

CHAPTER 7

THE PERMITTING PROCESS AND PUBLIC PARTICIPATION

Introduction

This chapter summarizes the permitting process for facilities subject to Title V. Specifically, it addresses:

- The content of Title V permits;
- The evaluation and review processes for Title V permit applications;
- Operational flexibility;
- Reopening of Title V Permits by AQMD or EPA; and
- Renewal of Title V Permits.

What Does A Title V Permit Contain?

What Are The Legal Requirements For A Title V Permit?

Title V permit content, as required by federal regulation (section 70.6 of 40 CFR Part 70), is specified in AQMD Rule 3004 (a) and (b). The Title V permit must contain:

- (1) Emissions limitations and those operational requirements that assure compliance with all regulatory requirements at the time of permit issuance.
- (2) The permit expiration date.
- (3) The origin and authority of each permit term or condition, and the identification of any difference in form from the applicable requirement upon which the term or condition is based.
- (4) Monitoring, recordkeeping, and reporting requirements, as follows:
 - (A) All emissions monitoring and analysis procedures or test methods required by regulatory requirements;
 - (B) Monitoring and recordkeeping sufficient to substantiate the facility's compliance with the terms and conditions of Title V permit. The recordkeeping must include:
 - (i) The date, place as defined in the permit, and time of sampling or measurements;
 - (ii) The date(s) analyses were performed;
 - (iii) The company or entity that performed the analyses;
 - (iv) The analytical techniques or methods used;
 - (v) The results of such analyses; and
 - (vi) The operating conditions as existing at the time of sampling or measurement.
 - (C) Where the applicable requirement does not require periodic monitoring or testing, the permit shall include periodic monitoring or recordkeeping sufficient to yield reliable data from a relevant time period that is representative of the source's compliance with

- the terms of the permit. (Recordkeeping may be sufficient to meet this requirement);
- (D) Requirements concerning the use, maintenance, and, where appropriate, installation of monitoring and recordkeeping equipment or methods;
 - (E) Keeping all records for at least five years; and
 - (F) Submittal, to the Executive Officer or designee, of reports of any required monitoring and deviations from permit requirements at least every six months.
- (5) A requirement for prompt reporting of deviations from permit requirements, including those attributable to upset conditions, the probable cause of such deviations, and any corrective actions or preventive measures taken.
- (6) A severability clause.
- (7) Provisions stating the following:
- (A) The holder of the Title V permit shall comply with all regulatory requirements and facility permit conditions, except as provided for in subdivision (g) of Rule 3002;
 - (B) Any non-compliance shall be a violation of the federal Clean Air Act;
 - (C) The facility permit may be revised, revoked, reopened and reissued, or terminated for cause, including, but not limited to, failure to comply with regulatory requirements, permit terms or conditions;
 - (D) The filing of any application for permit revision, revocation, or termination, or of a notification of planned changes or anticipated non-compliance, does not stay any permit condition;
 - (E) The permit does not convey any property rights of any sort or any exclusive privilege;
 - (F) The applicant for, or holder of, a Title V permit shall furnish timely information and records to the Executive Officer or designee, when requested;
 - (G) The applicant for, or holder of, a Title V permit shall pay all required fees specified in Regulation III - Permit Fees;
 - (H) It shall not be a defense for a person in an enforcement action, including those listed in paragraph (c)(2) of Rule 3002, that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit, except as provided for in subdivision (g) of Rule 3002; and
 - (I) The conditions under which the permit will be reopened as specified in paragraph (g)(1) of Rule 3005.
- (8) Provisions for alternative operating scenarios consistent with regulatory requirements, and including the requirement to maintain a contemporaneous log of the scenario under which the facility is operating.

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- (9) If requested by the applicant, terms and conditions for trading of emissions increases and decreases in a permitted facility, provided that regulatory requirements allow such trading without a case-by-case approval of each emission trade. Such terms and conditions:
- (A) Shall include all terms required by Rule 3004 (a) and (b) to determine compliance;
 - (B) May extend the permit shield described in Rule 3004 (c) to all terms and conditions that allow such emission trading; and
 - (C) Must meet all applicable requirements and requirements of Regulation XXX.
- (10) Compliance requirements, including:
- (A) Compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit;
 - (B) Inspection and entry requirements that require that, upon presentation of appropriate credentials, the holder of the Title V permit shall allow the Executive Officer or authorized representative to enter and inspect the premises, have access to records, and take samples;
 - (C) A requirement to comply with all requirements of an alternative operating condition, variance or order for abatement issued by the District Hearing Board for sources that are not in compliance, including a schedule of remedial measures to be taken by the owner or operator to achieve compliance, and progress reports;
 - (D) Progress reports consistent with the schedule of compliance to be submitted at least semi-annually, or at a more frequent period if specified in the schedule of compliance;
 - (E) Annual compliance certification with terms and conditions contained in the permit, including emissions limitations, standards, and work practices; and
 - (F) Certification of all documents required by a Title V permit or Regulation XXX to be submitted to the AQMD and/or EPA by a responsible official.
- (11) Identification of those permit conditions which are not federally enforceable.
- (12) Provisions that all documents, including compliance documents, required by a Title V permit or Regulation XXX to be submitted to the District or EPA, shall contain a certification consistent with paragraph (c)(7) of Rule 3003 by a responsible official.
- (13) A listing of all equipment not exempt from Title V permit pursuant to subdivision (h) of Rule 3004 that are subject to any source-specific regulatory requirements.

In addition, each Title V permit for RECLAIM facilities must include all applicable provisions specified in Rule 2006 - Permits, and a provision stating that permit revisions are not required for changes that are provided for in the permit.

What Types Of Equipment Will Not Be Listed On The Title V Permit?

