

San Luis Obispo County Air Pollution Control District Instructions for Agricultural Title V Permit Application Forms

I. INTRODUCTION

The federal Clean Act Amendments of 1990 created a nation-wide permit requirement referred to as the "Title V program." The Air Pollution Control District (District) has been delegated the responsibility for administering that program here in San Luis Obispo County and issued its first Title V permit over five years ago. Since the late 1970's, the District has also had its own permit program for commercial and industrial sources of air pollution. The application forms for these two permit programs have been integrated to a certain extent. However, due to the broad range of source types that might apply under Title V, the application forms are very general in nature and require a fairly detailed knowledge of the myriad of federal requirements to fill the forms out. In the interest of business assistance, the District has prepared a separate group of forms that are specific to the air-related federal requirements for agriculture.

These instructions are intended to introduce and explain the Title V application forms for agricultural operations. The Title V permit program is not intended to create any new requirements. Instead, a permit is intended to draw together all existing requirements in one place so that it is clear what applies and what does not. The forms introduced here should reflect all federal requirements related to the emission of air contaminants from stationary sources that apply to agriculture in San Luis Obispo County. These limitations are contained in California's State Implementation Plan, which was first approved by the U.S. Environmental Protection Agency in the 1970's. Consequently, these constraints have already applied to agricultural operations for many years. It is understandable that most farmers are not aware of them, however, because it takes a permit program such as Title V to bring them into focus.

To get assistance with these forms, or to get a copy of the federal requirements described on these forms, contact David Dixon at 805-781-5912. The federal requirements are also available on EPA Region IX's website at <http://www.epa.gov/region09/air/sips/index.html>.

II. INSTRUCTIONS THAT APPLY TO ALL FORMS

The original application for a new permit should be submitted to the District at the address below, along with the \$100.00 filing fee. Please make checks payable to the San Luis Obispo County Air Pollution Control District. Also, send a copy of your application to EPA at the address below.

Original

David W. Dixon
San Luis Obispo County
Air Pollution Control District
3433 Roberto Court
San Luis Obispo, California 93401-7126

Copy

Gerardo Rios, Chief
Permits Office
U.S. Environmental Protection Agency
75 Hawthorne Street (Air-3)
San Francisco, California 94105-3901

Where sufficient space is not available on an application form, additional information should be attached. A plot map of the operation that shows the location of all air pollutant emitting equipment listed in the application must be attached as described in Section IV to these instructions below.

For the purposes of developing the Title V permit, the District may request additional information after the application is deemed complete. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in an application should, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant should amend their application as necessary to include any requirements that become applicable to the source after the date of application filing but prior to the release of a draft permit. The applicant is also obligated to update their application if equipment or processes change at their facility after the application is submitted and before a permit is issued.

An applicant may claim that any portion of the information submitted is a trade secret but should include a justification accordingly. A “trade secret” is defined in Section 6254.7 of the California Government Code. It includes, but is not limited to, “any formula, plan, pattern, process, tool, mechanism, compounds, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.” Should a claim of trade secret be made, the District may also require the source to submit a copy of such information directly to the EPA.

All Title V permit applications must be signed by a “Responsible Official.” That term is defined in District Rule 216, Federal Part 70 Permits, as follows. Note that EPA’s criteria for the District’s Title V program are contained in Part 70 of Title 40 to the Code of Federal Regulations (40CFR70). Throughout these instructions and other documents that concern this permit program, Part 70 and Title V are considered equivalent terms.

“Responsible Official” is defined as:

- a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a Part 70 permit and either:
 - 1) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars); or
 - 2) The delegation of authority to such representative is approved in advance by the District.
- b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively.”

On the next level of complexity beyond the standard forms introduced here, the Title V permit program has three basic operational flexibility provisions. If the applicant wishes to take advantage of one or more of the following opportunities, they should contact the District directly to discuss the necessary information to submit. The three provisions are: alternative-operating scenarios, emissions trading under an emissions cap, and Clean Air Act section 502.B.10 changes. Alternative operating scenarios may be proposed for each operating mode that will be subject to different applicable federal requirements. An emissions cap may be requested to allow emissions trading from one group of sources to another, so long as any equipment specific emission limits are not exceeded. Section 502.b.10 of the federal Clean Air Act allows an owner to make changes within their operation without having to revise their permit. However, the latter is only allowed if the change would not violate any applicable requirement and would not contravene any federally-enforceable Part 70 permit condition that is a monitoring, recordkeeping, reporting, or compliance certification requirement.

Also, two other Title V permit complexities need to be mentioned. The applicant may request to be shielded from specific applicable federal requirements that do not apply to their operation. They may also propose to streamline multiple requirements applicable to a source into a single set of permit terms and conditions. Again, if the applicant wishes to take advantage of either of these allowances, they should contact the District directly to discuss the necessary information to submit.

