

PROPOSED AMENDED RULE 3003. APPLICATIONS

(a) Application Requirements

The operator of a Title V facility shall submit a timely and complete Title V permit application in accordance with this rule.

(1) Facilities Applying for Initial Title V Permits During Phase One

(A) For facilities required to obtain initial Title V permits pursuant to subdivision (a) of Rule 3001 and that are specifically identified by the District on or before the effective date as defined in paragraph (b)(~~78~~) of Rule 3000, a timely initial permit application is one submitted to the Executive Officer within 90 days of receipt of the District's notice to the facility with facility-specific application materials, or within one year from the effective date, whichever comes first.

(B) For all other facilities required to obtain initial Title V permits pursuant to subdivision (a) of Rule 3001, a timely initial permit application is one that is submitted within 180 days after the facility becomes subject to the Title V permit program.

(2) Facilities Applying for Initial Title V Permits During Phase Two

(A) For existing facilities required to obtain initial Title V permits pursuant to subdivision (b) of Rule 3001, a timely initial permit application is one submitted to the Executive Officer within 90 days of receipt of the District's notice to the facility with facility-specific application materials, or no later than June 30, 2001, whichever occurs first.

(B) For all other facilities required to obtain initial Title V permits pursuant to subdivision (b) of Rule 3001, a timely initial permit application is one that is submitted within 180 days after the facility becomes subject to the Title V permit program.

(3) Additional Facilities Applying for Initial Title V Permits

Except as set forth elsewhere in this subdivision or in subdivision (c) of this rule, a timely initial permit application is one that is submitted within 180 days after the facility becomes subject to the Title V permit program.

- (4) A person who has filed a timely and complete application for an initial Title V permit with the Executive Officer shall be allowed to amend the initial Title V facility permit application if non-Title V Permits to Construct pursuant to Rule 201 or Permits to Operate pursuant to Rule 203 were issued 30 days or more prior to the scheduled issuance of the initial proposed permit for public review.
- (5) A person electing to apply for a non-Title V permit, as allowed by paragraph (a)(3) of Rule 3002, that is issued too late to be incorporated into the initial permit application in accordance with paragraph (a)(4) of this rule, shall file an application for a Title V permit revision within 90 days of the issuance of a facility's initial Title V permit.
- (6) For purposes of permit renewal, a timely application is one that is submitted at least 180 days, but no more than 545 days, prior to the date of permit expiration.
- (7) For facilities which are, or include, major sources (as defined in Section 70.2 of 40 CFR Part 70) in categories or subcategories for which EPA has failed to promulgate a maximum achievable control technology emissions standard by the date established pursuant to subsections (e)(1) and (e)(3) of Section 112 of the federal Clean Air Act, a timely application for a facility permit or permit revision, as appropriate, is one which is submitted within 18 months of such failure, and which complies with Section 112 of the federal Clean Air Act.

(b) Application Content

(1) Initial Permit and Permit Renewal Applications

An applicant shall submit, on forms specified by the Executive Officer and approved by EPA, all information necessary to evaluate the subject facility and the application, to determine the applicability of and to impose all regulatory requirements, and to determine the fee amounts required pursuant to Regulation III - Permit Fees.

(2) Permit Revision Applications

The applicant shall submit the same information as specified in paragraph (b)(1) of this rule, but only to the extent that such information is related to the permit revision. If applicable, information required by paragraphs (c)(2), (d)(2), and (e)(2) of Rule 3005 shall also be provided.

