

San Joaquin Valley Air Pollution Control District

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DATE: June 21, 2001

TO: SJVUAPCD Governing Board

FROM: 
David L. Crow, Executive Director/APCO
Project Coordinator: Seyed Sadredin

RE: **ADOPT PROPOSED AMENDMENTS TO RULE 2020
(EXEMPTIONS); RULE 2201 (NEW AND MODIFIED
STATIONARY SOURCE REVIEW); RULE 2520
(FEDERALLY MANDATED OPERATING PERMITS); AND
RULE 3010 (PERMIT FEE)**

RECOMMENDATION:

Adopt proposed amendments to Rule 2020 (Exemptions); Rule 2201 (New and Modified Stationary Source Review); Rule 2520 (Federally Mandated Operating Permits); and Rule 3010 (Permit Fee).

BACKGROUND:

The District is proposing amendments to Rules 2020, 2201, 2520, and 3010 to obtain final Federal approval of the District's Title V permitting program.

On May 24, 1996, after several rounds of negotiations with the District, EPA granted interim approval of the District's Title V permitting program. This interim approval allowed the District to retain unique program provisions, such as the use of general permit templates and enhanced NSR review, which were designed to make the Title V permitting process less burdensome for both affected industry and the District.

Since 1996, EPA has provided two extensions to the interim program approvals, so addressing the program deficiencies identified in 1996 has not been a high priority. However, recent court actions brought by

environmental groups against EPA have resulted in a settlement agreement that prohibits EPA from granting any further extensions of interim program approvals. Based on this agreement, EPA is now requiring that State and local permitting authorities correct the deficiencies identified in interim approval notices by June 5, 2001. Under the agreement, failure to obtain final program approval would result in Federal sanctions and an EPA takeover of local Title V permitting programs on December 1, 2001. District staff worked diligently to meet the June 5 deadline, but last-minute EPA comments added a one month delay to the rule development process.

DISCUSSION:

A. Rule 2020 (Exemptions):

Rule 2020 (Exemptions), specifies the less significant emission units which are exempt from permits and those sources which are precluded from the District's permitting authority.

The major amendment to Rule 2020, as proposed, is the following change:

- Removal of the reference to agricultural operations in Section 4.1 of the exemption rule. Although this would remove the local exemption, the District would still be prohibited from permitting such operations by California Health and Safety Code, Section 42310 (e). EPA has indicated that, in order to make California Title V programs approvable, the State Legislature must also eliminate this prohibition as it applies to major sources.

B. Rule 2201 (New and Modified Stationary Source Review Rule):

The District's NSR program is designed to meet the state and Federal NSR requirements for non-attainment areas. The District NSR Rule (Rule 2201) applies to new and modified stationary sources which emit NO_x, CO, VOC, SO_x, PM₁₀ and other pollutants subject to District permit requirements pursuant to District Rule 2010 (Permits Required).

The major amendments to Rule 2201, as proposed, would include the following:

- Modification of Section 2.0 to state that the currently proposed amendments do not become effective until the EPA promulgates final authority of the 1998 rule amendments in the Federal Register.
- Minor wording changes to Section 3.24, 5.9, and 5.9.1.9.4 to obtain final approval of the District's Title V program.

C. Rule 2520 (Federally Mandated Operating Permits):

District Rule 2520 (Federally Mandated Operating Permits) provides administrative mechanisms for issuing Title V operating permits for new and modified sources of air pollution in accordance with the requirements of 40 CFR part 70. The rule includes unique provisions, such as the use of general permit templates and enhanced NSR review, which were designed to make the Title V permitting process more streamlined and less burdensome for affected industry and the District. Permits issued in accordance Rule 2520 include both Federal and local requirements.

The major amendments for Rule 2520 required by EPA include the following:

- Revisions to Applicability and Definition Sections 2.2, 3.18, and 3.19 to specify that, in addition to applying to sources that have the potential to emit at major source levels, Title V permitting requirements also apply to facilities that actually “emit” at major source levels;
- Revisions to Section 3.20 so that major Prevention of Significant Deterioration (PSD) modifications are treated as significant modifications under Title V;
- Revisions to limit the exemptions in Section 4.1, so that if a Federal Clean Air Act Section 111 New Source Performance Standards (NSPS) or Section 112 Maximum Achievable Control Technology (MACT) standard requires a source to obtain a Title V permit, Rule 2520 does not exempt the source from that requirement
- A revision to Section 7.1.3.1 so that fugitive emission estimates must also be included with applications;
- Additional provisions in Section 8.1 stating that General Permit Templates be renewed every 5 years and that solid waste incineration permits must undergo review every 5 years;
- Revisions to Sections 11.1.4.2 and 11.3.1.1 to require that, in addition to newspaper publication, public notice be required by any other means necessary;
- Changes to Section 11.3.1.3 to require the District to notify EPA and any affected States if recommendations by affected states were not accepted;
- Revisions to Sections 11.6.1 so that applications are deemed complete within 60 days by default, unless the District notifies the application of incompleteness;

- Revisions to Section 11.7.5 of the rule to make it consistent with 40 CFR part 70 provisions for EPA objection to permits;
- Provisions in Section 13.2.3 restricting the applicability of permit shields to requirements addressed in the permit or evaluation in accordance with 40 CFR part 70.
- Provisions in Section 13.2.4 stating that if a source is determined to be operating under a general permit that the source does not qualify for, the facility will be deemed in violation of the requirement to obtain a Title V permit.

D. Rule 3010 (Permit Fee):

District Rule 3010 (Permit Fee) includes fees established to recover a portion of the costs of associated with District programs including permitting. These fees include application filing fees, permit fees, evaluations fees, and renewal fees.

The amendments to Rule 3010 consist of:

- Add a provision as Section 3.4 to allow the District to recover the cost of performing an analysis for those sources that would like the District to prepare Title V applicability determinations on their behalf .