In accordance with Rule 3004 (h), the following types of equipment will not be listed on the Title V permit and will not be subject to compliance certification or other Title V requirements:

- 1) Rule 219-exempt equipment that is not subject to any source-specific regulatory requirements (unless otherwise required under the RECLAIM program).
- 2) Equipment with a Rule 441 - Research Operations permit for which the emissions from the research do not individually meet the applicability criteria pursuant to Rule 3001, and the research is not a support facility making a significant contribution to the product of a collocated facility.
- 3) Non-road engines as defined by 40 CFR Part 89, Section 89.2.
- 4) Military tactical support equipment registered to operate statewide pursuant to Article 5 - Portable Engine and Equipment Registration, Title 13 of the California Code of Regulations.
- 5) Portable equipment that already has an AQMD permit²⁵ will not be listed on the Title V permit of the stationary facility visited by the equipment provided that the portable equipment:
 - a) is not a major source as defined in 40 CFR Part 70, Section 70.2;
 - b) is not used in a way that conflicts with the Title V permit of the facility being visited; and
 - c) is not located at the Title V facility for more than twelve consecutive months after commencing operation.

A facility may be visited by state-registered portable equipment that is not exempted from a Title V permit pursuant to Rule 3004 (h). In this case, the Title V operator may certify compliance for the equipment by obtaining from the contractor a copy of the contractor's state registration and a written certification signed by the contractor that the contractor complied with all conditions of the registration. Only the following state-registered portable equipment are exempt from being listed in the Title V permit and therefore, are exempted from compliance certifications:

- Portable non-road engines; and
- Military tactical support equipment.

What Is The Relationship Between Existing Equipment-Based Permits And The Title V Permit?

²⁵ State-registered equipment, other than non-road engines and military tactical support equipment, do not qualify for this exclusion.

Individual equipment-based Permits to Construct and Permits to Operate will be consolidated by, and subsumed into, a single Title V permit for your facility.

Your Title V Facility Permit will include the equipment descriptions and permit conditions from your equipment-based permits, as well as additional conditions required to ensure compliance with the provisions of Title V. The Title V permit will eventually also contain all applicable permit conditions resulting from the requirements of Title III, National Emission Standards for Hazardous Air Pollutants (NESHAPs).

For RECLAIM facilities and some non-RECLAIM facilities assigned to permit group A, the equipment description and permit conditions presented in the Title V permit will be the same as previous permits. However, the wording will be different because both the equipment descriptions and the permit conditions in facility permits are standardized to facilitate automation and data tracking²⁶. In some cases, the description of equipment that is insignificant from an emissions perspective will be left out of the Title V permit. For facilities assigned to other permit groups, the equipment description on the Title V facility permit will be the same as previous permits. Generally, the permit conditions on the Title V permit will remain unchanged from previous permits as well; however, for some facilities there may be new permit conditions that reflect federal periodic monitoring requirements.

How Will The Title V Permit Be Structured?

The Title V permit will be divided into 11 sections and two appendices, as summarized below:

Section A	Facility Information Owner, operator, mailing and equipment addresses, contact person, responsible official, Title V & RECLAIM applicability.
Section B (RECLAIM Facilities Only)	RECLAIM Annual Emission Allocation NOx and/or SOx allocations by year, as applicable.
Section C	Facility Plot Plan To be developed.
Section D	Facility Description and Equipment Specific Conditions (Permit to Operate) For RECLAIM facilities and some non-RECLAIM facilities in permit group A, this section will include equipment description and identifier, connections between basic and control equipment, emission limits, permit conditions, periodic monitoring requirements, and equipment that is exempt from a written permit (Rule 219) but still subject to source-specific rules. Each condition, including emission limits, will be “tagged” with the law or rule upon which it is based. The rules, permit conditions, and emission limits

²⁶ Unique permit conditions can still be accommodated, when required.

Title V facilities. The second subsection is a list of rules and regulations that are referenced by emission limits or permit conditions in Sections D, E, F, G, H, J, and K of the permit. This section indicates if the rules are federally enforceable (e.g. SIP approved).

Appendix A RECLAIM NOx and SOx Emitting Equipment Exempt From Written Permit Pursuant to Rule 219

This section only applies to RECLAIM facilities. Equipment is listed that is exempt from written permit under Rule 219 but still is subject to requirements under Regulation XX.

Appendix B Rule Emission Limits

This section lists emission limits and requirements pertaining to AQMD Regulations IV, XI, and XIV that were referenced in Section D.

Does A Title V Permit Have To Include Both Versions Of A Local Rule If A Previous Version Is Federally Approved Into The SIP But The More Recent Amended Version Of The Local Rule Is Not Yet SIP-Approved?

The Title V permit will contain some terms and conditions that are based on federally-enforceable rules (i.e., rules approved by EPA into the SIP) and some that are not. For a rule that is federally enforceable, there may be a more recent, locally enforceable version of the same rule in effect at the time of permit issuance. This is the result of a delay between the time AQMD adopts amendments to a rule and the time EPA evaluates the amended rule for incorporation into the SIP. This event is commonly referred to as the "SIP gap." Refer to Chapter 8 for more discussion on the meaning of "federally enforceable."

If the more recent, amended rule is at least as stringent as the older, SIP-approved rule, AQMD will issue the Title V permit with references to both the SIP-approved rule and the current local rule. Only the SIP rule will be federally enforceable.

EPA has not authorized AQMD to issue a Title V permit based on a less stringent, amended rule, instead of the older SIP-approved rule. AQMD could issue the Title V permit based on the older, more stringent, SIP-approved rule, but this could subject the facility to possible federal enforcement or a citizen suit. To avoid this, EPA has authorized AQMD to delay issuance of the portion of the Title V permit including the emission units affected by the SIP gap, until EPA approves the newer rule into the SIP²⁸.

