



Commonwealth of Virginia

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MEMORANDUM

TO: Regional Directors
Regional Air Permit Managers
Regional Air Compliance Managers
Central Office Air Managers

CC: Jeffery A. Steers, Director of Central Operations *JAS*

FROM: Michael G. Dowd, Director, Air and Renewable Energy Division *MGD*

SUBJECT: APG-200A11- Title V Air Permits Guidance Manual, Chapter 11 – Changing Status from Title V to Minor

DATE: February 19, 2020

Purpose:

The purpose of this document is to update the existing guidance providing when a source is no longer required to maintain a Title V permit to the Title V requirements of the federal Clean Air Act and Articles 1 or 3 of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, 9VAC5 Chapter 80. The existing APG-200A - Title V Air Permits Guidance Manual was originally released in 1999 by the Virginia Department of Environmental Quality (DEQ) Office of Air Permit Programs (OAPP) and has been updated periodically.

Chapter 11 of the Title V Air Permits Guidance Manual discusses the process for changing a facility's status from a major source under Title V to a non-major source under that program.

Each chapter and appendix of the existing Title V Air Permits Guidance Manual will be reviewed and updated as appropriate. The following updates have been made to the existing chapter:

Chapter 11:

- 1) Reformatted with ADA styles.
- 2) Revised chapter title and section headings.
- 3) Clarify the process for changing a facility's status to minor based on implementation experience.

Electronic Copy:

Once effective, an electronic copy of this guidance will be available on:

- The Virginia Regulatory Town Hall under the Department of Environmental Quality (<http://www.townhall.virginia.gov/L/gdocs.cfm?agencynumber=440>);

Contact Information:

Please contact Patrick Corbett at 804-698-4016 or patrick.corbett@deq.virginia.gov with any questions regarding the application of this guidance.

Certification:

As required by Subsection B of § 2.2-4002.1 of the APA, the agency certifies that this guidance document conforms to the definition of a guidance document in § 2.2-4101 of the Code of Virginia.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate any particular method nor does it prohibit any alternative method. If alternative proposals are made, such proposals should be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

Chapter 11. Changing Status from Title V to Minor

Title V Source Types

For the purpose of Title V permitting, there are two conceptual source-types. Article 1 of 9VAC5 Chapter 80 defines “major source” and “area source.” When a source has the potential to emit (PTE) regulated pollutants at or above applicable thresholds, the source is considered “major;” if the source has the potential to emit (PTE) regulated pollutants under applicable thresholds, the source is considered an “area source.”

To further classify source-types, area sources are divided into two categories – true minor and synthetic minor. True minor source refers to a source that does not have the potential – with or without permit limitations, to meet major source thresholds for regulated pollutants.

Alternatively, a synthetic minor stationary source is one with a PTE that is constrained by federally- and/or state-enforceable limits. These limits require the source to maintain emissions below the Title V major thresholds. Synthetic minor sources, without the enforceable limits, would be a “major” source and subject to the requirements of Title V. The classification of synthetic minor is pollutant specific; a source could be true minor for several pollutants and synthetic minor for one pollutant. The overall classification for such a source is synthetic minor.

Changing Title V Status of the Source

The status change from Title V major to minor¹ must be requested by the source. If a source becomes an area source but does not request that the current Title V permit be revoked, DEQ does not unilaterally revoke the permit². In accordance with 9VAC5-80-50D.3, DEQ is not required to issue a Title V permit to deferred sources. DEQ will address these situations on a case-by-case basis considering, at a minimum, available resources at that time. The source can make the request through multiple scenarios. Limitations that reduce PTE may come in many forms (e.g., limits on fuel sulfur content, change in fuel type, limits on production rates, installation of new (more efficient) equipment, installation of control equipment, etc.) but must be federally enforceable and enforceable as a practical matter. While not exhausting all of the possibilities, the approaches to change from Title V major to minor may consist of any combination of the following:

1. Source submits an application for a state operating permit (SOP) (or an amendment to an existing SOP) to create federally enforceable emission limits at the facility to reduce the PTE below Title V major source thresholds; and/or

¹ Throughout this document, references to ‘minor’ by itself relates to both synthetic and true minor sources.

² The Regulations provide for several ways that DEQ may unilaterally revoke permits. The discussion in this chapter is limited to the scenario where a source is, or could become, an area source and does not affect or interpret any other revocation/termination/suspension provision of the Regulations.

