA-approved SIP and all permit terms and conditions consistent with those SIP-approved provisions (Virginia's toxics rules are not SIP-approved) are federally enforceable applicable requirements that must be incorporated in the Title V permit. If the permit writer determines that a SIP provision or SIP-approved permit conditions should not be listed in the Title V permit, he or she should consider amending the prior NSR permit to delete those conditions. If a federally enforceable condition in a minor NSR permit, PSD permit, non-attainment major permit, or state operating permit is not placed in the Title V permit, then the Title V permit may be subject to EPA objection.

Some applicable requirements may be redundant or unnecessary as a practical matter, even though they legally apply. EPA's White Paper II allows a source, or the Department, to propose streamlining such requirements where compliance with a single set of requirements ensures compliance with all. The resulting permit terms would ensure that all applicable requirements are covered in the permit and receive the permit shield. An application with streamlined requirements can be made to satisfy compliance certification requirements.

1. References. More detailed discussion of streamlining practice and principles can be found in EPA's White Paper II, dated March 5, 1996 and in DEQ Air Guidance Memo No. 97-1004, dated August 19, 1997. These are available from the Office of Air Permit Programs files:

   a. White Paper II

   b. Guidance Memo

   c. These can be found at the following location:
http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Manuals/Title5_Manual/EPA%20White%20Papers

2. Streamlining principles.

   a. Determine the most stringent of multiple applicable emissions limitations for a specific regulated pollutant on a particular emissions unit.

   b. Work practice requirements which apply to the same unit as the emission limit to be streamlined and support the streamlined limit must be included in the streamlined requirement. But work practice requirements not directly supporting an emission limit may be subsumed, and composite practices developed.

   c. Monitoring, reporting, and record-keeping requirements may not be used to determine the relative stringency of the requirements to which they apply.

   d. Deal with other difficulties by any of the following means:

      (i) constructing hybrid emission limits at least as stringent as any applicable requirement;

      (ii) using a previously state-only requirement if it is at least as stringent as the federal requirement it would subsume;

      (iii) using a more accurate test method provided it is approved.

e. Monitoring, record-keeping, and reporting requirements associated with the most stringent applicable requirements are assumed appropriate for use with the streamlined limit in most instances. However, see the detailed discussion (and footnotes) in White Paper II, pages 12-15.

3. Eight-step streamlining process. Note that the applicant is responsible for the first six steps, while the Department is responsible for the other two.

Step 1 - The applicant compares the applicable requirements, distinguishing between emissions, work practices, monitoring, and compliance demonstration provisions.

Step 2 - The applicant determines the most stringent standard or limit (or hybrid standard or limit) and provides documentation, for each emissions limit or standard proposed for streamlining.

Step 3 - The applicant proposes the streamlined requirements, including any conditions needed to ensure compliance.

Step 4 - The applicant certifies compliance, indicating that it is with a streamlined limit, based on appropriate compliance data.

Step 5 - The applicant develops a compliance schedule to implement any new approach, if it cannot be done at the time of application.

Step 6 - The applicant indicates that streamlining is being proposed, and explains it.

Step 7 - The Department evaluates the adequacy of the proposal and its supporting documentation, and gives the applicant reasonable opportunity to accept the findings or propose resolution of differences.

Step 8 - The Department points out the use of this process as part of any required submission (including the Statement of Basis - see Chapter 5, section (6) (E)) to EPA concerning the application in question.

C. Insignificant Activities

Insignificant activities are emission units or activities presumed to be in compliance with all Clean Air Act requirements that may apply; thus, they are not subject to monitoring, record-keeping, or reporting requirements.

1. Definitions: Insignificant activities are defined strictly by 9 VAC 5-80-710 and -720, in three categories:

a. named insignificant activities (9 VAC 5-80-710 A.1. describes the concept; 9 VAC 5-80-720 A. provides a list);

b. emission units that are insignificant by virtue of low emission levels (9 VAC 5-80-710 A.2. describes the concept; 9 VAC 5-80-720 B. provides the emission levels according to pollutant), and

c. emission units that are insignificant by virtue of small size or production rate (9 VAC 720 A.3. describes the concept, while 9 VAC 5-80-720 C. lists criteria for insignificance according to fuel and capacity).

d. In addition, EPA's White Paper I includes a list of trivial activities which are to be treated as if they were named insignificant activities.

2. Concept of uncontrolled emissions. The low emission levels category of insignificant activities (section (1) (B) above) describes, in each case, emission units with uncontrolled emissions. The Regulations are careful to define uncontrolled (see 9 VAC 5-80-710 B.2.) in terms of maximum capacity without air pollution control equipment and 8760 hours of operation per year, unless the source is subject to state and federally enforceable permit conditions limiting the hours of operation. In determining whether a source has correctly identified an emission unit as insignificant by virtue of low emission levels, the permit writer should make sure that its emissions are correctly described as uncontrolled.

3. Insignificant activities with applicable requirements. The insignificant activities definitions in 9 VAC 5-80-710 and -720 do not take into account the presence or absence of applicable requirements. Thus an emission unit can be an insignificant unit but still have an applicable requirement. The permit writer must take the applicable requirement into account, reflecting it in the permit. Similarly, the source must include the insignificant unit in the application since it is subject to an applicable requirement.

   a. If the requirement in question is a generally applicable requirement, it may be addressed by permit provisions covering generally applicable requirements. That is, it may be possible to apply the requirement to the unit in question without specific reference to the unit itself.

   b. If, on the other hand, the requirement in question is specifically applicable to the insignificant emissions unit, then the application must include the unit, and the permit must have provisions addressing it. In this case, the unit effectively loses its insignificance. The Regulations anticipated this situation, however, by stating that an emission unit may not be excluded from the application if its omission would interfere with:

      (i) the determination of the applicability of the Title V rules; or

      (ii) the determination of an applicable requirement; or

      (iii) the imposition of an applicable requirement; or

      (iv) the calculation of permit fees.

(9 VAC 5-80-90 D.1.a. (2) and 9 VAC 5-80-710 A.4.)

D. Application Review Issues

This section discusses some additional issues raised in application review. The headings are named after phrases in the application content provisions of the Regulations (9 VAC 5-80-90) and/or after page or column headings in Form 805.

1. Description of or reference to any applicable test method for determining compliance with an applicable requirement. (9 VAC 5-80-90 E.2.) Page 15 of Form 805 contains a requirement that the applicant provide the basis for the results or status of the applicant's compliance with an applicable requirement. If a stack test or continuous emission monitor (CEM) data has been submitted to DEQ, the applicant should refer to this on page 15, specifically identifying the documents by title, number, and date of the document. If the stack test or CEM data has not previously been submitted, the results should be included as part of the application. Where the test method for determining compliance with a future applicable requirement is prescribed by that requirement, the applicant may refer to this requirement, specifying the name, number and date of the document where the testing methodology may be found. Any information cited, cross-referenced, or incorporated by reference must be accompanied by a description or identification of the current activities, requirements, or equipment for which the information is referenced.

2. Additional information necessary to define alternative operating scenarios identified by the source (9 VAC 5-80-90 H, -110 J.) Page 2 of Form 805 provides a means to describe reasonably anticipated alternative operating scenarios that may be provided for in the terms and conditions of the Title V permit. In the application, the applicant must describe each operating scenario with its own example calculations, methods of monitoring, and record-keeping. The monitoring and record-keeping must be specific enough to verify the applicant's compliance status. Form 805 provides for 2 methods to describe alternate operating scenarios: 1) list each scenario on a separate line of the appropriate form page and assign a unique unit reference and a scenario number; or 2) use duplicate form pages for each scenario. None of the alternate operating scenarios, proposed in a Title V permit application, may represent an NSR modification at the facility.

3. Compliance Plan (9 VAC 5-80-90.I., -90 J.) Each application must contain either a compliance plan (if the source is out of compliance in any respect) or a statement of and commitment to continued compliance (if the source is in full compliance).

    a. The compliance plan describes how the source plans to comply or achieve compliance with all applicable requirements. The exact contents and detail required in the compliance plan depend on the compliance status of the source with respect to each applicable requirement. Where a plan is required, it must include a schedule of compliance and a schedule for the source to submit progress reports to the Department at least every 6 months.

    b. Chapter 80, Article 1 and page 20 of Form 805 provides for, a narrative description of how the source will achieve compliance with applicable requirements with which it is not in compliance (9 VAC 5-80-90 I.2.c.). The Title V regulations also requires the compliance schedule contain a statement that the applicant will continue to comply with those applicable requirements it is currently meeting (9 VAC 5-80-90 I.2.a.), and a statement that the source will comply with future applicable requirements in a timely manner (9 VAC 5-80-90 I.3.b.). The statement regarding future applicable requirements may need to incorporate the requirements of any implementation schedule included with the future applicable requirement.

    c. Section 501(3) of the Clean Air Act defines a schedule of compliance as "a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance" with applicable requirements. The schedule of compliance

for sources that are not in compliance with all applicable requirements at the time of permit issuance must include an enforceable sequence of actions with associated time milestones. This sequence of actions must be consistent with any existing consent order or judicial decree currently enforced against the applicant.

4. Permit shield and requirements which do not apply to this source or emissions unit. (9 VAC 5-80-140 A and -B; 9 VAC 5-80-90 G.; Form 805, optional page 3.) The permit shield, as stated in the Regulations, is a term required in every Title V permit. The provision states that compliance with the permit conditions constitutes compliance with all applicable requirements in effect as of the permit issuance date and as stated in the permit. The concept covers not only affirmative requirements, but also permit conditions specifying that requirements do not apply. The Regulations allow the source to specify, in the application, proposed exemptions from otherwise applicable requirements which, if enunciated in the permit as such, enable the source to receive the protection of the permit shield as to them as well. Optional page 3 in Form 805 is intended to convey these requests for permit shield coverage of requirements which do not apply.

    a. Experience has shown that this accommodation is prone to overuse on the part of sources. While the theory is that applicants will use optional page 3 of Form 805 to depict requirements which appear to apply, but do not, our experience is that some applicants, wishing to maximize the number of requirements they don't have to follow, submit extensive lists of such requirements and ask for permit shield protection from all of them. This has led to time-consuming double-checking of sources applications by permitting staff.

    b. A suggested interpretation of these provisions of the Regulations is offered here:

    Applicants must provide a written rationale for each requirement that is identified as not applicable to the source or to an emissions unit for purposes of the permit shield.

Please note if GHG permitting requirements do not apply to the facility at the time of permit issuance to use the language given in the inapplicable requirements section of the Statement of Basis boilerplate document only and to not to the permit shield section of the Title V permit. EPA has made comments during reviews of a Title V permits to advise permit writers not to include language in the Title V permit shield section regarding the inapplicability of GHG permitting requirements as the facility's applicability to GHG permitting requirements may change at a future date.

5. Risk Management Plan requirement under section 112(r). The third Compliance Certification and Plan page in Form 805, page 21, asks the applicant to acknowledge, if true, that it is subject to section 112(r) of the Clean Air Act, and that it is complying with requirements which stem from that provision, including the submission of a Risk Management Plan to EPA for control of accidental releases listed in section 112(r) (7). In earlier application submissions, the submission of such a plan may have been treated as a future-effective requirement: the applicant knew about it and committed to compliance with it when the requirement took effect. The requirement is coming due; under the 112(r) rules, the deadline for submission of such plans to EPA is June 22, 1999. (See Title 40, Code of Federal Regulations, Part 68). Note that these plans are to be submitted to EPA, not to DEQ. EPA is using a data base, accessible to states, to track submission of these plans, and the states are expected to make sure that sources submit them. Here is what the permit writer should do in different scenarios involving the submission of section 112(r) Risk Management Plans.

    a. Suppose that the applicant acknowledged the Risk Management Plan requirement in the Application (Form 805, page 21), and that the compliance date has occurred but

the EPA data base does not indicate that the plan was submitted. The permit writer should ask the source to submit the plan to EPA (see sub-section (D) below) and then to re-certify the application as being in compliance, using page 21 of Form 805 and putting a new date on it. Keep the new certification with the permit file, and check the data base to see whether it indicates submission of the plan.

b. Suppose that the requirement was not acknowledged in the application, and that the compliance date has occurred, but the data base does not indicate that the plan was submitted. In this case, the permit writer should ask the source:

(i) to comply, as quickly as possible, with the mandate to submit the plan to EPA (see address in sub-section (D) below), and

(ii) to certify that those entries are true (page 21 of Form 805).

c. Suppose that the requirement either was or was not acknowledged in the application, but the EPA data base indicates that the source has filed the Risk Management Plan. No action is required by the permit writer.

d. Addresses for submission of Risk Management Plans under section 112(r) of the Clean Air Act are:

(i) Regular mail:
RMP Reporting Center
P.O. Box 1515
Lanham-Seabrook, Maryland 20703-1515

(ii) Certified mail or special delivery:
RMP Reporting Center
Attn: Risk Management Plans
c/o CSC
Suite 300
8400 Corporate Drive
New Carrollton, MD 20785

(iii) For more help, telephone (800) 429-5018 or contact Email: epacallcenter@bah.com

(iv) More information is available at the following http://www.epa.gov/swercepp/.

Chapter 4 - Drafting a Title V Permit

Introduction
This chapter gives guidance on several techniques employed in drafting permits. It also discusses the inclusion of MACT requirements in Title V permits. The techniques include incorporating requirements from previous new source review permits, grouping applicable requirements, and parallel processing of Title V and new source review permits where that is necessary. The Title V permit and statement of basis templates are located on the DEQNET2 in the Title V manual folder or at the following http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Manuals

A. Incorporating Existing Permit Requirements: New Source Review

All terms and conditions in minor new source review permits, state operating permits and PSD permits written pursuant to approved SIP provisions become applicable requirements for purposes of Title V permits. Title V permits may not supersede, void, replace, or otherwise eliminate the independent enforceability of terms and conditions in SIP-approved permits. All of the applicable requirements from an existing permit will need to be placed into the Title V permit, except as indicated in this section. However, it should be noted that White Paper I articulates EPA's view that a Title V permit need only incorporate environmentally significant new source review permit terms. Thus the permit writer may, in drafting a Title V permit, exclude those permit terms that are environmentally insignificant as well as terms which are enforceable only by the State and not by EPA (so-called state-only terms -- see 9 VAC 5-80-300). The following items must be addressed when incorporating an existing permit into a Title V permit:

1. Obsolete conditions - If the permit contains conditions that have already been fulfilled (for example, stack testing requirements or initial notifications), then those conditions do not need to be incorporated into the Title V permit. The statement of basis (see Chapter 5) should include a list of conditions that were not included, and the reasons why they were omitted. (See Chapter 5, section (6) (F).)

2. State-only enforceable conditions - If the permit contains conditions that are enforceable only by the state (for example, odor control requirements or HAP limits that are not the result of 112 of the Clean Air Act), then those conditions may be incorporated into the Title V permit at the request of the source. Incorporation of state-only requirements may be done only at the request of the applicant (9 VAC 5-80-300).

3. General conditions - Many existing permits contain conditions that are generally applicable. If these conditions are addressed in the general conditions section of the Title V permit, they do not need to be incorporated. However, if a general requirement contained in an existing permit is not addressed in the general conditions of the Title V permit, then that requirement should be incorporated as a process-specific requirement elsewhere in the permit

4. Specific conditions - All of the existing SIP-approved permit conditions should be included in the Title V permit. The conditions can be reworded to fit Title V requirements, or they could be broken up into individual requirements in order to clarify their presentation. The following types of permit terms should be incorporated into the Title V permit:

a. All mandatory terms under EPA regulations or the state program, i.e.

- BACT requirements
- LAER requirements
- SIP emission limits
- NSPS requirements
- reporting requirements.

b. Voluntary terms taken to avoid otherwise applicable requirements, i.e.

- limits to make synthetic minor
- netting out requirements
- offsets requirements.

5. In some cases, the applicant may request that applicable requirements be changed prior to their incorporation into a Title V permit (for example, a change in throughput or hours of operation). When a change is requested, the permit writer must first evaluate the request and determine whether a permit would be required under 9 VAC 5-80-10. If a permit is required, then a minor NSR permit addressing the change must be issued prior to issuance of the Title V permit. The processing of the minor NSR permit action can be done either prior to drafting of the Title V permit or concurrently with such drafting. This, though, does not apply to streamlining of multiple applicable requirements (see section **B.** of Chapter 3).

6. Use of Rules before and after SIP approval. Where the SIP-approved version of a rule differs from the version being used by the DEQ, because the version is new and has not yet received SIP approval from EPA, there are two ways to approach the matter.

   a. include the SIP-approved version of the rule in the federally-enforceable part of the permit, and the new version of the rule in a state-enforceable section, if one has been requested by the applicant. The permit could be written to make the new version federally enforceable upon SIP approval. Once the rule has gained SIP approval, it will have to be added to the permit, either upon renewal, or else through re-opening if the permit has more than three years to run (9 VAC 5-80-110 L.1.).

   b. If the DEQ can demonstrate that compliance with the newly adopted version of the rule will ensure compliance with the SIP-approved version, then the requirements may be streamlined in keeping with EPA's White Paper II (see Chapter 3, part **B** of this Manual) and left as federally enforceable.

B. Incorporating Existing Permit Requirements: Acid Rain Permits

The State Title V regulations that apply to stationary sources subject to acid rain permitting are contained in Article 3 (9 VAC 5-80-360 et seq.) of 9 VAC 5 Chapter 80 of the regulations. The Article 3 regulations are written to meet the requirements of the federal Title V regulations and have the same regulatory

authority as the Article 1 regulations. These permits are referred to as Article 3, Federal Operating Permits. The citations used in Article 3, Federal Operating Permits are different than the Article 1, Federal Operating Permits. The Department has a separate boilerplate Article 3, Federal Operating Permits located at the following: http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Manuals.

The permits issued containing the Title IV requirements are Acid Rain permits. Many of these acid rain permits were issued as stand alone permits using the state operating permit regulations. The Department has decided to make the term of the Article 3 and Acid Rain permits the same. Once this is done the acid rain and Article 3 permit can be combined and processed simultaneously as one permit. This will reduce the number of times that permits have to be changed and reduce the cost of processing by minimizing the number of public notices. There are a couple of methods that can be used to make the permit coincide these include but are not limited to the following:

1. Issuing an Article 3, Federal Operating Permit with a delayed effective date.

2. When renewing the acid rain permit the term can be shortened to end in the calendar year in which the Article 3, Federal Operation Permit is issued. The Article 3's effective date can then be delayed to match the acid rain permit term.

3. If there is a problem getting the terms of the two permits to coincide contact OAPP. More information is available concerning delayed effective dates at the location that follows: http://deqnet/docs/air/air_permitting/New/renewalexp.doc.

    - Please note the acid rain permit starts on the first day of the year in which the stationary source begins operating or the permit is issued and ends five years later on the last calendar day of the year. An acid rain that starts operating in May 2003 would have an effective date of January 1, 2003. It would have an expiration date of December 31, 2007. In order to get the Article 3 and acid rain permit to coincide the Title V's expiration date would be set to expire on December 31, 2007. Do not make the Article 3 Operating permits effective date prior to the issuance date. This could have unknown repercussions.

C. Grouping of Applicable Requirements

A source may, in the application, make a generic grouping of emission units and activities subject to broadly applicable SIP requirements. Grouping of applicable requirements, regardless of whether it is done at the request of the source or because the permit writer chooses it, may only be done if the following criteria are met:

1. <u>Criteria for grouping.</u>

    a. the class of activities or units subject to the requirement may be defined generically but unambiguously; and

    b. effective enforceability of the requirement in question does not require a specific listing of the units or activities.

2. <u>Examples of requirements.</u>

    a. source-wide opacity limits;

    b. general housekeeping requirements;

c. identical emission limits for small units (e.g., units subject to the process weight rate tables in 9 VAC 5-40-260 and 5-40-270).

3. Compliance certifications based on reasonable inquiry. The reasonable inquiry for a compliance certification for generally applicable requirements covering otherwise insignificant emission units need only be based on available information.

   a. Available information includes information developed because the applicable requirement requires it.

   b. If the applicable requirements do not require emission tests or monitoring, then these are not required as pre-requisites to a compliance certification, either.

D. Maximum Achievable Control Technology (MACT) Requirements

One of the principal features of the 1990 Clean Air Act Amendments is the set of Maximum Achievable Control Technology (MACT) requirements found in Title I of the Act. These are technology-based standards for sources of hazardous air pollutants (HAPs). In the ten years following enactment of the Clean Air Act Amendments of 1990, EPA is mandated to promulgate MACT standards for approximately 174 source categories, on a schedule that was set shortly after the enactment of the Amendments. Title V operating permits are the main vehicles for implementation of these requirements, but the MACT deadlines and requirements must be met regardless of whether the standard has been incorporated into a permit. Some MACTs apply to area sources (facility HAP emissions below 10 tons per year PTE for any one HAP or 25 tons per year PTE for two or more HAPs, total). If an area MACT source is located at a source major for HAPs, then the area source is treated as a major source and a Title V permit is required. Permit writers should be aware of the following concepts in regard to addressing MACT for sources which are subject, or trying to avoid being subject, to Title V permitting requirements.

1. Promulgated MACT rules and General Provisions. All sources which meet the applicability definition in a promulgated MACT standard are subject to that MACT. Title V permits must incorporate appropriate provisions from the promulgated MACT; they also must incorporate appropriate MACT General Provisions (see Title 40, Code of Federal Regulations (CFR) Part 63, Sub-part A). Most MACT standards include a table near the end which states what sections of the General Provisions apply to the particular standard.

2. Case-by-Case MACT for constructed or reconstructed major sources. (Section 112(g) of the Amendments) Construction or reconstruction of a major HAP source, for which there is not a promulgated MACT standard, must undergo DEQ application review to determine the case-by-case MACT standard. If EPA has proposed but not promulgated an applicable standard, the source may use the proposed standard for new source MACT, along with any supporting background information, as a basis for its proposed permit terms. Where EPA has developed a presumptive MACT, that information should be used in determining MACT. The process is as follows.

   a. The applicant must perform a MACT analysis pursuant to the requirements of Title 40, Code of Federal Regulations (CFR), Part 63, section 63.43. The following is a summary of the principles that should be applied.

(i) The MACT emission limitation or MACT requirements cannot be less stringent than the emission control which is achieved in practice by the best-controlled similar source.

(ii) Based on available information, the MACT emission limitation and control technology must achieve the maximum degree of reduction in HAP emissions, taking into consideration the costs of achieving such reductions and any non-air quality health and environmental impacts and energy requirements associated with the reductions. (**NOTE:** While cost or other impacts may be considered in determining what sources are similar, they **may not** be used to circumvent the requirement in (i) above that MACT be best control.)

(iii) If the permit writer determines, under the criteria in section 112(h)(2) of the Clean Air Act, that it is not feasible to prescribe or enforce an emission limitation, the MACT determination may be a specific design, equipment, work practice, or operational standard, or a combination of these.

b. The source must apply for a Virginia NSR permit for major HAP sources pursuant to 9 VAC 5-80-1400 et seq. Information requirements appear in subsection 63.43(e). The source must specify the emission controls that it expects will meet the MACT standard.

c. Making a case-by-case determination will be done through the Virginia NSR permit regulation for major HAP sources, 9 VAC 5-80-1400 et seq. DEQ must review the application and work with the source to address any deficiencies. After the application is deemed complete, an opportunity for public comment is provided. After public comment, DEQ may issue final approval of the application.

d. Upon approval, DEQ must issue a permit with the MACT determination, through the Virginia NSR regulation for major HAP sources, 9 VAC 5-80-1400 et seq., and revise the existing Title V permit to incorporate the MACT requirements, if the remaining permit term is three years or more; if it is shorter than that, the revision may await the permit renewal. Final MACT determinations must be submitted to EPA Region III.

e. The promulgation of a MACT will have one of two effects on the permit terms written before its promulgation:

(i) If the promulgated standard is less stringent than what the source proposed in its application, the source will be bound by what it proposed, based on the proposed MACT and its supporting documentation. (The proposal will become a set of permit conditions.)

(ii) If the promulgated standard is more stringent than what the source proposed in its application, then the source will be allowed a period of time, not to exceed 8 years, to meet the standard pursuant to section 112(g) of the Act.

3. Title V alternative operating scenarios and case-by-case MACT. A source may seek approval of case-by-case MACT determinations for new alternative operating scenarios as part of its Title V application process. Once the Title V permit is issued, the source need not undergo further MACT review before activating any such alternative scenario. Note, however, that any case-by-

case MACT determination made as part of a Title V permit application should be submitted to EPA for its case-by-case MACT data base.

4. Presumptive MACT. A presumptive MACT determination is preliminary in nature. It is made after data on a source category's emissions and controls have been collected and analyzed, but before a MACT standard has been proposed. In the absence of applicable emission limitations, it serves as guidance on the eventual MACT standard, and is employed on a case-by-case basis as with the procedure in section **D** (2) above.

5. Cases where EPA fails to promulgate a MACT by the stated promulgation date. Section 112(j) of the Clean Air Act Amendments anticipated cases in which EPA would fail to promulgate a MACT by the date to which it had committed. In such a situation, and independent of any permit action, all sources to which such a MACT is applicable must submit proposed MACT requirements to DEQ for review and approval, as follows.

    a. The deadline for the sources to submit their proposed MACT to DEQ is 18 months after the deadline for MACT promulgation that EPA missed.

    b. DEQ must either approve the proposed MACT or work with the sources, and with other states and sources as appropriate under the circumstances, to determine the MACT.

    c. The deadline to meet the agreed-upon MACT depends on whether the source is new or existing:

        (i) A new source must meet the proposed MACT upon start-up of its operations;

        (ii) An existing source is given a period of time by DEQ to meet the proposed MACT. This time period may not exceed three years from the time the MACT is agreed upon.

6. Existing Source Date: The existing source applicability date for MACT is not the same as NSR. Each individual MACT has a unique existing source date. The existing source dates are listed in the individual MACTs.