Emission units adversely affected by the SIP-Gap can initially be placed in a non-Title V section of the facility permit if requested by a Title V facility. After the newer, local rule is approved by EPA, AQMD will reopen the permit using significant permit revision procedures, publish a public notice, and issue the complete Title V permit after public and EPA review is complete. If a Title V facility believes that it can comply with the more stringent SIP-approved version, both the local rule and the SIP-approved rule will be listed on the facility permit,

²⁸ Provided there is a formal agreement between EPA and AQMD regarding the applicable rule.

and the affected equipment will be placed in the federally enforceable portion of the Title V permit.

After the initial Title V permit has been issued to a facility and an applicable AQMD rule has been amended by a less stringent rule where, for example, the AQMD has found the current SIP-approved rule is unachievable, a facility may find itself in non-compliance since it must still comply with the SIP-approved rule in its permit. During the adoption of the 1997 amendments to the AQMP in November 1996, the Governing Board passed a resolution directing AQMD staff to work with EPA to develop an administrative method to avoid this problem.

As A RECLAIM Facility, The Equipment-Based Permits Have Already Been Replaced By A Single Facility Permit. Why Is It Necessary To Get Another Facility Permit?

For RECLAIM facilities, your Title V permit will be a revision to your existing facility permit incorporating Title V requirements, rather than a new permit. RECLAIM facility permits were designed to require minimal modification to meet the requirements of Title V.

What Are Federal Compliance Assurance Monitoring (CAM) Requirements?

EPA promulgated the Compliance Assurance Monitoring (CAM) rule in 1997 (see federal regulation 62 FR 54900). The requirements of the rule were designed to assure that the operation of the air pollution control equipment is working within the designed operating parameters. Adequate monitoring of the equipment performed according to the requirements of the rule ensures that the facility is in compliance with established emission standards (hence the rule title "Compliance Assurance Monitoring"). If control equipment malfunctions, the CAM rule requires the permit holder to notify the AQMD and take immediate corrective action. The CAM rule does not replace a permit applicant's obligation to comply with AQMD emission limits that otherwise apply.

AQMD Form 500-H Compliance Assurance Monitoring (CAM) Applicability Determination is required as a part of all initial Title V permit applications submitted after 4/20/98. For those permit applicants that submitted initial Title V applications prior to 4/20/98, Form 500-H must be submitted with the permit renewal. The purpose of the form is to allow the permit holder to determine if CAM requirements apply to air pollution control equipment at the facility. If CAM requirements apply, then the permit applicant is required to submit a CAM plan that specifies how the control equipment will be monitored to meet the CAM requirements.

What Are Federal Periodic Monitoring Requirements?

AQMD Rule 3004 (a)(4) requires each Title V permit to include "monitoring and recordkeeping sufficient to substantiate the facility's compliance with the terms and conditions of the Title V permit". If regulatory requirements identified in the Title V permit do not provide adequate monitoring or testing to determine compliance, then additional requirements will be included as a "gap-filling" periodic monitoring requirement to ensure compliance. The AQMD has

developed a list of periodic monitoring requirements for all SIP-approved rules titled: Periodic Monitoring Guidelines for Title V Facilities. It may be downloaded from the AQMD website at <http://www.aqmd.gov/titlev/docs/pm.doc>. The AQMD periodic monitoring requirements do not apply to NO_x and SO_x at RECLAIM facilities since emissions of these pollutants are subject to comprehensive monitoring, reporting and recordkeeping provisions in Regulation XX - RECLAIM.

Federal law published by U.S. EPA on January 22, 2004 (69 FR 3201) states that monitoring added to Title V permits must be based on federal air pollution control rules (e.g. NESHAP and NSPS) and SIP-approved AQMD rules. The requirements may include monitoring required under the CAM Rule, where it applies, and such monitoring as may be required under the periodic monitoring rules (as described in the previous paragraph).

How is Application Completeness Determined?

How Are Title V Applications Evaluated For Completeness?

Title V applications are subject to a preliminary screening prior to a more thorough completeness evaluation. The preliminary screening consists of verification that:

1. The appropriate fee is included with the application (see Chapter 6);
2. Each application and all associated forms are signed by a responsible official for the facility certifying that the statements are based on information and belief formed after reasonable inquiry, and that the statements and information provided are true, accurate, and complete; and
3. The appropriate forms are included and completely filled out.

If your application does not meet these criteria, it will be returned with a notice that identifies the reason(s) why it is being returned and a re-submission deadline. Note that an application returned to an applicant according to the above screening criteria is not considered submitted. Therefore, the timelines for AQMD to determine completeness and to review and process your application do not commence until you resubmit the Title V application (the relevant timelines are discussed below).

If your application does meet the above criteria, AQMD conducts a more thorough evaluation of completeness to determine if sufficient information is included upon which to prepare an initial or revised permit. The applicable completeness criteria are dependent upon the nature of the application. For initial and renewal permits, also see "What Is an Application Shield?" in Chapter 3. More details regarding the information and forms that must be submitted with each type of Title V application are included in Chapter 3.

If your application satisfies all applicable completeness criteria, it will be deemed complete. Otherwise, you will receive a notice deeming the application incomplete and requesting the missing information by a specified date.

How Much Time Does AQMD Have To Make An Application Completeness Determination?

AQMD has 60 days from receipt of your signed application with the appropriate fee in which to make a completeness determination regarding applications for initial or renewal of Title V permits and 30 days for Title V permit revision applications. If a determination is not made within the specified time period, the application is automatically deemed complete. Please note that applications deemed complete are not guaranteed to receive approval and AQMD may request additional clarifying information pertaining to an application that has been deemed complete.

What If I Receive A Notice Deeming My Application As Incomplete?