Cost Effectiveness and Socioeconomic Analysis

Pursuant to state law, the District is required to analyze the cost effectiveness of new rules that implement Best Available Retrofit Control Technology (BARCT). The proposed amendments do not add BARCT requirements, and are therefore not subject to the cost effectiveness analysis mandate. Additionally, state law requires the District to analyze the socioeconomic impacts of any proposed rule amendments that significantly affects air quality or strengthens an emission limitation. The proposed amendments will have neither effect, and are therefore not subject to the socioeconomic analysis mandate.

Environmental Impacts

Pursuant to the California Environmental Quality Act, staff investigated the possible environmental impacts of the proposed amendments. Based on lack of evidence to the contrary, District staff have concluded that the proposed amendments will not have any significant adverse effect on the environment. Staff recommend filing a Notice of Exemption under the provisions of Public Resource Code 15061(b)(3).

Rule Development Process

District staff conducted a round of public workshops to present the proposed amendments and to receive comments from interested parties and affected industries. Notices for the public workshops were published in a general circulation newspaper in each of the eight San Joaquin Valley counties, and mailed to affected sources and interested parties. The workshop notices solicited written comments to be submitted by mail, and identified the names and telephone numbers of the District staff who could answer questions and respond to comments. Information obtained throughout this workshop process has been used to make appropriate changes to the draft rule.

FISCAL IMPACT:

Staff expects no fiscal impact to result from the proposed rule.

Attachments:

Resolution for Proposed Amendments to Rule 2020, 2201, 2520, and 3010 (4 pages)

Proposed Amendments to Rule 2020 (14 pages)

Proposed Amendments to Rule 2201 (36 pages)

Proposed Amendments to Rule 2520 (42 pages)

Proposed Amendments to Rule 3010 (4 pages)

Final Draft Staff Report (7 pages)

BEFORE THE GOVERNING BOARD OF THE
SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT

IN THE MATTER OF: PROPOSED
AMENDMENTS TO RULE 2020
Exemptions); RULE 2201 (New and
Modified Stationary Source Review Rule);
RULE 2520 (Federally Mandated
Operating Permits); and RULE 3010
(Permit Fee)

RESOLUTION NO. 01-06-12

WHEREAS, the San Joaquin Valley Unified Air Pollution Control District (District) is a duly constituted unified air pollution control district, as provided in California Health and Safety Code Sections 41050 to 40161; and

WHEREAS, said district is authorized by California Health and Safety Code Section 40702 to make and enforce all necessary and proper orders, rules, and regulations to accomplish the purpose of Division 26 of the Health and Safety Code; and

WHEREAS, Title V of the 1990 amendments to the federal Clean Air Act and corresponding 40 Code of Federal Regulations, section 70, require the District to adopt a federally approved operating permits program;

WHEREAS, the Title V program is duplicative of existing District permitting programs and provides no air quality benefits or adverse environmental impacts to the District;

WHEREAS, in recognition of the duplication to existing permitting programs, on May 24, 1996, after several rounds of negotiations with the District, EPA granted interim approval of the District's existing permitting program to serve as equivalent and in place of the Title V program;

WHEREAS, this interim approval allowed the District to retain unique program provisions, such as the use of general permit templates and enhanced NSR review, which were designed to make the Title V permitting process less burdensome for both affected industry and the District;

WHEREAS, recent court actions brought by environmental groups against EPA have

1 resulted in a settlement agreement that prohibits EPA from granting any further
2 extensions of interim program approvals. Based on this agreement, EPA is now
3 requiring that State and local permitting authorities correct the deficiencies identified in
4 interim approval notices;

5 **WHEREAS**, under the agreement, failure to obtain final program approval would result
6 in Federal sanctions and an EPA takeover of local Title V permitting programs on
7 December 1, 2001; and

8 **WHEREAS**, a public hearing for the amendments to Rule 2020 (Exemptions);
9 Rule 2201 (New and Modified Stationary Source Review Rule); Rule 2520 (Federally
10 Mandated Operating Permits); and Rule 3010 (Permit Fee) was duly noticed for June
11 21, 2001, in accordance with California Health and Safety Code Section 40725.

12 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

13 The Governing Board hereby amends Rule 2020 (Exemptions); Rule 2201 (New and
14 Modified Stationary Source Review Rule); Rule 2520 (Federally Mandated Operating
15 Permits); and Rule 3010 (Permit Fee), as set forth in the attached hereto and
16 incorporated herein by this reference. Said rule amendments shall become effective on
17 June 21, 2001, except for the amendments to Rule 2201 which will become effective
18 when the USEPA promulgates, in the Federal Register, their final approval of that rule,
19 as amended on August 20, 1998.

20 1. The Governing Board hereby finds, based on the evidence and information
21 presented at the hearing upon which its decision is based, all notices required to be
22 given by law have been duly given in accordance with Health and Safety Code
23 Section 40725, and the Board has allowed public testimony in accordance with Health
24 and Safety Code Section 40726.

25 2. In connection with the amendment of said rules, the Board makes the following
26 findings as required by California Health and Safety Code Section 40727:

27 a. **NECESSITY.** The Governing Board finds, based on the staff report,
28 public and industry testimony, on the record for this rulemaking proceeding that a

1 need exists for the amendment of said rules. Amendment of said rules, is necessary
2 to meet the commitments of the State Implementation Plan and requirements of the
3 Clean Air Act and the California Clean Air Act.

4 b. **AUTHORITY.** The Governing Board finds that it has the legal authority to
5 amend said rules under the California Health & Safety Code Sections 40000 and
6 40001.

7 c. **CLARITY.** The Governing Board finds that said rules are written or
8 displayed so that their meaning can be easily understood by those persons or
9 industries directly affected by them.