7. Once in always in applicability. The "once in always in rule" states that a facility or emissions unit that is subject to a MACT will be subject to that MACT even if they reduce emission below the applicability threshold. The policy applies to existing sources once the compliance date listed in the individual MACT has passed. Until the compliance date has passed stationary sources can limit their potential to emit below the 10/25 MACT applicability threshold level. This is stated in the EPA guidance memo of May 16, 1995 (subject: Potential to Emit for MACT Standards -- Guidance on Timing Issues). However there are a couple of exceptions to the “once in always in policy” that are listed below:

    a. Stationary sources can shutdown.
    b. A stationary source can be issued a federally enforceable permit requiring that no HAPs are used.
    c. MACT applicability can be preclude by the issuance of a federally enforceable permit that requires all emission units subject to a specific MACT subpart not to use any HAPs.

Example: A facility has six emission units subject to MACT QXL. In order to preclude MACT applicability all the emission units subject to QXL would be required by permit not to use any HAPs.

d. All emission units subject to a particular MACT can shutdown.
e. Stationary sources can be removed from MACT applicability when HAP is removed from the list of regulated pollutants if the resulting HAP emissions drops below the 10/25 applicability threshold. So far there have been four HAPs removed from the initial list these are as follows: caprolactam, long chain glycol ethers, ethylene glycol monobutylether and methyl ethyl ketone.
f. Another possible exception involves a case where a stationary source subject to a MACT changes what it makes. The stationary source used the same equipment to make something different. In this exception the new product is not covered by the applicable MACT. The potential emissions from the equipment fell below the 10 and 25 ton/yr MACT applicability emissions level. If the individual MACT regulation applies to the entire stationary source then the "once in always in" rule applies. If the individual MACT states that it applies to the equipment then the change would preclude MACT applicability.

8. MACT Compliance and Effective date: MACTS contain two important dates the effective date and the compliance date. The effective date is the date of promulgation or publication in the Federal Register. The compliance date is the date a facility is required to be in compliance with the regulations. The compliance date for existing sources is three years after the effective date. The compliance date for new sources is the startup date of the emission unit or facility.

9. MACT Permitting: The regulations require the inclusion of the MACT requirements within 18 months of the effective date and not the compliance date unless there is less than 3 years remaining in the permit. If there is less than 3 years remaining in the term of the permit then the MACT requirements will be included in the Title V permit during renewal.

10. Additional MACT information. Additional information on MACTs can be found as follows.

    a. http://deqnet/documents/index.asp?path=/docs/air/air_toxics

    b. http://www.epa.gov/ttn/atw/mactfnl.html
    http://www.epa.gov/ttn/atw/urban/urbanpg.htm
    http://www.epa.gov/ttn/atw/pollsour.html
    http://www.epa.gov/ttn/atw/macttools.html

    c. Presumptive MACT determinations: see either or both of two sources:

    (i) Go to one of the "ttn" web page and enter a search for presumptive MACTS. When a search was entered lots of good documents were listed.

    (ii) EPA's web site, http://www.epa.gov/oar

d. As indicated above (section **D**(3), case-by-case MACT determinations made as part of a Title V permit application process should be submitted to EPA for inclusion in its data base. The proper address for this submission is:

Title III Coordinator
EPA Region III
Mail code 3AP11
1650 Arch Street
Philadelphia, PA 19103

E. Greenhouse Gas Requirements

Applicable requirements for GHGs must be addressed in the source's Title V permit. Most applicable requirements for GHGs will be in the form of GHG control requirements resulting from PSD permitting actions, such as a PSD BACT requirement for GHGs. Permit conditions for any applicable GHG requirements in a Title V permits will include the following:

1. Emission limitations and standards necessary to assure compliance with all applicable requirements for GHGs;

2. All monitoring and testing required by the applicable requirements for GHGs;

3. Any additional compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with GHG-related terms and conditions of the permit.

After July 1, 2011, it is possible a facility may only become applicable to Title V permitting requirements based on the sources GHG emissions only. If the facility does not have any applicable requirements for GHG emissions any other applicable requirements for non-GHG emissions sources will have to be included in the Title V permit conditions. An example of the permitting scenario follows:

Example: A facility becomes subject to Title V permitting requirements solely on the basis of the source's GHG emissions and must apply for a Title V permit. The facility has an applicable requirement which imposes an opacity limit on a unit which does not have adequate monitoring and/or periodic monitoring conditions to assure compliance with the opacity limit. Even though the newly subject Title V source does not have any GHG-related requirements to include in the Title V permit, appropriate monitoring, recordkeeping and reporting to assure compliance with the opacity standard must be added to the Title V permit conditions for that opacity standard

Please note the requirements in the GHG Reporting Rule in 40 CFR Part 98 are currently not included in the definition of applicable requirement in 40 CFR 70.2 and 71.2 and do not need to be included in the Title V permit. Although the requirements contained in the GHG reporting rule currently are not considered applicable requirements under the Title V permitting regulations the source must still comply with the requirements of the GHG reporting rule separately from the compliance requirement in their Title V permit.

F. Regulatory Citations for Permit Conditions

1. Requirements from Existing Permits. Cite the specific permit condition number and the permit date as the bases of authority for the applicable requirement. If the permit term also stems from another underlying applicable requirement, such as SIP, NSPS, or MACT, also cite the underlying requirement as a basis of authority. Also, cite 9 VAC 5-80-110, which is the Title V regulation requiring that all federally enforceable requirements be incorporated into a Title V operating permit.

2. All Other Requirements. Cite the underlying applicable requirements as the basis of authority. Also, cite 9 VAC 5-80-110, which is the Title V regulation requiring that all federally enforceable requirements be incorporated into a Title V operating permit.

G. Parallel Processing of Title V and minor NSR permit actions

The term parallel processing refers to revising a new source permit simultaneously with Title V permit issuance. A new source review permit is not superseded when a Title V permit is issued. Listed below are five reasons that a Title V and a minor permit would be processed simultaneously:

1. The source may propose terms from the minor NSR permit that, in its judgment, should be revised, deleted, or made into state-only requirements.

2. A source applies for a Title V permit but is not currently in compliance because it lacks a new source review permit. It has certified this non-compliance.

   Explanation: The permit writer may draft both the new source review permit (needed to bring the source into compliance) and the Title V permit at the same time, using many common terms.

3. A source wishes to change its operation, permitted under an existing minor NSR permit, while applying for Title V. The change involves an increase in emissions.

   Explanation: Care should be taken in this circumstance to ensure that the source, already a major source because it is applying for Title V, does not become subject to PSD permitting requirements. If the increase in emissions triggers modeling, then the modeling must be performed as is required under the minor NSR permitting program even though the Title V permitting program doesn't require a modeling analysis.

4. The NSR permit upon issuance would contain a requirement that is more stringent than the previously issued Title V permit.

5. The minor NSR permit should be issued prior to issuance of the final Title V permit.

H. Compliance and Enforcement Considerations

One key to an effective Title V permit is the ease with which its terms may be followed and its enforceability as a practical matter. Permit writers are encouraged to write permit provisions which are unambiguous in describing performance and emission standards but also clear in identifying control equipment and in directing its use. Similarly, permit terms must specify work practices linked to the achievement of emission control. Some notes along these lines follow.

1. Calendar year and other limits. Emission limits which require compliance on a calendar-year basis are not practically enforceable. For long-term emission limitations to be practically enforceable, compliance must be determined, at a minimum, on a 12-month rolling sum basis. This means that each month, the emissions of the current month and the 11 previous months are added together.

    a. When an emission or other limitation is expressed as a 12-month rolling total (or in similar terms), the permittee should be required to keep records for each month as well as the calculation of the 12-month rolling total. This will enable an inspector to readily assess the source's compliance status in any given month.

    b. It is incorrect to say 12-month rolling *average*. There is no averaging because the limit is derived by *summing* the monthly emissions over the previous 12 months. Correct terminology includes 12-month rolling sum,12-month rolling total, or emissions shall not exceed *x* in any consecutive 12-month period.

2. Control equipment operation. If a Title V permit requires the emissions from certain equipment to be controlled by a control device, there must also be an explicit permit condition to operate that device.

3. Calculation equations. For any permit term that requires a calculation to determine compliance, make sure that the equation and all assumptions are written in the permit.

4. Credible evidence. Title V permits may not limit the types of data or information that may be used to prove a violation of any applicable requirement. Instead, they should include language clarifying that any credible evidence may be used in determining a source's compliance status (or, alternatively, that nothing in the permit precludes the use of credible evidence in determining compliance or non-compliance with permit terms).

    a. This type of language in the permit gives the source and the public fair notice, and prevents the source from claiming that it was not aware that other evidence could be used to demonstrate a violation or compliance.

    b. Example conditions (both may be used):

        (i) Nothing in this permit shall be interpreted to preclude the use of any credible evidence to demonstrate non-compliance with any term of this permit.

        (ii) Any additional information possessed by the permittee that demonstrates non-compliance with any applicable requirement must also be used as the basis for compliance certifications.

    c. Permit writers should be careful, in this regard, to avoid using narrative or other language that might be construed as limiting credible evidence. Such language includes narrating that an activity ensures compliance or is required to demonstrate compliance.

5. Compliance certifications. As indicated in Chapter 2, section E.(8), compliance certifications are required on Form 805 and must indicate whether the source is in or out of compliance with all applicable requirements; a compliance plan is required if the source is out of compliance.

a. If the source is in compliance, or came into compliance since submitting the permit application, the permit need not include a compliance plan or schedule.

(i) The source should have certified one way or the other in submitting the application.

(ii) If the source came into compliance while the permit was being developed by DEQ, the source should re-submit its compliance certification, reflecting that compliance, before the draft permit is issued.

b. If the source is not in compliance, the draft permit should include a compliance plan and schedule by which the source will achieve compliance during the permit term.

I. Permit revisions: Tips on administrative permit amendments

The two uses of the administrative permit amendment that are most likely to produce difficulties are incorporation of requirements from new source and PSD permits, and changing the federal enforceability status of requirements that have received SIP approval since the Title V permit was issued.

1. Incorporating requirements. Incorporating requirements from a minor new source review permit requires a determination whether those requirements, when placed in the new source review permit, underwent the Title V procedural requirements of public participation and review by EPA and affected states. If the original permit had not been subject to these procedural requirements, then the requirements from it may not be incorporated through an administrative permit amendment. (See 9 VAC 5-80-200 A.5.)

2. Changing state-only requirements to federally enforceable requirements upon SIP approval. Administrative permit amendments may be used for this purpose, but it would be preferable if the Title V permit is written with contingent federally enforceable terms as well as state-enforceable terms. That is, the federally enforceable portions of the permit could contain the permit terms in question, phrased to say "Upon SIP approval of [the regulatory citation], the permit holder must ..." There should be a counterpart provision in the state-enforceable section of the permit (requested by the applicant in order to comply with 9 VAC 5-80-300 A.) which says "... the permit holder must.... This provision expires upon SIP approval of [the regulatory citation]; see permit condition # ___ in the federally enforceable portions of this Permit." (See 9 VAC 5-80-200 A.6.)

Chapter 5 - Statement of Basis

Introduction

The Regulations, at 9 VAC 5-80-150 D. require the Board to prepare a "Statement of Legal and Factual Basis" (hereinafter the "Statement of Basis") for draft permit conditions. This document must be made available to the public with the draft Title V permit. The Statement of Basis should contain background information and provide the rationale for permit terms in the Title V permit. It provides the documentation that supports each of the conditions in the draft Title V permit.

To assist DEQ permit writers in meeting the information requirements for this document, this Manual contains an outline for and model of a Statement of Basis. The outline and model are intended to help the permit writer develop the documentation necessary to support the permit when it goes to public notice and to provide EPA staff with necessary technical information to facilitate their review. (A copy of the Statement of Basis should also go to the source; see page VI-1 in this Manual.) A format for the Statement of Basis can be found at the location that follows:
http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Manuals

Although the Statement of Basis is required by the Regulations, it is not a legally enforceable document. All requirements applicable to the source must be in the Title V permit. The permit may not reference, or incorporate by reference, the Statement of Basis. If the source has referenced material in the application, such as a stack test report, the permit should reference that report; the stack test report or other material should be attached to the Statement of Basis if it is relevant.

Guidance on the components of the Statement of Basis is presented in the outline which follows. The outline shows the sequence in which the elements ought to appear, for logical presentation.

1. Cover page - the cover page should include the regional office address and places for the names and signatures of the permit writer and approving authorities, and the dates signed.

2. Facility information and source description - Each Statement of Basis should contain basic facility information and a source description supported by the information provided in the application. These topics may be presented as two topics instead of one, according to the preference of the regional office. In the Source Description section, the permit writer should describe each alternate operating scenario independently with appropriate NAICS codes.

3. Compliance status - this part of the Statement of Basis should be a sentence or two describing the current compliance status. There is no need to go back into a compliance history. If the source is not in compliance, this part should refer the reader to the Compliance Plan section later in the Statement of Basis (see section 11 below).

4. Emission Unit and Control Device Identification - Describe each of the significant emission units and control devices; this can be done in narrative or tabular format. The information is similar to the information in the "Emission Unit" table of the permit, and may in fact be that table. Include the emission unit identification (ID) number, the stack ID number, the manufacturer's name or some identifier, applicable permit date, the date of construction if known, and the size and maximum rated capacity in units consistent with the standard or with industry convention. For the control device, provide the PCD (pollution control device) identification number, a brief description

of the device including the manufacturer's name, model number, and date of construction if known; and identify the pollutant(s) controlled.

5. Emissions Inventory - Information presented here may be taken from the annual emissions update, or the application.

    a. The emissions inventory in the Statement of Basis consists of two tables, which summarize (1) actual annual emission of criteria pollutants, and (2) actual annual emission of hazardous air pollutants.

    b. Where a source has indicated on page 12 of Form 805 that a dated emissions update is generally correct, the Statement of Basis should include a copy of the update. By attaching the emissions update, the permit writer fulfills the requirement that referenced documents (in this case a document referenced in an application) be made available to the public. Where the applicant has indicated on page 12 of Form 805 that certain emissions units are not properly represented in the emissions update, the permit writer should include a description of the discrepancies with the emissions update.

    c. If any emissions inventory information is claimed as confidential by the source (see Chapter 2, section **J.**), and DEQ has concurred that the information is confidential, such information is not presented in the Statement of Basis or the permit, which are public documents. (Note that under *Virginia Code* 10.1-1314, emissions data cannot be made confidential. See also 9 VAC 5-170-60 A. in the Regulations.)

6. Applicable Requirements for Emission Units - Page 14 of Form 805 contains information provided by the applicant on requirements deemed applicable to individual emissions units, to combinations of emissions units, to some designated part of the facility, and/or to the entire facility. The Statement of Basis should contain a general description of the applicable requirements. The section should follow the organization of the permit. It may need to be repeated, or referred to, for multiple emission units or for facility-wide applicable requirements. If requirements for multiple units are similar, the description of these requirements may be consolidated, but only if the descriptions track with the organization of the permit. Where various applicable requirements have been grouped together, or where previously grouped requirements have been separated, these changes should be noted and explained.

    a. Limitations - describe limitations from existing new source review permits, or from the Regulations if the limitations did not appear in previous permits. This description should be very brief.

    b. Monitoring and Record-keeping - these elements may be combined, but only if they are combined in the permit. The Statement of Basis should include a brief description of monitoring and record-keeping requirements that are in the permit, and indicate the rationale for the periodic monitoring scheme, if one is required (see Chapter 8, section **C.**(5)).

    c. Testing - If the permit requires testing, whether for compliance determinations or because an existing testing requirement has not yet been completed, then the Statement of Basis should discuss the testing requirement. If the permit does not require testing, then the Statement of Basis should state that no testing is required. A table of test methods that are to be used by the source if testing is ever performed may be included in the permit. If it is, it should be mentioned in the Statement of Basis. The following language is recommended if the permit requires no testing, but a table of test methods has been included:

The permit does not require source tests. A table of test methods has been included in the permit in case testing is performed. The Department and EPA have authority to require testing not included in this permit if necessary to determine compliance with an emission limit or standard.

d. Reporting - the Statement of Basis should include a brief description of emission unit-specific reporting requirements.

e. Streamlining of multiple applicable requirements - identify streamlined conditions from a previously issued NSR permit with brief explanations. That is, identify the subsumed requirement (the one that is replaced by a substitute in the streamlining action), the subsuming requirement (the one for which compliance ensures that the older requirement is met), and indicate how the subsuming requirement ensures compliance with the subsumed requirement, unless the connection is obvious. Streamlining may also refer to deletion of requirements which no longer apply because emissions units have been shut down or removed. (See also section **C** (3) of Chapter 2.)

f. Requirements from old permits that have been fulfilled (see Chapter 4, section **A.** Where conditions in a previous new source review (NSR) permit have been fulfilled, they need not be put into the Title V permit. However, the Statement of Basis should mention that they were omitted, and say why if necessary.

7. General Conditions - Also known as "standard terms and conditions," these permit provisions do not change from permit to permit. General conditions may be listed but need not be described in the Statement of Basis, unless there is a reason that some term or condition does not apply to the specific source being permitted. Where standard terms and conditions have been created that are specific to a source category, the Statement of Basis should document that the permit contains those standard terms and conditions.

8. State-Only Applicable Requirements - In the event the applicant asks for state-only applicable requirements to be in the permit, the Statement of Basis should mention the fact and indicate what the requirements are.

9. Future-Applicable Requirements - the Statement of Basis should identify future-applicable requirements taking effect during the permit term. The most likely example would be a MACT standard.

10. Inapplicable Requirements - where the source indicates a desire, on Optional Page 3 of Form 805, to specify requirements that do not apply, and the regional office agrees, the permit will include a listing of requirements that do not apply to the source. This listing should be replicated, to the extent necessary, in the Statement of Basis, with reasons given why the requirement does not apply. (See the boilerplate Statement of Basis. See also the discussion of permit shield in Chapter 3, section D. (4).)

a. Where a requirement is applicable to a specific emissions unit, this description need only cite the broad regulatory references such as the NSPS sub-part designation without a detailed listing of the specific paragraphs that are applicable.

b. Where a portion of an otherwise applicable requirement does not apply to a facility, this should also be documented. Where a determination has been made in a previous NSR permit that an otherwise applicable requirement is not

applicable to the facility, this should be documented in the Statement of Basis as well.

11. Compliance Plan - Where the permit includes a compliance plan and schedule, the Statement of Basis should provide a brief explanation. (See also section (3) above.)

12. Insignificant Emission Units/Insignificant Activities. The applicant is required to submit a list of insignificant emission units or trivial activities on page 18 of Form 805. Review and analysis of this listing should confirm or deny the applicant's list. The Statement of Basis must list insignificant activities by emissions unit and the basis for determining their insignificance. The bases for determining insignificance are found in 9 VAC 5-80-720; pertinent rules are in 9 VAC 5-80-710. The table of insignificant activities developed for the permit may be used in the Statement of Basis. (For further discussion, see Chapter 3, section **C.**)

13. Confidential Information - The Statement of Basis should indicate whether the application, supporting information, or the permit contains any confidential information. Confidential information is not releasable to the public in the permit or in public participation. (Section (5) (C) above; Chapter 2, section **J.**)

14. Public Participation (see Chapter 6) - The Statement of Basis relates to public participation in two ways. First, it describes the public participation process for the permit; secondly, it is itself available to the public, along with the draft permit and the notice sent to the newspaper.

    a. Thus, in writing a draft Statement of Basis (before it and the draft permit go out to public review), the permit writer should give the public participation discussion two sections.

        (i.) The first, written into the draft Statement of Basis, should contain the date of anticipated publication of the notice, the length of the public comment period, and the name of the newspaper, as follows:

        "The draft permit will be placed on public notice in the __[newspaper name]__ on __[date]__, and the comment period will end 30 days after that date.

        In addition, it should mention that a copy of the notice is available for anyone who wants it.

        (ii.) The second section, written after the public review period ends, must contain a listing of all communications received as a result of the public notice, a summary of the comments received, and a summary of how all the comments were addressed.

    b. The Statement of Basis must be included with the package of documents available for public review during the public comment period. Proper completion of the Public Participation section requires that the comment period be finished.

    c. If a public hearing is requested and granted for a specific permit action, then copies of all documentation must be included with the Statement of Basis. The documentation includes:

        (i) the public hearing notice;

        (ii) the public hearing agenda, or conduct of the hearing; and

(iii) the comments and responses document.

Chapter 6 - Public Participation

Introduction

9 VAC 5-80-270 states that draft permits shall be subject to a comment period of at least 30 days. Regional offices have the responsibility to ensure that public notices for draft permits are published in a local newspaper of general circulation in the area where the source is located. Affected states are also notified at this time. Once the comment period is closed, the regional office must review the comments and respond appropriately to people making them. Changes to the permit resulting from public review are made, and the permit is then submitted to EPA as a Proposed Permit.

A. Preliminary Step: Showing the Draft Permit to the Source

Prior to public notification of the draft permit, the source should be given the opportunity to review it. A suggested review period is 10 working days; the source may request additional time, in writing, for this review. An example cover letter to the source is in Appendix F.

1. The package sent to the source should include copies of the following:

    a. The Draft Permit;

    b. The Statement of Legal and Factual Basis; and

    c. any additional documentation consistent with the guidance in Chapter 3, Technical Review.

2. Any changes requested by the source, and agreed to by the regional office, should be incorporated into the permit before the public notice is advertised in the newspaper.

B. Public Notice to Newspapers: Content and Procedure

For each operating permit issued by DEQ, there must be a public comment period of at least 30 days. This involves notifying the public through an advertisement in a local newspaper of general circulation in the area where the source is located.

1. The content of the public notice must include, but is not limited to, the following:

    a. The source name, address, and description of specific location (if needed);

    b. The name and address of the permittee;

    c. The name and address of the DEQ regional office processing the permit;

    d. The activity or activities for which the permit is sought;

    e. The emissions change that would result from the permit issuance or modification;

f. The name and telephone number of a Department contact from whom interested persons may obtain additional information, including copies of the draft permit or draft permit modification, the application, air quality impact information if an ambient air dispersion analysis was performed, and all relevant supporting materials, including the compliance plan;

g. A note that the official copies of the public notice, the draft permit, and other information are kept at the regional office for perusal by the public, and that copies found elsewhere are for the convenience of the public but are not official;

h. A brief description of the comment procedures required by 9 VAC 5-80-270;

i. A brief description of the procedures to be used to request a hearing, or the time and place of the public hearing if the regional office decides to hold one without being asked.

2. A copy of the public notice located in Appendix G. The official copy can be found at the location that follows:
http://deqnet/documents/index.asp?path=/docs/policy/public_notice_templates/air

3. The official public notice, together with information on the publication date and the deadline for comments, should be retained at the regional office where the public may look at it. Copies of this information should be provided to the following:

   a. A copy of the public notice, statement of basis, and draft permit should be provided by e-mail to OAPP specifically Monica Harvey at the following: Harvey,Monica@deq.virginia.gov

   b. A copy of the draft permit, statement of basis and public notice, may be provided to public libraries and other locations for the convenience of the public.

4. Written comments received during the public notice period should get an appropriate written response. The permit writer may review the comments and formulate a standardized response that addresses all of the comments received. This response to comments document must be sent to everyone who commented during the public notice period. However, the response to comments need not be sent to EPA until the time the Proposed Permit is submitted; it can be a part of the Proposed Permit package.

5. Where comments received during the public notice period cause material substantive changes to the draft permit, it is likely that the public notice should be re-advertised and the public comment period repeated. This is a case-by-case decision by the regional office and the permit writer. Material substantive changes to a draft permit are changes that:

   a. Make emission limitations or performance requirements less stringent;

   b. Make monitoring, record-keeping, or reporting requirements less stringent;

   c. Extend the time for compliance with any applicable requirement; or

   d. Result in a change in the compliance demonstration or test methods specified in the proposed permit.

6. A record should be made of the public participation process for each permit. The record of these procedures should be put in the permit file and kept five years. The record should include:

a. The public notice procedures the permit has undergone;

b. a list of the commenters;

c. a list of the issues raised during the public participation process.

d. The Department's responses to comments (the Comments and Responses document; see sections **B.** (4) above and **G.** (1) below).

C. Mailing List

The Regulations also require that DEQ notify persons on a mailing list who have asked to be notified of the opportunity for public comment on the information available for public inspection (9 VAC 5-80-270 B). The Office of Air Permit Programs maintains a mailing list, covering PSD and Title IV (Acid Rain) permits as well as Title V operating permits; that list is available for use on an electronic file at the location that follows: http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Public_Participation

1. Send a copy of the public notice announcement for each draft permit to each person on the mailing list. This may be done by e-mail, fax, or regular mail. See Appendix I for a model cover letter.

2. The transmittal of information to any person on the mailing list does not entitle that person to any additional consideration with respect to the availability of permit information or the handling of confidential information.

D. Affected States' Review

Pursuant to 9 VAC 5-80-290 B., the regional office must give notice of each draft permit to any affected state. "Affected states" means all states whose air quality may be affected by the permitted source and that are within 50 miles of the source. The set of affected states for Virginia includes:

Pennsylvania	Delaware
District of Columbia	Maryland
West Virginia	Kentucky
Tennessee	North Carolina

Mail the notice to the affected state before its newspaper publication to ensure that the affected state receives the full 30 days to comment on the draft permit.

1. A sample cover letter for sending notification of draft permits to affected states is contained in Appendix J.

2. The package sent to the affected states should include the cover letter and a copy of the public notice.

3. DEQ should consider and incorporate recommendations from affected states into the draft permit. However, we are not obligated to accept recommendations that are not based on applicable federal requirements or the provisions of the Title V rule. (See 9 VAC 5-80-290 B.)