(c) Complete Application

- (1) The Executive Officer shall, upon receipt of any application, promptly determine whether the application is complete pursuant to the criteria set forth in the Technical Guidance Document.
- (2) Unless the Executive Officer determines that an application is not complete within 60 days of receipt of the application for initial permit issuance or permit renewal, or within 30 days of receipt for permit revisions, such application shall be deemed to be complete.
- (3) If the application is determined to be incomplete, the Executive Officer shall notify the applicant in writing what additional information is necessary to make the application complete and shall specify in writing a reasonable deadline for providing such information.
- (4) If the applicant does not provide all requested information on or before the deadline specified, the Executive Officer may deny the application. The Executive Officer may extend the initial deadline if requested by the applicant.
- (5) To be deemed complete, an application must provide all information required pursuant to subdivision (b) of this rule.
- (6) An applicant shall provide application statements and information that are true, accurate, and complete, based on information and belief formed after reasonable inquiry.
- (7) The responsible official shall certify all information provided as part of a permit application, a supplement or correction pursuant to subdivision (d) of this rule, or in response to a request for information from the Executive Officer. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(d) Duty to Supplement or Correct Application

- (1) Any applicant for, or holder of, a Title V permit who fails to submit any relevant information or who has submitted incorrect information in an application for a permit or permit revision shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.
- (2) An applicant shall provide such additional information as necessary to determine compliance with any requirements that became applicable to the

facility after the date a complete application was filed but prior to release of a proposed permit.

(e) Requests for Additional Information

- (1) Even after an application is deemed complete, an applicant shall provide such additional information as has been requested in writing by the Executive Officer as necessary to evaluate or take final action on the application, on or before the reasonable deadline specified in the request.
- (2) The facility's ability to operate without a permit, as set forth in subdivision (b) of Rule 3002 shall terminate at 5:00 p.m. on the date specified by the Executive Officer unless the applicant has, on or before that time provided all information requested by the Executive Officer pursuant to either paragraph (e)(1) of this rule, or subdivision (d) of Rule 3002.

(f) Confidential Information

Whenever an applicant for, or holder of, a Title V permit submits information to the Executive Officer in connection with a Title V permit application under a claim of confidentiality, such applicant or permit holder may be required, by the Executive Officer, to submit a copy of such information directly to the EPA Administrator, along with a concise statement of the basis of such claim of confidentiality.

(g) Sharing of Information

- (1) Except as provided in paragraph (g)(2) of this rule, any information obtained from a facility or used in the administration of the Title V permit program shall be made available without restriction to EPA upon request.
- (2) Where the Executive Officer submits information to the EPA under a claim of confidentiality, the Executive Officer shall provide a copy of such claim if made by a third party, or a concise statement of the basis of such claim, if made by the Executive Officer.

(h) Preservation of New Source Review

The submittal of a complete Title V permit application, or application for revision of such permit, shall not relieve any person of the requirements for a pre-construction permit under Title I of the federal Clean Air Act, District Regulation XIII - New Source Review, or District Rule 2005 - New Source Review For RECLAIM.

(i) Action on Applications

- (1) The Executive Officer shall deny an application for initial permit, permit revision, or permit renewal if the applicant cannot show that operation under the permit will comply with all regulatory requirements, unless:
 - (A) the District Hearing Board has issued a valid variance granted pursuant to Rule 515 or Rule 517, order for abatement which has the effect of a variance pursuant to Regulation VIII, or federal alternative operating condition established pursuant to Rule 518.2 for those regulatory requirements for which the facility is not in compliance; and
 - (B) the facility operator has submitted with the Title V permit application an acceptable compliance plan.
- (2) Except during the 3-year, Phase One period for initial permit issuance, following the effective date, and for applications identified in paragraph (i)(3) of this rule, the Executive Officer shall issue a permit or deny a permit application according to the following schedule:
 - (A) Applications for initial permits, significant permit revisions and permit renewals: within 18 months after receipt of a complete application pursuant to subdivision (c) of this rule;
 - (B) Applications for administrative permit revisions: within 60 days after receipt of a complete application pursuant to subdivision (c) of this rule; and,
 - (C) Applications for minor permit revisions: within 90 days after the receipt of a complete application pursuant to subdivision (c) of this rule or within 15 days after the end of EPA's 45-day review period, whichever is later.
 - (D) Applications for group processing of multiple minor permit revisions: within 180 days after the receipt of the first complete application, in a group of multiple minor permit revision applications, pursuant to subdivision (c) of this rule or within 15 days after the end of EPA's 45-day review period, whichever is later.
 - (E) Applications for de minimis significant permit revisions: within 180 days after the receipt of a complete application pursuant to subdivision (c) of this rule or within 15 days after the end of EPA's 45-day review period, whichever is later.