10 d. **CONSISTENCY.** The Governing Board finds that said rules are in
11 harmony with, and not in conflict with or contradictory to, existing statutes, court
12 decisions, or state or federal regulations.

13 e. **NONDUPLICATION.** The Governing Board finds that said rules do not
14 impose the same requirements as any existing state or federal regulation.

15 f. **REFERENCE.** The Governing Board finds that amendment of said rules
16 are necessary to implement section 172(c)(1) of the Clean Air Act and section 40920
17 of the California Clean Air Act.

18 3. In connection with the amendment of said rules and based on the evidence
19 and information presented at the hearing upon which its decision is based, the
20 Governing Board makes the following findings as required by California Health and
21 Safety Code Section 40920.6:

22 a. Implementation of said rule amendments will satisfy District obligations for
23 implementation of a Federal Permitting Program for Major Sources;

24 b. Complying with said rule amendments are not expected to constitute an
25 undue burden on affected industries;

26 The Governing Board finds that, based on the available data and pursuant to Sections
27 40728.5 of the Health and Safety Code, that the amendments do not result in any new
28 significant air quality effect or emissions limitations.

1 4. The Governing Board finds that, because amending said rule will have no
2 possible significant adverse effect on the environment, the proposed action is exempt
3 from the provisions of the California Environmental Quality Act of 1970 (CEQA) under
4 the provisions of Section 15061 of the State CEQA guidelines.

5 5. The APCO is directed to file an appropriate Notice of Exemption with the County
6 Clerks of each of the counties in the San Joaquin Valley Unified Air Pollution Control
7 District.

8 6. The APCO is directed to file with all appropriate agencies certified copies of
9 this resolution and the rule amended herein and is directed to maintain a record of
10 this rulemaking proceeding in accordance with Health Code section 40728.

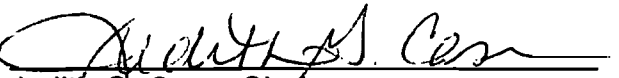
11 **THE FOREGOING** was passed and adopted by the following vote of the
12 Governing Board of the San Joaquin Valley Unified Air Pollution Control District this
13 21st day of June, 2001, to wit:

14 **AYES:** O'Banion, Maze, Maggard, Silva, Barba, Applegate,
15 Patrick, Blom, Armentrout and Case.

16
17 **NOES:** None.

18
19 **ABSENT:** Sieglock.

20
21 SAN JOAQUIN VALLEY UNIFIED
22 AIR POLLUTION CONTROL DISTRICT

23 By 
24 Judith G. Case, Chair
25 Governing Board

26 **ATTEST:**
27 Clerk to the Governing Board

28 By 
Sissy Smith

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RULE 2020 EXEMPTIONS (Adopted September 19, 1991; Amended July 16, 1992; Amended December 17, 1992; Amended October 21, 1993; Amended July 21, 1994; Amended September 17, 1998; Amended June 21, 2001)

1.0 Purpose

This rule specifies emissions units that are not required to obtain an Authority to Construct or Permit to Operate. This rule also specifies the recordkeeping requirements to verify the exemption and outlines the compliance schedule for emissions units that lose the exemption after installation.

2.0 Applicability

This rule shall apply to any source that emits or may emit air contaminants.

3.0 Definitions

3.1 Clean Produced Water: as defined in Rule 1020.

3.2 Emissions Unit: as defined in Rule 2201.

3.3 HAP: a hazardous air pollutant listed in Section 112(b) of the federal Clean Air Act or the lists prepared by the California Air Resources Board pursuant to Section 44321 of the California Health and Safety Code that have OEHHA approved health risk values.

3.4 HAP Source: an emissions unit that is subject to an emissions limitation, a performance standard, work practice standard, or other requirements under an applicable provision of any of the following regulations:

3.4.1 National Emission Standards for Hazardous Air Pollutants (NESHAPS), Maximum Achievable Control Technology (MACT) standard, or other requirements promulgated pursuant to section 112 of the federal Clean Air Act (42 U.S. Code, 7401, et. seq.).

3.4.2 Airborne Toxic Control Measures (ATCM) adopted by the California Air Resource Board in accordance with requirements of section 39658 of the California Health and Safety Code.

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- 3.4.3 A rule contained in Regulation VII (Toxic Air Pollutants) of the District Rules and Regulations.
- 3.5 Low Emitting Unit: An emission unit with uncontrolled emissions rate of any single air contaminant, other than HAP,
 - 3.5.1 less than or equal to two pounds per day or,
 - 3.5.2 if greater than two pounds per day, is less than or equal to 75 pounds per year.
- 3.6 NSPS Source: an emissions unit that is subject to an emissions limitation, performance standard, work practice standard, or other requirements under an applicable provision of 40 CFR, Part 60, New Source Performance Standards (NSPS).
- 3.7 Portable Emissions Unit: as defined in Rule 2280.
- 3.8 Reconstructed Stationary Source: a Reconstructed Stationary Source as defined in Rule 2201, or a Reconstruction as defined in 40 CFR Part 60 Subpart A.
- 3.9 Roadmix: a mixture of tank bottoms from crude oil storage tanks, material from crude oil spills, or other crude-oil-containing soil mixed with aggregates and soils, that is used as a base or cover material for roads, parking lots, berms, tank and well locations, or similar applications.
- 3.10 Routine Replacement: as defined in Rule 2201.
- 3.11 Stationary Source: as defined in Rule 2201.
- 3.12 Unloading Rack: any aggregate or combination of equipment or control equipment that unloads organic liquid from a storage tank into tank trucks, trailers, or railroad tank cars. The unloading rack is the portion of the connection system from the connection at the inlet of the organic liquid pump to and including the hose and connector at the delivery tank.