4. Where DEQ does not accept recommendations from an affected state, the permit writer must document the specific reasons why, and include this documentation in the permit file. The permit writer must also provide a written response to the affected state's comments, stating the basis for

not incorporating the recommendations. A sample letter responding to an affected state's comments is included in Appendix L.

E. Early EPA Review of Draft Permits

Although the Regulations do not require that we provide opportunity for EPA review of Draft Permits, the Department has agreed to provide Draft Permits as well as Proposed Permits to EPA Region III. This part of the Public Participation chapter explains what to send to EPA and when to send it.

1. Permit Application Summary Form (PASF): send as soon as possible after the completeness review, but in any case no later than with the draft permit package. (Appendix M.)

2. Draft Permit Package: this should be sent to EPA at the time the public notice for the Draft Permit is sent to affected states, i.e., after the source has had a chance to look at the Draft Permit and just before it is published for public review.

3. Contents of the Draft Permit Package:

    a. The Draft Permit itself;

    b. A copy of the permit application;

    (i) The permit application should consist of Form 805 and any multiples of its pages; it need not include supporting information unless EPA requests it.

    (ii) If the permit application was provided on a disc or scanned, it may be sent electronically instead of by mail.

    c. a copy of the public notice;

    d. the Statement of Legal and Factual Basis for the draft permit;

    e. the Permit Application Summary Form, if not already sent;

    f. a copy of the relevant state permit(s), if one or more of these contained any applicable requirements in the Draft Title V Permit.

    g. a cover letter or e-mail message (Appendix N).

4. Send all material electronically to the extent possible. See Chapter 7, section **D.** for guidance on addresses, naming conventions, and format.

F. Public Hearing

The Regulations contemplate that public hearings on Title V permits will be held if people request them and the Department agrees (9 VAC 5-80-270 E.). A public hearing request by the applicant will generally be honored. Sometimes, the Department will decide to hold a public hearing without being asked, thereby saving the time involved in deciding on public hearing requests.

1. If a public hearing is requested, the permit writer should proceed through the following steps, each of which includes details set out below:

a. Determine whether the request is timely and meets these information requirements:

(i) the name, mailing address, and telephone number of the requester;

(ii) the names and addresses of all persons for whom the requester is acting as a representative;

(iii) the reason why a hearing is requested, including the air quality concern that forms the basis for the request;

(iv) a brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons he or she is representing, including information on how the operation of the facility under consideration affects the requester.

b. Within 30 days after the close of the public comment period, the regional office must decide whether to hold a public hearing. A public hearing must be held if both of the following are found to be true:

(i) There is significant public interest in the air quality issues raised by the permit application in question, and

(ii) There are substantial, disputed air quality issues relevant to the permit application in question.

c. A public hearing may also be held if either of the following is true:

(i) the applicant requests that it be held; or

(ii) the regional office decides to hold it because the facility or the permit is known or suspected to be a matter of public interest or public controversy.

d. If the request meets the criteria for a public hearing, arrange it for a convenient time and in a convenient meeting place in the vicinity of the source. Notice of the date and time of the public hearing (see Appendix Q) must be published no earlier than 60 days and no later than 30 days before the hearing. Copies of the public notice should be sent to people who requested the public hearing, as a means of responding to their requests, and to people on the mailing list.

2. If the regional office decides that the request does not make the case for the public hearing and that one will not be held, the permit writer must provide written responses to people who had requested the public hearing, indicating why the public hearing request is being denied. (See Appendix O for suggested format.)

3. Hold the public hearing. As part of the hearing, announce the deadline for written comments, 15 days (or nearest mailing date) after the hearing.

G. Completing the Public Comment Period and Responding to Comments

Once the public review period is over, the permit writer must respond to comments, revise the draft permit as appropriate, and prepare the proposed permit package for submission to EPA. These activities involve the following steps:

1. Prepare written responses to comments received from the public, affected states, and anyone else who commented during the public comment period.

    a. The public comment period includes the public hearing itself and the comments received in the 15-day period after the public hearing.

    b. Responding to comments may take the form of a Response to Comments' document sent to all commenters (see also section **B.** (4) above). This allows the permit writer to make a single response to a number of commenters addressing the same issue or similar issues.

    c. The response to comments should take into account what the permit writer, with appropriate guidance from the air permit manager and other colleagues, has decided to do with the permit. Thus, for example, if one or more commenters suggested that an emission limit be based on a particular NSPS provision, and the regional office decided to add that requirement to the permit, the response to comments should indicate that the permit is being revised to show that the emission limit is based on the NSPS provision.

2. Revise the draft permit, based on analysis of the comments and discussion/guidance from within the regional office. Discuss the revision with the source, as appropriate.

3. Prepare the proposed permit package for submission to EPA. See Chapter 7, section **D.**

4. Send the package to EPA after it is approved in the regional office. See Chapter 7, section **D.**

Chapter 7 - Final Permit Processing

Introduction

9 VAC 5-80-150 sets out pre-requisites, time limits, priorities, and additional requirements associated with issuance of a Title V permit. These and other processing needs, for the period after completion of the activities in Chapter 6, are the subjects of this chapter.

A. Permit Issuance Pre-Requisites

1. Once a permit has been drafted, there are several procedural requirements that must be met before a Title V permit may be issued (9 VAC 5-80-150 A., subsections 2, 3, and 5). These are:

    a. Public participation requirements (Chapter 6);

    b. Notification of affected states, and response to their comments (if any);

    c. Submission to EPA of the proposed permit and associated information pursuant to 9 VAC 5-80-290.A., and failure by EPA to object to permit issuance within 45 days of its receipt.

2. The Regulations also mention two other pre-requisites for permit issuance. These are also pre-requisite to satisfaction of the procedural requirements above (see 9 VAC 5-80-150 A., sub-sections 1 and 4). They are:

    a. Receipt of a complete application; and

    b. Conditions in the permit providing for compliance with all applicable requirements, including the requirements of the Title V regulations and the Title V regulations.

B. Time Limits for Permit Issuance

The regulations contain time limits dictated for permit issuance.

1. Renewals and newly applicable Title V sources must be issued within 18 months of receipt of a complete application.

2. A source not previously on the Title V source list that applies during the initial three-year start-up period will have its application processed in a way which maintains the priorities established for sources that were on the list. Regional offices may arrange priorities of such sources, or re-set priorities, in any manner compatible with the overall three-year schedule.

3. See Table 7 for listing of time frames for permit revisions. This Guidance Manual discusses some aspects of permit revisions in Chapter 4, section **H.**

4. The timely issuance for the first round or initial batch had a separate schedule. The regulations allowed for the issuance of one third of the initial batch permits yearly starting in 1998.

Table 7. Time Frames for Permit Revisions.

Permit revision	**Time frame**	**Citation** (9 VAC 5-80-_____)
administrative permit amendment	60 days after receipt of request	-200 B.1.
minor permit modification	90 days after receipt of complete application or 15 days after EPA review period, whichever is later	-90 B., -210 E.2.
group processing of minor permit modifications	180 days after receipt of complete application or 15 days after EPA review period, whichever is later	-90 B., -220 D.
significant permit modification	9 months after receipt of complete application	-90 B., -230 B., -230 E.

C. Permitting Priorities

The Regulations state that issuance of Title V permits shall not take precedence over or interfere with the issuance of preconstruction permits (for new and modified sources, PSD majors, non-attainment majors) (see 9 VAC 5-80-150 C.). These provisions may appear to create a conflict between mandates to accomplish the Title V permitting and to give priority to new source review.

1. As indicated in the Introduction to this Guidance Manual, the prohibition on interference with new source review is to be understood to mean that Title V permitting should not interfere with accomplishment of new source review permitting in reasonable (i.e., mandated) time frames.

2. Where new source review permitting times are considerably less than maximum allowable time frames, some adjustment in new source review permitting times is expected and allowed, provided it stays within mandated maximum time frames.

   Example: If a regional office is issuing new source review permits in 33 days, and increased emphasis on Title V permitting causes new source review permitting to consume more time, for instance an average of 60 days, and the maximum time frame is normally 90 days (9 VAC 5-80-10 F.2.), then the slippage due to the Title V emphasis is acceptable.

D. Submitting the Proposed Permit to EPA

Once the public notice period for the Draft Permit has ended and all comments made during the public notice period have been addressed, the permit is now called a Proposed Permit. The Regulations require that the Proposed Permit be sent to EPA for a 45-day review period before it can be issued (see 9 VAC 5-80-290).

1. Contents of the Proposed Permit package. The Proposed Permit package should consist of the following:

   a. The Proposed Permit itself. Note: in the event that the permit writer and the regional office decided not to change the Draft Permit following public review and review by affected states, there is no need to send an extra copy of an unchanged permit document. In this case, send a note to EPA indicating that the

Draft Permit was not changed in the public review period and should now be considered the Proposed Permit.

b. The Statement of Legal and Factual Basis. This document should be revised to indicate the dates of the public review period. (See Chapter 5, section (14) (A).)

c. A description of the public notice procedures involved (these may or may not have included a public hearing);

d. Significant public comments (including any comments from affected states and/or EPA), along with the responses to comments indicating how the draft permit was altered or why it was not; and

e. Copies of other relevant paperwork, if applicable, i.e., the public hearing notice or the response denying the public hearing request.

f. Cover letter or e-mail. A model cover letter or e-mail appears in Appendix N.

2. How to send the Proposed Permit package. As with the Draft Permit package (see Chapter 5, Public Participation), send the Proposed Permit and accompanying materials electronically to the extent possible.

   a. Proposed permits and accompanying material should be sent to EPA Region III, Air Protection Division, Attention: Sharon McCauley. Sharon Mccauley's e-mail address is: mccauley.sharon@epamail.epa.gov. (In Ms. Mccauley's absence, e-mailed permits may go to permits.t5@epamail.epa.gov, but this is a slower method to start the review.)

   b. Chief, Permits and Technical Assessment Branch
   Mail code 3AP11
   Air Protection Division
   U.S. Environmental Protection Agency, Region III
   1650 Arch Street
   Philadelphia, Pennsylvania 19103-2029

E. EPA Review

Under both state rules (9 VAC 5-80-290 C.1.) and federal rules (40 CFR Part 70, section 70.8(c) (1)), EPA has 45 days in which to review and comment on the issuance of a Title V permit.

1. If EPA objects to the proposed permit within the 45-day review period, DEQ may not issue the permit until the objection has been resolved and the resulting permit reviewed by EPA.

2. Where EPA believes that an emission unit has not gone through proper pre-construction permitting and therefore one or more applicable requirements are not incorporated in the proposed Title V permit, EPA may object to the Title V permit. The permitting authority may then resolve the issue, either by demonstrating that pre-construction permitting requirements were not applicable or by incorporating a schedule into the Title V permit which requires the source to obtain a pre-construction permit.

3. EPA generally will not object to the issuance of a Title V permit due to concerns over BACT/LAER determinations made long ago during a pre-construction permitting process. EPA policy regarding recently issued NSR (including non-attainment) and PSD permits is to provide comments concerning the substantive or procedural deficiencies during the pre-construction permit process.

EPA may then object to the Title V permit if its comments were not resolved by the State during pre-construction review. Where the BACT/LAER determination is made as part of a parallel processed pre-construction permit, EPA may object to the Title V permit based on an improper BACT/LAER determination.

4. EPA may object to the proposed permit after the 45-day review period, pursuant to a public petition. In such a case, EPA gets to modify, terminate, or revoke the permit, provided it gives DEQ 90 days' notice so that DEQ can act instead, or respond to EPA's decision. Either way, the source gets 30 days' notice and an opportunity for comment and hearing on the proposed action. The procedure for this later objection is the same as for a re-opening by EPA for cause. (See 9 VAC 5-80-240 D.)

F. Permit issuance

Prior to permit issuance, the permit writer must provide a checklist (see Appendix T) showing completion dates for the listed action items. The individual signing the permit must initial the checklist to show that these steps have been reviewed. A more comprehensive checklist may be substituted, provided all items on the standard list are included.

1. The regional director signs the permit for the Agency Director (see Appendix S for a sample cover letter) The effective date of the permit is the date of issuance.

2. The permit holder must, within five days of receipt of the issued permit, maintain the permit on the premises for which it was issued and show it to any DEQ inspector upon request (see 9 VAC 5-80-150 E.).

3. A copy of the signed permit must also be provided to EPA (9 VAC 5-80-290 A.).

Chapter 8 - Periodic Monitoring Guidance

Introduction

This chapter provides guidance on periodic monitoring for Title V permits. Sections A through C explain basic requirements; sections D through J provide discussion on topics useful in developing case-by-case periodic monitoring.

A. Applicability

Periodic monitoring is required in Title V permits for each applicable requirement for each emission unit.

B. Presumed Adequate Monitoring

1. The following categories of standards or units are presumed to have adequate monitoring to meet the Title V periodic monitoring requirement:

   a. All new standards under the authority of sections 111 (New Source Performance Standards, or NSPS, 40 CFR Part 60) and 112 (National Emission Standards for Hazardous Air Pollutants, or NESHAPs, 40 CFR Parts 61 and 63) proposed after November 15, 1990;

   b. For emission units that are subject to Federal or SIP emission limitations, or standards for which the Federal standard specifies a continuous compliance determination method, the existing monitoring used to determine continuous compliance may be sufficient to meet the Title V monitoring requirements.

   c. Emission units subject to acid rain requirements.

   d. Emission units with an approved CAM plan (where approved monitoring is already in place).

2. The CAM rule generally will not require implementation of its requirements for most units subject to CAM until the first round of Title V permit renewals, which will be 5 years after initial permit issuance. Therefore, until emission units become subject to the requirements of CAM, the initial title V permit will need to include periodic monitoring for these CAM units.

C. The Periodic Monitoring Evaluation Process

Periodic monitoring must be adequate to provide a <u>reasonable assurance</u> of compliance with requirements applicable to the source and with all permit terms and conditions over the anticipated range of operation.

1. <u>Examine applicable requirements</u>. The Title V regulations require that every applicable requirement be included in a source's Title V permit. The EPA has stated that every permit condition is an applicable requirement. Periodic monitoring is required for each emission point at a source subject to Title V of the Act that is subject to an applicable requirement, such as a Federal regulation or a SIP emission limitation.

   a. In reviewing existing permit conditions, the first task for the permit writer is to determine which of those conditions are "emission limitations" and which are requirements needed to make those limitations enforceable, such as the type of control equipment, operating parameters, monitoring, record-keeping and reporting.

b. The next task is to determine the source of the requirement: NSPS, modeling, PTE limit, BACT, etc. The source of the limitation is needed in order to determine the appropriate averaging time for the standard. Where appropriate, the permit writer should replace the general citation (example: 9 VAC 5-170-160, formerly section 120-02-11") with a specific citation. For example, if a permit condition is based on PSD air quality modeling and the applicable requirement in the existing permit is cited as Section 120-02-11, the Title V permit should cite the PSD requirement as an applicable requirement.

c. Insignificant emission units must be reviewed for emission limitations which are contained in the generally applicable requirements. Generally, this involves opacity limits and, for existing units and process units, throughput-based limits. Periodic monitoring for these units must be addressed in the statement of basis. This should normally be an explanation why periodic monitoring has not been required.

11. Examine existing monitoring. If the already-required monitoring is sufficient to yield reliable data for the relevant time period and is representative of the source's compliance with a particular applicable requirement, then no further monitoring for that applicable requirement at that emission unit is required in the permit.

12. When Existing Monitoring is Inadequate. Adequacy of the existing monitoring must be judged according to the periodic monitoring criteria specified below, namely whether the monitoring yields reliable data from the relevant time period that are representative of the source's compliance with the applicable requirement. Where the applicable requirement does not contain adequate monitoring, reporting, or record-keeping to provide a reasonable assurance of compliance for the anticipated range of operations, periodic monitoring must be added.

    a. In general, existing testing or monitoring is inadequate if the data are not reliable, if the data collection frequency is not specified, or if the data collected are not representative of the emission unit's compliance performance.

    b. Reference method tests do not constitute periodic monitoring unless it provides reliable information at a frequency sufficient to provide a reasonable assurance of compliance with the applicable requirement. For example, a once-a-year stack test is not sufficient to assure compliance with a 3-hour emission limitation unless the source can provide additional parametric data to provide a reasonable assurance of compliance with the standard. Further, monthly fuel sampling and analysis also may not be adequate for short-term emission limits where the fuel composition varies. In the event the shorter-term monitoring is technically infeasible or cost-prohibitive, less frequent sampling may be established as long as the period is sufficiently representative of the source's compliance with the emission limitations. Otherwise, additional monitoring must be used to show compliance between stack tests.

13. Case-by-case analysis. When the present monitoring is nonexistent or otherwise inadequate, a case-by-case, unit-by-unit analysis is required to devise an adequate monitoring scheme. The permit writer should consider the factors listed below as relevant on a case-by-case basis, in order to arrive at the appropriate periodic monitoring methodology.

    a. The likelihood of violating the applicable requirement (i.e., margin of compliance with the applicable requirement);

    b. Whether add-on controls are necessary for the unit to meet the emission limit;

    c. The variability of emissions from the unit over time;

d. The type of monitoring, process, maintenance, or control equipment data already available for the emission unit;

e. The technical and economic considerations associated with the range of possible monitoring methods; and

f. The kind of monitoring found on similar emission units.

14. The rationale for the selected periodic monitoring method should be clear, and documented in the "Statement of Basis." In some cases, the effectiveness of the periodic monitoring technique will be obvious (as in the case of continuous emissions monitoring) and will require little additional documentation in the "Statement of Basis." If the periodic monitoring methodologies proposed by the source are found to be adequate and if enough justification is provided in the permit application, the "Statement of Basis" may just refer to that without providing a separate justification. (See Chapter 5, section (6) (B).)

D. Use of Parametric Monitoring

Parametric monitoring is the monitoring of control equipment and/or process parameters (e.g., monitoring of incineration temperature for a thermal incinerator). Parametric monitoring that provides a reasonable assurance of compliance should be considered for periodic monitoring. For emission units with add-on controls, parametric monitoring may turn out to be the preferred method of periodic monitoring. Information on parameter data that the source is already collecting and that could be used to indicate compliance should be considered.

1. When using parametric data to satisfy the periodic monitoring requirement, the permit should specify a range which will provide a reasonable assurance that the source is in compliance with the underlying requirement. Wherever possible, the proposed range should be supported by documentation indicating a site-specific developed relationship between parameter indicator ranges and compliance with the emission limit, although it is not required that the range be set such that an excursion from the range will prove noncompliance with that limit. The information used in establishing indicator ranges can include operational data collected during performance testing, engineering assessments, historical data, and vendor data. The permit may also include some means of periodically verifying the continuing validity of the parameter ranges.

2. The permit should also specify what happens when a parameter exceeds the established range. For example, the permit should specify whether excursion from the established range is considered a violation or whether it will instead trigger corrective action and/or additional monitoring or testing requirements to determine the compliance status of the source. Where documentation of a site-specific developed relationship between parametric monitoring and compliance with the emission limit is not possible because data are lacking and because generation of such data are not feasible prior to issuance of the permit, it may be necessary to write the permit with milestones, including source testing, for establishing such a relationship.

E. Continuous Emissions Monitors

1. Several Federal rules, including certain NSPS and NESHAP sub-parts and the rules on acid deposition control already require source operators to install, maintain, operate, and quality-assure continuous monitoring devices to directly measure emissions. Similarly, many construction permits require such devices. Where the source has already installed a continuous emission monitoring system (CEMS), a predictive emission monitoring system (PEMS), or a continuous opacity monitoring system (COMS), such systems will be the periodic monitoring method except in highly unusual circumstances.

2. Periodic monitoring may require installation, operation, maintenance, and quality assurance of CEMS, PEMS, or COMS for vents or stacks which carry a major portion of the plant's emissions and have an applicable requirement that the emission unit is likely to exceed. Note that even where CEMS, PEMS, or COMS are technically and economically feasible, other periodic monitoring may be selected consistent with the factors specified earlier in this guidance.

F. Record-keeping and Permit Limitations

Periodic monitoring may take many forms other than the direct measurement of emissions or parametric monitoring. These forms include record-keeping and permit limitations.

1. Record-keeping. The maintenance of records, (emission calculations, fuel content information, or some other relevant information) may be sufficient periodic monitoring for certain emission units and applicable requirements. For example, keeping records of required work practices, pollutant content of fuel or raw material, and inspections of design or equipment specifications may satisfy periodic monitoring, depending on the applicable requirements and the type of emission units involved. In cases where permit limits can be met with minimal or no controls, it may be acceptable for the permitting authority to specify record-keeping as adequate periodic monitoring because the likelihood that the source will exceed the emission limitation, even while operating at full load, is extremely low. For example, in the case of particulate matter limitations based on a process-weight-rate table or formula, retaining information on the material inputs to the process may constitute adequate periodic monitoring.

2. Permit limitations. An enforceable permit limitation may constitute adequate periodic monitoring in the proper circumstances. For example, the permit writer may conclude that the likelihood of violating an SO_2, particulate matter, or opacity emission standard for gas combustion units firing pipeline-grade natural gas is virtually impossible as long as the unit is properly maintained and burns pipeline-grade natural gas. Thus, appropriate periodic monitoring for this situation might consist of maintaining adequate records of fuel type and making the fuel type and the proper maintenance of the unit enforceable conditions of the permit.

3. Other possibilities. There may be many other combinations of requirements, emission units, raw materials and fuels, in addition to the examples above, where record-keeping and/or permit restrictions would satisfy the periodic monitoring requirement.

4. Precaution. Although periodic monitoring may consist of record-keeping and/or a permit limitation such as a fuel restriction, in no case can a periodic monitoring determination be based solely on the size, hours of operation, or the past compliance history of the emission unit. Operational and process flexibility, changes in ownership, fuel flexibility, age of unit, and many other factors can adversely influence a source's future compliance status, despite its past good performance. Of course, information on past compliance history is relevant to the likelihood of violating the applicable standard (one of the six factors discussed previously in this chapter) and will help in determining the appropriate monitoring to provide a reasonable assurance of compliance.

G. Relevant Time Period for Periodic Monitoring

1. EPA has stated that the 'relevant time period' means 'the averaging period of the applicable requirement.' If an applicable requirement measures compliance with an SO_2 emission limit pursuant to a rolling 30-day average, then the relevant time period is a rolling 30-day period. In some cases the relevant time period is instantaneous. For example, if a work practice standard requires a lid to be free of holes or cracks, a violation exists if the lid has a hole or crack for any amount of time. The relevant time period for many opacity requirements is 6 minutes. In some cases, the applicable requirement may not expressly state an averaging time.

2. In many instances, the duration of periodic monitoring will not match the relevant time period of the applicable requirement. Instead, the duration of the monitoring simply needs to allow the results of the monitoring to relate to (i.e., to provide an assurance of compliance during) the relevant time period. In this way, the requirement that periodic monitoring data be from the 'relevant time period' is closely related to the requirement that the data be 'representative of compliance.'

    a. Data are 'representative of compliance' if they allow for a reasonably supportable conclusion regarding the compliance status during each relevant time period.

    b. Example: a boiler is subject to an SO_2 limit with a 1-hour averaging time, and the source is using low sulfur oil that would assure compliance with the limit. The periodic monitoring might consist of testing the oil purchased by the source. In this example, although the 'relevant time period' is one hour, it is obvious that neither the sampling nor analysis of the oil must occur for the full hour. Instead, it is clear that the results of an analysis of the sulfur content of a representative oil sample relate to the 1-hour averaging period of the limit for that fuel shipment, provided that the sulfur content is consistent.

3. Periodic monitoring does not require that every 'relevant time period' be monitored. Instead, the frequency of the monitoring would be determined during the periodic monitoring evaluation process. For example, a flare is subject to the requirements of 40 CFR section 60.18. The design requirements at section 60.18(c) (1) require that the flare be designed for and operated with no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours. Compliance is determined by using Reference Method 22 with an observation period of 2 hours. Performing a Method 22 for every 2-hour period is neither practical nor necessary.

H. Enforceability of Periodic Monitoring Provisions

1. Periodic monitoring should result in information that is enforceable as a practical matter. For example, if monitoring and recording the usage of fuel is the method chosen as a periodic monitoring for determining compliance with an emission limit, the data must be collected at a frequency so as to allow a presumption of compliance on the part of the source.

2. To ensure practical enforceability, the following elements should be identified in the Title V permit for each monitoring approach where appropriate:
    a. the frequency of monitoring;

    b. the data averaging period used;

    c. the procedures used to check data validity;

    d. the minimum period that data must be available;

    e. the requirements for record-keeping; and

    f. the requirements to provide prompt deviation and summary reports.

I. Availability of Useful Material

Some other useful material on periodic monitoring can be found at the location that follows: http://www.epa.gov/ttn/oarpg/t5pfpr.html and its sub-directories. New material will be added at the location that follows: http://www.epa.gov/ttncaaa1/new.html.

Chapter 9 – Compliance Assurance Monitoring Guidance

Introduction

This chapter provides guidance on implementation of Compliance Assurance Monitoring (CAM) for Title V permits. The Federal Rule containing CAM requirements is located at 40 CFR 64. Please note that in general (see exceptions below in "D. Timing – Submittal of CAM Information") facilities subject to Title V that submitted applications determined to be administratively complete by April 20, 1998 are not required to submit CAM information until the first permit renewal.

Also please note that although the monitoring procedures in place before CAM implementation may meet most (and perhaps even all) of the substantive requirements of CAM, EPA has stated that a monitoring plan must explicitly be called a CAM submittal.

This Chapter is organized as follows:

Section A – Definitions – Several definitions in CAM are unique to this rule.

Section B - Applicability

Section C – Regulated air pollutants

Section D – Timing – Submittal of CAM information

Section E - Examples of applicability and CAM timing

Section F - Exempt emission limitations

Sections G – Monitoring design criteria

Section H – CAM Submittal Requirements

Section I – Approval of Monitoring

Section J – CAM Examples

Section K – Disapproval of Monitoring

Section L – Implementation of CAM

Section M – Quality Improvement Plans (QIP's)

Section N – Recordkeeping and Reporting

A. Definitions

The following is the "definitions" section of 40 CFR 64. The definition of "control device" has been reformatted and rearranged for readability.