If you receive a notice that the application is incomplete and are required to submit additional information, it is important to submit the additional information within the requested time, because the AQMD may deny your application if the information is not submitted. However, the AQMD will accommodate any reasonable request for an extension of time to provide the information.

Once you submit the additional information, another 30-day review period starts for AQMD to determine whether the application is now complete or incomplete.

What Is The Permitting Process For Initial Title V Permit Applications?

What Is The Evaluation Process For An Initial Title V Application?

If the Title V facility already has AQMD permit(s) for all its equipment, AQMD staff will use the facility's Title V application to prepare a draft Title V permit that includes all requirements of Rule 3004 - Permit Types and Content, as previously discussed. If the facility will not be in compliance with an applicable requirement when the permit is scheduled to be issued, AQMD may still prepare to issue the permit if the facility has obtained a variance granted by the AQMD Hearing Board and submitted an adequate Compliance Plan with Form 500-C2.

If the facility is new and has no previous AQMD permits, or if an existing facility has also applied for a facility modification, AQMD staff will evaluate it for compliance with all applicable federal, state, and local requirements. If the evaluation indicates that the new facility or modification will operate in compliance with all of these requirements, then a draft permit will be prepared. If, however, the analysis indicates that the new facility or modification would violate one or more applicable requirement, then AQMD must deny the application for the new equipment or equipment modification, unless the facility has obtained a variance granted by the AQMD Hearing Board and submitted an adequate Compliance Plan with Form 500-C2.

If additional clarifying information is needed in order to complete the evaluation, AQMD will request the clarifying information and allow the facility to supply such information within a specified time frame. The facility may make a written request that the deadline for submitting the requested information be extended. AQMD will accommodate such requests when feasible. However, if the requested information is not provided within the specified or mutually agreed upon deadline, the application may be denied due to insufficient information. Because a facility in this situation will no longer have an application on file, an application shield will no longer protect it. If such a facility continues operating

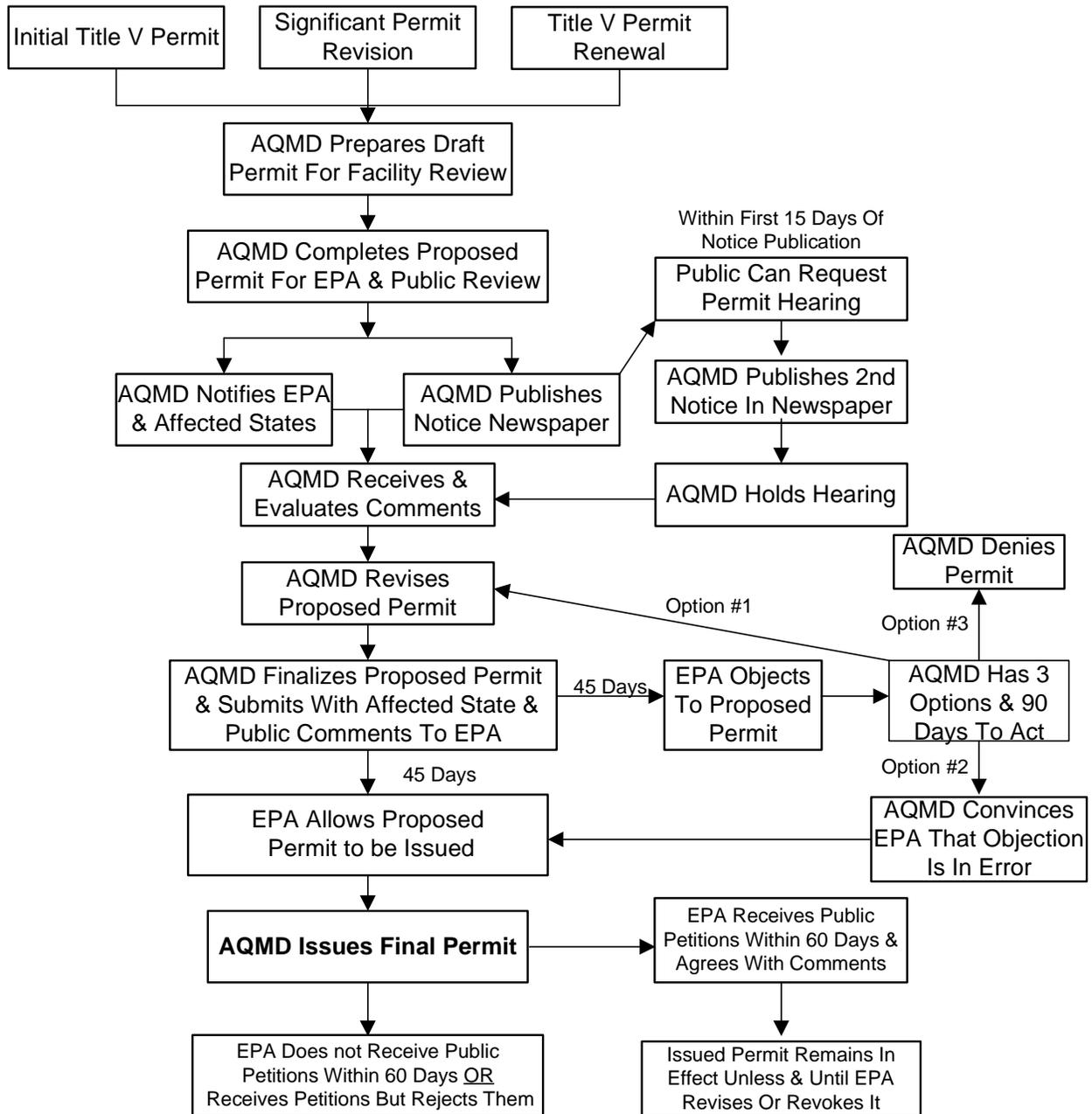
without either a complete application on file or an approved Title V permit it will be in violation of Title V and subject to enforcement action.

