



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

February 19, 1999

Mr. David Dixon
Chairperson, Title V Subcommittee
San Luis Obispo County
Air Pollution Control District
3433 Roberto Court
San Luis Obispo, CA 93401

Dear Mr. Dixon:

I am writing to provide a final version of our response to your July 2, 1998 letter in which you expressed concern about Region IX's understanding of the Subcommittee's tentative resolution to the 45-day EPA review period issue. I have also included a summary of the Subcommittee's agreement on two title V implementation issues originally raised by some Subcommittee members at our meeting on August 18, 1998. Our response reflects many comments and suggestions we have received during the past several months from members of the Title V Subcommittee and EPA's Office of General Counsel. In particular, previous drafts of this letter and the enclosure have been discussed at Subcommittee meetings on October 1, 1998, November 5, 1998, January 14, 1999, and February 17, 1999. Today's final version incorporates suggested changes as discussed at these meetings and is separated into two parts: Part I is "guidance" on what constitutes a complete Title V permit submittal; and Part II is a five-point process on how to better coordinate information exchange during and after the 45-day EPA review period.

We will address the letter to David Howekamp from Peter Venturini dated August 7, 1998 regarding permits issued pursuant to NSR rules that will not be SIP approved in the near future. This issue was also discussed at the August 18 Title V Subcommittee meeting.

I appreciate your raising the issues regarding the 45-day EPA review clock to my attention. Your efforts, along with the efforts of other Title V Subcommittee members, have been invaluable towards resolving this and other Title V implementation issues addressed in this letter. The information in the enclosure will clarify Title V permitting expectations between Region IX and the California Districts and will improve coordination of Title V permit information. It is important to implement this immediately, where necessary, so the benefits of this important program can be fully realized as soon as possible in the state of California as well as other states across the country.

If you have any questions please do not hesitate to call me at (415) 744-1254.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Haber', with a long horizontal flourish extending to the right.

Matt Haber
Chief, Permits Office

Enclosure

cc: California Title V Contacts
California Air Pollution Control Officers
Ray Menebroker, CARB
Peter Venturini, CARB

Enclosure

Neither the guidance in Part I nor the process in Part II replace or alter any requirements contained in Title V of the Clean Air Act or 40 CFR Part 70.

PART I. Guidance on Information Necessary to Begin 45-day EPA Review

A complete submittal to EPA for a proposed permit consists of the application (if one has not already been sent to EPA), the proposed permit, and a statement of basis. If applicable to the Title V facility (and not already included in the application or proposed permit) the statement of basis should include the following:

- additions of permitted equipment which were not included in the application;
- identification of any applicable requirements for insignificant activities or State-registered portable equipment that have not previously been identified at the Title V facility,
- outdated SIP requirement streamlining demonstrations,
- multiple applicable requirements streamlining demonstrations,
- permit shields,
- alternative operating scenarios,
- compliance schedules,
- CAM requirements,
- plant wide allowable emission limits (PAL) or other voluntary limits,
- any district permits to operate or authority to construct permits;
- periodic monitoring decisions, where the decisions deviate from already agreed-upon levels (e.g., monitoring decisions agreed upon by the district and EPA either through: the Title V periodic monitoring workgroup; or another Title V permit for a similar source). These decisions could be part of the permit package or could reside in a publicly available document.

Part II - Title V Process

The following five-point process serves to clarify expectations for reviewing Title V permits and coordinating information on Title V permits between EPA Region IX ("EPA") and Air Pollution Districts in California ("District"). Districts electing to follow this process can expect the following. Districts may, at their discretion, make separate arrangements with Region IX to implement their specific Title V permit reviews differently.

Point 1: The 45-day clock will start one day after EPA receives all necessary information to adequately review the title V permit to allow for internal distribution of the documents. Districts may use return receipt mail, courier services, Lotus Notes, or any other means they wish to transmit a package and obtain third party assurance that EPA received it. If a District would like written notice from EPA of when EPA received the proposed title V permit, the District should notify EPA of this desire in writing. After receiving the request, Region IX will provide written response acknowledging receipt of permits as follows:

(Date)

Dear (APCO):

We have received your proposed Title V permit for (Source Name) on (Date). If, after 45-days from the date indicated above, you or anyone in your office has not heard from us regarding this permit, you may assume our 45-day review period is over.

Sincerely,

Matt Haber
Chief, Permits Office

Point 2: After EPA receives the proposed permit, the permit application, and all necessary supporting information, the 45-day clock may not be stopped or paused by either a District or EPA, except when EPA approves or objects to the issuance of a permit.

Point 3: The Districts recognize that EPA may need additional information to complete its title V permit review. If a specific question arises, the District involved will respond as best it can by providing additional background information, access to background records, or a copy of the specific document.

The EPA will act expeditiously to identify, request and review additional information and the districts will act expeditiously to provide additional information. If EPA determines there is a

basis for objection, including the absence of information necessary to review adequately the proposed permit, EPA may object to the issuance of the permit. If EPA determines that it needs more information to reach a decision, it may allow the permit to issue and reopen the permit after the information has been received and reviewed.

Point 4: When EPA objects to a permit, the Subcommittee requested that the objection letter identify why we objected to a permit, the legal basis for the objection, and a proposal suggesting how to correct the permit to resolve the objection.

It has always been our intent to meet this request. In the future, when commenting on, or objecting to Title V permits, our letters will identify recommended improvements to correct the permit. For objection letters, EPA will identify why we objected to a permit, the legal basis for the objection, and details about how to correct the permit to resolve the objection. Part 70 states that "Any EPA objection...shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections."

Point 5: When EPA objects to a permit, and a District has provided information with the intent to correct the objection issues, the Subcommittee members requested a letter from EPA at the end of the 90-day period stating whether the information provided by the District has satisfied the objection.

While we agree with the Districts' desire for clear, written communication from EPA, a written response will not always be possible by the 90th day because the regulations allow a District 90 days to provide information. To allow EPA ample time to evaluate submitted information to determine whether the objection issues have been satisfied, we propose establishing a clear protocol. The following protocol was agreed to by members of the Subcommittee:

1. within 60 days of an EPA objection, the District should revise and submit a proposed permit in response to the objection;
2. within 30 days after receipt of revised permit, EPA should evaluate information and provide written response to the District stating whether the information provided by the District has satisfied the objection.