Except as specifically provided in this section, terms used in this part retain the meaning accorded them under the applicable provisions of the Act.

Act means the Clean Air Act, as amended by Pub.L. 101-549, 42 U.S.C. 7401, et seq.

Applicable requirement shall have the same meaning as provided under part 70 of this chapter.

Capture system means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

Continuous compliance determination method means a method, specified by the applicable standard or an applicable permit condition, which:
(1) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and
(2) Provides data either in units of the standard or correlated directly with the compliance limit.

Control device means equipment, other than inherent process equipment, that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to:

- acid plants,
- adsorption devices (such as carbon beds),
- afterburners,
- combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters),
- condensers,
- electrostatic precipitators,
- fabric filters,
- flue gas recirculation systems,
- inertial separators,
- injection systems (such as water, steam, ammonia, sorbent or limestone injection),
- mechanical collectors,
- mist eliminators,
- scrubbers (such as wet collection and gas absorption devices),
- selective catalytic or non-catalytic reduction systems,
- spray dryers,
- spray towers,
- sulfur recovery plants, and
- thermal or catalytic incinerators.

For purposes of this part, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition shall be binding for purposes of this part.

Data means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

Emission limitation or standard means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO2 per hour, pounds of SO2 per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO2) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO2). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of this part, an emission limitation or standard shall not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

Emissions unit shall have the same meaning as provided under part 70 of this chapter.

Exceedance shall mean a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard (or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

Excursion shall mean a departure from an indicator range established for monitoring under this part, consistent with any averaging period specified for averaging the results of the monitoring.

Inherent process equipment means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of this part, inherent process equipment is not considered a control device.

Major source shall have the same meaning as provided under part 70 or 71 of this chapter.

Monitoring means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Recordkeeping may be considered monitoring where such records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). The conduct of compliance method tests, such as the procedures in appendix A to part 60 of this chapter, on a routine periodic basis may be considered monitoring (or as a supplement to other monitoring), provided that requirements to conduct such tests on a one-time basis or at such times as a regulatory authority may require on a non-regular basis are not considered monitoring requirements for purposes of this paragraph. Monitoring may include one or more than one of the following data collection techniques, where appropriate for a particular circumstance:
(1) Continuous emission or opacity monitoring systems.
(2) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.
(3) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).
(4) Maintenance and analysis of records of fuel or raw materials usage.

(5) Recording results of a program or protocol to conduct specific operation and maintenance procedures.
(6) Verification of emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.
(7) Visible emission observations.
(8) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

Owner or operator means any person who owns, leases, operates, controls or supervises a stationary source subject to this part.

Part 70 or 71 permit shall have the same meaning as provided under part 70 or 71 of this chapter, provided that it shall also refer to a permit issued, renewed, amended, revised, or modified under any federal permit program promulgated under title V of the Act.

Part 70 or 71 permit application shall mean an application (including any supplement to a previously submitted application) that is submitted by the owner or operator in order to obtain a part 70 or 71 permit.

Permitting authority shall have the same meaning as provided under part 70 or 71 of this chapter.

Pollutant-specific emissions unit means an emissions unit considered separately with respect to each regulated air pollutant.

Potential to emit shall have the same meaning as provided under part 70 or 71 of this chapter, provided that it shall be applied with respect to an "emissions unit" as defined under this part in addition to a "stationary source" as provided under part 70 or 71 of this chapter.

Predictive emission monitoring system (PEMS) means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

Regulated air pollutant shall have the same meaning as provided under part 70 or 71 of this chapter.

B. Applicability

CAM applies to each emissions unit meeting <u>all</u> of the following criteria at a major source required to obtain a Title V permit:

- emits or has the potential to emit (in the absence of add-on control devices) quantities of one or more regulated air pollutants that exceed major source thresholds,
- is subject to one or more emission limitations for the regulated air pollutant(s) for which it is major before control (certain emission limitations do not trigger CAM, see "<u>F. - Exempt Emission Limitations</u>" below), <u>and</u>
- uses a control device to achieve compliance with one or more of these emission limitations.

It is possible for a facility to be subject to Title V and at the same time have <u>no</u> emissions units subject to CAM. Conversely, a Title V facility may have several emissions units subject to CAM. Very few emissions units will be subject to CAM prior to the first renewal cycle (see "<u>D. Timing – Submittal of CAM Information</u>" below).

An emissions unit may emit several regulated air pollutants and therefore might be subject to CAM for more than one regulated air pollutant. As a result, CAM introduces the concept of "Pollutant Specific Emissions Unit" (PSEU). For example, a single boiler might be PSEU's for CO, NOx, SO2, PM10, PM 2.5, and various metals. In this case CAM would need to be implemented for <u>each</u> regulated air pollutant

for which uncontrolled PTE were above major source thresholds and the other applicability criteria above were met. If different types of control equipment were used for each pollutant triggering CAM, CAM information would need to be submitted for each type of control device.

C. Regulated Air Pollutants

Regulated air pollutants are CO, NO_x, SO2, ozone, lead, PM (including PM10 and PM 2.5), VOC, HAP's, 112(r) chemicals, Class I and Class II ozone depleting substances, and all other pollutants for which NSPS have been established (including HCl and total reduced sulfur (which includes H2S)).

The original list of HAP's is in Section 112 b (1) of the Clean Air Act. Changes to the list are in 40 CFR Subpart C. To date, the only change that has been made to the original list is delisting of caprolactam. 40 CFR 68.130 contains the lists of chemicals subject to Section 112(r) of the Clean Air Act. Class I and Class II ozone depleting substances are listed at Appendices A and B, respectively, of Subpart A of 40 CFR 82.

Although both 112(r) chemicals and Class I and Class II ozone depleting substance's (ODS's) are regulated air pollutants, the regulations implementing 112(r) and ODS requirements do not trigger CAM. The 112(r) regulations require facilities to determine the impact of potential catastrophic releases, take steps to minimize the likelihood of such releases, and to minimize the consequences of such releases should they occur. The regulations on ODS's similarly do not require control devices to minimize ongoing routine emissions. Instead, they limit usage/manufacturing of ODS's, prohibit venting of ODS's, require repair of "appliances" when leaks of ODS's are found, and require that trained technicians maintain ODS containing equipment. Also, as will be pointed out in "Section F. – Exempt Emission Limits" below, Stratospheric Ozone requirements are specifically exempted from CAM.

However, some of these substances would be regulated under other applicable requirements that would trigger CAM. For example, many of the ODS's and 112(r) chemicals are also VOC's, and would be regulated as such.

D. Timing – Submittal of CAM information

Implementation schedules and monitoring requirements are tiered. More stringent, and in some cases, earlier monitoring may be required for those emission units which are major after control (referred to as "large" units) than those which are major before control but not after control (referred to as "other" units). CAM information is not required to be submitted for smaller CAM units ("other" units) until a Title V permit renewal application is due.

Those facilities that had not had their applications determined to be administratively complete by April 20, 1998 were required to submit CAM information for "large" emissions units with their initial Title V permit applications. Facilities that had their applications determined to be administratively complete by April 20, 1998 are not required to comply with CAM for "large" units until they submit applications for permit renewal unless:

- a significant revision (see 9 VAC 5-80-230) is made to the permit (or permit application if the permit has not yet been granted), in which case the facility will need to submit CAM information on all of the "large" PSEU's for which the significant permit revision is being sought, or
- the permit is reopened for cause by DEQ or EPA. In this case, DEQ or EPA may require CAM information to be submitted for all "large" PSEU's on which the revision is sought.

Additional applicable requirements (such as new regulations) taking effect during the permit term does not require early submittal of CAM information.

E. Timing and Applicability Examples

1. Procedure Outline

a. Determine if the facility is a major source required to obtain a Title V permit. If not, the facility is not subject to CAM.

b. Determine which emissions units at the facility are subject to CAM. In order for an emissions unit to be subject to CAM it must meet ALL of the following criteria:

- emit one or more regulated air pollutants,
- have preceptor (i.e. uncontrolled) emissions or PTE above major source thresholds. When determining uncontrolled emissions or uncontrolled PTE, state and federally enforceable permit conditions restricting operation and emissions (other than add-on controls) are considered.
- be subject to one or more emissions limitations, and
- use an add-on control device to achieve these emissions limitations

If there are no emissions units meeting all of these criteria, the facility is not subject to CAM.

c. Determine the regulated air pollutants being emitted by each emissions unit and whether, pollutant-by-pollutant, it is a "large" PSEU, an "other" PSEU, or a PSEU not subject to CAM.

It is possible for an emissions unit to be major PSEU's for several regulated air pollutants and subject to CAM for some of these PSEU's but not subject to CAM for other PSEU's. In order for a PSEU to be subject to CAM, it must meet all of the criteria in (B) above.

For example, an emissions unit might be major for both SO2 and CO before control and use a control device (or devices) to control emissions of both pollutants. However, if there were no applicable requirement requiring CO control while an applicable requirement required an add-on control device for SO2, the unit would be a "large" PSEU for SO2 and a PSEU not subject to CAM for CO. Therefore the emissions unit's SO2 controls would be subject to CAM. However, the control device for CO emissions from the unit would not be subject to CAM.

d. Determine when CAM information must be submitted. If the unit is an "other" unit subject to CAM, CAM information will not be required until a permit renewal application is submitted.

If a facility has not submitted a Title V permit application had been determined to be administratively complete before April 20, 1998 it will need to submit CAM information on all "large" units with its initial permit application.

Otherwise, submission of a CAM plan will only be required before permit renewal if a significant permit revision is made for the PSEU or the permit is reopened by DEQ or EPA for cause and DEQ or EPA choose to ask for CAM information for the PSEU.

2. Example 1

A facility is a major source and therefore subject to Title V. This facility has 10 emissions units. The only regulated air pollutant from this source is CO, and each emissions unit has a PTE of 20 tons per year of CO. There are no add-on emission controls and no emission limitations on these

units. The facility submitted a Title V application that was determined to be administratively complete before April 20, 1998. Is this facility subject to CAM, and if so, when?

Is the facility subject to CAM?

The facility is a major source (with 10 emission units with 20 tons per year PTE for CO per emissions unit, or 200 tons per year) and therefore required to obtain a Title V permit because PTE exceeds the major source threshold of 100 tons per year. Therefore, the facility is subject to CAM.

Which emissions units, if any, are subject to CAM?

None of the individual emission units are subject to CAM for three reasons:

- each of the emission units has uncontrolled PTE (and post control PTE, since there are no controls) of only 20 tons per year, which is below the major source threshold,
- there are no emission limitations, and
- there are no add-on controls.

Therefore CAM does not apply to any of the emissions units at this facility, and no CAM information will need to be submitted.

3. Example 2

A facility is a major source that submitted a Title V permit application that was determined to be administratively complete by April 20, 1998. This facility has several emissions units. One of these is a boiler. This boiler has uncontrolled PTE's of CO, NOx, and SO2 that exceed the major source thresholds. However, after control PTE's of each pollutant are below major source thresholds. The boiler's add-on controls for CO, NOx, and SO2 are required by applicable requirements. The boiler is also a minor source both uncontrolled and after control of various other regulated air pollutants including PM10.

The remaining emissions units at the facility are all identical storage tanks. The only regulated air pollutant from each of these tanks is VOC and each tank is required by an applicable requirement to be controlled by an add-on emission control device. The PTE for each tank is 0.5 tons per year of VOC and the uncontrolled PTE for each tank is 10 tons per year. (In the area in which the tanks are located, the major source threshold for VOC is 100 tons per year). Is the facility subject to CAM, and, if so, when?

Is the facility subject to CAM?

This facility is a major source subject to Title V permitting and also therefore subject to CAM.

Which emissions units, if any, are subject to CAM?

The boiler is major (uncontrolled) for several regulated air pollutants (CO, NOx, and SO2) and also meets the other requirements for CAM applicability (subject to emissions limitations and uses add-on emission controls to meet these limits) and is therefore subject to CAM for those pollutants. It is not subject to CAM for PM10 and the other emitted regulated air pollutants because emissions (both before and after control) are below major source thresholds.

The storage tanks are not subject to CAM. Although they are subject to emission limitations and are required to use add-on control equipment to meet these limitations, uncontrolled PTE is below the major source threshold.

What pollutants are being emitted by each emissions unit subject to CAM? For each of these pollutants, is the emissions unit a "large" PSEU, an "other" PSEU, or a PSEU not subject to CAM?

Since there are several regulated air pollutants from this boiler, each PSEU in turn must be evaluated. The boiler is an "other" emissions unit for CO, NOx, and SO2 because PTE after add-on controls is below major source thresholds while PTE before add-on controls is above the major source thresholds. Because PM10 PTE is below the major source threshold both before and after controls, the boiler's PM10 emissions are not subject to CAM.

When will CAM information need to be submitted?

Because the facility's Title V permit application was determined to be administratively complete by April 20, 1998 CAM information will not need to be submitted until a Title V permit renewal application is submitted. This will be true even if a significant permit revision is made since there are no "large" emissions units.

4. Example 3

A facility is a major source that submitted a Title V permit application that was determined to be administratively complete by April 20, 1998. This facility has several emissions units. One of these is a boiler. This boiler has uncontrolled PTE's of CO, NOx, and SO2 that exceed the major source thresholds. After-control PTE's of NOx and SO2 are below major source thresholds. However, after control PTE of CO is above the major source threshold. The boiler is subject to emissions limitations for all three of these pollutants and is required to use add-on controls to meet all of these limitations.

The boiler's PTE for PM10 and all other regulated air pollutants both before and after control is below major source thresholds.

The remaining emissions units at the facility are several identical storage tanks. The only regulated air pollutant from each of these tanks is VOC and each tank is required by an applicable requirement to be controlled by an add-on emission control device. The PTE for each tank is 0.5 tons per year of VOC and the uncontrolled PTE for each tank is 10 tons per year.

Is the facility subject to CAM?

This facility is a major source subject to Title V permitting and also therefore subject to CAM.

Which emissions units, if any, are subject to CAM?

The boiler is subject to CAM because PTE's of several regulated air pollutants (CO, NOx, and SO2) are above the major source thresholds before control.

The storage tanks are not subject to CAM.

What pollutants are being emitted by each emissions unit subject to CAM? For each of these pollutants, is the emissions unit a "large" PSEU, an "other" PSEU, or a PSEU not subject to CAM?

Because uncontrolled PTE of NOx and SO2 are above major source thresholds and emissions after control for both of these regulated air pollutants are below major source thresholds, the boiler would be considered an "other" unit under CAM for these two pollutants. However, because after control

PTE for CO exceeds the major source threshold of 100 tons per year, the boiler is a "large" PSEU for CO.

However the boiler is not subject to CAM for PM10 and the other emitted regulated air pollutants because the PTE's (both before and after control) are below major source thresholds.

When will CAM information need to be submitted?

Because the facility has submitted its Title V permit application and had it determined by DEQ to be administratively complete by April 20, 1998 it will not be required to submit CAM information until one of the following occurs:

- it submits its application for Title V permit renewal
- a significant permit revision is made to the permit for CO emissions from the boiler, or
- DEQ or EPA reopens the permit for cause related to CO emissions from the boiler and chooses to ask for CAM information for this PSEU.

F. Exempt Emission Limitations

Emission limitations considered to provide reasonable assurance that controls are being properly operated and maintained and emission limitations for which this type of approach are inherently inappropriate are exempted from this rule. Emission limitations exempt from CAM are the following:

- emission limitations in New Source Performance Standards (NSPS) or Maximum Achievable Control Technology (MACT) standards proposed after November 15, 1990.
- stratospheric ozone requirements
- Acid Rain program requirements
- emission limitations which exist solely because of emissions trading programs
- emission caps created by a Title V permit and complying with 70.4(b) (12) (facilities for which "bubbles" have been created).
- emission limitations for which the permit requires a "continuous compliance determination method".

Municipally owned backup utility power emission units (as defined in the regulation) are also exempt from CAM.

G. Monitoring Design Criteria

1. General

Monitoring proposed for CAM units must include data on parameters that are indicative of the performance of the control device. This data may include one or more of the following:

- direct measurement of emissions
- process, capture system, and control device parameters affecting control device efficiency. One example in which process parameters would need to be monitored would be if the associated control device is not rated to handle the emissions from the process when the process is being operated outside of a certain range of parameters.
- records of inspection and maintenance activities.

If the emissions unit is required to be monitored using a continuous emissions monitor (CEM), continuous opacity monitor (COM), or predictive emissions monitor (PEM), that unit will be used as monitoring for CAM. This includes situations in which the CEM, COM, or PEM is required by an applicable requirement other than the one requiring control.

Certain monitoring is presumptively acceptable. This includes CEM's, COM's, or PEM's meeting the performance criteria specified in this rule, methods approved under the Acid Rain program, monitoring specified in an NSPS or MACT standard proposed after November 20, 1990, or continuous compliance determination methods. EPA stated in the preamble to the rule that flare monitoring as per the NSPS requirements in 40 CFR 60.18 is presumptively acceptable. EPA may also provide additional examples of presumptively acceptable monitoring in the future.

The monitoring should account for at least the following site specific factors:

- existing monitoring equipment and procedures
- ability of the monitoring to account for process and control device variability
- "reliability and latitude" (40 CFR 64.3(c)) built into the control technology, and
- the level of actual emissions compared to the emissions limitation.

Ranges (or conditions) for the indicator(s) selected must provide reasonable assurance of ongoing compliance with the emission limitations under the range of operating conditions anticipated.

If it is possible to bypass the control device, monitoring must also include a means for determining whether or not the control device is being bypassed unless specifically stated otherwise in an applicable requirement.

2. Performance Criteria

Data gathered must be representative of the emissions or parameters being measured.

New or modified monitoring equipment must be verified to be operating properly before the date when CAM monitoring must be performed. Any manufacturer's requirements or recommendations for the monitoring equipment must be considered as part of this verification.

Quality assurance and quality control practices must be implemented to assure ongoing validity of the data. Again, monitoring equipment manufacturer's recommendations and requirements must be considered.

Specifications for the monitoring frequency, data collection procedures, and (if applicable) data averaging periods must be included.

3. Monitoring Frequency

Four or more data points must be collected each hour for all PSEU's with post control emissions or PTE greater than major source thresholds unless the facility demonstrates that such frequency is not appropriate.

Other PSEU's subject to CAM, i.e., those with uncontrolled emissions or PTE above major source thresholds but post control emissions or PTE below major source thresholds, may collect data less frequently, but some form of data must be collected at least daily.

At a minimum, the monitoring frequency must be conducted over a time period commensurate with the variability of the PSEU and its control equipment, i.e., such time periods must be set considering how quickly the performance of the control equipment could deteriorate.

H. CAM Submittal Requirements

Facilities must submit:

- the indicators to be monitored,
- the ranges for these indicators (or the process by which these parameters will be set), and
- the performance criteria for assuring representative data, verification procedures for correct operation of new monitoring, quality assurance/quality control (QA/QC), and data collection frequency and methodology
- justification for the elements of the monitoring. The permittee must include supporting data for the justification.

Should the verification procedures or QA/QC differ from manufacturers'recommendations, rationale for these differences must be included.

In general, reference method testing will be required to correlate emissions to control device parameters. If reference test data do not exist, a test plan and schedule must be submitted unless it can be demonstrated that performance testing is unnecessary to establish indicator ranges. If the applicable rule does not specify conditions, the performance test must be conducted under conditions representative of maximum emissions potential under anticipated operating conditions for the PSEU. Emissions testing is not required over the entire range of potential emissions.

The facility must document that no changes that would significantly affect the control system performance or the selected ranges or designated conditions have occurred since the reference method test was conducted.

If monitoring submitted requires installation, testing, or other activities before the monitoring is implemented, an implementation plan and schedule for the required activities must be included. The monitoring is required to be implemented as expeditiously as possible, but in no case more than 180 days after approval of the permit.

If a control device is used to control more than one PSEU, the facility is not required to submit separate CAM information for each PSEU. CAM information only needs to be submitted once for the control device. Similarly, if two or more control devices similar in design and operation are used on the same PSEU, one CAM submittal may be made covering all of the devices.

I. Approval of Monitoring

In order for a CAM submittal to be approved, it must include all of the elements specified in Sections G and H above.

The permit writer must include permit terms addressing the following:

- the indicator(s) to be monitored (e.g., pressure drop, temperature),
- the means or device to be used to measure the indicator, and
- performance requirements.

In addition, the means for determining whether an excursion or an exceedance has occurred must be included. The permit must include either:

- specific values of the indicators at which an excursion or exceedance has occurred, or

- the method to be used to determine the value or condition at which an excursion or exceedance has occurred.

An excursion is a departure from the indicator range specified, and an exceedance is a condition that indicates that an applicable limitation is being exceeded (see full definitions of these terms in "A. Definitions").

Data availability requirements may also be addressed in the permit.

If the monitoring requires installation, testing, or final verification, an enforceable schedule with milestones must be included.

DEQ may condition approval on collection of additional data.

DEQ may approve CAM either by issuance of a letter or by issuance of a permit containing the CAM plan.

J. CAM monitoring examples

An example of CAM permit conditions in a DEQ issued Title V permit is included as a Table in Appendix X.

Many other examples of CAM are available in the CAM Technical Guidance Document, which is available on EPA's web site at http://www.epa.gov/ttn/emc/cam.html. That document is structured as follows:

Chapter 1 - Introduction to CAM
Chapter 2 - Monitoring approach submittals
Chapter 3 - CAM examples
Chapter 4 - Technical Reference on specific monitoring technologies
Chapter 5 – Bibliography
Appendix A – Example CAM plans
Appendix B – CAM illustrations

Specific sections of this guidance are available on EPA's web site as PDF files at the following locations:

Title Page through Chapter 3	www.epa.gov/ttn/emc/cam/toc-ch3.pdf
Chapters 4 & 5	www.epa.gov/ttn/emc/cam/sec4-5.pdf
Appendices A.1. to A.7	www.epa.gov/ttn/emc/cam/app-a1-7.pdf
Appendices A.8. to A.15	www.epa.gov/ttn/emc/cam/ap-a8-15.pdf
Appendix B	www.epa.gov/ttn/emc/cam/app-b.pdf

"Zipped" versions of the same files are also available should you wish to download them.

K. Disapproval of monitoring

After reviewing the CAM proposal, determine whether or not it meets the criteria specified in Sections G and H above. Should the submitted plan not meet these criteria, send the facility a letter indicating the deficiencies in the submittal. Should the facility not address the issues appropriately in a timely manner, the CAM plan should be disapproved.

If DEQ disapproves the CAM proposal, the permit must contain monitoring that satisfies the periodic monitoring requirements of Part 70 and a compliance schedule for the facility to submit monitoring which satisfies the CAM requirements. Should the facility fail to meet this compliance schedule, the facility is then not in compliance with CAM.

L. Implementation of CAM

CAM monitoring must be implemented immediately upon issuance of the permit unless the permit specifies an implementation schedule.

The facility is required to maintain the monitoring, including maintaining necessary parts for routine repairs of the monitoring equipment.

Monitoring is required to be conducted at all times the PSEU is in operation except when the monitoring is malfunctioning, being repaired, or undergoing QA/QC activities.

When excursions or exceedances are detected, the facility is required to restore the control device to proper operation as expeditiously as possible.

Should there be a need to revise monitoring to improve detection of excursions or exceedances (for example, if an excursion or exceedance is determined by some means other than CAM monitoring), the facility is required to promptly notify DEQ and make any necessary changes to its monitoring.

M. Quality Improvement Plans (QIP's)

If the CAM monitoring (or some other data) indicates that improvement in the operation of the control device and/or process is required to assure better compliance with the underlying emissions limitation, the DEQ may require that a QIP be implemented.

When a QIP is required, it must include procedures for evaluating the control device performance problems. Based on the results of the evaluation, the QIP must be modified to include procedures for conducting one or more of the following:

- improved preventive maintenance procedures
- process operation changes
- improvements to control methods, and/or
- other steps as appropriate to correct control performance

More frequent or improved monitoring may also be required as a result of the QIP, but one or more of the above elements must be included.

A QIP must be developed as expeditiously as possible. The facility must notify DEQ if the period required to implement the improvements required in the QIP is 180 days or more after the date on which the QIP was determined to be required.

The QIP may be changed at any time after its implementation if the QIP fails to address or find the cause of the control device problems or did not correct the problems quickly enough.

Implementation of a QIP does not excuse the facility for not complying with any emissions limitation.

N. Recordkeeping and Reporting

Facilities subject to CAM are required to submit compliance reports at least every six months and promptly report deviations from permit requirements. The periodic reports must include:

- summary information on the number, duration, and cause of excursions and exceedances and corrective actions taken.
- summary information on the number, duration, and cause of monitor downtime incidents.
- a description of the actions taken to implement a QIP (if a QIP is required). Upon completion of a QIP, the next summary report must include documentation that the plan has been completed and reduced the likelihood of similar levels of excursions or exceedances occurring.

Recordkeeping must be in compliance with 9 VAC 5-80-110F. The source must maintain the following data:

- records of monitoring data
- monitor performance data
- corrective actions taken
- QIP plan (if one is required)
- records of any activities taken to implement a QIP
- any other data required to be kept under this part

Records in forms other than paper are allowed if these alternative forms of recordkeeping allow for expeditious inspection and review. However, if other applicable requirements require paper records, those requirements override and paper records must be kept.

Chapter-10-Title-V-Modifications-and-Amendments

Introduction: This chapter provides guidance on changes to Title V permits. This guidance is based on Article 1 (9 VAC 5-80-50 et seq.) of Part II of 9 VAC 5 Chapter 80. This guidance covers the change types that follow: State Only Changes, Off Permit Changes, Administrative Amendments, Minor Modifications, Significant Modifications and Reopening.