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4.0 Precluded Source Categories

No Authority to Construct or Permit to Operate shall be required for the following source categories that are specifically precluded from District permitting requirements by state or federal law:

- ~~4.1 Any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals, except that located in the area that is, in whole or in part, south of the Sixth Standard Parallel South, Mount Diablo Base and Meridian, may be required to obtain permits for the operation of orchard and citrus grove heaters. In no event shall an owner be denied a permit for such heaters if the heaters produce unconsumed solid carbonaceous matter at the rate of one gram per minute or less (Health and Safety Code, Section 42310(e)).~~
- 4.1 Any structure designed for and used exclusively as a dwelling for not more than four families and any incinerator used exclusively in connection with such structure (Health and Safety Code Section 42310(b) and (c)).
- 4.2 Barbecue equipment that is not used for commercial purposes, (Health and Safety Code Section 42310(d)).
- 4.3 Motor vehicles as defined by the Vehicle Code of the State of California (Health and Safety Code, Section 42310(a)), but not including any emissions unit mounted on such vehicle, that would otherwise require a permit under the provisions of the District Rules and Regulations.
- 4.4 Locomotives, airplanes, and watercraft used to transport passengers or freight. This exemption is not intended to apply to equipment used for the dredging of waterways or to equipment used in pile driving adjacent to or in waterways.

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5.0 District Permit Exemptions

An Authority to Construct or Permit to Operate shall not be required for an emissions unit covered under District Exempt Source Categories listed in Sections 6.0 or 7.0, unless one or more of the following is true:

- 5.1 the source is a NSPS source;
- 5.2 the source is a HAP source;
- 5.3 the APCO makes a determination that a permit shall be required because the source may not operate in compliance with all District rules and regulations; or
- 5.4 the owner specifically requests a Permit to Operate.

6.0 District Exempt Source Categories

Except as required by Section 5.0, no Authority to Construct or Permit to Operate shall be required for an emission unit specified below. All other equipment within that source category shall require an ATC or PTO.

6.1 Combustion and Heat Transfer Systems

- 6.1.1 Steam generators, steam superheaters, water boilers, water heaters, steam cleaners, and closed indirect heat transfer systems that have a maximum input heat rating of 5,000,000 BTU per hour (gross) or less and is equipped to be fired exclusively with natural gas, liquefied petroleum gas, or any combination thereof provided the fuel contains no more than five percent by weight hydrocarbons heavier than butane (as determined by test method ASTM E-260-73) and no more than 0.75 grains of total sulfur per 100 standard cubic feet of gas (as determined by test method ASTM D-1072-80).
- 6.1.2 Piston type internal combustion engines with a manufacturer's maximum continuous rating of 50 braking horsepower (bhp) or less.
- 6.1.3 Gas turbine engines with a maximum heat input rating of 3,000,000 Btu per hour or less at ISO Standard Day Conditions.

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- 6.1.4 Equipment used exclusively for space heating, other than boilers.
- 6.1.5 Multiple chambered or equivalent incinerators used to destroy animals from a wildlife habitat for the sole purpose of disease control, as authorized by a public official.
- 6.2 Cooling Towers: Water cooling towers that have a circulation rate of less than 10,000 gallons per minute and that are not used for cooling of process water, water from barometric jets, or water from barometric condensers.
- 6.3 Graphic Arts Equipment: Printing, coating, or laminating facility with a total graphic arts material usage of
 - 6.3.1 less than or equal to two gallons per any day or,
 - 6.3.2 if greater than two gallons per day, is less than or equal to 30 gallons per year.Graphic arts materials are any ink, coating, adhesive, fountain solution, thinner, retarder, or cleaning solution.
- 6.4 Food Processing Equipment
 - 6.4.1 Equipment, excluding boilers, used in eating establishments or other retail establishments for the purpose of preparing food for human consumption.
 - 6.4.2 Mixers and blenders used in bakeries where the products are edible and intended for human consumption.
 - 6.4.3 Ovens at bakeries provided that the total production from the bakery is less than 1,000 pounds of product per operating day and the oven is fired solely on natural gas and the oven has a rating less than 5 MMBtu per hour.
 - 6.4.4 Smokehouses for preparing food in which the maximum horizontal inside cross-sectional area does not exceed 20 square feet.
- 6.5 Plastic/Rubber Processing: Emissions units used exclusively for the extruding or the compression molding of rubber products or plastics, where no plasticizer or blowing agent is present.

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6.6 Storage Equipment

6.6.1 Containers, reservoirs, or tanks used exclusively for:

- 6.6.1 The storage or processing of clean produced water as represented in Figure 1 as being below the oil/water line.
- 6.6.2 The storage of crude oil with 0.8762 specific gravity or higher (30°API or lower) as measured by test method API 2547 or ASTM D-1298-80 and having a capacity of 100 bbl or less.
- 6.6.3 The storage of crude oil with specific gravity lower than 0.8762 (greater than 30°API) as measured by test method API 2547 or ASTM D-1298-80, and existing before June 1, 1989 and having a capacity of 100 bbl or less. This exemption shall not apply to a new tank installed after June 1, 1989.
- 6.6.4 The storage of organic material with a capacity of 250 gallons or less where the actual storage temperature does not exceed 150°F.
- 6.6.5 The unheated storage of organic material with an initial boiling point of 302°F or greater as measured by test method ASTM D-86.
- 6.6.6 The storage of fuel oils or non-air-blown asphalt with 0.9042 specific gravity or higher (25°API or lower) as measured by test method API 2547 or ASTM D-1298-80.
- 6.6.7 The storage of petroleum distillates used as motor fuel with 0.8251 specific gravity of higher (40°API or lower) as measured by test method API 2547 or ASTM D-1298-80 and having a capacity of 19,800 gallons (471 bbl) or less;
- 6.6.8 The storage of refined lubricating oils.
- 6.6.9 The storage of liquefied gases in unvented (except for emergency pressure relief valves) pressure vessels.
- 6.6.10 The storage of produced fluids in portable tanks, to be used for less than six months at any one (1) location.