A copy of the draft permit will be provided to the facility upon completion by the engineer. The facility will have an opportunity to review and comment on the draft permit. After this is completed, the AQMD will issue the proposed permit for a secondary review process during which the public and EPA will have the opportunity to review and comment on the proposed permit.

How Does The Secondary Review Process Work?

The secondary review process is summarized in Figure 7-1. The specific components of the secondary review process are discussed in greater detail in the following sections.

Figure 7-1: Secondary Review Process



How Is The Public Notified?

The public is notified of AQMD's intent to issue the Title V permit during the secondary review process. The notification is accomplished through publication in a newspaper of general circulation in the county in which the facility is located. Additionally, AQMD will mail a copy of the notice to persons who have requested to be on the Title V Public Notice Mailing List, and may opt to use other means to ensure that the affected public will be adequately informed of the proposed permit.

What Information Is Provided In The Public Notice?

Public notices include the following information:

- Identity and location of the facility;
- Name and mailing address of the facility's contact person;
- Identity and address of AQMD as permitting authority;
- Details of the activity or activities involved in the permit action, and any change in emissions involved;
- A brief description of public comment and permit hearing request procedures;
- Time and place of any permit hearing that may be scheduled;
- Name, address, and telephone number of a person who interested persons may contact to review additional information including copies of the proposed permit, the application, all relevant supporting materials, including compliance documents; and
- Identification of a public comment period of at least thirty days.

What Is The Time Period During Which A Person May Provide Comment On The Proposed Title V Permit?

The public comment period is 30 days after the date of publication of the public notice. Any person may comment on air quality issues directly related to the permitting action addressed in the public notice during this period.

What Is The Time Period During Which A Person May Request A Public Hearing On A Proposed Title V Permit?

Any person may use Form 500-G to request a proposed permit hearing on an application for an initial permit, permit renewal, significant revision, or establishment of a general permit within 15 days of publication of the notice. The person requesting the hearing must also send a copy of the request to the facility contact person of the Title V facility at the address identified in the notice by first class mail on or before the date the request is filed with AQMD.

The basis for the request must be specific to air quality regulations and based on the permitting action described in the public notice. The public hearing request is subject to AQMD approval.

What Information Must Be Provided In A Request For A Public Hearing Regarding A Proposed Permit?

To request a public hearing, complete Form 500-G: Hearing Request Form. A public hearing request regarding a proposed permit must include all of the following information:

- Name, company name (if applicable), title, mailing address, daytime telephone and fax numbers, and signature of the person requesting the hearing;
- Facility name, address and ID number of the facility to which the proposed permit is proposed to be issued, as identified in the public notice, and the date the notice was published;
- Name, company name, title, and mailing address of an alternate person to whom further notices should be sent, in place of the person requesting the hearing;
- Identification of reasons for objecting to the issuance of the proposed permit; and,
- An explanation of how and why a proposed permit hearing would help to clarify or resolve the issues raised in the request.

In addition, the requester must also provide the following information:

- Identification of the specific portion(s) of the proposed permit that does not accurately reflect air quality regulatory requirements; and
- Suggested permit terms or conditions that would eliminate the inaccuracy.

What Happens After A Request For Public Hearing Is Submitted?

AQMD staff will evaluate the information and claims provided in the public hearing request to determine if a public hearing is warranted. A public hearing will be held if: 1) there is evidence that the proposed permit is not correct or is not adequate to ensure compliance with regulatory requirements; and 2) a hearing will likely provide additional information that will affect the drafting and/or issuance of the permit. The requester will be notified of the AQMD's decision to either approve the request and schedule a hearing or deny the request and proceed to the next step towards finalizing the proposed permit. If a request is approved, the AQMD will publish a notice at least 30 days prior to holding the public hearing. Unless there is an objection made by a facility for which a hearing has been requested, public hearings may be grouped for facilities identified in the public's requests for permit hearings.

AQMD will consider the issues raised in the request for public hearing and the input provided at the hearing prior to forwarding the comments to EPA, and either deny the application upon which the proposed permit is based, or revise the proposed permit to resolve the issues and send the revision to EPA for an additional 45-day review. The public hearing will be continued to address the revised proposed permit if significant revisions are made to the proposed permit

as a result of issues raised at the public hearing and the revised proposed permit will be made available for further public review and comment. AQMD will forward the record of the comments, responses, and any issues raised during the public participation process to EPA.

Who Is Responsible For The Expenses Associated With The Public Hearing?

The facility to which the Title V permit in question pertains is responsible for paying the cost of the public hearing. However, where feasible, AQMD may hold group hearings for several facilities in order to minimize costs. Facilities will be grouped for hearings based upon similarity and complexity of issues to be addressed at the hearing. Hearings are billed at a flat fee plus an hourly rate. The flat fee and the cost attributed to the general portion of the hearing will be divided equally among the group members. On the other hand, each group member will be responsible for the cost associated with discussion of its facility-specific issues. The hourly fee will be calculated in six-minute increments to the nearest tenth of an hour. The fees for proposed permit public hearings are specified in subdivision (p) of the current version of Rule 301.

Facilities that do not want to participate in group hearings may request a separate hearing and will be responsible for paying all fees associated with the hearing.

Are Adjacent States Notified Of AQMD Title V Permitting Actions?

Title V specifies that any state which could be affected by a proposed Title V permit must be notified of the proposed action and given an opportunity to comment on the proposed permit. An affected state is a state whose air quality may be affected by a proposed initial, revised, or renewed Title V permit or an adjoining state with a border **within fifty miles** of the facility. There are no affected states within 50 miles of the AQMD jurisdictional boundary; therefore the AQMD does not notify other states of Title V permit actions.