This chapter is organized as follows:

I. Description and applicability of Title V changes.
- A. Who can make changes to Title V permits?
- B. Types of changes can be made to Title V permits?
- C. State Only Change Description
- D. Off Permit Change Description
- E. Administrative Amendments Change Description
- F. Ownership Change Description
- G. Minor Modification Change Description
- H. Significant Modification Description
- I. Reopening Change Description

II. Application and Procedural Requirements.
- A. State Only Changes
- B. Off Permit Changes
- C. Administrative Amendments
- D. Minor Modifications
- E. Significant Modifications
- F. Procedures for Reopening Initiated by DEQ
- G. Procedures for Reopening Initiated by EPA

III. Permit Modification and Construction Requirements
- A. Preconstruction Review and Title V
- B. Operating Restrictions Prior to Title V Modification Issuance

IV. CAM Applicability
- A. CAM applicability, as it applies to modification.
- B. Specific CAM exemptions.

I. Description and applicability of Title V changes.

A. Who can make changes to Title V permits?

1. The facility may request an administrative amendment, minor modification, significant permit modification, off permit change or voluntary state only change.

2. The Department or EPA may reopen a Title V permit. This change can be done without an application submitted to the Department. However, applications are usually required by DEQ to insure accurate permitting.

B. Types of changes that can be made to Title V permits.

1. The regulations list five types of Title V permit changes that can be initiated by the facilities. These are as follows:1) voluntary state only changes, 3) Off Permit Change, 3) administrative amendments, 4) minor modifications, and 5) significant modifications.

2. Reopening is a change type that is initiated by either the Department or EPA. Reopening is usually done to include new applicable requirements promulgated during the permit term. Reopening is can also be used to resolve compliance issues.

3. Please note the permit expiration date does not change as the result of a State-Only Change, Off Permit Change, Administrative Amendment, Minor Modification, Significant Modification or Reopening.

C. State Only Change Description

1. Changes that affect state only requirements do not have to be included in Title V permits. However a facility may elect to have state only requirements included in their permit.

2. Changes that affect state only requirements are not required to meet the requirements of administrative amendments, minor modifications, or significant modification sections of the Title V regulations.

3. In order to be included in a Title V permit, state only changes must meet the requirements of 9 VAC 5-80-190 as listed below:

   a. The requested changes cannot violate any applicable Federal or State requirement.

   b. If applicable, the changes have to meet the requirements of the New Source Review Program.

   c. The facility has to inform the Department of changes to state only requirements in writing. This has to be reported contemporaneously with the actual changes. The written notice has to include:

      (i) A description of each change.
      (ii) The date of each change.
      (iii) Any emission changes.
      (iv) Any change in the types of pollutants emitted.
      (v) A list of any applicable requirements that would apply as a result of the change. State only changes do not qualify for permit shield under 9 VAC 5-80-140.

4. At the facility's request, state only requirements may be included in the Title V permit either at renewal or earlier.

5. State only changes are not required to go to public notice, EPA review, or affected state review.

6. A facility may choose to have state only requirements public noticed as part of a Title V permit to make a requirement federally enforceable.

a. An example would be a facility requesting that toxic emissions limits be included to preclude MACT applicability.

b. Another example would be a facility requesting to make a facility wide emission cap federally enforceable to limit applicability.

c. If applicable, the public notice should include a statement that the proposed changes contain conditions that are not federally enforceable.

D. Off Permit Change Description

Off permit changes are allowed in the regulations under 9 VAC 5-80-280 (Operational Flexibility). These changes are included in the Title V permit at the time or renewal or when another change is made requiring an application.

1. The current known list of off permit changes is below:

   a. The addition or removal of an insignificant emission unit is an off permit change.

   b. The removal of an emissions unit that has been shut down in accordance with 9 VAC 5-20-220 from a Federal Operating Permit is an off permit change.

   c. The installation or removal of an emissions unit that exceeds the insignificant emission unit thresholds but does not require a new source review permitting is an off permit change.

   d. The removal of an emission unit from a Title V permit that was never constructed.

   e. Changes related to emissions trading as allowed in the regulations and permits.

2. There may be other off permit changes that have yet to be identified.

3. Off permit changes cannot be used to do the following:

   a. Make changes that are Title I modifications.

   b. Make changes that exceed allowable emissions.

   c. Make changes that would violate any applicable require.

   d. Make changes that contravene any federal or state enforceable applicable permit terms or conditions that are related to monitoring (including test methods), recordkeeping, reporting, compliance schedule and dates, or compliance certification requirements.

E. Administrative Amendment Change Description

1. Administrative amendment changes are used to correct errors that do not substantially affect the permit including typographical or any other error, defect, or irregularity.

2. Are used to update and correct name, address, or phone number of any person identified in the permit, or similar minor administrative change at the source.

3. Add more frequent monitoring or reporting by the permittee. Please note this specifically refers to more frequent monitoring or reporting requirements. This does not state that changes that are more stringent can be added by an administrative amendment. A monitoring change other than specifically allowed by the administrative amendment regulations may be subject to the significant modification procedures.

4. The State and Federal regulations contain a process that allows a NSR permit (PSD, State Major) to be processed as an administrative amendment. The regulation states that the Title V and NSR permit can be processed simultaneously. This could be useful when processing a State Major, PSD, or

Nonattainment permits especially Greenfield stationary sources. The public notice, affected state notification, and EPA review can be done simultaneously. EPA Region 3 has requested that we inform them of any permit that the Department plans to process the Title V and NSR permits simultaneously. EPA wants to be able to coordinate their reviews. In order to be processed simultaneously the permit has to meet the following:

a. All public notice requirements as stated in 9 VAC 5-80-270 must be met. This includes but is not limited to public notice and mailing list requirements. The public notice should include statements that the notice pertains to the new source review program and Title V.

b. EPA and affected states get to review the proposed and draft permit.

c. The compliance requirements are substantially the same as required in a Title V permit.

5. 9 VAC 5-80-200 A 6 states that Title V permits may be administratively amended to make state-only requirements federally enforceable requirements. Provided that these requirements have been approved through a rulemaking process for inclusion in an implementation plan. In addition the changes must have been previously been included in Title V permits.

F. Ownership Change Description

1. Ownership changes are a type of administrative amendment.

2. The resulting controlling authority (new owner) must comply with all the current permits issued to the previous owner.

3. The resulting controlling authority must notify the board of the change of ownership within 30 days of the transfer. The notification does not have to be an application; however, the submission of the first couple of pages of the application will insures that all necessary contact information has been submitted.

4. The resulting controlling authority must submit a written agreement containing a specific date of the transfer of the permit responsibility.

5. The resulting controlling authority must submit an agreement that includes coverage, and liability between the current and new permittee.

6. Facilities must inform the Department within 30 calendar days of a name change.

G. Definition of a Title I Modification Discussion

The Title I Modification definition contained in Chapter 80, Article 1 and 3 is narrower than the definition contained the NSR regulations. The definition does not include the minor NSR regulations.

The definition is as follows:

> "Title I modification" means any modification under Parts C and D of Title I or § 111(a)(4), 112(a)(5), or 112(g) of the federal Clean Air Act; under regulations promulgated by the U.S. Environmental Protection Agency thereunder or in section 61.07 of 40 CFR Part 61; or under regulations approved by the U.S. Environmental Protection Agency to meet such requirements.

The Title I Modification definition includes the following:

Title of Citation	Citation Reference
PSD Regulations	Part C of Title I

Nonattainment Regulations	Part D of Title I
NSPS Regulations	111 (a), (4)
MACT Regulations	112 (a), 5
Case-By-Case MACT Regulations	112 (g)
Initial NESHAP's Regulations	61.07 of 40 CFR Part 61

This means that minor NSR changes do not automatically qualify as significant modifications. However, minor NSR changes may qualify as significant modifications if they result in any changes that qualify under other parts of 9 VAC 5-80-230.

H. Minor Modification Description

The term minor modification is not defined in the State or Federal Title V regulations. The regulations state what changes do and do not qualify as minor modifications.

1. Minor modifications have to be explicitly allowed in the Regulations. When doing an applicability determination the permit writer has to review both the list of allowable minor modifications and the list of non-allowable minor modifications.

2. Minor permit modifications cannot be used for modifications of permits that are subject to any of the following:

   a. Changes that are classified as Title I modifications as defined in the Title V regulations cannot be processed as minor modifications.

   b. Violate any applicable requirement.

   c. Require significant changes to the following:

      (i.) Existing monitoring, reporting or recordkeeping,
      (ii.) The method of monitoring,
      (iii.) The method of demonstrating compliance,
      (iv) A reporting or recordkeeping requirement,
      (V) A case-by-case determinations of an emissions limit or other standard,
      (vi) A source-specific determination for temporary source of ambient impacts,
      (vii) or a visibility or increment analysis.

   d. Minor modifications cannot be used for changes to permit terms or conditions that were included in permits to limit applicability to federal requirements. Such terms and conditions include:

      (i)A federally enforceable emissions cap assumed to avoid classification as a Title I modification;

      (ii)An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the federal Clean Air Act; (112 (i)(5) refers to early reduction of emissions in the MACT regulations)

      (iii)A limitation that was included in a Title V permit under 9 VAC 5-80-100 that does not have an underlying applicable requirement; and

      (iv)Minor modifications cannot be used for changes that qualify as a significant modification or as an administrative permit amendment.

3. Minor modification procedures can be used for changes that involve the use of economic incentives, marketable permits, emissions trading, and other similar approaches.

   a. Example: A facility request to include their boilers in a market based emissions reduction program. This may be the only way to include a facility that voluntarily wants to participate in a market based emissions program.

b. The reopening section of the Title V regulations can also be used to include new regulations. Using this section of the regulations to include a facility in market based emissions programs may have some advantages over using the reopening section of the Title V regulations.

4. The regulations allow for the group processing of minor permit modifications. Group processing refers to the processing modifications of permits from different facilities. Minor modifications must meet the criteria for minor permit modifications listed in F.1 of this guidance. The permit modifications collectively must be below the threshold level as listed below:

   a. Emissions increases must be below 10% of the permittees allowable emissions for the emissions units for which the change or changes are requested, and

   b. The emissions increases must be below 20% of the applicable definition of major source in the Title V regulations, or five tons per year, whichever is least.

   c. Example Group Processing: The Department may be requested to process a batch of permits to allow all the coal fired power plants in Virginia to install and operate lime silos.

I. Significant Modification Description

1. Significant modification procedures do not apply to minor modifications, administrative amendments, off permit changes, or state only changes.

2. Significant modification procedures apply to the following:

   a. Significant change requirements apply to existing monitoring, reporting, or recordkeeping requirements in the permit, such as:

      (i)Changing the method of monitoring used. Example, a facility may request to change from monitoring fuel sulfur content to installation of a CEM.

      (ii)Changing the method of demonstrating compliance or a relaxation of reporting and recordkeeping requirements contained in the Title V permit. Example, a facility may request to change an averaging period from a daily average to monthly average. Please note increasing the frequency of monitoring could be processed as an administrative amendment. This is stated in the Title V regulation under 9VAC 5-80-200 A. 3 and part II, D. 3 of this guidance.

   b. Changes to permit terms or conditions that were included in permits to limit applicability to federal requirements. Such terms and conditions include:

      (i) A relaxation of reporting or recordkeeping requirements. Example, a facility could request that monthly averages be changed to quarterly averages.

      (ii) A federally enforceable emissions cap assumed to avoid classification as a Title I modification. Example, many facilities have emissions limits that preclude applicability to MACT.

      (iii) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i) (5) of the federal Clean Air Act (i.e. early reduction of hazardous air pollutants).

      (iv) Changing limitations included in a Title V permit that do not have underlying applicable requirements. Example: If an emissions limit is included to preclude an applicable standard and is not required by regulation, state operating permit or NSR permit then, as stated in 9 VAC 5-80-100 C, the change is a significant modification.

J. Reopens Changes Description

1. EPA or the Department initiates reopening.

2. Reopening applies when a new regulatory requirement is promulgated.

   a. A Title V permits that has more than 3 years remaining in its term are required to be updated within 18-months of the promulgation date of the new applicable requirement.

   b. Title V permits that have less than 3 years remaining until renewal are not required to be updated until renewal.

   c. Reopening is not required if the effective/promulgation date of the new requirements is after the date of expiration of the permit. The concern here is that a regulatory requirement could be promulgated shortly after issuance. In some cases where a promulgation date is within a couple weeks of renewal the permit effective date or issuance date can be delay.

   d. Reopening for the purpose of adding new regulatory requirements is very similar to significant modification procedures. Reopening has one additional regulatory requirement. The Department is required to send a facility a 30-day reopening notice. The regions have stated that in some case the permittee have sent application prior to the issuance of a reopening notice to include new regulatory requirement. In these cases it can be assumed that the facility had proper notice of the regulatory change.

3. EPA or the Department can use reopening to correct material mistakes or inaccurate statement that were used in establishing the emissions standards or other terms or conditions of the permit.

4. The most likely use for the reopening regulation is to include MACT requirements.

   a. MACTs contain two important dates the effective date and the compliance.

      i. The effective date is date of promulgation or the date a regulations is published.
      ii. The compliance date is the date a facility has to be in compliance with all the regulations.

   b. The regulations require the inclusion of the MACT requirements within 18 months of the effective date or promulgation date and not the compliance date.

5. Reopening can also be used to add conditions that are necessary to assure compliance with applicable requirements.

6. The reopening and significant modification procedures are the same very similar. The regulations require the Department to send an additional notification to permittee prior to reopening. A significant modification application that includes the necessary information may be used to process a reopening change.

II. Application and Procedural Requirements

K. State Only Changes

1. The application has to state the reason for the change.

2. State only changes are not required to go to public notice, affected state review, or EPA review.

3. State only changes can be incorporated into the Title V permit at the time of renewal or earlier.

4. State only changes can not extend the term of the permit.

L. Off Permit Changes

1. As stated previously off permit changes are included at the time of renewal and can be included when another change is made that requires an application. The same application requirements apply as the original permit.

2. It is important remind applicants during the renewal process to include any offpermit changes that have been made. The 18-month renewal reminder letter includes language that reminds the applicants to include offpermit changes

3. Even though off permit changes are not included until renewal there are some procedural requirements that apply. These requirements are follows:

   a. The regulations under 9 VAC 5-80-280 B. 1, b. requires a notice to be sent to the Department and EPA, 7-days prior to initiation of the change. The notice requirements are as follows:

      i. The notice must contain a brief description of the change within the permit.
      ii. The date the change will occur
      iii. Expected emission changes
      iv. A list of permit terms the will not apply.
      v. The Title V facility, Department, and Administrator are required to attach the notice to the permit.

   b. There is an exception to the notice requirement. Insignificant emission units listed in Chapter 80, Article 4, 9 VAC 5-80-720 A. The specific list is referred to as the list of trivial emission units in the 1995 White Paper.

4. It is important to check renewal applications for the inclusion of off permit changes.

M. Administrative Amendment

1. The application has to state the reason for the change.

2. The facility may make the changes addressed in their request immediately upon submittal of the request.

3. The application must identify all conditions and changes made that are the result of an administrative amendment under 9 VAC 5-80-200 B.

4. Administrative amendment changes do not have to be public noticed or reviewed by affected states.

5. Final issuance of administrative amendments is required within 60 days of application receipt.

6. A copy of the final permit containing the administrative amendment changes must be sent to EPA.

7. With one exception the administrative amendment regulations do not require the submission of an application to update the Federal Operating Permit. Administrative amendment changes will be included when renewing or earlier if another change is made that requires an application submission. The one administrative amendment exception is an ownership change, which requires a facility to notify the Department within 30 days of the change.

8. The regulations (9 VAC 5-80-200 B4) states that a facility can make changes upon application submission

N. Minor Modifications

1. The Department has to receive a complete application prior to issuing a minor modification.

2. The regulation (9 VAC 5-80-210 F 1) states that the owner may make all changes listed in the application upon submission of the application.

3. The application must contain the following:

a. The application has to state the reason for the change.

b. The application has to state the emissions resulting from the change.

c. The application has to list any new applicable federal requirements that will apply. This includes state SIP regulations.

d. A suggested draft permit prepared by the applicant. The Department may accept a draft that addresses only the requested changes. This is a very important requirement because during the interim period between the application and issuance of the updated permit the facility is required to operate in compliance with the draft minor modification permit.

e. The application must contain a certification by the responsible official. The certification is the same as required for the initial Title V application.

4. Five working days from receipt of a complete minor modification application, meeting the previous requirements listed in C. 2., the Department must provide to EPA the following:

   a. The regulations state that the Department is required to send a copy of the application to EPA. EPA Region 3 does not want a copy of the entire application. They request that we send them a summary sheet, which is page 2 of the application. The sheet should explain the proposed changes. They will request the application if they need one.

   b. The Department must inform affected states of a complete minor modification application with in five working days of receipt. This is can done electronically.

   c. A copy of the final permit must be sent to EPA.

5. Minor permit modifications are not required to go through public comment.

6. Time table for issuance of a minor modification:

   a. The permittee is required to submit a Title V application prior to initiating changes. Once the application has been submitted an application shield will cover the changes.

   b. Within 90 days of the receipt of the minor permit application or 15 days after the 45-day review period, the Department must make a final determination. The final determinations are as follows:

      (i) Issue the permit modification as proposed,
      (ii) deny the permit modification application,
      (iii) Decide to process the permit as a significant modification, or
      (iv) Revise the draft permit modification and submit a proposed permit containing all the proposed changes to EPA.

   c. The 90-day final determination does not include the 45-day EPA review period. The Department has a full 90-days to process the minor modification. The EPA review period does not reduce the amount of time that the Department has to process the minor modification. If a complete application is not received in time to effectively process the permit request, the permit writer should not be reticent about withdrawing the application.

   d. The permit cannot be issued until after EPA's 45-day review period or until the Department has been informed that EPA will not object to the issuance of the minor modification which ever occurs first.

7. The regulations under 9 VAC 5-80-210 F.2. states that the facility must comply with the proposed permit modification during the interim time period. The facility can be found in violation of any requirements in the application and proposed permit during the interim time period.

O. Significant Modifications

1. A facility that has made a significant modification must submit an application within 12 months after commencing operation of the modified emissions unit or facility. However, there are times when a facility will need to submit an application sooner than 12-months after startup. A stationary source that will upon initiation of a change exceed a condition of their previously issued Title V permit should request simultaneous processing of their NSR and Title V permit.

2. Please note the regulation does not state that an application has to be submitted within 12 months of issuance of a NSR permit. Title V is an operating permit program.

3. The application must include a description of the change, emissions resulting from the change, and any new federal requirements that will apply if the change occurs.

4. The application has to include a suggested draft permit prepared by the applicant. The facility is only required to address permit conditions and emissions units that are affected by the change

5. The application has to include completed forms for the Department to use to notify EPA. When reviewing the permit application the permit writer should make sure that page 2 of the application is filled out completely. The Department uses this page as a summary page to inform EPA of the proposed changes. EPA uses this page to decide whether they need to request a copy of the entire application.

6. Public notice requirements are the same as for the initial permit issuance.

7. Affected states' notice is the same as for the initial permit issuance.

8. The Department has to make a final decision within 9 months of receiving a complete application. The term complete application refers to administratively complete. The Department has decided to interpret the 9 month issuance requirement as requiring issuance within 270 days.

9. Final action results in one of the following: permit issuance, permit denial, or application withdrawal.

10. The application has to be reviewed within 60 days of receipt.

11. The review must list deficiencies or determine that the application is complete and contains sufficient information to begin a review.

12. If the Department does not review the application within 60 days the application is considered complete. The application will be assumed to be complete until the application is renewed, issued, or denied. If an application is deemed complete prior to review, the Department can request additional information, but will not be able to establish a new deadline that would affect the sources permit shield. In the request for additional information the Department can include a statement about the facility's regulatory requirement to update their application. This requirement is listed in 9 VAC 5-80-80 E.

13. The Department can request additional information after the completeness determination has been made. The Department may set reasonable deadlines for a response. This assumes the application was reviewed in a timely manner.

14. The facilities will submit one initial application. Once the application is deemed complete the facility will submit additional application copies. The regulations states that three copies of the deemed complete application must be submitted to the Department. Each region does have discretion concerning the number of completed copies requested from the facility.

15. During processing the stationary sources are required to update their complete application the information that is required to be complete include the following:

    a. Missing relevant facts must be provided, when the applicant becomes aware of the missing data.

b. Erroneous information must be corrected, when the applicant becomes aware of the information.

c. Supplemental information must be submitted when a source becomes subject to additional applicable requirements.

16. Applications are required to contain the following information:

a. Company name and address.

b. Plant's name and address if different from the company name and address.

c. Owner's name, agent, telephone number, plant site manger(s) or contact, or both.

d. Process description, NAICS Code, and alternate scenarios identified by source.

17. Emissions information includes:

a. The source may have to update their list of pollutants for which it is major.

b. List all pollutants that the modified emissions unit or source emits.

c. List any new insignificant emission units except for those emissions units designated as insignificant in 9 VAC 5-80-720 A.

d. Emissions must be calculated as required by the application forms or instructions.

e. All information necessary to verify which requirements are applicable to a source.

f. Information to insure that fees are calculated correctly, including descriptions of emission points.

g. Emission rates in tons per year to verify compliance status, if emissions unit has started operation.

h. Information needed to determine and/or regulate emissions fuel use, fuel type, raw materials, loading rates, and operating schedules.

i. Identify and describe air pollution control equipment and monitoring equipment.

j. Other information required by any applicable requirements (e.g. Stack Heights).

18. Air pollution control requirements:

a. Citation and description of all applicable requirements, including those covering activities deemed insignificant.

b. Description of any applicable test method for determining compliance with each applicable requirement.

c. Additional information that may be necessary to implement and enforce other requirements of State and Federal Regulations.

d. Explanation of any proposed exemption from otherwise applicable requirements.

e. Information necessary to describe an alternative operating scenarios.

P. Procedures for Reopening Initiated by DEQ:

1. EPA has made statements that reopening is a significant modification that requires an additional notice to the facility of their requirement to submit an application.

2. The Department has to inform the source by letter 30 days prior to reopening their permit. Appendix ZC contains a template letter that can be used to inform the source that their permit is being reopened. The letter requires that an application be submitted with the reopening response.

3. If a facility submits a significant modification prior to the issuance of the reopen letter then the Department can assume the notice requirement has been.

4. Reopening follows the same procedures as an initial permits issuance or significant modification submission. This includes affected state notification, public notice and application submission requirements.

5. The application for reopening is only required to address the emission units affected by the change.

Q. Procedures for Reopening Initiated by EPA:

8. EPA has to inform the Department and source in writing.

9. The Department has 90 days after receipt of EPA's reopening notice to make a determination and forward that determination to EPA. The regulations list the possible determinations that follow: termination, modification or revocation and reissuance as appropriate. EPA has the authority to extend the determination period for an additional 90 days if a new or revised application is necessary.

10. EPA has 90 days from the receipt of the Department's determination to complete its review.

11. The Department has 90 days from the receipt of an objection to resolve the objection and to terminate, modify, or revoke and reissued the permit in accordance with the objection.

    a. If the Departments does not submit a proposed determination or does not resolve the objections EPA shall terminate, modify, or revoke and reissue the permit after doing the following:

        i. EPA must inform the permittee in writing 30 days prior to reopening a permit. The notice must state the reason for the reopening and the procedures that the permittee must follow. The procedure must include the requirement stated in section 19 a through e of this guidance.

        ii. EPA must provide the permittee the opportunity to comment and have a hearing

III. Permit Modification and Construction Requirements.

R. Preconstruction Review and Title V

1. Regulation 9 VAC 5-80-150 states as follows: Issuance of permits under this article shall not take precedence over or interfere with the issuance of preconstruction permits under the new source review program.

2. In general a facility does not have to wait until their Title V permit is updated to begin construction or operation.

S. Operating Restrictions Prior to Title V Modification Issuance

1. A facility only has to wait to begin to operate if the new source review permit would result in a facility violating any of their Title V permit requirements. Example: Adding an emissions unit to a stationary source that has a Title V permit that contains an emissions cap. This assumes the new emissions unit would cause the permitted emission to exceed the emission cap.

2. If the NSR permit conflicts with the Title V permit the facility may construct; however, operating in a manner that conflict with their Title V permit may be a violation. The Department encourages simultaneous processing of significant modifications and NSR changes when there is a conflict.

3. Title V facilities usually do not have to wait to begin construction when adding an emissions unit; unless the Title V permit has an emissions cap that would be violated by additional emissions. Because the previously issued Title V permit would not contain any requirements that apply to the new emissions unit. The facility would be required to submit an application for a significant modification within 12 months of startup of the emissions unit.

4. Clarification is needed 9 VAC 5-80-230 E and F which, state as follows:

   a. The board shall take final action on significant permit modifications within nine months after receipt of a complete application. Please note the definition of a complete application states that an application is complete when it is administratively complete.

   b. The owner shall not make the change applied for in the significant modification application until the modification is approved by the board under subsection E of this section. The term "approved by the board" means that the Department has approved the change. The approval is usually a minor or major new source review permit. This section does not mean that a source has to wait until a Title V permit is updated to begin construction or modification.

5. A facility may apply for a modification to their Title V permit at the same time as the new source review permit.

IV. CAM applicability (Also see chapter 9 of the Title V manual)

T. CAM applicability (see Chapter 9 of this manual):

1. CAM applicability has to be evaluated when a facility has made a significant modification after April 20, 1998.

2. CAM applies to add on control equipment only.

3. CAM applies to emission units that have potential pre-controlled emissions (uncontrolled) of any one pollutant that exceeds major source threshold levels. When determining uncontrolled emissions or uncontrolled PTE, state and federally enforceable permit conditions restricting operation and emissions (other than add-on controls) are considered.