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6.6.11 Mobile transport, delivery, or cargo tanks on vehicles for delivery of VOCs.

6.7 Transfer Equipment

6.7.1 Loading Racks (as defined in Rule 1020 (Definitions)) and unloading racks that are:

6.7.1.1 Used exclusively for the transfer of less than 4,000 gallons per day of:

6.7.1.1.1 unheated organic materials with an initial boiling point of 302°F or greater as measured by test method ASTM D-86, or

6.7.1.1.2 fuel oil with 0.8251 specific gravity or higher (40°API or lower) as measured by test method API 2547 or ASTM D-1298-80.

6.7.1.2 Used exclusively for the transfer of:

6.7.1.2.1 crude oil, asphalt, or residual oil stored in tanks not required to be permitted in accordance with this rule; or

6.7.1.2.2 crude oil with 0.8762 specific gravity or higher (30°API or lower) as measured by test method API 2547 or ASTM D-1298-80.

6.7.1.3 Attached to an organic material delivery vehicle and used exclusively for the transfer of crude oil, asphalt, or residual oil.

6.7.2 Equipment used exclusively for the transfer of refined lubricating oil.

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6.8 Surface Coating Operations

6.8.1 Application equipment for architectural surface coatings used for commercial or residential applications. Architectural surface coating is defined as any coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs. This exemption does not apply to coating application equipment used in the manufacturing of architectural components and appurtenances that are coated before their installation as part of a structure.

6.8.2 Surface coating operations, except for powder coating operations, which use less than one quart of coating per day or less than eight gallons of coating per year.

6.8.3 Powder coating operations that use less than five pounds of coating material per day or less than fifty pounds of coating material per year.

6.9 Solvent Cleaning Operations

Unheated, nonconveyorized cleaning equipment (not including the control enclosures):

6.9.1 with an open surface area of 10.0 square feet or less, and internal volume of 92.5 gallons or less;

6.9.2 using only organic solvents with an initial boiling point of 248°F or greater as determined by ASTM 1078-78; and

6.9.3 from which less than 25 gallons of solvent per year are lost to the atmosphere from all such equipment at the stationary source. Solvent lost shall not include solvent that is recycled or disposed of properly. Any person claiming exemption pursuant to this section shall maintain adequate monthly records to substantiate their exempt status.

6.10 Brazing, soldering, or welding equipment.

6.11 Equipment used exclusively to compress or hold dry natural gas. Any internal combustion engine or other emissions unit associated with the operation that would otherwise require a written permit is not exempt.

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- 6.12 Fugitive emissions sources such as valves and flanges associated with an emissions unit that is exempt from a written permit.
- 6.13 Unvented (except for emergency pressure relief valves) pressure vessels associated with an emissions unit that is exempt from a written permit.
- 6.14 Fugitive emissions sources and pressure vessels that are associated with an emissions unit for which a written permit is required shall be included as part of such emissions unit. A separate permit for the fugitive source or pressure vessel is not required.
- 6.15 Pits and ponds as defined in Rule 1020 (Definitions).
- 6.16 Portable Emissions Units: a portable emissions unit for which a written permit is otherwise required, shall be exempt from the permitting requirements provided that all of the following conditions are met:
 - 6.16.1 The emissions unit has a valid registration obtained in accordance with the provisions of Rule 2280 (Portable Equipment Registration), the Statewide Portable Equipment Registration Program (California Code of Regulation Title 13, Article 5, Sections 2450-2465), or other equipment registration program approved by the APCO; and
 - 6.16.2 The portable emissions unit is not subject to the District's Title V permitting requirements (Rule 2520).
- 6.17 Roadmix manufacturing and application operations
 - 6.17.1 Roadmix manufacturing operations, provided that
 - 6.17.1.1 The roadmix is used exclusively on properties owned or operated by the company which operates the roadmix manufacturing operation and generated the roadmix feedstock, excluding aggregates, and

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- 6.17.1.2 The roadmix feedstock does not contain refined hydrocarbons.
- 6.17.1.3 Notwithstanding the provisions of Section 6.17.1.1, an exempt roadmix manufacturing operator may donate roadmix material to non-profit organizations.
- 6.17.2 Roadmix application operations.
- 6.18 Laboratory testing equipment and quality control testing equipment used exclusively for chemical and physical analysis, provided
 - 6.18.1 emissions from such equipment do not exceed 2.0 pounds per day or 75 pounds per year, and
 - 6.18.2 the equipment is not a HAP source.
- 6.19 Low Emitting Units, except those that belong to the following source categories and have not been specifically exempted in Sections 6.1 through 6.18, shall not require an Authority to Construct or Permit to Operate.
 - 6.19.1 boilers, steam generator, or process heater
 - 6.19.2 IC engines
 - 6.19.3 gas turbines
 - 6.19.2 cooling towers
 - 6.19.3 printing and reproduction equipment
 - 6.19.4 mixers and blenders at food processing facilities
 - 6.19.5 smokehouses
 - 6.19.6 storage containers for organic liquids
 - 6.19.7 loading racks and unloading racks for organic liquids
 - 6.19.8 surface coating operations
 - 6.19.9 solvent cleaning equipment
 - 6.19.10 roadmix manufacturing and application
 - 6.19.11 laboratory testing equipment and quality control testing equipment.