- (3) For an application for an initial permit for a new facility or a significant permit revision, that includes a request for a Permit to Construct, the Executive Officer shall issue a permit or deny a permit application according to the following schedule:
 - (A) Applications for which an Environmental Impact Report is not required and where EPA does not object to the proposed Title V permit or revision within the 45-day review period: within 265 days after the application is deemed complete;
 - (B) Applications containing a demonstration of an early toxic reduction to comply with Section 112(i)(5) of the federal Clean Air Act, for which an Environmental Impact Report is not required and where EPA does not object to the proposed Title V permit or revision within the 45-day review period: within 265 days after the application is deemed complete;
 - (C) Applications for which an Environmental Impact Report is not required and EPA objects to the proposed permit or revision: within 355 days after the application is deemed complete;
 - (D) Applications for which an Environmental Impact Report is required: within the timeframes defined in subparagraphs (i)(3)(A) or (B) or (C) of this rule plus 180 days.
- (4) A permit, permit revision, or renewal may be issued only if all the following conditions have been met:
 - (A) The Executive Officer has received a complete application for a permit, permit revision, or, permit renewal.
 - (B) Except for administrative permit revisions, minor permit revisions, and de minimis significant permit revisions, the Executive Officer and the facility have complied with the requirements for public participation under Rule 3006.
 - (C) Except for administrative permit revisions the Executive Officer has complied with the requirements for notifying and responding to affected states under subdivision (m) of this rule.
 - (D) The conditions of the permit provide for compliance with all regulatory requirements.
 - (E) The EPA Administrator has received a copy of the proposed permit, any notices required under Rules 3003, 3005, and 3006, and any revisions to the proposed permit in response to public or

affected State comments and has not objected to issuance of the permit under 40 CFR Part 70, Section 70.8(c) within the time period specified therein.

- (5) If the Executive Officer fails to act within the time required by this rule on an application for permit renewal, the EPA may invoke its authority under Section 505(e) of the federal Clean Air Act to terminate or revoke and reissue the permit.
 - (6) Initial Phase One Title V permits, which are required to be issued within three years after the effective date, shall be classified by the Executive Officer into Groups A, B, and C, such that each group contains one-third of the Title V sources identified by the District for Phase One, as far as practicable.
 - (A) The Executive Officer shall issue Title V permits to the groups according to the following schedule, measured from the effective date: Group A within one year; Group B within two years; and Group C within three years, as far as practicable.
 - (B) A facility assigned to any group may not petition the Executive Officer or the Hearing Board to change their group designation.
 - (7) The Executive Officer shall, to the extent possible, simultaneously commence any required noticing and review by the public, EPA and affected States.
- (j) EPA Review
- (1) The Executive Officer shall submit to the EPA Administrator:
 - (A) each application for initial permit, permit renewal, minor permit revision, de minimis significant permit revision and significant permit revision;
 - (B) each proposed permit for initial permit, renewal permit, or permit revision, excluding administrative permit revisions;
 - (C) any revisions to the proposed permit in response to public or affected State comments;
 - (D) a copy of any notices required by Rules 3003, 3005, or 3006; and,
 - (E) each final Title V permit, within 5 working days of permit issuance.