4. The emissions unit must have at least one or more emission limitations.

5. CAM applicability is determined pollutant by pollutant and emissions unit by emissions unit.

U. Specific CAM exemptions:

1. Emission limitations in New Source Performance Standards (NSPS) or Maximum Achievable Control Technology (MACT) standards proposed after November 15, 1990.

2. Stratospheric ozone requirements

3. Acid Rain program requirements

4. Emission limitations which exist solely because of emissions trading programs

5. Emission caps created by a Title V permit and complying with 70.4(b) (12) (facilities for which “bubbles” have been created).

6. Emission limitations for which the permit requires a “continuous compliance determination method”.

7. Municipally owned backup utility power emission units (as defined in the regulation) are also exempt from CAM.

Chapter 11:Title-V-to-Synminor

This chapter provides guidance on changing a facility from a Title V facility to a Synthetic Minor facility. This Chapter is based on 9 VAC 5-20-220, 9 VAC 5-80-50 and procedure 99-1003.

This chapter is organized as follows:

A. Status changes by State Operating Permit.
B. Public Notice Requirements
C. Status change by facility shutdown.
D. Status change by partial facility shutdown.
E. Common requirements

A. Status Change by State Operating Permit:

The status change must be requested. The Department does not have the authority to change an operating facility's status from a Title V major facility to a synthetic minor facility unless the facility requests the change. The change request should be included with the state operating permit application.

A federally enforceable State Operating Permit (SOP) must be issued to the facility. At this time Title V permits are only being issued to major sources. The NSPS and Area MACT source Title V permitting requirements have been deferred. Major source applicability is based on a facility's actual emissions or a facility's potential to emit. The Title V applicability levels are listed below:

- 100 tons per year of any criteria pollutant;
- 50 tons per year of VOC or NO_x in serious non-attainment areas for ozone (i.e., the Northern Virginia region);
- 10 tons per year of a single hazardous air pollutant; or
- 25 tons per year of any combination of hazardous air pollutants.

The Definition of Potential to Emit is as follows:

> *Potential to emit: means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is state and federally enforceable.*

The definition includes state and federally enforceable limitations in the calculation of potential to emit. In order for a facility to have its status changed the facility must have its potential to emit limited by a state and federally enforceable permit. As in the past state operating permits will be the major permitting tool used to limit potential emissions below major source thresholds. In order to make the state-operating permit federally enforceable the state-operating permit must be public noticed.

B. Public Notice Requirements

The State Operating Permit must be public noticed to make the permit federally enforceable. The public notice requirements are similar to those listed in the Department's State Operating Permit manual. The public notice must include one additional statement. The additional statement is as follows:

> [This state-operating permit proposes to provide federally and state enforceable emissions limits on the {facility name}. The State Operating Permit will also limit potential emissions below Title V applicability levels. This notice serves to inform the public that the DEQ is proposing to revoke {facility name's} Title V permit issued on {date}. The Title V permit will be revoked concurrent with the issuance of the State Operating Permit]

The permit writer should make sure that EPA gets a copy of the public notice. The public notice should be sent to EPA Region III. The public notice may be e-mailed to David Campbell at campbell.dave@epa.gov. EPA may comment within the 30-day public comment period.

Public notice copies must be sent to the same addresses as required by the Title V regulations. These include the following: Affected States, EPA, and the list of those that have requested to be informed of public notices.

C. Status Change by facility shut down.

A facility must be shutdown in accordance with 9 VAC 5-20-220.

As stated previously Title V applicability is based on a facility's potential to emit. Potential emissions can be limited below Title V applicability threshold by a facility shutting down. The Title V applicability regulation section states as follows:

9 VAC 5-80-50. Applicability.
C. The provisions of this article shall not apply to the following:
4. Any emissions unit that is determined to be shutdown under the provisions of 9 VAC 5-20-220.

The Department's procedures for shutting down a facility or emissions unit are part of procedure 99-1003. This procedure can be found at the location that follows: http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Policy_Guidance/Memos/03Memos

Section 9 VAC 5-20-220 contains regulations for the permanent shut down of an emissions unit or facility. The requirements of these regulations can be met by following the Department's shutdown policy in 99-1003.

D. Status change by partial facility shutdown.

A facility may request to have their status changed because of a partial facility shutdown.

Please contact the central office for assistance with a Title V applicability determination for a partial facility shutdown.

E. Common Requirements

(1) CEDS database must be updated.

It is very important to update the CEDs database. The Department does not want the permit file and CEDs database to contradict. In addition the facility's inspection and fee status will change. Also the Department must report progress towards the goal of issuing all Title V permits. The removal of a facility from the Title V list affects the number of permits that must be issued in order to meet the Department's goals.

The CEDs database must be updated to reflect the issuance of the permit, the new air program status, and the new permit fee status. These changes should be made within 30 days of the issuance of the state operating permit, facility closure, or partial shutdown.

A letter must be sent to the facility informing the facility of their status change.

It is anticipated that the facility shutdown will result in a mutual decision to revoke all permits. Policy 99-1003 contains letters that may be used to shutdown a facility. The permit writer should be aware that the mutual shutdown letter must be notarized and requires a signature of the facility's responsible official and the Regional Director. The letters should include the applicability citation from the Title V regulations 9 VAC 5-80-50 C. 4. In addition the letter should also state that the Title V permit is revoked.

A letter is attached for facilities that have changed their status as a result of the issuance of a state operating permit. This letter is appendix Y and can be found at the location that follows:
http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Manuals/Title5_Manual/APPENDIX

Engineer Name	
Facility Name	
Registration number	
Plant-County Number	
Facility Location	
Facility County/City and Zip	
Facility Mailing Address (if different)	
State Operating Permit Information	
Title V Permit Issuance Date	
Public Notice Date	
Date EPA Sent Notice	
Comment Received	**(YES) or (NO)**
Comment Response Date	
Date State Operating Permit Issued	
Shutdown Information	
Date Facility Shut Down	
Date Shut Down Letter Sent	
Date Signed by Facility	
Date Signed by DEQ	
Date Notarized	
CEDs Data Elements	
Date Title V permit revoked	
Air Program Data Changed	

Title V Permit Status Changed	
Permit Fee Status Changed	

Briefly explain how the state operating permit changes the status of {facility name} from a Title V facility to a synthetic minor facility.

Chapter 12:Renewal of FOPs

This chapter provides guidance on renewing Title V permits. This guidance is based upon the State Title V regulations.

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VII. CEDS Entry for Renewal

I. Introduction

Renewal is defined in the Title V regulations under 9 VAC 5-80-60. Renewal is an opportunity to update, refine and clarify Title V permits.

The Virginia Department of Environmental Quality (Department) will use all the previous forms and boilerplates for permit renewal. This does not preclude updating the current boilerplates, forms and manuals in the future. The administrative process is very similar to initial permit issuance. The main difference will be the time lines for permit issuance will be shorter and compliance assurance monitoring (CAM) requirements will be added to some Title V permits.

II. Permit Effective, Signature, and Expiration Dates

Title V permits have a signature (issuance date), effective, and expiration date. The date a permit is issued, is the signature date. The date a Title V permit becomes applicable is the effective date. The effective and signature dates do not have to be same. Several Title V permits have been issued with delayed effective dates. One of the most common uses of delayed effective dates is to make reporting and recordkeeping requirements more representative of a Title V sources operation. This is necessary when a Title V permit is issued near the end of a reporting period. Most Title V permits have two reporting periods one spanning from January 1 to June 30 and the other spanning from July 1 to December 31. Another use of delayed effective dates is to allow early issuance of permits that might expire on a weekend or holiday. The delayed effective date has also been used to make the Article 3, Federal Operating Permit and acid rain permit expiration dates coincide.

A Title V permit contains a date upon which it expires. If the Department does not renew the Title V permit prior to expiration and the facility has submitted a timely and complete application, the permit and permit shield will remain in force. The facility will have to meet the requirements of the previous Title V Permit until the permit is renewed. This is stated in the regulations under 9 VAC 5-80-80 F and 9 VAC 5-80-170 C and the general conditions of the Title V permit. The agency boilerplate general conditions have been updated to include these requirements. When renewing a permit, make sure this condition has been updated.

Expiration dates are base upon the effective date and not the signature date. Below is the Department's policy for establishing effective and expiration dates. Specific examples and scenarios follow:

A. Expiration Date:

A Title V expiration dates is established by taking the initial effective date and adding five years and then subtracting one day. Specific examples follow:

B. Example 1:

An initial Title V permit was issued with an effective date of July 22, 2000. The permit expiration date would be July 21, 2005. A timely renewed permit issuance date would be July 22, 2005. The renewal permit's expiration date would be July 21, 2010.

C. Example 2:Separate Signature and Effective Date

A Title V permit was issued with a separate signature and effective date. The signature or issuance date was June 22, 2000. The effective date was July 1, 2000. The expiration date is based on the effective date and would be June 30, 2005. The new effective date, of a timely issued renewal, would be July 1, 2005. The expiration date for the renewed permit would be June 30, 2010.

D. Example 3: Issued After Expiration:

A Title V permit was issued with an effective date of July 22, 2000. The permit expired on July 21, 2005. The renewed permit was issued after the expiration date with an effective date of August 25, 2005. The renewed permit's expiration date would be August 24, 2010. Do not back date Title V permits. Do not use the Title V permit's previous expiration date as the basis for the issuance date. There is no regulatory requirement to keep the initial permit issuance/expiration date the same when renewing permits. Also back dating Title V permits could cause Title V sources to miss reporting requirements.

E. Article 3 Federal Operating Permit[1] and Acid Rain Permits[2]

The initial batch of Acid Rain permits were issued as stand-alone permits using the State Operating Permit regulations and EPA procedures this was done prior to the initial issuance of the Article 3 Federal Operating permits. The regulations require the Department to include Acid Rain Permits in a source's Article 3 Federal Operating Permit. The Department has decided to make the Article 3 Federal Operating Permit and Acid Rain permit expiration dates the same. The Acid Rain permit has an effective date that starts on January 1 of the calendar year in which it is issued. The expiration date for the Acid Rain permit is established by adding five years to the issuance date and then subtracting one day. This will always result in an expiration date of December 31. The initial Article 3 Federal Operating Permits will have an effective/issuance date different than the Acid Rain permits. In the future the effective/issuance date and expiration dates will be the same for the combined/renewed permits.

[1]The Article 3 Federal Operating Permit refers to Virginia's Title V permits for acid rain sources. The Department has separate Title V regulations (Chapter 80, Article 3) that only apply to sources subject to Federal Acid Rain permitting. Article 3 regulation requirements contain the applicable requirements necessary to meet the federal Title V regulations contained in 40 CFR 70.

[2]Acid Rain Permits refers to permits written to meet the Federal Acid Rain requirements contained in 40 CFR 75.

F. Example 4: Acid Rain Permit and Article 3 Federal Operating Permit:

An Acid Rain permit is issued on June 6, 2000. The Acid Rain permit has an effective date of January 1, 2000. The expiration date is December 31, 2004. The initial Article 3 Federal Operating permit is issued with an effective date of June 1, 2001. The expiration date for the Article 3 Federal Operating Permit would be December 31, 2004. Please note the Article 3 Federal Operating Permit includes the Acid Rain permit. The combined renewed permit would have an effective/issuance date of January 1, 2005. The combined renewed permit would have an expiration date of December 31, 2009.

G. Current Permit Expiration Dates:

The expiration dates contained in issued Title V permits do not have to be changed until renewal or other changes such as amendments, modifications or reopenings. The Department and EPA considers all renewals to be timely if they are issued within 2-days of their expiration date.

III. Renewal Notification Letters

The Department has decided to send renewal notifications to all Title V facilities 12 months prior to permit expiration. The boilerplate letter is located in appendix ZA of this guidance.

IV. Application Shield

Regulations 9 VAC 5-80-80 F requires a facility to submit a timely and complete application in order to receive an application shield. Title V facilities are required to submit their complete renewal application 18 to 6 months prior to permit expiration. The Department will work with a facility within this time frame to prevent the loss of an application shield. The Department requires that Title V facilities submit an administratively complete application to receive a permit shield. See the discussion under application review contained in part VII, F of this guidance.

If an incomplete application is made 6 months after the six month final due date or a facility submits an application after the 6 month due date the stationary source will not receive an application shield.

> Example: An application is submitted seven months prior to expiration. A determination is made that the permit is incomplete. The Department by regulation has 60 days to review the application. If the reviewer determines that the application is not complete 31 days after receipt then the Title V source will not receive an application shield.

When an initial batch or previously issued Title V permit expires and the facility does not have a timely or complete application the facility does not receive an application shield. However, a permit shield would apply to all the emissions units and applicable requirements covered by the previous permit if the reasons for the renewed permit not being issued on time lay with DEQ. In addition the requirements of the previous Title V permit still apply. This is stated in the regulations under 9 VAC 5-80-80 F2. Equipment and applicable requirements not covered by the previous permit would not have an application or permit shield.

V. Renewal Time Frames and Steps

H. Renewal Letter

Send a renewal reminder letter to all Title V facilities. The Department will mail the letters to all applicable facilities 12 months prior to their permit expiration.

I. Application Submittal and Application Complete Date

Each Title V facility is required to submit a complete application for renewal not more than 18 months or less than 6 months prior to permit expiration. If a facility submits a complete application with less than 6 months prior to permit expiration, then the Title V facility will not receive an application shield. If an application is administratively timely and complete then the facility will receive an application shield. This statistic is tracked in CEDS.

J. Completeness Determination

The Department is required to make a completeness determination within 60 days of an application receipt. The determination made at this time is whether the application is administratively complete or not. This determination does not preclude the Department from requesting additional information at any time. Please note facilities are required to correct and update their applications for any newly applicable requirements or corrected mistakes and deficiencies under 9 VAC 5-80-80 E.

If the Department determines that the application is incomplete, a deficiency letter has to be sent to the facility no later than 60 days after submittal. The deficiency letter must include a new date for reply to continue the facility's application shield.

The regulations state the facilities are required to submit 3 additional copies of the application within 60 days of the Department's completeness determination.

K. Application Issuance and Time Line Requirements

The time frame for renewal is different than the initial batch issuance time frame. The regulations require the Department to issue Title V permits within 18 months of a complete application determination.

1. Application Complete to Issuance Date:
   Every effort should be made to complete the renewal prior to expiration; however, there is no regulatory requirement to renew a Title V permit prior to expiration. The regulatory requirement is to renew Title V permits within 18 months from a complete application. This is tracked on a statewide and regional basis. The Application Complete to Issuance date will be used by EPA to evaluate Virginia's progress. There is not an Agency wide policy that requires issuance of Title V permit renewals prior to expiration; however, some Regional Offices may have set their own goals or policies for the timing of Title V renewals. It is the goal of the agency to have as many renewals issued prior to expiration as possible.

2. There are some good reasons to delay the issuance of a renewal. These include but are not limited to the following:

a. Technical issues that need to be resolved. Sometimes the complexity of a permit renewal may make a renewal prior to expiration impractical. Since the source continues to be covered by the initial permit and more time may be needed to issue a complete and accurate renewal it is allowable to issue the renewal after the expiration date but no later than 18 months after receipt of the complete application.

b. To preclude the need for future reopening for inclusion of MACT or other source requirements or changes. For example, if the MACT is final the day before issuance of the renewal, it makes more sense to delay issuance of the renewal in order to incorporate the new requirements than to issue the permit and then reopen it later.

L. Public Participation and Affected State Review

Draft permits are required to go through a 30-day public comment period. A public notice begins the public comment period. The public notice is required to be placed in a newspaper of general circulation in the area where the source is located.

On the date of the public notice the Department is required to send the people on the permit mailing list the "Public Notice Letter for Mailing List". The affected states are notified at the same time as the public notice. Please note an affected state is any state that is within 50 miles of the Title V facility. The affected state list is at the following location:

http://deqnet/documents/index.asp?path=/docs/air/air_permitting/Public_Participation

The Department must send a copy of the public notice to EPA. In addition the Department has decided to send a copy of the draft permit with the public notice even though the regulations do not require this. This has proven beneficial in resolving EPA concerns prior to the permit becoming proposed. The information sent to EPA at time of the draft permit is as follows:

1. The permit application summary form
2. The draft permit
3. A copy of the public notice
4. Statement of Legal and Factual Basis
5. Any electronic copies of state permits issued since the previous Title V permit.

6. A transmittal cover letter. The template is located on DEQNET 2 at Documents & Forms\air\air permitting\ public_participation\appendix 16 or N.

A copy of the draft permit and public notice should be sent to OAPP.

M. Public Hearing

If comments are received requesting a public hearing a decision to have a public hearing must be made by the Department within 30 days of end of the public comment period. If warranted, a public hearing must be held within 60-days of the end of the public comment period.

N. EPA Review Time Frames for Proposed Permits

Once all the comments have been addressed the permit is sent to EPA for a 45-day review period. The permit is now considered a proposed permit. The regulations state that Title V applications being renewed cannot be issued until after the 45 day EPA review period.

The regulations under 9 VAC 5-80-290 state that the Department is required to submit the application with the proposed permit. EPA region 3 has stated that they do not want the application to be submitted with the proposed permit. The Department, with EPA Region 3's concurrence, has decided to submit the summary pages from Form 805. If Region 3 wants a complete application they will request one.

If EPA comments on the proposed permit the Department has 90 days to address EPA's objections. If the Department does not resolve the objections within a 90-day period, EPA has the authority to issue or deny the permit.

O. Public Petition Time Frame

9 VAC 5-80-290 D contains the requirements for public petitions. The public has 60 days after the end of the 45-day EPA review period to petition the administrator concerning their objections. These objections have to be based on objections that were made with reasonable specificity during the public notice period. The regulations contain the following exceptions to the previous statement as listed below:

1. The petitioner demonstrates that it was impractical to make their objections known during the public notice period.

2. The grounds for the objection arose after the public notice period.

P. Concurrent Review

The Department and EPA have reached an agreement that allows the public notice and EPA review to take place simultaneously. The agreement has no specific regulatory basis. Also there is no written explicit procedure that states the requirements of concurrent review. Please note EPA has stated that the public notice must include a statement that EPA is reviewing the permit at the same time as the public notice.

The big advantage of concurrent review is that time is saved. The minimum review period is shortened from 75 days to 45 days. The concurrent review process is designed for permits that are not expected to result in comments from the public, EPA, affected states, or the facility. The Department does not want to submit permits for concurrent review when there is some indication that it should have gone through the 75-day review process.

The standard review process is a 30-day public notice period for the draft permit. After the public notice period the comments are resolved. Then the permit is sent to EPA for a 45-day review period of the proposed permit. The agreement with EPA is that any comments received from the public, affected states or the facility will result in the concurrent review process converting to the standard review process. EPA's comments may or may not result in converting the process to the standard review process. It is EPA's determination concerning the impact of their comments. They will inform the individual permit writer if their comments require the permit review process to be converted to the standard review process.

Q. Other Permit Renewal Requirements

The regulations require the facility to have on site a copy of the permit within 5 days of issuance. Electronic copies of the permit are required to be sent to EPA and OAPP upon issuance.

VI. Application Content and Review

R. Title V Application

All Title V applicable facilities must submit a complete permit application prior to issuance of the Title V Permit. The application must be on Form 805. The form is located on the Department's web site at www.deq.state.va.us. The renewal application should include all necessary information to determine all applicable requirements including information necessary to verify that the proposed monitoring is sufficient to assure compliance with the permit's terms and conditions.

S. New Application Verses Updated Application

The State and Federal regulations do not make a distinction between application requirements for initial permit issuance and renewal. EPA has issued guidance that allows facilities to update and annotate their permit application used to draft the previous Title V permit. It is a regional office decision to allow a facility to update their current application. A region can decide to: 1) require all facilities to submit a new application; 2) allow all facilities to update their previous applications; and 3) allow annotated applications on a case-by-case basis.

The regions may want to consider allowing facilities to update previous applications that are not complex and have made only minor changes or no changes at all. One advantage of the annotated and updated application is that it will focus on changes made at a facility since the initial permit issuance and will list all newly applicable requirements.

A complex facility may or may not need to submit a totally new application. Many of these applications were initially submitted in 1998. The Title V permit may have been issued 3 to 5 years later. At the time of renewal many of these applications will be 8 to 10 years old. The region can make their decision known to the individual facilities concerning updating of application in the renewal notification letter. Appendix Z can be included as an attachment to the renewal notification letter. Appendix Z contains guidance to help Title V facilities update their applications. Appendix Z is located at the following location Appendix Z- Title Renewal Guidance.

T. Referenced Material

The application may reference information not contained in the application. Referenced documents must be publicly available and up to date. Referenced information must state specifically to which emissions unit it applies and which parts of the referenced document apply to the emissions unit.

Example: The application should not contain statements such as the NSPS XYZ applies to this facility. The application should state in table form that NOx and SOx Limitations, Monitoring, Recordkeeping and Reporting requirements from NSPS XYZ applies to emission units J1, M1, and R1.

Form 805 contains tables that guide the facilities through the process of properly and specifically identifying applicable requirements.

U. Annotated Cross Referenced Application Review

If a region allows a facility to update their initial application, the facility must make a statement that they plan to reference the initial application. This can be stated in the transmittal letter of the application. All annotated cross-referenced applications must contain the following:

1. A new documentation certification page signed by the appropriate responsible official.

2. A new compliance certification page. The compliance status should be based on the most recent information available. Facilities that are out of compliance must submit a compliance plan with the application.

V. Possible Update Scenario

The following scenario is expected from a facility that decides to update their initial batch application.

Example: The Clarified and Light Tipping Co (CLTC) submits an application stating that they are updating their initial application which was submitted on November 3. 1998. The application will contain statements like the following:

1. A new document certification page has been submitted. Please replace the previous page with the enclosed pages.

2. A new compliance certification page is enclosed.

3. The information contained on pages one and two of the applications have been updated. Please replace the previous page with the enclosed page.

4. The information contained on pages 3, 4, and 5 of the application are correct and do not need to be updated.

5. Page 6 has been updated; please replaces the previous page with the enclosed page.

6. Pages 7, 8 and 9 are not applicable to our facility.

7. Pages 10, 11, 12 and 13 have not been changed from the previous application.

8. Please add pages 14d, 14e, and 14f to the application.

9. The actual emissions calculation has been updated to the most recently completed annual reporting period.

10. Attachment A is the CAM worksheet for the Car-Knuckle Producer baghouse, which is the only emissions unit that has add on control device.

The cross-referenced application should be clear and understandable and easily integrated into the initial application.

W. Administrative Completeness Determination

The initial application review will be a determination of administrative completeness. The review should verify that the application contains all the "parts" necessary and has enough information to begin drafting the permit. The determination of a complete application does not preclude the Department from requesting additional information. If the board does not notify the applicant in writing within 60 days of receipt of the application, the application shall be deemed to be complete without a Department review.

The Administrative completeness determination should at a minimum verify that the following information is included:

Form 805 pages for an administratively complete determination.

1. Document certification signed by the appropriate official.
2. General information pages
3. Summary sheet pages
4. A complete fuel burning equipment page. (If applicable)
5. A complete process operation page. (If applicable)
6. A complete coating and adhesive page. (If applicable)
7. A complete loading rack and oil separator page. (If applicable)
8. A complete stack and fugitive parameter page. (If applicable)
9. A complete Air Pollution Control equipment identification information and supplemental information page. (If applicable)
10. A complete and most recent actual Annual Air Emissions estimate page.
11. A complete list of pollutants for which the facility is major.
12. A complete list of insignificant emissions units including additional units added as off permit changes. (If applicable)
13. A new and complete compliance certification page. In most cases a complete certification plan will state that the facility is in compliance with all applicable requirements.
14. A complete potential to emit worksheet.
15. A complete insignificant activities worksheet.
16. A complete VOC/Petroleum Liquid Storage Tank worksheet. (If applicable)
17. That the necessary attached documents are included. The attached documents are listed on the first page of form 805.

X. Application Content Specific to Renewal

1. For those facilities with control equipment that are required to do additional compliance assurance monitoring, the application must address Compliance Assurance Monitoring (CAM) requirements. Please note there are a significant number of determinations where CAM has been assumed to be met by other applicable requirements such as MACT, NSPS and Acid Rain.

2. Renewal applications must also include all new applicable requirements that have not been included in the previous permit. These include but are not limited to the following:

    a. Off permit changes
    b. CAM plans
    c. NOx SIP call Requirements
    d. MACT requirements
    e. Recently issued existing source SIP requirements

VII. CEDS Entry for Renewal

CEDS entry is slightly different than the initial issuance. When entering renewal permit application CEDS data the “Permit Header" of the “Program Type” and “Permit Type” chosen from the LOV should be “TITLEV,” “RENEWAL.” Also the majority of Title V renewals will be issued with air permit signature dates.

APPENDICES

Appendix A. Notification to Source of Permit Requirement

Regional Letterhead

Date

{Responsible official name}
{Responsible official title}
{Facility name}
{Mailing address}
{City, State, Zip}

Location: {City/County}
Registration No: {number}
County-Plant ID No: {number}

RE: Title V Applicability

Dear {Responsible official name}:

This is to inform you that your facility, located {location}, is subject to the Title V federal operating permits program. The facility is subject to the Title V federal operating permits program because [choose one or more of the following and insert here].

[Major, by virtue of the potential to emit of the following criteria pollutants: (VOC, SO2, NOx, CO, Pb, PM_{10}, NO_2]

[Major for emissions of hazardous air pollutants]

[Subject to the following New Source Performance Standard(s): NSPS Sub-part [____]]

[An acid rain source]

The rules governing the Title V program call for a source to submit an application for a Title V operating permit within twelve (12) months of the date of applicability. {Facility name} became subject to 9 VAC 5 Chapter 80 on {date}. Therefore, a Title V application must be submitted no later than **{date}**. A copy of the Title V operating permit application, Form 805, has been included for your convenience.

If you have questions regarding Title V or the Form 805, please feel free to call {permit writer} of this office at {phone number}.