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6.0 District Exempt Activities

No Authority to Construct or Permit to Operate shall be required for the following activities:

- 7.1 Routine replacement of a whole or partial emissions unit where the replacement part is the same as the original emissions unit in all respects except for the serial number and the action does not create a reconstructed Stationary Source.
- 7.2 The venting of California Public Utility Commission quality natural gas from pipelines and compressors for the sole purpose of pipeline and compressor repair and or maintenance, providing that such emissions consist solely of residual natural gas that is vented after the equipment is isolated or shut down and that the residual amounts have been reduced as much as practical prior to venting.
- 7.3 Repairs or maintenance not involving structural changes to any emissions unit for which a permit has been granted (Health and Safety Code, Section 42310(f)).
- 7.4 The detonation of explosives for research and development activity, provided the quantity of explosives detonated does not exceed 100 pounds per day and 1,000 pounds per year at a single stationary source.
- 7.5 Pilot tests for soil remediation projects, provided that all of the following conditions are met.
 - 7.5.1 The sole purpose of the pilot test is to determine the VOC concentration in the soil in order to design or size the appropriate control equipment for the soil remediation project;
 - 7.5.2 The pilot test will not last more than five days; and
 - 7.5.3 The effluent gas stream from the pilot test is controlled by either carbon canisters, a thermal or catalytic incinerator, or an IC engine.

8.0 Administrative Requirements

Recordkeeping shall be required to verify or maintain any exemption for which the exemption is based on a throughput or emissions limitation. Such records shall be retained for at least two years and provided to the APCO upon request.

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9.0 Compliance Schedule

The owner or operator of an emissions unit that was exempt from written permits at the time of installation, which becomes subject to the provisions of Rule 2010 (Permits Required), through loss of exemption, shall submit an application for a Permit to Operate within six months from the date of adoption of this rule and shall not be subject to Rule 2201 (New and Modified Stationary Source Review Rule), until such time that the emissions unit is modified.

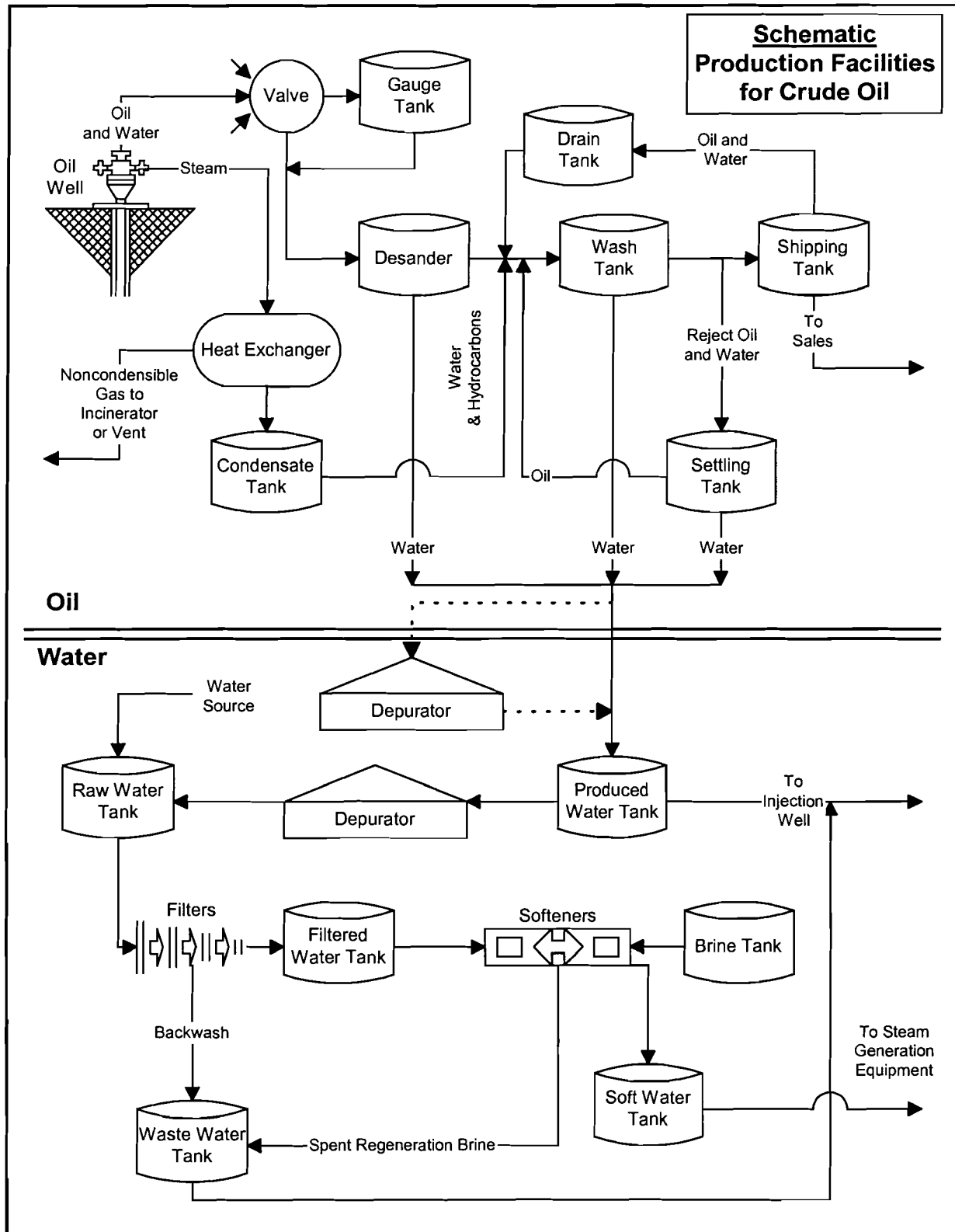


Figure1 Oil/water line

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RULE 2201 NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE (adopt September 19, 1991,; Amended March 11, 1992; Amended October 29, 1992; Amended December 17, 1992; Amended October 21, 1993; Amended June 15, 1995)

1.0 Purpose

The purpose of this rule is to provide for the following:

- 1.1 The review of new and modified Stationary Sources of air pollution and to provide mechanisms including emission trade-offs by which Authorities to Construct such sources may be granted, without interfering with the attainment or maintenance of Ambient Air Quality Standards; and
- 1.2 No net increase in emissions above specified thresholds from new and modified Stationary Sources of all nonattainment pollutants and their precursors.