- (2) To the extent practicable, the information required by paragraph (j)(1) of this rule shall be provided in a computer-readable format compatible with EPA's national database management system.
 - (3) The Executive Officer shall keep the information required by paragraph (j)(1) of this rule for 5 years following the issuance of a final Title V permit so that the EPA Administrator may ascertain whether the Title V program complies with the requirement of Part 70 and the federal Clean Air Act. Such information shall be made available to EPA within a reasonable time of the request.
 - (4) At least 10 days prior to the end of EPA's review period of a proposed permit, the Executive Officer shall notify the applicant, the EPA Administrator and any affected State, in writing, of any refusal to accept all recommendations for the proposed permit that any affected State submitted during the public or affected State review periods. The notice shall include the Executive Officer's reasons for not accepting any such recommendations.
- (k) EPA Objection
- (1) No permit or permit revision for which an application must be transmitted to EPA pursuant to subdivision (j) of this rule may be issued if the EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information, or within 90 days if the EPA provides a written request to delay the permit issuance on the basis that an additional 45 days is necessary to review the public and affected State comments made to the proposed permit. The objection shall include a statement of the reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objections.
 - (2) Within 14 days of receipt of EPA's objection to a proposed permit, the District shall notify the applicant of EPA's objection.
 - (3) Within 90 days after receipt of timely objection from EPA that meets the requirements of paragraph (k)(1) of this rule, the Executive Officer shall evaluate EPA's objection, negotiate with EPA over any disagreements, and do one of the following:
 - (A) deny the proposed permit; or
 - (B) revise and submit to EPA a new proposed permit in response to EPA's objection.

- (4) If the Executive Officer fails, within the time specified in paragraph (k)(3) of this rule, to either deny the proposed permit or revise and submit a new proposed permit in response to the objection, EPA may issue or deny the permit in accordance with 40 CFR Part 70, Section 70.8(c).
- (l) Public Petitions to the EPA Administrator
 - (1) If the EPA Administrator does not object in writing pursuant to subdivision (k) of this rule, any person may petition the EPA Administrator within 60 days after the expiration of the EPA Administrator's 45-day review period to make such objection, as provided for in 40 CFR Part 70, Section 70.8(d).
 - (2) Any petition under this subdivision shall be based only on objections to the proposed permit that were raised with reasonable specificity during the public comment period provided for in Rule 3006, unless the petitioner demonstrates, to the EPA Administrator, that it was impracticable to raise such objections within such period, or unless the grounds for objection arose after such period.
 - (3) If the EPA Administrator objects to the proposed permit as a result of a petition filed under this subdivision, the Executive Officer shall not issue the permit until EPA's objection has been resolved. If the permit was issued after the end of EPA's 45-day review period and prior to receipt of EPA's objections, a petition under this rule section does not stay the effectiveness of a permit or its requirements.
 - (4) If the permit has been issued prior to receipt of an EPA objection under this rule, EPA may revise, terminate, or revoke such permit.
- (m) Review by Affected States
 - (1) Except for administrative permit revisions, the Executive Officer shall give notice of each proposed permit to any affected State on or before the notice is provided to the EPA.
 - (2) Any affected State may provide recommendations in writing, based upon applicable requirements or requirements of 40 CFR Part 70, with respect to the proposed permit, within 30 days of receipt of the notice.
 - (3) The Executive Officer shall respond to affected State recommendations in accordance with paragraph (j)(4) of this rule.

(n) Prohibition of Default Issuance

- (1) Except for administrative permit revisions, no Title V permit may be issued until after EPA and affected States have had an opportunity to review the proposed permit in accordance with this rule, unless EPA has waived such review for EPA and the affected States.
- (2) Except for administrative permit revisions, minor permit revisions, and de minimis significant permit revisions, no Title V permit may be issued until after the public has had an opportunity to review the proposed permit in accordance with Rule 3006.
- (3) No provision of these rules shall be construed to require that a Title V permit or renewal be issued after a certain time if the Executive Officer fails to take action on the application.
- (4) Failure of the Executive Officer to take action on an application within the time specified by these rules shall not constitute final permit action except for purposes of a judicial or authorized administrative proceeding seeking to compel the Executive Officer to take final action on the application.