Sincerely,

{APM Name}
{Air Permit Manager}

Enclosure

cc: DEQ - File
DEQ - {name), Air Compliance Manager

Appendix B. Completeness Letter

Regional Office Letterhead

date

[Responsible official name]
[Facility name]
[Mailing address]
[Mailing address]

Location: [_____]
Registration No. [_____]
County-Plant ID No. [_____]

Dear [Responsible official name]

The [_____] Regional Office of the Department of Environmental Quality has completed its administrative review of the completeness of your application for a Title V operating permit pursuant to the Regulations for the Control and Abatement of Air Pollution, 9 VAC 5 Chapter 80, Part II, Article 1. Your application, dated [date on the application] was received by this office on [date of receipt]; the deadline for its submission was [_____], so it is timely.

Based on our review, we find your application to be complete within the meaning of 9 VAC 5-80-80 and 9 VAC 5-80-90.

Because your application is timely and complete, the application shield takes effect with this letter.

If, upon further review, we find that additional information is required, we will request that information. If you have questions, please call me at [phone number].

Sincerely,

[Permit writer]
[Title]

Appendix C. Application Deficiency Letter

Regional office letterhead

date

[Responsible official name]
[Facility name]
[Mailing address]
[Mailing address]

Location: [_____]
Registration No. [_____]
County-Plant ID No. [_____]

Dear [Responsible official name]

The [_____] Regional Office ([_]RO) of the Department of Environmental Quality has completed its administrative review of the completeness of your application for a Title V operating permit pursuant to the Regulations for the Control and Abatement of Air Pollution, 9 VAC 5 Chapter 80, Part II, Article 1. Your application, dated [date on the application] was received by this office on [date of receipt]; the deadline for its submission was [_____], so it is timely.

Based on our review, we find your application to be incomplete within the meaning of 9 VAC 5-80-80 and 9 VAC 5-80-90. We require submission of the following information in order to make the application complete:

[Describe requested information]

The [_RO] staff has also determined that your application [does/does not] contain sufficient information to allow us to begin review of your application.

Please submit the above-listed information no later than [a reasonable deadline] in order to facilitate the continued review of your application. If, upon further review, we find that additional information is required, we will request that information. If you have questions, please call me at [phone number].

Sincerely,

[Permit writer]
[Title]

Appendix D. Request for Additional Information

Regional Office Letterhead

date

[Responsible official name]
[Facility name]
[Mailing address]
[Mailing address]

Location: [_____]
Registration No. [_____]
County-Plant ID No. [_____]

Dear [Responsible official name]

The [_____] Regional Office of the Department of Environmental Quality is processing your application for a Title V operating permit pursuant to the Regulations for the Control and Abatement of Air Pollution, 9 VAC 5 Chapter 80, Part II, and Article 1. This office indicated to you, in a letter dated [completeness letter date], that your application is administratively complete. In reviewing your application, we have determined that the following additional information is needed to enable us to draft your permit:

[Describe information needed]

Please submit this information no later than [a reasonable deadline] in order to facilitate the continued processing of your application. Failure to submit the information by this date may result in the loss of your protection under the application shield. If you have questions regarding this request, or require additional time to provide the information requested, please call me at [phone number].

Sincerely,

[Permit writer]
[Title]

Appendix E. Acid Rain Permit Terms (Archived)

This section is no longer needed acid rain requirements are either included as a separated section containing the acid rain permit or the acid rain permit is attached. This file has been archived.

Appendix F. Cover Letter sending Draft Permit to Source

Regional Office Letterhead

Date

{Source Contact Name}
{Source Contact Title}
{Source Name}
{Mailing address}
{City, State, Zip}

Location: {City/County}
Registration No: {number}
County-Plant No: {number}

Dear {contact name},

Attached please find a draft copy of your Title V permit and the Statement of Basis. This is a **DRAFT VERSION ONLY** and is **SUBJECT TO CHANGE** prior to permit issuance. Please review all parts of the permit.

Please notify {regional office name} in writing within ten (10) working days of any comments that you may have regarding this draft permit. If we have not heard from you within this time period, we will proceed with processing the permit. If while reviewing the draft permit or statement of basis you find that you need more time than the above to complete the review, please contact this office with your request for additional time. We recommend that you review the attached draft thoroughly.

If you have any questions about the attached permit, statement of basis or about operating permits in general please call me at {phone number}.

Sincerely,

Permit Writer
Title

cc: DEQ - File

Appendix G. Draft Permit Public Notice

The official agency Title V public notice is located at the following:
http://deqnet/documents/index.asp?path=/docs/policy/public_notice_templates

Appendix H. Public Notice Verification

PUBLIC NOTICE VERIFICATION SHEET

Regional Office Name
Address
Phone & Fax Numbers

PASTE PRINTED COPY OF NOTICE IN THIS SPACE

I hereby certify that the notice attached in the space above

appeared in _____
Name of Paper

on this date:

_____ Date:
Signature

Title

Appendix I. Public Notice Letter for Mailing List

Regional Letterhead

Date

{Name}
{Title}
{Company}
{Address Line 1}
{Address Line 2}
{City, State, Zip}

Dear {name}:

In accordance with the requirements of 9 VAC 5-80-270 B. of the Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, enclosed is a copy of the public notice announcement for the proposed issuance of a Title V operating permit to the {Facility Name}. The public notice period for this draft permit begins on {Date}, and will continue for 30 days.

If you have any questions regarding the above draft permit or would like to have information sent to you please contact me at {phone number}. Please direct any comments you may have to the above regional office address. Thank you for your consideration in this matter.

Sincerely,

{Permit Writer}
{Title}

Enclosure

cc: DEQ - File

Appendix J. Public Notice Letter to Affected States

Regional Office Letterhead

Date

[Name of state contact]
[Title]
[Mailing address]
[Mailing address]

Dear [name]:

In accordance with the requirements of 9 VAC 5-80-290 B. of the Virginia Regulations for the Control and Abatement of Air Pollution, I am enclosing a copy of the public notice concerning the proposed issuance of a Title V operating permit to [source]. The location of this source in [city or county] places it within 50 miles of your state. The public notice period for this draft permit begins on [date] and will continue for 30 days thereafter.

If you have any questions regarding this draft permit, or would like to have information sent to you, please contact [name of permit writer] at this office at [telephone number]. Any comments you have should be sent to this office at the above address. Thank you for your consideration of this matter.

Sincerely,

[Regional Director]

Appendix K. Response to Comments Letter

Regional Letterhead

Date

{commenter name}
{commenter title, if applicable}
{mailing address here}
{city, state and zip code}

Dear {commenter name},

This letter is in response to your comments sent to DEQ-{regional office name} regarding the draft Title V operating permit for {facility name}. The {regional office initials} received your comments in a letter dated {date}. The staff of the {regional office initials} has reviewed your comments and offers the following responses:

{Use the paragraph below for a form letter response}
This letter is in response to comments sent to DEQ-{regional office name} regarding the draft Title V operating permit for {facility name}. The {regional office initials} received your comments in a letter dated {date}. The staff of the {regional office initials} has reviewed all comments received and offers the following responses:

X {enter comment from letter}
Describe response

I hope this letter addresses your comments in a satisfactory manner. If you have further questions, please do not hesitate to call me at {phone number}. Your concern for Virginia's air quality is appreciated.

Sincerely,

Permit Writer

Title

cc: DEQ - File

Appendix L. Response to Affected State's Comments

Regional office letterhead

date

[State contact name]
[State contact title, if needed]
[Mailing address]
[Mailing address]

Dear [Name]:

Thank you for your comments regarding the draft Title V operating permit for [facility name]. The [_____] Regional Office of the Virginia Department of Environmental Quality has reviewed your comments and has the following responses.

* [affected state's comment]

[response]

* [affected state's comment]

[response]

[The Virginia DEQ, [_____] Regional Office, has also reviewed your comments regarding [description of comment], and has determined that the comment is not based on a federally enforceable applicable requirement or on a requirement of 40 CFR Part 70. Section 70.8(b)(2) of Part 70 provides that a state issuing a Title V permit is not required to incorporate comments which are not based on an applicable requirement or a requirement of Part 70. If you have any questions regarding this determination, please contact me or [permit writer] of my staff.

Following the end of the public notice period, your comments, and this letter, will be included in the proposed permit package which we submit for EPA review.

Sincerely,

[Regional Director]

Appendix M. Permit Application Summary Form

TITLE V PERMIT REVIEW
PERMIT APPLICATION SUMMARY FORM

STATE: Virginia
SOURCE NAME:_____ AFS OR PERMIT #_____
SOURCE TYPE:_____ NAICS _____
SOURCE LOCATION (COUNTY and TOWN) _____

I. Is this a general permit? □ Yes □ No If yes, which one?
_____ **(Go to part III) If No, go to part II.**

II. PROGRAM IMPLEMENTATION (circle the answer :)

Does this permit contain "streamlined limits" (per White Paper #2)? YES NO

Does this permit contain requirements/provisions for?
1. Periodic Monitoring YES NO

2. NESHAP/MACT (if so, please list sub-part(s)) _____ YES NO

3. Case-by-case MACT YES NO

4. NSPS (if so, please list sub-part(s)) _____ YES NO

5. PSD/NSR YES NO

6. Acid rain Phase II permit YES NO

7. Potential-to-emit limits YES NO

8. Consent order or agreement YES NO

9. NOx RACT YES NO

10. VOC RACT YES NO

III. COMPLIANCE STATUS
Is the source subject to a compliance schedule? YES NO

IV. EPA REVIEW
1. Do you want EPA to review all or part of this permit? YES NO
2. If yes, which part do you want reviewed?

3. Are there other issues you would like to call to EPA's attention? YES NO
If yes, please explain on back.

STATE CONTACT: _____ DATE: _____
PHONE: _____ FAX: _____
STATE OFFICE: _____

(for EPA use only) date entered_____ init_____ action_____ ver: 29Feb96 cklst.app

Appendix N. Letter Submitting Material to EPA

Regional Letterhead

Date

{name}
Permits and Technical Assessment Branch
Mail Code 3AP11
Air Protection Division
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Dear {name}:

Enclosed is information regarding the {draft or proposed} Title V operating permit for the following facility, located in {city/county}, Virginia:

Facility Name: {name}
Facility Location: {location}
Permit Number: {permit number}.

The materials accompanying this letter include [copy of the permit application (Form 805)], [copy of the public notice], [copy of the Statement of Legal and Factual Basis], [the Permit Application Summary Form], [copies of existing permits containing applicable requirements for the facility], and [others].

If you have any questions, please feel free to call me at {phone number} or contact me via e-mail at {e-mail address}.

Sincerely,

Permit Writer
Title

cc: DEQ - File

Appendix O. Denial of Public Hearing Request

Regional office letterhead

date

[Commenter name]
[Commenter title, if applicable]
[Mailing address]
[Mailing address]

Dear [Name]:

This letter is in response to your request for a public hearing concerning the draft Title V operating permit for [facility name], which appeared in your letter dated [date]. The [_____] Regional Office has reviewed your request in light of the criteria by which we must judge such requests. These criteria appear in the Virginia Regulations for the Control and Abatement of Air Pollution at 9 VAC 5-80-270 E.4. The Regulations require that, for a public hearing request to be granted, *both* of the following statements must be true:

a. There is significant public interest in the air quality issues raised by the permit application in question; and

B. There are substantial, disputed air quality issues relevant to the permit application in question.

Your request for a public hearing fails to meet [the first, the second, both] of these criteria in that [reasoning for the request not meeting the criteria}. For these reasons, we decline to schedule a public hearing for this draft permit.

If you wish to discuss this determination, or to discuss the draft permit in general, please contact [permit writer name] at this office, telephone number [number].

Sincerely,

[_____]
Regional Director

Appendix P. Letter Granting Public Hearing

Regional Letterhead

Date

{enter commenter name}
{enter commenter title, if applicable}
{enter company, if applicable}
{enter mailing address here}
{enter city, state and zip code}

Dear {enter commenter name},

This letter is in response to your comments sent to DEQ-{regional office name} regarding the draft Title V operating permit for {facility name}. The {regional office initials} received your comments in a letter dated {date}. The {regional office initials} has reviewed your comments and offers the following responses:

X {enter comment from letter}
Describe response

The {regional office initials} has also evaluated your request for a public hearing on the above draft permit. 9 VAC 5-80-270 E.4. of the Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states that a public hearing shall be granted if both of the following are true:

a. There is significant public interest in the air quality issues raised by the permit application in question; and

b. There are substantial, disputed air quality issues relevant to the permit application in question.

In the case of your request, both of these conditions have been met. Therefore, a public hearing has been scheduled at {location} on {date & time}. A copy of the public hearing notice has been enclosed.

If you have any questions regarding the public hearing purpose or procedures, please contact {permit writer} at {phone number}. Your concern for Virginia's air quality is appreciated.

Sincerely,

{Regional Director}

Enclosure

cc: DEQ - File

Appendix Q. Notice of Public Hearing on Draft Permit

Please note this Appendix was updated on October 12, 2005. In order to insure that this appendix is up to date please check the following

http://deqnet/documents/index.asp?path=/docs/policy/public_notice_templates

NOTICE OF PUBLIC HEARING
ISSUANCE OF AN OPERATING PERMIT
UNDER THE STATE AIR POLLUTION CONTROL LAW

PURPOSE OF NOTICE: To seek public comment and announce a public hearing on a draft permit from the Department of Environmental Quality to limit air pollution emitted by a facility in CITY/COUNTY, Virginia.
PUBLIC COMMENT PERIOD: MONTH DAY, YEAR to MONTH DAY, YEAR
PUBLIC HEARING: MEETING ROOM, BUILDING in CITY, Virginia, on MONTH DAY, YEAR from TIME {a.m.}{p.m.} to TIME {a.m.}{p.m.}.
{INFORMATION BRIEFING: MEETING ROOM, BUILDING in CITY, Virginia, on MONTH DAY, YEAR from TIME {a.m.}{p.m.} to TIME {a.m.}{p.m.}.}
PERMIT NAME: Federal Operating Permit {- Acid Rain Sources} issued by DEQ, under the authority of the Air Pollution Control Board
APPLICANT NAME AND ADDRESS: NAME OF APPLICANT; ADDRESS
FACILITY NAME, ADDRESS AND REGISTRATION NUMBER: NAME; ADDRESS; REGISTRATION NUMBER
{This facility is an {Environmental Enterprise}{Exemplary Environmental Enterprise}{Extraordinary Environmental Enterprise} participant in Virginia's Environmental Excellence Program.}
PROJECT DESCRIPTION: NAME OF APPLICANT has applied for a {a new}{an amendment to the}{renewal of the} permit for NAME OF FACILITY. {The facility {will be constructed and operated}{is located} GIVE DESCRIPTION OF SPECIFIC LOCATION.} The facility {is} {will be} classified as a major source of air pollution. The proposed change in emissions would be DESCRIPTION. The permit {modification} would allow the source to operate {TYPE OF EQUIPMENT}{DESCRIBE CHANGE, ETC.}.
HOW TO COMMENT: DEQ accepts comments by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. DEQ also accepts written and oral comments at public hearings. {Please note this draft permit is being concurrently reviewed as a proposed permit by the Environmental Protection Agency.} The public may review the draft permit and application at the DEQ office named below. The draft permit is also available on the DEQ web site at www.deq.virginia.gov.
CONTACT FOR PUBLIC COMMENTS, DOCUMENT REQUESTS AND ADDITIONAL INFORMATION: NAME; NAME OF REGIONAL OFFICE, STREET, CITY, Virginia, ZIP CODE; Phone: PHONE NUMBER; E-mail: E-MAIL ADDRESS; Fax: FAX NUMBER

Appendix R. Cover Letter for Public Hearing Notice (Mailing List

Regional Letterhead

Date

{name}
{title, if applicable}
{company, if applicable}
{mailing address here}
{city, state and zip code}

Dear {name},

The Department of Environmental Quality, [_____] Regional Office, plans to hold a public hearing on the proposed issuance of a Title V operating permit to {facility name}. Enclosed is a copy of the public hearing notice for your information.

If you have any questions regarding the above draft permit or procedures for public hearings, please contact me at {phone number}. Please direct any comments you may have to the above regional office address. Thank you for your consideration in this matter.

Sincerely,

{Permit writer}
{title}

Enclosure

cc: DEQ - File

Appendix S. Cover Letter for Issued Permit

Regional Letterhead

Date

{Responsible Official}
{Responsible Official Title}
{Source name}
{Mailing address}
{City, State, Zip}

Location: {City/County}
Registration No: {number}
County-Plant No: {number}

Dear {Responsible Official}:

Attached is a permit to operate your {describe the facility} pursuant to 9 VAC 5 Chapter 80 of the Virginia Regulations for the Control and Abatement of Air Pollution. This permit incorporates provisions from the permits dated {dates of previous permits}.

The permit contains legally enforceable conditions. Failure to comply may result in a Notice of Violation and civil penalty. Please read all permit conditions carefully.

In evaluating the application and arriving at a final decision to issue this permit, the Department deemed the application complete on {date} and solicited written public comments by placing a newspaper advertisement in the {Newspaper} on {date}. The thirty day comment period (provided for in 9 VAC 5-80-270) expired on {date} [with no comments having been received in this office. OR a public briefing was held on {date}. Followed by a public hearing on {date}.]

This approval to operate does not relieve {source name} of the responsibility to comply with all other local, state, and federal permit regulations.

Issuance of this permit is a case decision. The Regulations, at 9 VAC 5-170-200, provide that you may request a formal hearing from this case decision by filing a petition with the Board within 30 days after this permit is mailed or delivered to you. Please consult that and other relevant provisions for additional requirements for such requests.

Additionally, as provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you actually received this permit or the date on which it was mailed to you, whichever occurred first, within which to initiate an appeal to court by filing a Notice of Appeal with:

{Director's Name}, Director
Department of Environmental Quality
P.O. Box 10009
Richmond, Virginia 23240-0009

In the event that you receive this permit by mail, three days are added to the period in which to file an appeal. Please refer to Part Two A of the Rules of the Supreme Court of Virginia for additional information including filing dates and the required content of the Notice of Appeal.

If you have any questions concerning this permit, please call {permit writer} at {phone number}.

Sincerely,

{RPM Name}
Regional Permit Manager

Attachment: Permit

cc: Director, OAPP (electronic file submission)
Manager, Data Analysis (electronic file submission)
Chief, Permits and Technical Assessment Branch (3AP11), U.S. EPA, Region III

Appendix T. Title V Actions Checklist

Source Name: _____ Registration Number: _____

Region: _____ Permit Writer: _____ Permit Action: _____

TASK PERFORMED	COMMENTS	Date/Initials
Administrative Review		
1. Date-stamp Application upon receipt.	_____	__/__/__ ____
2. Enter Application receipt into PATS.	_____	__/__/__ ____
3. Review confidentiality justification.	_____	__/__/__ ____
4. Notify source of confidentiality determination.	_____ _____	__/__/__ ____
5. Review application for administrative completeness using checklist.	_____ _____	__/__/__ ____
6. Enter Application Completeness date into CEDS.	_____	__/__/__ ____
7. Confirm permit fees have been paid.	_____	__/__/__ ____
8. Send Completeness/Deficiency letter.	_____	__/__/__ ____
Technical Review of Application		
9. Confirm Emission Inventory information.	_____	__/__/__ ____
10. Verify Applicable Requirements.	_____	__/__/__ ____
11. Review Standard Terms and Conditions/Determine if Emissions Trading Condition is necessary.	_____ _____ _____	__/__/__ ____
12. Verify insignificant activities list.	_____	__/__/__ ____
13. Incorporate Streamlined Conditions.	_____	__/__/__ ____
14. Determine if Periodic Monitoring/CAM plan is adequate.	_____ _____	__/__/__ ____
15. Incorporate MACT requirements.	_____	__/__/__ ____
16. Incorporate Consent Order/Agreement requirements.	_____ _____	__/__/__ ____
17. Review/Approve Compliance Certification.	_____ _____	__/__/__ ____
18. Review/Approve Compliance Plan.	_____	__/__/__ ____

TASK PERFORMED	COMMENTS	Date/Initials
19. Include State-Enforceable Conditions.	_____	__/__/__ ____
20. Determine if source is a 112(r) facility.	_____	__/__/__ ____
21. Determine if source is Title VI applicable.	_____ _____	__/__/__ ____
Statement of Legal and Technical Basis		
22. Prepare Statement of Basis consistent with application.	_____ _____	__/__/__ ____
23. Fill out Permit Application Summary Form and send to EPA.	_____ _____	__/__/__ ____
Draft Permit Development		
24. Prepare Draft Permit.	_____	__/__/__ ____
25. Review permit conditions for practical enforceability.	_____ _____	__/__/__ ____
Public Participation Procedures		
26. Draft Public Notice.	_____	__/__/__ ____
27. Provide public notice, draft permit, and statement of basis to applicant for review.	_____ _____	__/__/__ ____
28. Send draft permit package to EPA, if required.	_____ _____	__/__/__ ____
29. Send Public Notice to Newspaper and Mailing List.	_____ _____	__/__/__ ____ __/__/__ ____
30. Send Public Notice to Affected States.	_____	__/__/__ ____
31. Respond to written comments/Amend permit.	_____ _____	__/__/__ ____
32. Respond to affected states comments.	_____	__/__/__ ____
33. Re-advertise permit if required due to comments received.	_____ _____	__/__/__ ____ __/__/__ ____
Final Permit Issuance		
34. Transmit proposed permit to EPA for 45-day review.	_____ _____	__/__/__ ____
35. Have RD sign and issue permit.	_____	__/__/__ ____

Appendix U. List of Common Acronyms

AFS	AIRS Facility Subsystem
BACT	Best Available Control Technology
CAA	Clean Air Act
CAAA	Clean Air Act Amendments
CBI	Confidential Business Information
CEM	Continuous Emission Monitoring
CES	Certified Emission Statement
CFR	Code of Federal Regulations
CMS	Continuous Monitoring System
CO	Carbon Monoxide
COMS	Continuous Opacity Monitoring System
DEQ	Department of Environmental Quality
DTE	Division of Technical Evaluation (former name of Office of Air Permit Programs)
EGP	Exclusionary General Permit
FOIA	Freedom of Information Act
HAP	Hazardous Air Pollutant
HON	Hazardous Organic NESHAP
LAER	Lowest Achievable Emission Rate
MACT	Maximum Achievable Control Technology
NAAQS	National Ambient Air Quality Standards
NAICS	North American Industry Classification System
NESHAPS	National Emission Standard for Hazardous Air Pollutants
NO_x	Oxides of Nitrogen
NSPS	New Source Performance Standard
NSR	New Source Review
PASF	Permit Application Summary Form
PCD	Pollution Control Device
PEM	Predictive Emission Monitoring System
PM	Particulate Matter
PM_{10}	Particulate Matter less than 10□m in diameter
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
RACT	Reasonably Available Control Technology
SIC	Standard Industrial Classification
SIP	State Implementation Plan
SO_2	Sulfur Dioxide
TAP	Toxic Air Pollutant
TPY	Tons per year
TRS	Total Reduced Sulfur
TSP	Total Suspended Particulate
TTN	EPA's Technology Transfer Network
USEPA	United States Environmental Protection Agency
VEE	Visual Emissions Evaluation
VOC	Volatile Organic Compound

Appendix V. Title V Permit Boilerplate

The Title V permit boilerplate has been removed from the manual. This was done to insure that the most recent form is used. The permit boilerplate can be found on the internal web page at the following locations:
http://deqnet/documents/docs/air/air_permitting/Manuals or http://deqnet/programs/airpermitting/

[DEQ Letterhead]

Appendix W. Statement of Basis Boilerplate

The Statement of Basis Boilerplate has been removed from the manual. This was done to insure that the most recent form is used the statement of basis can be found on the internal web page at the following locations: http://deqnet/documents/docs/air/air_permitting/Manuals or http://deqnet/programs/airpermitting/

Appendix X - CAM

Compliance Assurance Monitoring (CAM) Applicability/Implementation Form

The following form may be used to determine applicability of CAM and completeness of information submitted for CAM implementation.

Applicability for the facility	
If the facility is not a major source required to obtain a Title V permit, it is not subject to CAM – STOP	
Applicability for the Pollutant Specific Emissions Unit (PSEU)	
An emissions unit can consist of multiple PSEU's. Furthermore, a single PSEU may be subject to more than one emissions limitation. Therefore, the following set of questions may need to be asked several times for a single emissions unit.	
In order for a PSEU to be subject to CAM:	
6. The PSEU must be subject to an emissions limitation (see Attachment C for a list of emissions limitations exempt from CAM),	
7. The emissions limitation must require the use of a control device. See Attachment A for whether equipment is a control device, and	
3. The PSEU must have uncontrolled (precontrol) emissions above major source thresholds	
Timing	
"Other" PSEU's	
If the PSEU is an "other" PSEU (post control emissions less than major source threshold), CAM is not required until the first permit renewal.	
Large PSEU's	
If the PSEU is a "large" PSEU (precontrol emissions and post control emissions above major source thresholds) and the initial Title V permit application was not deemed complete by April 20, 1998, then CAM information needs to be submitted with the initial Title V application	
If the PSEU is a "large" PSEU and the initial Title V application was deemed complete by April 20, 1998, CAM information will need to be submitted for the PSEU on the earliest of:	
• permit renewal,	
• reopening for cause by DEQ or EPA (should DEQ or EPA request CAM information at that time), or	
• a significant permit revision for the PSEU	

CAM Monitoring Requirements	
CAM design criteria	
The CAM monitoring should address each of the following requirements:	
8. Monitoring proposed for CAM units must include data on parameters that are indicative of the performance of the control device. This data may include one or more of the following: • Direct measurement of emissions, • Process, capture system and control device parameters affecting control device efficiency • Records of inspection and maintenance activities	
9. If the emissions unit is required to be monitored using a continuous emissions monitor (CEM), continuous opacity monitor (COM), or predictive emissions monitor (PEM), that unit will be used as monitoring for CAM. This includes situations in which the CEM, COM, or PEM is required by an applicable requirement other than the one requiring control.	
10. Ranges (or conditions) for the selected indicators must provide reasonable assurance of ongoing compliance with the emissions limitation under the range of operating conditions anticipated.	
11. Presumptively acceptable monitoring includes CEM's, COM's, PEM's meeting the performance criteria specified in CAM, methods approved under the Acid Rain program, monitoring specified in an NSPS or MACT proposed after November 20, 1990, and continuous compliance determination methods. Monitoring as per 40 CFR 60.18 is also presumptively acceptable for flares	
12. If it is possible to bypass the control device, monitoring must include a means for determining whether or not the control device is being bypassed, unless specifically stated otherwise in the applicable requirement	
Performance Criteria	
1. Data obtained must be representative of the emissions or parameters being measured	
2. New or modified monitoring equipment must be verified to be operating properly before the date when CAM monitoring must be performed. Any manufacturer's requirements or recommendations for the monitoring equipment must be considered as part of this verification.	
3. Quality assurance and quality control practices must be implemented to assure ongoing validity of the data. Again, monitoring equipment manufacturer's recommendations and requirements must be considered.	
4. Specifications for the monitoring frequency, data collection procedures, and (if applicable) data averaging periods must be included.	
Monitoring Frequency	
1. Four or more data points must be collected each hour for all PSEU's with post control emissions or PTE greater than major source thresholds unless the facility demonstrates that such frequency is not appropriate.	
2. Other PSEU's subject to CAM, i.e., those with uncontrolled emissions or PTE above major source thresholds but post control emissions or PTE below major source thresholds, may collect data less frequently, but some form of data must be collected at least daily.	
3. At a minimum, the monitoring frequency must be conducted over a time period commensurate with the variability of the PSEU and its control equipment, i.e., such time periods must be set considering how quickly the performance of the control equipment could deteriorate.	

