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Environmental Litigation & Mass Tort Update

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EPA Issues Guidance on Streamlining Clean Air Act Title V Permit Renewals

Regulated facilities should expect greater consistency in renewal approaches across jurisdictions, but may also see less flexibility during the renewal process itself, making early engagement and proactive permit management increasingly important.

On April 16, 2026, the Environmental Protection Agency (EPA) issued new guidance aimed at accelerating the renewal of Clean Air Act Title V operating permits, a process that is often delayed by administrative backlogs and resource constraints at the relevant permitting authorities. The guidance signals a shift toward a more streamlined, efficiency-focused approach to renewals, with important implications for how permitting authorities—and regulated facilities—approach Title V permitting.^[1]

Key Takeaways for Regulated Entities

- EPA is encouraging permitting authorities to expedite Title V renewals by reducing unnecessary re-review of unchanged permit requirements and focusing instead on material updates.
- Existing permit terms may be carried forward more efficiently, limiting reopening of settled issues absent new applicable requirements or errors.
- Greater use of administrative tools (e.g., incorporation by reference, standardized conditions) may reduce permit renewal processing time.

- Facilities should thus expect faster—but potentially less flexible—renewal processes, with fewer opportunities to revisit or revise prior permit conditions.
- Regulated entities should proactively identify newly applicable requirements early, as agencies may rely more heavily on applicant submissions during streamlined reviews.

I. Background

Title V of the Clean Air Act requires that major stationary sources (and certain other sources) of air pollution apply for and operate pursuant to an operating permit that consolidates applicable air emissions requirements into a single document.^[2] These permits must generally be renewed every five years and are primarily administered by state and local agencies under EPA oversight.^[3]

Due to resource constraints, many state and local permitting authorities have experienced significant Title V permit renewal backlogs. EPA's new guidance is intended to help address these delays by clarifying how permitting authorities can streamline the renewal process consistent with existing regulatory requirements under 40 C.F.R. Part 70.^[4]

II. Overview of the Guidance

EPA's memorandum provides that "if there are no changes to permit terms or underlying applicable requirements since the last permit application, permitting authorities may allow applicants to essentially resubmit the prior application with a current date." The memorandum further states that, "for permit terms that are not changing in a renewal permit, permitting authorities may allow applicants to satisfy their regulatory obligations by cross-referencing or incorporating by reference material submitted in previous applications." Finally, the memorandum "encourages permitting authorities to either use the prior Statement of Basis, editing only the portions addressing any changed or new requirements, or, to justify any unchanged permit terms, make the prior Statement of Basis available for public review."^[5]

The guidance emphasizes that Title V permit renewals are not intended to be full re-permitting exercises. Instead, EPA encourages permitting authorities to:

- Focus on changes since the prior permit issuance, including new or revised applicable requirements, corrections, or necessary updates;
- Avoid reopening or reanalyzing previously established permit terms unless required to assure compliance with current law;
- Leverage existing permit structures, including through incorporation by reference and standardized language, to reduce administrative burden; and
- Improve efficiency in the review process, particularly where no substantive changes are required.

The guidance also highlights the importance of clear documentation of what has (and has not) changed in a given permit renewal to support transparency and judicial defensibility.

III. Significance and Implications for Regulated Entities

1. Shift Toward Incremental Permitting

The guidance reinforces EPA's view that Title V permits are primarily compilations of existing requirements, not vehicles for reinterpreting underlying rules. By discouraging re-review, EPA is signaling a move toward a more incremental, update-based renewal model. This may reduce uncertainty associated with reopening complex issues (e.g., applicability determinations, monitoring requirements) during permit renewals.

2. Potential Acceleration of Backlog Reduction

The guidance's focus on streamlining reflects EPA's concern over persistent renewal delays. Faster renewals may increase the number of permits cycled through EPA review and, in turn, increase the number of permits subject to regulatory requirements.

3. Reduced Opportunities to Revisit Permit Terms

Streamlined renewals may limit opportunities for permittees to renegotiate or clarify permit conditions. Where agencies rely on prior permit language, permitted entities may need to pursue revisions to an existing permit through a separate permit modification process, rather than during a permit renewal.

4. Greater Emphasis on Applicant Submissions

Because permitting authorities are being encouraged to narrow the scope of their review, initial renewal applications become more critical. Facilities will need to:

- Clearly identify all new applicable requirements;
- Flag errors or ambiguities in existing permits; and
- Provide supporting information to avoid carryover of unfavorable legacy permit conditions.

IV. Opportunities and Risks for Regulated Entities

The guidance presents both opportunities and risks for entities and facilities subject to Title V permitting requirements:

- Operational certainty may improve as permitting authorities rely more heavily on existing permit frameworks rather than reopening settled issues.
- Compliance risks may increase if outdated or suboptimal permit conditions are carried forward without correction.
- Timing becomes more important—regulated entities may need to pursue permit modifications before seeking renewal to address known issues.

- Internal compliance and tracking systems should be updated to ensure all new federal and state requirements are captured and incorporated into renewal applications.

V. Looking Ahead

While EPA's new guidance does not change the underlying Clean Air Act requirements, it is likely to influence how state and local permitting authorities administer the Title V program in practice. Regulated facilities should expect greater consistency in renewal approaches across jurisdictions, but may also see less flexibility during the renewal process itself, making early engagement and proactive permit management increasingly important.

[1] Environmental Protection Agency, *Guidance on Streamlining Clean Air Act Title V Operating Permit Renewals*, Memorandum (Apr. 16, 2026), [here](#).

[2] Environmental Protection Agency, *The Plain English Guide to the Clean Air Act*, EOA-456-K-07-001 (Apr. 2007), at 19, [here](#).

[3] Environmental Protection Agency, *Title 5 Operating Permits* (July 2002), archive document, [here](#).

[4] Environmental Protection Agency, *EPA Issues Title V Permitting Guidance to Ensure Certainty for American Businesses and Alleviate Permitting Backlogs*, Apr. 17, 2026, [here](#); 40 C.F.R. 70, [here](#).

[5] Environmental Protection Agency, *Guidance on Streamlining Clean Air Act Title V Operating Permit Renewals*, Memorandum (Apr. 16, 2026), [here](#).

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. To learn more about these issues, please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Environmental Litigation and Mass Tort practice group:

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