2. Source proposes a project and submits with that minor new source review (minor NSR) application a request to establish federally enforceable emission limits for the affected emission unit(s) to reduce the PTE below Title V major source thresholds; and/or
3. Source submits an application to propose a significant amendment to their current minor NSR permit to limit PTE; and/or
4. Source requests a permanent shutdown agreement for existing equipment at the facility to bring the potential to emit regulated pollutant(s) to below Title V major source threshold(s). This is likely the only approach that would result in a source becoming a true minor source.

Permitting

When a source utilizes a permit program to request changing from a major to a synthetic minor source through the permitting process, a complete Form 7 application must be submitted to the appropriate DEQ Regional Office. The application shall include the information listed in 9VAC5-80-840 and/or 9VAC5-80-1150 for a synthetic minor designation request, including:

1. The identification and description of all emission units at the source;
2. The calculation of each emission unit’s maximum annual emissions of regulated air pollutants for all operating scenarios;
3. The proposed federally enforceable conditions that limit the source-wide emissions to below major source thresholds and that are permanent, quantifiable, and otherwise enforceable as a practical matter; and
4. The proposed federally enforceable conditions to implement monitoring, recordkeeping, and reporting requirements sufficient to determine compliance.

State Operating Permits and amendments creating or adjusting federally enforceable limits for the purpose of avoiding Title V are subject to the public notice and comment procedures as described in 9VAC5-80-1020. Minor NSR permits and amendments are subject to a public comment period if they meet the criteria described in 9VAC5-80-1170.

After the appropriate permit review process³, DEQ will issue the new/amended permit with the necessary new or revised limits that will assure the resulting PTE is under the Title V applicability thresholds. Once the new permit has been issued, DEQ will notify the source that their Title V permit has been revoked⁴ and the source may no longer operate under their current Title V permit.

³ This includes compilation and review of the complete application as well as any required public comment period and consideration of any public comments received.

⁴ The Title V permit cannot be revoked in certain circumstances, for example, where the area source is required by a particular regulation requires a source to maintain a Title V permit regardless of its emission rate. These sources are sometimes referred to as “Title V by Rule.” For example, 40CFR60 Subpart XXX requires any landfill over a certain size to maintain a Title V permit.

In another scenario, the Title V permit may expire without DEQ’s revoking the permit if the source and DEQ have taken the proper actions to ensure the new or revised permit limits and/or shutdown agreements are in place prior to expiration of the Title V permit.

Mutual Shutdown Agreement

When a source chooses to shutdown individual emission units at the source to reduce the PTE to below major thresholds, the process begins with the source submitting a request for the shutdown to the appropriate DEQ regional office. The procedure for shutting down emission unit(s) (or a facility as a whole) can be found in [Air Permit Guidance Memo No. 105 \(APG-105\)](#).

Once the mutual shutdown agreement has been executed by the source and DEQ, the source may be eligible to have its Title V permit revoked if appropriate. Upon request to and after review by DEQ, the regional office will send a letter to the source stating the Title V permit is revoked and that the source may no longer operate under their current Title V permit. The source should also be alerted that the reactivation of the shutdown emission(s) units would require a new source review permit approval prior to beginning construction.

There may be situations when a mutual shutdown agreement is coupled with the issuance of an SOP or minor NSR permit to reduce the source’s PTE to below applicable thresholds. Much like the scenario directly above, the regional office will make the determination to change the source’s status from Title V major to synthetic minor. The regional office will send a letter to the source stating the Title V permit is revoked and that the source may no longer operate under their current Title V permit. Again, the source should also be alerted that the reactivation of the shutdown emission(s) units would require a new source review permit approval prior to beginning construction.

CEDS

The CEDS database must be kept current with accurate information regarding the activities at a source. This is particularly important because sources are assessed annual fees based on their status.

The DEQ regional offices are responsible for updating applicable facility information in CEDS, including, but not limited to: issuance of a new or amended permit; revocation of a Title V permit; the updated air program status; new permit and maintenance fee status; and facility shutdown. This may be the role of either the permit writer or compliance staff, depending on procedures followed in a given regional office. When this information has been updated the Title V Coordinator in the Office of Air Permit Programs must be notified of the facility’s change in status.