2.0 Applicability

This rule, as amended on ~~August 20, 1998~~ June 21, 2001, shall become effective on the date the United States Environmental Protection Agency (USEPA) promulgates final approval of this rule, as amended on August 20, 1998, in the Federal Register.

This rule shall apply to all new stationary sources and all modifications to existing stationary sources which are subject to the District permit requirements and after construction emit or may emit one or more affected pollutant. The requirements of this rule in effect on the date the application is determined to be complete by the APCO shall apply to such application except as provided in Section 2.1.

2.1 The requirements of this rule in effect on the date that the rule was most recently amended shall apply to all applications that have not been deemed complete before that date.

3.0 Definitions

3.1 Actual Emissions: emissions having occurred from a source, based on source test or monitoring data, actual fuel consumption, and process data. If source test or monitoring data is not available, other appropriate, APCO-approved, emission factors may be used.

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- 3.2 Actual Emissions Reduction (AER): the decrease of actual emissions, compared to the Baseline Period, from an emissions unit and selected for use as emission offsets or ERC banking. AER shall meet the following criteria:
- 3.2.1 Shall be real, enforceable, quantifiable, surplus, and permanent.
 - 3.2.2 To be considered surplus, AER shall be in excess, at the time the application for an Emission Reduction Credit or an Authority to Construct authorizing such reductions is deemed complete, of any emissions reduction which:
 - 3.2.2.1 Is required or encumbered by any laws, rules, regulations, agreements, orders, or
 - 3.2.2.2 Is attributed to a control measure noticed for workshop, or proposed or contained in a State Implementation plan, or
 - 3.2.2.3 Is proposed in the APCO's adopted air quality plan pursuant to the California Clean Air Act.
 - 3.2.3 Emissions reductions attributed to a proposed control measure, which are excluded pursuant to Section 3.2.2.2 and 3.2.2.3 may be reeligible as AER if the control measures identified in the District Air Quality Plan or State Implementation Plan (SIP), are determined not to be necessary for attainment or maintenance of Ambient Air Quality Standards and the APCO and USEPA have approved amendments to the plan or SIP to reflect this determination.
- 3.3 Administrative Change : a change to an existing permit that:
- 3.3.1 Corrects typographical errors; or
 - 3.3.2 Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source; or
 - 3.3.3 Changes the components of emissions monitoring equipment or other components, which have no effect on the quantity of emissions from an emissions unit, or
 - 3.3.4 Allows for the change of ownership or operational control of a source where the APCO determines that no other change is necessary.

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- 3.4 Affected Pollutants: those pollutants for which an Ambient Air Quality Standard has been established by the Environmental Protection Agency or by the ARB, and the precursors to such pollutants, and those pollutants regulated by the Environmental Protection Agency under the Federal Clean Air Act or by the ARB under the Health and Safety Code including, but not limited to, VOC, NO_x, SO_x, PM10, CO, and those pollutants which the Environmental Protection Agency, after due process, or the ARB or the APCO, after public hearing, determine may have a significant adverse effect on the environment, the public health, or the public welfare.
- 3.5 Air Quality Improvement Deduction: a 10 percent discount factor applied to Actual Emission Reductions (AER) before the AER is eligible for banking.
- 3.6 Ambient Air Quality Standards: include State and National Ambient Air Quality Standards. (In the inclusion of this rule in the State Implementation Plan, all references in this rule to Ambient Air Quality Standards shall be interpreted as National Ambient Air Quality Standards.)
- 3.7 Baseline Emissions (BE): for a given pollutant, shall be equal to the sum of:
- 3.7.1 The pre-project Potential to Emit for:
- 3.7.1.1 Any unit located at a non-Major Source,
- 3.7.1.2 Any Highly-Utilized Emissions Unit, located at a Major Source, provided that if the unit has a Specific Limiting Condition (SLC), all units combined under the SLC have an average combined annual Actual Emissions during the two consecutive years immediately prior to filing of an application for an Authority to Construct were equal to or greater than 80% of the unit's pre-project SLC limit,
- 3.7.1.3 Any Fully-Offset Emissions Unit, located at a Major Source, provided that if the unit has a SLC, all units under the SLC also qualify as Fully Offset Emissions Units, or
- 3.7.1.4 Any Clean Emissions Unit, located at a Major Source, provided that if the unit has a SLC, all units under the SLC also qualify as Clean Emissions Units.

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- 3.7.2 The Historic Actual Emissions (HAE) for emissions units not specified in Section 3.7.1.
- 3.8 Baseline Period: a period of time equal to either
 - 3.8.1 the two consecutive years of operation immediately prior to the submission date of the Complete Application; or
 - 3.8.2 at least two consecutive years within the five years immediately prior to the submission date of the Complete Application if determined by the APCO as more representative of normal source operation; or
 - 3.8.3 a shorter period of at least one year if the emissions unit has not been in operation for two years and this represents the full operational history of the emissions unit, including any replacement units; or
 - 3.8.4 zero years if an emissions unit has been in operation for less than one year (only for use when calculating AER).
- 3.9 Best Available Control Technology (BACT): is the most stringent emission limitation or control technique of the following:
 - 3.9.1 Achieved in practice for such category and class of source;
 - 3.9.2 Contained in any State Implementation Plan approved by the Environmental Protection Agency for such category and class of source. A specific limitation or control technique shall not apply if the owner of the proposed emissions unit demonstrates to the satisfaction of the APCO that such a limitation or control technique is not presently achievable; or
 - 3.9.3 Contained in an applicable federal New Source Performance Standard; or
 - 3.9.4 Any other emission limitation or control technique, including process and equipment changes of basic or control equipment, found by the APCO to be cost effective and technologically feasible for such class or category of sources or for a specific source.
- 3.10 Biomass-fired power cogeneration facility: A facility capable of generating both electrical and thermal power and fueled exclusively on biomass fuels. consisting of at least 90% of one or more of the following constituents: alfalfa, barley, beanstraw, corn, oats, wheat, orchard and vineyard pruning, and forest residues. Grape stems,

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grape pumice, almond and walnut shells, construction wood waste, urban wood waste, and lawn trimmings are not considered biomass fuels.