III. SPECIFIC FORM INSTRUCTIONS

There are six basic forms. Supplying all of the information requested on these forms is designed to result in a complete application for evaluation purposes. The Permit Application Form acts as the mandatory cover page for all applications and gives the applicant the opportunity to identify themselves and to put their request into perspective. The General Farming form is also mandatory for agricultural operations. The forms titled Stationary Diesel Engine, Stationary Non-Diesel Engine, Gasoline Storage Tank, and Insignificant Activity need only be included if the applicant operates any of the described equipment. For example, if a farmer does not have an engine that is larger than 50 horsepower and fueled with a non-diesel fuel, they need not submit the Non-Diesel Engine form.

These forms may not include all of the information necessary to describe your operation properly, or to show that your operation complies with any given applicable federal requirement. If you have any other relevant information that would help explain your situation, please provide that information in a note somewhere on the forms or on a separate sheet of paper.

A. Permit Application Form. As mentioned earlier, this form must be included with each submittal. The following guidelines are offered for initial Title V permit applications.

1. Type of Application: Select the "Permit - Existing Equipment" option.
2. Process Type: All farms should select the "General" option. Operations with at least one stationary internal combustion engine should also select "Fuel Combustion." Farmers that operate gasoline storage tanks should select "Fuel Dispensing." Note that diesel fuel storage and dispensing are considered insignificant activities and need not be included here.
3. Facility Name: This is the name that will appear on the permit to operate and should reflect how the physical operation is commonly identified. The business itself may go by a different name or title, which can be included under item 4 below. The address and assessor parcel number information should be for the physical location of the agricultural operation.
4. Owner: This is the person or entity that is ultimately responsible for operation of the air contaminant emitting equipment. Commonly, this person would also be responsible for paying the property taxes on the land involved in the operation and have the legal authority to sell that land. The Company Name is intended to be that title under which the operation legally conducts its business.
5. Other Contacts: If the listed contacts are not the same as the owner, an addendum page for this form is available to list individual contact information.
6. Nature of Business: Include a description of what the operation does or produces. If either the Standard Industrial Classification (SIC) code or the North American Industry Classification

System (NAICS) code is known, please include them. An example entry might be: “Our primary operation is to grow vegetables, SIC=0161, NAICS=1112.”

7. Description of Process: Include a more detailed description of the operation and try to tie in the other forms being submitted. Note that this can alternatively be done with a cover letter or an attachment. An example entry might be: “We farm 4,000 contiguous acres of land and produce vegetables for sale. Of the total acres at this farm, 2,000 acres are irrigated using diesel engine driven well pumps with an average well depth of 300 feet. We also have an equipment maintenance area that includes a 500-gallon, aboveground gasoline storage tank for fueling vehicles and equipment. Our company also operates two other farms in the area, but all three farms are separated from one another by private property that is controlled by others.”
 8. Project Status: This question is intended for applicants who are changing their equipment. It may be left blank for initial Title V applications.
 9. Additional Questions: Again, these questions are intended for applicants who are changing their equipment. However, most of the requested data will still help put the emissions from an existing farming operation into better perspective.
 - a. Distance to Nearest School: If more than a mile, just enter that estimate. If less, please be more accurate. The distance should be measured from the nearest air contaminant emitting activity, such as a stationary diesel engine driven irrigation pump, to the outer boundary of the school.
 - b. Distance to Nearest Residence: This refers to a residence other than the owner/operator’s home. This could be a neighbor’s house or a housing development.
 - c. Distance to Nearest Work Place: This refers to workers other than those employed by the owner/operator.
 - d. Trade Secret Information: This was described earlier.
 - e. District Enforcement Action: Select “yes” only if a formal Notice to Apply was received.
 - f. CEQA Review: Select “no” for an initial Title V application.
 - g. Other Agency Approval: Select “no” for an initial Title V application.
 - h. Air Toxics “Hot Spots” Program: Select “no” for an initial Title V application.
 - i. Federal Part 70 (Title V) Permit: Select “yes” for an initial Title V application.
 - j. Toxic Compounds Emitted: Select “yes” if your application includes one or more stationary diesel engines (diesel exhaust particulate matter is very toxic). However, the additional information described on the form need not be submitted at this time.
 10. Signature: All applications must be signed and dated by a Responsible Official.
- B. General Farming, Gasoline Storage Tanks, Diesel Engine, and Non-Diesel Engine. These forms have a common format and will be described as a group. As mentioned earlier, the General Farming form should be submitted for each application and the others should be submitted as applicable. The following instructions are intended to help you complete the forms specific to the San Luis Obispo County Air Pollution Control District.