CAM Submittal Requirements	
Sources must submit: The indicators to be monitored, The ranges for these indicators (or the process by which these parameters will be set), The performance criteria for assuring representative data, verification procedures for correct operation of new monitoring, quality assurance/quality control (QA/QC), Data collection frequency and methodology, and Justification for the elements of the monitoring. The permittee must include supporting data for the justification.	
Should the verification procedures or QA/QC differ from manufacturers' recommendations, rationale for these differences must be included.	
In general, reference method testing will be required to correlate emissions to control device parameters. If reference test data do not exist, a test plan and schedule must be submitted unless it can be demonstrated that performance testing is unnecessary to establish indicator ranges. If the applicable rule does not specify conditions, the performance test must be conducted under conditions representative of maximum emissions potential under anticipated operating conditions for the PSEU. Emissions testing is not required over the entire range of potential emissions.	
The facility must document that no changes that would significantly affect the control system performance or the selected ranges or designated conditions have occurred since the reference method test was conducted.	
If monitoring submitted requires installation, testing, or other activities before the monitoring is implemented, an implementation plan and schedule for the required activities must be included. The monitoring is required to be implemented as expeditiously as possible, but in no case more than 180 days after approval of the permit.	
If a control device is used to control more than one PSEU, the facility is not required to submit separate CAM information for each PSEU. CAM information only needs to be submitted once for the control device. Similarly, if two or more control devices similar in design and operation are used on the same PSEU, one CAM submittal may be made covering all of the devices.	

Approval of Monitoring	
In order for a CAM submittal to be approved, it must include all of the elements specified in "CAM Monitoring Requirements" and "CAM Submittal Requirements" above	
The permit writer must include permit terms addressing the following: the indicator(s) to be monitored (e.g., pressure drop, temperature), the means or device to be used to measure the indicator, and • performance requirements.	
In addition, the means for determining whether an excursion or an exceedance has occurred must be included. The permit must include either: specific values of the indicators at which an excursion or exceedance has occurred, or • the method to be used to determine the value or condition at which an excursion or exceedance has occurred.	
An excursion is a departure from the indicator range specified, and an exceedance is a condition that indicates that an applicable limitation is being exceeded	
Data availability requirements may also be addressed in the permit.	
If the monitoring requires installation, testing, or final verification, an enforceable schedule with milestones must be included.	
DEQ may condition approval on collection of additional data.	
DEQ may approve CAM either by issuance of a letter or by issuance of a permit containing the CAM plan.	
Disapproval of monitoring	
After reviewing the CAM proposal, determine whether or not it meets the criteria specified in the "CAM Monitoring Requirements" and "CAM Submittal Requirements" sections above. Should the submitted plan not meet these criteria, send the facility a letter indicating the deficiencies in the submittal. Should the facility not address the issues appropriately in a timely manner, the CAM plan should be disapproved.	
If DEQ disapproves the CAM proposal, the permit must contain monitoring that satisfies the periodic monitoring requirements of Part 70 and a compliance schedule for the facility to submit monitoring which satisfies the CAM requirements. Should the facility fail to meet this compliance schedule, the facility is then not in compliance with CAM.	
Implementation of CAM	
CAM monitoring must be implemented immediately upon issuance of the permit unless the permit specifies an implementation schedule.	
The facility is required to maintain the monitoring, including maintaining necessary parts for routine repairs of the monitoring equipment.	
Monitoring is required to be conducted at all times the PSEU is in operation except when the monitoring is malfunctioning, being repaired, or undergoing QA/QC activities.	
When excursions or exceedances are detected, the facility is required to restore the control device to proper operation as expeditiously as possible.	
Should there be a need to revise monitoring to improve detection of excursions or exceedances (for example, if an excursion or exceedance is determined by some means other than CAM monitoring), the facility is required to promptly notify DEQ and make any necessary changes to its monitoring.	

Quality Improvement Plans (QIP's)	
If the CAM monitoring (or some other data) indicates that improvement in the operation of the control device and/or process is required to assure better compliance with the underlying emissions limitation, the DEQ may require that a QIP be implemented. See Chapter 9 of the Title V Manual for additional guidance.	
Recordkeeping and Reporting	
Facilities subject to CAM are required to submit compliance reports at least every six months and promptly report deviations from permit requirements. The periodic reports must include: Summary information on the number, duration, and cause of excursions and exceedances and corrective actions taken, Summary information on the number, duration, and cause of monitor downtime incidents. • A description of the actions taken to implement a QIP (if a QIP is required). Upon completion of a QIP, the next summary report must include documentation that the plan has been completed and reduced the likelihood of similar levels of excursions or exceedances occurring.	
Recordkeeping must be in compliance with 9 VAC 5-80-110F. The source must maintain the following data: Records of monitoring data Monitor performance data Corrective actions taken QIP plan (if one is required) Records of any activities taken to implement a QIP • Any other data required to be kept under this part	
Records in forms other than paper are allowed if these alternative forms of recordkeeping allow for expeditious inspection and review. However, if other applicable requirements require paper records, those requirements override and paper records must be kept.	

A. Attachment A – CAM Control Device Determination

1. Does the applicable requirement specify whether or not the equipment is a control device? If yes, then, for that applicable requirement, use that determination – **Stop -** Otherwise, go to Step 2.

2. Is the equipment inherent process equipment (i.e., it is not possible to run the process without it) – If yes, then it is not control equipment - **Stop** – Otherwise go to Step 3.

3. Is the equipment recovery equipment? Recovery equipment means equipment capable of and normally used for the purpose of recovering materials for fuel value (i.e., net positive heating value), use, reuse or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, baghouses, cyclones, carbon adsorbers, condensers, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. – If yes, then use Attachment B "Control device or Inherent process equipment determination – Recovery equipment" – Use that determination – **Stop -** Otherwise, go to Step 4

4. If steps 1,2, and 3 do not give an answer, use the following table

Device	**Control Equipment?**
Acid plants	Yes
Adsorption devices (such as carbon beds)	Yes
Afterburners	Yes
Combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters)	Yes
Condensers	Yes
Electrostatic precipitators	Yes
Fabric filters	Yes
Flue gas recirculation systems	Yes
Inertial separators	Yes
Injection systems (such as water, steam, ammonia, sorbent or limestone injection)	Yes
Low NOx boiler	**No**
Mechanical collectors	Yes
Mist eliminators	Yes
Scrubbers (such as wet collection and gas absorption devices)	Yes
Selective catalytic or non-catalytic reduction systems	Yes
Spray dryers	Yes
Spray towers	Yes
Sulfur recovery plants	Yes
Thermal or catalytic incinerators	Yes

If step 4 answers the question, use that determination – **STOP** Otherwise go to Step 5.

5. Is the primary purpose of the equipment to control air pollution? If yes, then it is control equipment – **STOP** Otherwise go to Step 6.
6. Would equipment be in place in absence of air pollution control requirements? If no, it is control equipment - **STOP** Otherwise go to Step 7.
7. The equipment is not control equipment.

B. Attachment B - Control device or Inherent process equipment determination Recovery equipment

Recovery equipment means equipment capable of and normally used for the purpose of recovering materials for fuel value (i.e., net positive heating value), use, reuse or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, baghouses, cyclones, carbon adsorbers, condensers, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units.

For equipment that is recovery equipment, ask the following questions.

1. Is the primary purpose of the equipment to control air pollution? If yes, then it is control equipment. **Stop**

2. Would the equipment be in place in the absence of air pollution control requirements? If no, then it is control equipment. **Stop**

3. If the value of the material recovered annually is less than the annualized cost of the equipment (purchase, maintenance, and operation), the equipment is control equipment. **Stop**

4. If the value of the material recovered annually is greater than the annualized cost of the equipment (purchase, maintenance, and operation), then ask the following questions.

Is the equipment capable of being operated over a range of operating efficiencies? If not, i.e., if there is only one operating mode, the equipment is not control equipment. **Stop**

If the equipment is capable of being operated over a range of operating efficiencies and the equipment is being operated at a rate higher than the minimum, is the incremental value of the material recovered greater than the incremental annualized cost of operating the equipment? If the answer is yes, then it is not control equipment. If the answer is no, it is control equipment **Stop.**

C. Attachment C - Exempt Emissions Limitations

The following emissions limitations are not subject to CAM:

- emission limitations in New Source Performance Standards (NSPS) or Maximum Achievable Control Technology (MACT) standards proposed after November 15, 1990.
- stratospheric ozone requirements
- Acid Rain program requirements
- emission limitations which exist solely because of emissions trading programs
- emission caps created by a Title V permit and complying with 70.4(b) (12) (facilities for which “bubbles” have been created).
- emission limitations for which the permit requires a “continuous compliance determination method”.

Municipally owned backup utility power emission units also are not subject to CAM.

D. Attachment D– CAM Example

PAINT LINE 4 (PNT4) – Compliance Assurance Monitoring (CAM) Plan

	Indicator 1	Indicator 2	Indicator 3
Indicator	Combustion zone temperature	Work practice: periodic check of butterfly valve seal integrity	Periodic destruction efficiency testing
Measurement approach	The chamber temperature is monitored by a type-K-thermocouple.	Semi-annually, the seal integrity of the butterfly valves on the air lines leading to each of the regenerative beds shall be verified by authorized technicians to ensure no leakage.	Before 9/30/01, and every three years after that, testing according to reference method 25 or 25A (40 CFR 60, Appendix A) shall be conducted to verify destruction efficiency.
Indicator range	Greater than or equal to 1550 EF	The seals and/or associated ductwork shall be repaired or replaced as needed.	Greater than or equal to 99% VOC destruction efficiency.
QIP Threshold	No more than six excursions below the indicator range in any semi-annual reporting period.	N/A	N/A
Performance criteria: Data representativeness	The sensor is installed in the incinerator chamber as an integral part of the incinerator design. The sensor measures temperatures from 32 E to 2300 EF and has a standard tolerance of +/- 4 EF. The chart recorder range is 0 E to 2000 EF, with minor divisions of 20 EF.	Each valve and associated ductwork is inspected for any warping, splits, or other degradation that may affect the tightness of seal when valve is closed.	Testing shall be conducted during painting representative of normal operating conditions.
Verification of operational status	N/A	N/A	N/A
QA/QC practices and criteria	A second (redundant) thermocouple probe inserted into the incinerator chamber via a hand-held meter will verify accuracy of the thermocouple. The accuracy check will be conducted at least annually. The acceptance criterion is +/- 30 EF.	The RTO manufacturer or other authorized technician familiar with the operating principles of regenerative thermal oxidation units shall conduct inspection.	Test procedures shall be as required by reference method 25 (40 CFR 60, Appendix A). A test protocol shall be submitted to and approved by the Director, Valley Region, prior to testing.
Monitoring frequency and data collection procedure	Measured and recorded continuously on a circular chart recorder. Temperature is measured at 15-second intervals to determine an hourly average. Three-hour averages shall be calculated hourly as the average of the previous three hours' average.	The valve seals shall be inspected and repaired (if needed) semi-annually.	Before 9/30/01 and at three-year intervals thereafter.

Appendix Y- Title V to Synthetic Minor Letter

Regional Letterhead

Date

{Responsible official name}
{Responsible official title}
{Facility name}
{Mailing address}
{City, State, Zip}

Location: {City/County}
Registration No: {number}
County-Plant No: {number}

RE: Title V Applicability

Dear {Responsible official name}:

This letter is being written in response to your request dated {month, day, and year}. The letter requested that the Department change {Facility Name} from a Title V major facility to a synthetic minor facility. {Facility Name} potential emissions does not exceed the Title V permit applicability threshold. The {facility} does not meet the state and/or federal definition of a major facility; therefore, the {facility} is not subject to Title V permitting required in State Regulation 9 VAC 5-80-50. This letter serves as notice that the Title V permit issued on {date} for {facility name} has been revoked. (CHOOSE ONE)

> [A state-operating permit issued on {date} has limited the facility's potential to emit. The state-operating permit was public noticed on {date}.] Please note that the conditions and requirements listed in the State Operating Permit are federally and state enforceable.
>
> [A new source review permit issued on {date} has limited the facility's potential to emit below Title V applicability.] [In addition, potential emissions are also being limited by the permanent shut down of the emission units that follow: {list emission units}]. The emission units were shut down in accordance with the Department Shut Down Policy and State Regulation 9 VAC 5-20-220. The reactivation of the shutdown emission units will require a new source review permit. Please note that the conditions in the New Source Review Permit are federally and state enforceable.]

Future regulatory changes, future facility expansions or other changes may result in {facility name} exceeding Title V applicability threshold. Please note that if a modification results in a facility exceeding the Title V applicability threshold, the facility will have 12 months from the initial startup date of the modification to submit a Title V application.

The {facility names}'s emission fee status has changed. (CHOOSE ONE)

[Your facility will now be assessed fees based on the state-operating permit schedule. State-operating permits are billed every other year. Facilities that are limited by state-operating permits were last billed in calendar year {2000}. Your facility will be billed next for calendar year {2002}.]

[The Department does not charge emission fees to facilities that are not subject to a state operating permit or a Title V permit.]

If you have questions regarding the status of your facility, please feel free to call {permit writer} of this office at {phone number}.

Sincerely,

{APM Name}
{Air Permit Manager}

cc: DEQ Director, Air Permit Programs

Check Sheet for changing a Title V facility's Status

Engineer Name	
Facility Name	
Registration number	
Plant-County Number	
Facility Location	
Facility County/City and Zip	
Facility Mailing Address (if different)	
State Operating Permit Information	
Title V Permit Issuance Date	
Public Notice Date	
Date EPA Sent Notice	
Comment Received	**(YES) or (NO)**
Comment Response Date	
Date State Operating Permit Issued	
Shutdown Information	
Date Facility Shut Down	
Date Shut Down Letter Sent	
Date Signed by Facility	
Date Signed by DEQ	
Date Notarized	
CEDs Data Elements	
Date Title V permit revoked	
Air Program Data Changed	
Title V Permit Status Changed	
Permit Fee Status Changed	

Briefly explain how the state operating permit changes the status of {facility name} from a Title V facility to a synthetic minor facility.

Appendix Z- Title Renewal Guidance

[Note: This guidance can be included in the renewal notification letter. The use of this appendix is optional.]

The purpose of this document is to provide Title V applicants with guidelines for submitting an application for renewal of a Title V permit.

I. Facilities wishing to submit a completely new permit application
A facility may download a form 805 at www.deq.state.va.us. Form 805 can be found by clicking the following: Permits/Air Permits/Title V Program Information.

II. Referenced Information

The application may reference information not contained in the application. Referenced documents must be publicly available and up to date. The application must be specific concerning reference information applicability. The application should not contain general statements such as the NSPS XYZ applies to this facility. Instead, the application should state in table form that Pollutant Limitations, Monitoring, Recordkeeping and Reporting requirements from NSPS XYZ applies emission units J1, M1, and R1. Form 805 contains tables that guide the facilities through the process of properly and specifically identifying applicable requirements.

III. Application Updating
The cover letter to the renewal application must state whether the facility is planning to use the initial application as the basis of the renewal application. If so, all annotated cross-referenced applications must contain the following:

4. A new document certification page signed by the appropriate responsible official.

5. A new compliance certification page. The compliance status should be based on the most recent information available. Facilities that are out of compliance must submit a compliance plan with the application.

6. The permittee must review the initial submitted application thoroughly prior to submission to the Department. The annotated information must clearly indicate that all information contained in the initial application has been reviewed.

7. It is just as important to inform the Department that nothing has changed on a page as informing the Department of changes.

IV. Anticipated Cross Reference Application Scenario
The following scenario is expected from a facility that decides to update their previous application. A company submits an application stating that they are updating their application submitted on June 12. 1998. The application will contain statements like the following:

1. A new document certification page has been submitted. Please replace the previous page with the enclosed page.

2. A new compliance certification page.

3. The information contained on pages one and two of the applications has been updated. Please replace the previous page with the enclosed page.

4. The information contained on pages 3, 4, and 5 of the application are correct and do not need to be updated.

5. Page 6 has been updated. Please replace the previous page 6 with the enclosed page.

6. Attached is an additional page 7. This is designated as page 7c.

7. Pages 8, 9, 10, 11 and 12 are not applicable to our facility.

8. Page 13 has not been changed from the previous application.

9. The actual emissions calculation has been updated to the most recent annual reporting period.

It is just as important for a facility to inform the Department that nothing on a particular page has changed, as to inform the Department what has changed on a particular page. The cross-referenced application information should be clear, understandable and easily integrated into the Title V application.

Appendix ZA – 12 Month Renewal Letter

DATE

«MrMs» «FirstName» «MiddleInitial» «LastName»
«Title»
«Company»
«StreetName»
«City», «State» «Zip»

RE: Title V Permit Registration «RegNo»

Dear «MrMs» «LastName»:

This letter serves as a reminder that the «Facility name»Title V permit will expire within 12 months. The Title V regulations require that applications be submitted, to the Virginia Department of Environmental Quality (the Department), at least six months but not earlier than 18 months prior to the date of permit expiration. «Facility name» should be aware that failure to submit a timely application could result in the loss of their application shield. 9 VAC 5-80-80 F of the Virginia Administrative Code states the following:

1. If an applicant submits **a timely and complete** application for an initial permit or renewal under this section, the failure of the source to have a permit or the operation of the source without a permit shall not be a violation of this article until the board takes final action on the application.

2. No source shall operate after the time that it is required to submit a timely and complete application under subsections C and D of this section for a renewal permit, except in compliance with a permit issued under this article.

After July1, 2012, all Title V permit renewals are subject to an application fee of $10,000. The fee should be submitted at the same time as the application. An application will not be deemed complete and the permit shield will not be applicable until the fee has been received.

The instructions and application forms, including the fee form, for a Title V permit application are enclosed. These forms are also available electronically on the Department web site (www.deq.virginia.gov).

The renewal process is an opportunity to clarify and update your Title V permit. When completing the application please pay particular attention to the following:

1. Administrative information such as responsible official, contact person, phone numbers, e-mail addresses and facility or corporate name. The application must also include a new document certification signed by the responsible official.

2. New applicable requirements including but not limited to the following: new MACT requirements, CAM requirements, and new NSPS regulations.

3. Previously referenced or cross-referenced material to ensure the material is not out of date, inaccurate or ambiguous.

4. Compliance plan and compliance certification. (Please review and update if applicable.)

5. Monitoring and reporting requirements. (Please review and update if applicable.)

Additional information is available for those facilities with emissions units and pollution control equipment subject to CAM. EPA's Technical Guidance Document is available at www.epa.gov/ttn/emc/cam.html. The application must include a complete monitoring plan for each emissions unit subject to CAM requirements.

If you have any questions or comments concerning this letter or Title V permits in general, please do not hesitate to call me at «APM Contact» or send electronic mail to «APM email».

Sincerely,

«APM»
Air Permit Manager

Enclosure: Form 805 and instructions

Appendix ZB – Reopening Notification Letter

Regional Letterhead
Date

{Responsible official name}
{Responsible official title}
{Facility name}
{Mailing address}
{City, State, Zip}

Location: {City/County}
Registration No: {number}
County-Plant No: {number}

RE: Article 1 (Title V) Federal Operating Permit Reopening

Dear {Responsible official name}:

This is being written to inform you that the Federal Operating Permit issued to {facility name} located {location}, dated {date} is being reopened in accordance with 9 VAC 5-80-240 and 9 VAC 5-80-110 L.1 of the Department's Regulations. The reopening process is being used to include the requirements of {regulation citation} {regulation title}. Federal Operating Permits with more than 3 years remaining in their five year term are required to be updated to include new regulatory requirements within 18 months of the date of promulgation of a new regulation. The regulation was promulgated on {date}.

The regulations require a 30-day notice be given to a stationary source prior to reopening the Federal Operating Permit. This letter serves as notice that your Federal Operating Permit is being reopened to include new regulatory requirements. The regulations under 9 VAC 5-80-240 B require that the initial application process be followed for reopening. The initial application process includes the submission of an application, 30-day public notice and 45-day EPA review. A copy of the Federal Operating Permit application, Form 805, has been included for your convenience. This reopening only applies to those emission units and requirements that are affected by the newly promulgated regulations.

The application for reopening must be submitted within {60-days suggested} of the receipt of this letter. If you have questions regarding this reopening or the Form 805, please feel free to call {permit writer} of this office at {phone number}.

Sincerely,

{APM Name}
{Air Permit Manager}

Enclosure: Form 805
cc: DEQ - File
DEQ - {name), Air Compliance Manager

Appendix ZC – Title V Summary Table(Landscape Legal Format

	App Submission Timing	60 Day Letter	Public Comment	Public Hearing	Affect State mailing list	Processing Timeline	App Shield	Permit Shield	EPA Review or Notice	Final Distribution Requirements
State Only Changes	At Change Initiation	Does not apply	Does Not Apply	Not Required	Not Required	Included at time of application or renewal as requested by applicant	Does not apply	Does Not Apply	Does Not Apply	If the T5 facility chooses to update their permit prior to renewal then e-mail copies must be sent to the following: Kotur and Susan (The notification should be included in the permit to insure that the changes are included in the renewed permit.)
Off Permit Changes	At change initiation DEQ and EPA must be notified (Not required for insignificant emission units)	Does not apply	Does Not Apply	Not Required	Not Required	Included at renewal or when another change is made	Does not apply	Does Not Apply	Does Not Apply	If the T5 facility chooses to update their permit prior to renewal then copies must be sent to the following: Kotur and Susan. The notification is required to be attached to the permit to insure that the changes are included in the renewed permit.)
Admin	At Change Initiation	Not Required	Not Required	Not Required	Not Required	60-days	Does not specify	Applies	Does not apply	Electronic copies to EPA, Kotur and Susan. EPA also needs a signed hard copy of the permit only. EPA does not need a paper copy of any other document including the SOB.
Minor Mod	At Change Initiation	Not Required	Not Required	Not Required	Within 5-days of applicatio n receipt	90-day from receipt or 15 days after EPA review	Applies	Does Not Apply	Within 5-days of application receipt	Final signed paper copy of the permit must be sent to EPA. EPA also gets an electronic copy of the SOB and final permit. Electronic copy of permit to Kotur. Electronic copy of permit and SOB and permit to Susan.

Significant Mod	Within 12 months of change initiation unless change conflicts with standing permit.	Required	Required (electronic copies of proposed permit, public notice and SOB to EPA and Central Office)	Qualified base upon public comment	Required (Shortly before public notice)	9-months from complete application	Does not apply	Applies	Required	Final signed paper copy of the permit must be sent to EPA. EPA gets an electronic copy of the SOB, public notice and final permit. Electronic copy of permit to Kotur. Electronic copy of permit and SOB and permit to Susan.
Initial App	12 months from T5 applicability	Required	Required (electronic copies of proposed permit, public notice and SOB to EPA and Central Office)	Qualified base upon public comment	Required (Shortly before public notice)	18 months after complete application	Applies	Applies	Required	Final signed paper copy of the permit must be sent to EPA. EPA also gets an electronic copy of permit, public notice and permit. Electronic copy of permit to Kotur. Electronic copy of permit, public notice and SOB and permit to Susan.
Renewal App	Between 18 and 6 months prior to expiration	Required	Required (electronic copies of proposed permit, public notice and SOB to EPA and Central Office)	Qualified base upon public comment	Required (Shortly before public notice)	18 months after complete application	Applies	Applies	Required	Final signed paper copy of the permit must be sent to EPA. EPA also gets an electronic copy of the SOB, public notice and final permit. Electronic copy of permit to Kotur. Electronic copy of permit and SOB and permit to Susan.

Reopening App	Requires DEQ to send facility notice of reopening. The notice will establish application submission deadline. Deadline cannot be more than 12 months from reopening applicability.	Required	Required (electronic copies of proposed permit, public notice and SOB to EPA and Susan)	Qualified base upon public comment	Required (Shortly before public notice)	18 months after complete application	Applies	Applies	Required	Final signed paper copy of the permit must be sent to EPA. EPA also gets an electronic copy of the SOB, public notice and final permit. Electronic copy of permit to Kotur. Electronic copy of permit and SOB and permit to Susan.