What Are The Requirements For AQMD Submittal Of Title V Applications And Permits To EPA?

AQMD has a streamlined permit review process. That is, at the same time the public is notified of the issuance of a proposed permit, AQMD will also submit each proposed permit to the EPA for review. In addition, a copy of the associated applications will be submitted with the proposed permits. These applications and their proposed permits are submitted to EPA upon completion of AQMD's evaluation. EPA will then have 45 days from receipt of a proposed permit to comment and to submit recommendations to AQMD. If the public provides comments that cause AQMD to revise the proposed permit, AQMD will send EPA the revised proposed permit for an additional 45-day review. All final Title V permits will be submitted to EPA within five working days of permit issuance.

What Actions Can EPA Take During The 45-Day Review Period?

EPA can take any of the following actions during the review period:

- Agree with the proposed permit and recommend AQMD issue a final permit;
- Suggest changes to the proposed permit and recommend AQMD make the changes and issue a final permit only if the changes are made;
- Object to the proposed permit and deny its issuance; or
- Take no action and therefore allow the final permit to be issued after the 45-day review period expires.

What Are AQMD's Options When It Receives Comments From EPA On A Proposed Title V Permit?

AQMD has 14 days from receipt of EPA's objections to notify the applicant of the objections and 90 days from receipt to take action in response to the comments. AQMD cannot issue the permit without addressing EPA's comments. AQMD will negotiate with EPA over the objections, inform the applicant of the outcome, and either denies the proposed permit or revises the proposed permit in accordance with EPA's recommendations and resubmits it to EPA.

EPA may issue or deny the permit if AQMD does not take any action within the 90-day window. Furthermore, if EPA challenges any permit condition or requirement after the final permit is issued, it may revise the permit accordingly without affecting the other portions of the permit.

Can The Public Object To A Proposed Permit After The Public Comment Period Has Closed?

The public may petition EPA to object to the proposed Title V permit within 60 days of expiration of EPA's review period if EPA has not provided an objection during its review period. Any such petition must be based on objections which were raised with reasonable specificity during the public comment period unless the petitioner demonstrates either that it was impracticable to raise such objections within the comment period or that the grounds for the objection arose after the comment period. EPA may object to the proposed Title V Permit within 60 days of receipt of a public petition. Public petitions to EPA should be mailed to:

EPA Region IX
Attention: Operating Permit Section
75 Hawthorne Street
San Francisco, CA 94105

What Happens If, As A Result Of A Public Petition, AQMD Receives An EPA Objection To A Proposed Title V Permit After EPA's 45-Day Review Period?

If AQMD has not yet issued the final permit, then it may not do so until EPA's objection has been resolved. However, if AQMD issued the final permit after the end of EPA's 45-day review period but prior to receipt of EPA's objection, then the final permit remains in effect unless EPA chooses to revise, terminate, or revoke it.

What Is The Permitting Process For Title V Permit Revision Applications?

How Are Title V Permit Revision Applications Evaluated?

AQMD staff will evaluate the permit revision application for compliance with all applicable federal, state, and local requirements. The complexity of this evaluation will vary greatly, depending on whether the application is for an administrative, minor, de minimis significant, or significant permit revision (see Chapter 5 for definitions).

If the evaluation indicates that the facility will operate in compliance with all of these requirements, then a draft permit will be prepared. If, however, the analysis indicates that the facility would violate one or more applicable requirement, then AQMD must deny the application for the permit revision.

A copy of the draft permit revision will be provided to the facility upon completion by the permit engineer. The facility will have an opportunity to review and comment on the draft permit. After which time, the draft permit will become a proposed permit and it will undergo the secondary review process described later, which varies depending on the type of permit revision.

Except for administrative permit revisions, the facility may not begin operating under the revised terms proposed in the application until it has received its final revised permit. Under no circumstances does Title V allow the expiration of a deadline for final permit action to be deemed grounds for permit or permit revision approval.

What Is The Review Process For Administrative Revisions?

Title V facilities may implement administrative revisions immediately upon submittal of the application. AQMD will take final action on an administrative permit revision within sixty days of receipt of the application. AQMD need not notify the public, or EPA of administrative revisions prior to incorporating them into the permit, but must submit a copy of the permit revisions to EPA within five business days of issuance.

What Is The Review Process For Minor Permit Revisions?

AQMD will notify EPA of applications for minor revisions within 45 days of application receipt. The proposed permit will be submitted to EPA for review before a final permit is issued. EPA's 45-day review process is the same for minor applications as described above for initial Title V permit applications.

How Long Will It Take To Process An Application For A Minor Permit Revision?

AQMD must issue or deny the permit revision within 90 days of receipt of a complete application for a minor permit revision or within 15 days after EPA's 45-day review period, whichever is later.

What Is Group Processing Of Minor Permit Revisions?

Group processing of minor permit revisions is an optional mechanism to group administratively multiple related applications and can be used to ensure that a project involving multiple permit units is considered as a whole. In order to be eligible for group processing, each application in the group must request the use of group processing procedures and contain a preliminary calculation indicating that the combined emissions increases of all grouped applications must be below five tons per year for each of the criteria pollutants (VOC, NO_x, SO_x, CO, and PM-10). Please refer to Chapter 5 and Rule 3005 (c) for additional eligibility criteria for group processing.

How Long Will It Take To Process Grouped Applications For Minor Permit Revisions?

AQMD must issue or deny the permit revision within 180 days of receipt of the first complete application in a group of multiple and complete minor permit revision applications, or within 15 days after EPA's 45-day review period, whichever is later.

What Is The Review Process For De Minimis Significant Permit Revisions?