Part 1 - Equipment Description: For the gasoline storage tank and the engine forms, please provide the equipment information requested. For the General Farming form, an equipment list is unnecessary. Only stationary engines rated at greater than 50 horsepower need to be included. A portable engine that remains in one place for more than a year and operates other than for maintenance at any time in that location is considered a stationary engine.

Part 2 - Applicable Requirement: These statements paraphrase federally applicable requirements that appear in the California State Implementation Plan (SIP) for the District. Please read each applicable requirement to determine if it applies to you. You may note that several SIP rules appear quite different than they do today, particularly Rule 502, Agricultural Burning (see page 4 of the General Farming form). That is because the SIP must be considered a snapshot frozen in time while the District's rules have continued to evolve. This disconnection is referred to as the "SIP-gap." Under the Title V program, an applicant must comply with the SIP version of any given rule, regardless if it is out of date. They must also continue to comply with the current District rule. If a conflict arises between any two requirements, the District can help the applicant streamline the two into a single requirement.

Part 3 - Method used for determining compliance: This section describes the suggested method(s) that you could use to determine whether or not you are in compliance with the applicable requirement listed in the first column of the table. If you use an alternate method to ensure compliance, please write it in or include it on a separate sheet. If the underlying rule or standard requires that you collect information or data for compliance purposes for you to determine your compliance status on this form, you should review that information or data prior to making that determination. In addition, if the rule requires certain a compliance method to be performed, then you should perform it prior to certifying compliance with all the requirements of the rule.

Part 4 - Compliance Status: To the best of your knowledge using the compliance method described in part 3 (or another allowable method), indicate if the emission unit (or activity) is "in compliance" and will continue to comply, or "not in compliance" at the time you submit this application. If you marked "not in compliance" at this time, indicate which activity or equipment is not in compliance and when you expect to achieve compliance. If you expect to be in compliance by the date the permit will be issued (call the District for an estimate), then include a brief description of what actions you will take to achieve compliance by that date.

If you think certain activities or equipment will not be in compliance by the date the permit will be issued then you must attach two "schedules" with your application:

- 1) For the Schedule of Compliance, identify:
 - a. the applicable requirement and the non-compliant activity or equipment;
 - b. provide a brief explanation of why the source is not (or will not be) in compliance with this requirement (for example, "I have not submitted the required report");
 - c. provide a brief description of what the attached detailed schedule of compliance is trying to achieve (for example, "I will submit the report"); and
 - d. include a detailed schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with the applicable requirement.
- 2) For the Schedule for Submitting Progress Reports, identify future dates when you will submit progress reports (you do not need to attach any reports now, just the schedule). The progress report will describe your farm's progress in meeting the obligations of the schedule of compliance. The progress report schedule you attach may contain dates you prefer for submitting the progress reports, however, progress reports must be submitted at least once every six months.

Part 5 - Declarations and Certifications (General Farming form only): The application must be signed by the Responsible Official for Title V purposes (see definition above). The individual must certify to the truth, accuracy, and completeness of the application submittal. Compliance certifications need only address the applicant's current compliance status as of the date of submittal.

- C. Insignificant Activities. This form should be submitted if any of the activities listed there are checked as being applicable. All stationary activities that emit an air contaminant must be included in a Title V permit application, even though certain low-emitting activities and equipment may be considered exempt from District permit. The Title V program allows those low-emitting activities to be considered trivial or insignificant and only requires that they be described in general terms. An applicant must include sufficient information to indicate that the activity occurs and that it qualifies as an insignificant activity. For the purposes of this initial application for an agricultural operation, checking an activity is sufficient to indicate that the activity occurs and the form's description of the activity is sufficient to qualify it as insignificant.

IV. ATTACHMENT TO APPLICATION

The following should be included as an attachment to the application:

1. Emission-Point Plot Map. The District needs to know where the permitted equipment is physically located to aid in compliance inspections. They also need to know the physical boundaries and location of the farm as a whole both for inspections and to ensure the application involves a single stationary source. This information is requested as an attachment to make it easier for an applicant to separate it for confidential or trade secret protection.

Prepare and submit a map of the contiguous properties that includes the following.

- a. Parcel information
 - 1) Assessor parcel number
 - 2) Legal entitlement - if leased or under contract, provide the owner's contact information
 - 3) Engine and gasoline storage tank location(s), correlated to the equipment listed on the application form(s)
 - 4) Size in acres
 - 5) Crop(s) grown
- b. Boundary information, include title(s) and designation(s)
 - 1) State and County maintained roads
 - 2) Natural and manmade waterways
 - 3) Political boundaries
- c. Aggregate information
 - 1) Total size in acres of entire operation
 - 2) Total size in acres of each crop or use
 - 3) Total annual fuel use by fuel type, include period of data and units

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