AQMD will notify EPA of applications for de minimis significant revisions. The proposed permit will be submitted to EPA for review before a final permit is issued. EPA's 45-day review process is the same for de minimis significant applications as described above for initial Title V permit applications.

How Long Will It Take To Process An Application For A De Minimis Significant Permit Revision?

AQMD must issue or deny the permit revision within 180 days of receipt of a complete application for a de minimis significant permit revision or within 15 days after EPA's 45-day review period, whichever is later.

What Is The Review Process For Significant Permit Revisions?

All applications for significant permit revisions are subject to the same secondary review procedures as described previously for applications for initial Title V permits, including public participation and the opportunity for public hearings, affected state review, and the EPA review.

How Long Will It Take To Process An Application For Significant Permit Revision?

AQMD's time frame to process a complete application for significant permit revision is dependent on the nature of the application. Preparation of Environmental Impact Reports, requests for Public Hearings, and objections by EPA all result in extending the time required before final permit action can be taken. Therefore, the processing time for applications for significant permit revisions can be as long as eighteen months. Rule 3003 (i) identifies specific, shorter time frames for processing applications for significant permit revisions

that include a request for a Permit to Construct. These time frames are summarized in Table 7-1.

**Table 7-1: Significant Permit Revision Processing Time Frames
For Applications Requesting A Permit To Construct**

Environmental Impact Report Required?	Does EPA object within 45-day review period?	Maximum Processing Time (days)
No	No	265
No	Yes	355
Yes	No	265 + 180 = 445 ²⁹
Yes	Yes	355 + 180 = 535 ²⁹

What Is Operational Flexibility?

Title V provides holders of Title V permits operational flexibility to make certain changes to the permit without going through any of the permit revision tracks. There are two categories of permit changes allowed under the operational flexibility provisions:

- Limited changes which violate a permit term or condition; and
- Emission trading to comply with a federally-enforceable emissions cap.

What Changes Which Violate A Permit Term Or Condition Can Be Made Under Operational Flexibility?

The holder of a Title V permit may make an operational change that violates a permit term or condition provided that the change is not³⁰:

- (1) A violation of any regulatory requirement or federally enforceable permit term or condition which is a monitoring (including test methods), recordkeeping, reporting, or compliance plan requirement;
- (2) Construction, modification or relocation of equipment under Regulation XIII - New Source Review, Regulation XIV - New Source Review for Carcinogenic Air Contaminants, Regulation XVII - Prevention of Significant Deterioration, or Rule 2005 - New Source Review for RECLAIM;
- (3) Subject to a decision by the Hearing Board;
- (4) Resulting in an exceedance of the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
- (5) An installation of new equipment, or a modification or reconstruction of existing equipment, subject to an NSPS pursuant to 40 CFR Part 60, or a NESHAP pursuant to 40 CFR Part 61 or 40 CFR Part 63; or
- (6) Subject to any requirement under Title IV of the federal Clean Air Act.

²⁹ This timetable assumes that the AQMD is the lead agency with no prior review of the Environmental Impact Report. However, in cases where a complete Environmental Impact Report is submitted with the application, the processing time may be less than indicated.

³⁰ EPA may remove this type of operational flexibility from 40 CFR Part 70, in which case Rule 3005 would also be amended to reflect this change.

In order to be eligible to use operational flexibility to make an operational change that violates a permit term or condition, the facility must do all of the following:

- Ensure both AQMD and EPA receive written notice at least seven (7) calendar days before making the change;
- Clearly mark the notice as a request for operational flexibility;
- Ensure that the notice contains all of the following:
 - ◆ A description of the change and the date it will take effect;
 - ◆ Identification of any change in emissions;
 - ◆ Identification of any permit term or condition that is no longer applicable as a result of the change; and
 - ◆ Demonstration of compliance with criteria (1) through (3) above.

What Are The Requirements For Emissions Trading Under Operational Flexibility?

Some Title V Facility Permits include legally and practically enforceable emissions caps. Some of these caps are mandatory for a facility to assure compliance with certain applicable requirements, while other caps are voluntarily assumed by the facility to avoid having to comply with more stringent standards (i.e., to avoid a major source MACT standard). For permits with voluntarily assumed caps, operational flexibility allows the trading of emission increases and decreases within the facility to maintain compliance with the cap. Any facility engaging in emissions trading must also be in compliance with all other regulatory requirements. In addition, no inter-pollutant trading is allowed (i.e., offsetting an increase in NO_x emissions with a decrease in VOC emissions).

All of the following criteria must be met in order to be eligible to trade non-RECLAIM pollutants³¹:

- The facility must apply for a legally and practically enforceable emissions cap and if approved by the AQMD, the emissions cap must be established in the permit.
- The facility permit must also contain terms and conditions that authorize trading.
- Before the facility can trade emissions, the facility must submit to AQMD and EPA a written notice at least thirty days before trading is initiated containing the following:
 - ◆ A request to initiate a trade;
 - ◆ The date the trading will begin;
 - ◆ A description of the changes in emissions that will result. Emissions must be quantified for the equipment involved in the trade; and

³¹ "Non-RECLAIM pollutants" includes all VOC, PM-10, and CO emissions, as well as emissions of NO_x at facilities that are not in the NO_x RECLAIM market and emissions of SO_x at facilities that are not in the SO_x RECLAIM market.

- ◆ An explanation describing how the changes in emissions will comply with the terms and conditions in the permit.
- AQMD has not provided a written denial of the trading request within thirty days of receipt of the request.

What Are Examples Of The Changes That May Be Made Under Operational Flexibility?

The following changes are illustrative of the types of changes that may be made under the operational flexibility provisions, provided the permit holder and the facility are in compliance with all of the requirements identified above.

- A facility has a permit condition that specifies that only a particular brand name of paint may be used in its spray booth. The facility operator has found a vendor of a different brand of paint that has superior performance characteristics and is less expensive. The new brand of paint has the same VOC content as the brand specified in the permit condition. Therefore the facility may use the new brand of paint even though doing so violates the permit condition.
- An aerospace facility operates two coating lines that use solvents containing volatile hazardous air pollutants (HAPs). In order to avoid designation as a major source of HAPs, and therefore being subject to a MACT standard, the facility has accepted legally and practically enforceable emission limits of 12.5 pounds of total HAPs per day on each coating line, as well as a facility limit of 25 pounds of HAPs per day. These permit conditions do not implement any applicable requirements. Therefore, the facility may use the emission trading provisions of operational flexibility to trade emissions between the two coating lines as long as the total daily emissions do not exceed 25 pounds and the facility complies with the criteria identified above.

What Are Examples Of The Changes That May Not Be Made Under Operational Flexibility?

The following changes are illustrative of types of changes that may not be made under the operational flexibility provisions.

- A facility has a permit condition that limits the quantity of coating that it may apply in a spray booth to 25 gallons per day and a second condition limiting the VOC content of the coating used in the spray booth to 2.5 pounds per gallon of material. Together, these conditions limit VOC emissions from coating operations in the spray booth to 62.5 pounds per day, which was the amount of VOC emissions offset through New Source Review (NSR) when the spray booth was permitted. This facility proposes to change to a new low-VOC coating (1.5 pounds per gallon of material) and to increase the volume of coating used per day to 40 gallons. This change could not be made through operational flexibility because it would result in increased particulate matter emissions, which is a modification subject to Regulation XIII - New Source Review.
- A facility operates two identical printing lines, each of which has a permit condition limiting total VOC emissions from the line to 50 pounds per day.

These permit conditions reflect the amount of VOC emissions that were offset through the NSR process. The facility proposes to trade emissions between the two printing lines so that it may emit 75 pounds of VOC from Line #1 and only 25 pounds of VOC from Line #2. This change could be made through a permit revision but not through operational flexibility because Rule 3005 (g)(2) specifies that operational flexibility may be used for trading of emissions within a facility “solely for the purpose of complying with legally and practically enforceable emissions cap that is established in the permit *independent of otherwise applicable requirements.*”

Can AQMD Or EPA Reopen A Title V Permit After The Permit Is Issued?

EPA or AQMD can reopen a Title V permit for additional review if they find cause for doing so. Only the portion of a permit for which cause for reopening exists will be subject to evaluation when a permit is reopened. The processing and review procedures for an initial Title V permit apply to reopened permits, although an application is not required. Depending on the results of EPA and/or AQMD's evaluation, a reopened permit may be revised and reissued or, if the situation warrants, revoked and terminated. A few examples of cause that would be sufficient to justify reopening a permit are:

- An additional regulatory requirement becomes applicable to the Title V facility, the permit has a remaining term of three or more years, and the effective date of the additional requirement is prior to the expiration date of the permit;
- A SIP-approved regulatory requirement applicable to the Title V facility and contained on its permit is subsequently relaxed or made less stringent, a SIP gap situation ensues due to the time delay between when AQMD adopts the amendments to the rule and EPA evaluates the amended rule for SIP-approvability, the permit has a remaining term of three or more years, and the effective date of the additional requirement is prior to the expiration date of the permit;
- AQMD or EPA discovers that the permit contains a material mistake or that inaccurate statements were made in establishing the emission standard or other terms or conditions of the permit; or
- Compliance with applicable requirements needs to be assured.

When AQMD initiates a permit reopening, it will provide notice to the facility, the public and EPA 30 days prior to the reopening date unless it is determined that immediate reopening and revision are necessary in order to prevent the occurrence of a public nuisance or violation of National Ambient Air Quality Standards (NAAQS) due to emissions from the Title V facility. In the former case the facility may continue operation in compliance with its current permit until final action is taken on the reopened permit. In the latter case, the reopening and revision are effective immediately upon receipt of the revised permit by the facility. If the facility disagrees with the reopening, any revised permit conditions, or a permit revocation; it may appeal the permit reopening to AQMD's Hearing Board.

When EPA initiates a permit reopening, they will provide a written notice to AQMD proposing to reopen for cause. AQMD will then provide EPA a proposed determination to terminate, revise, or revoke and reissue the permit within 90 days of receipt of EPA's notice. AQMD may request a 90-day extension if it is necessary to request a new or revised permit application or additional information from the permit holder. EPA has another 90 days to review the proposed determination. If EPA objects to AQMD's proposed determination, then AQMD will attempt to resolve the objection and issue a new permit within 90 days of receipt of EPA's objection. If EPA agrees with the proposed determination, AQMD will have 15 days to issue a new permit.

How Are Title V Permits Renewed?

What Is The Term Of A Title V Permit?

Title V permits expire five years from the date of issuance unless they have been renewed. Re-issuance due to a permit revision or reopening by AQMD or EPA does not constitute renewal and does not extend the life of the permit.

Title V permits for solid waste incineration facilities subject to standards under Section 129 (e) of the federal Clean Air Act expire 12 years from the date of issuance unless they have been renewed.

What Is The Procedure For Renewing A Title V Permit?

Applications for Title V permit renewal are subject to the same review process as applications described above for initial Title V permits, including public participation and the opportunity for public hearings, AQMD, and EPA review. See Chapter 4 for more information on renewing Title V permits.

A facility may continue to operate beyond the expiration of its Title V permit if, and only if, the following criteria are met:

- A timely and complete application for renewal as described in Chapter 4 has been submitted to AQMD;
- AQMD has not taken final action on the application for renewal; and
- The facility is operated in compliance with all the conditions of the expired Title V permit.

What Opportunities For Permit Streamlining Are Available?

A variety of streamlining issues are addressed in Appendix D.

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