- 3.11 Cargo Carriers: trains dedicated to a specific Stationary Source and vessel dockside activities as defined in 45 Federal Register 52696 (August 7, 1980) for vessels dedicated to a specific Stationary Source. Motor vehicles, as defined by the Vehicle Code of the State of California, are not considered Cargo Carriers.
- 3.12 Clean Emissions Unit: an emissions unit that meets one of the following criteria:
 - 3.12.1 The unit is equipped with an emissions control technology with a minimum control efficiency of at least 95% (or at least 85% for lean-burn, internal combustion engines); or
 - 3.12.2 The unit is equipped with emission control technology that meets the requirements for achieved-in-practice BACT as accepted by the APCO during the five years immediately prior to the submission of the complete application.
- 3.13 Complete Application: an application for an Emission Reduction Credit or an Authority to Construct for a new or modified emissions unit which has been evaluated and found to include all information necessary to determine compliance with applicable rules and requirements.
- 3.14 Contemporaneous Period: a period of five consecutive years immediately prior to the date of initiating construction on a new or modified emissions unit.
- 3.15 Contemporaneous Increase in Permitted Emissions: an increase in permitted emissions authorized at a Stationary Source during a Contemporaneous Period.
- 3.16 Contiguous or Adjacent Property: a property consisting of two or more parcels of land with a common point or boundary, or separated solely by a public roadway or other public right-of-way.
- 3.17 Daily Emissions Limitation (DEL): one or more permit conditions which restrict a unit's maximum daily emissions, to a level at or below the emissions associated with the maximum design capacity. A daily emissions limitation must be:
 - 3.17.1 Contained in the latest Authority to Construct and contained in or enforceable by the latest Permit to Operate for the emissions unit; and
 - 3.17.2 Enforceable, in a practical manner, on a daily basis.

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- 3.18 Emissions Unit: an identifiable operation or piece of process equipment such as a source operation which emits, may emit, or results in the emissions of any affected pollutant directly or as fugitive emissions.
- 3.19 Fugitive Emissions: emissions that could not reasonably pass through a vent, chimney, stack, or other functionally equivalent opening. Emissions that are not vented through a stack but can reasonably be captured and vented through a stack are not considered Fugitive. Fugitive emissions shall be included in all calculations, except as provided in Section 3.25.
- 3.20 Fully Offset Emissions Unit: for a given pollutant, an emissions unit for which
- 3.20.1 Offsets have been provided for the unit's full potential to emit; or
 - 3.20.2 Offsets have been provided for the entire stationary source's potential to emit in excess of the offset trigger level; or
 - 3.20.3 Offsets have previously been provided for the stationary source's NSR balance as calculated pursuant to the NSR rule in effect at the time of the offset action, and the emissions unit was installed after the County baseline date as in indicated below:

Table 3-1 County Baseline Dates

COUNTY	BASELINE DATE
San Joaquin County	May 29, 1979
Stanislaus County	June 19, 1979
Merced, Madera, or Kings County	May 21, 1979
Fresno County (Oil Fields)	September 20, 1983
Fresno County all other sources	January 1, 1977
Tulare County	June 26, 1979
Kern County (Heavy Oil Production)	September 12, 1979 June 22, 1987 for heavy oil production operations with negative cumulative net emissions change as of June 22, 1987
Kern County (All other Stationary Sources)	December 28, 1976

- 3.21 Heavy Oil: crude oil having an American Petroleum Institute gravity of 20 degrees or less as determined by test method ASTM 287-82.

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- 3.22 Highly Utilized Emissions Unit: for a given pollutant, an emissions unit for which the average annual Actual Emissions during the two consecutive years immediately prior to filing of an application for an Authority to Construct were equal to or greater than 80% of the unit's pre-project Potential to Emit. The unit must have been in operation for at least two years and, during that entire period, the unit must have complied with all applicable emission limits and performance standards.
- 3.23 Historical Actual Emissions (HAE): Actual Emissions occurring during the Baseline Period, after discounting for:
- 3.23.1 Any emissions reductions required or encumbered by any laws, rules, regulations, agreements, orders, or permits; and
 - 3.23.2 Any emissions reductions attributed to a control measure noticed for workshop, or proposed or contained in a State Implementation Plan, and
 - 3.23.3 Any emissions reductions proposed in the District air quality plan for attaining the annual reductions required by the California Clean Air Act, and
 - 3.23.4 Any Actual Emissions in excess of those required or encumbered by any laws, rules, regulations, orders, or permits. For units covered by a Specific Limiting Condition (SLC), the total overall HAE for all units covered by SLC must be discounted for any emissions in excess of that allowed by the SLC.
- 3.24 Major Source: for each pollutant, a Stationary Source with post-project emissions or a post-project Stationary Source Potential to Emit (SSPE2), equal to or exceeding one or more of the following threshold values.
- 3.24.1 For determining major source status, fugitives shall only be included for calculating the air pollutant post-project emissions or SSPE2 if the source is included in the list of source categories identified in the major source definition in 40 CFR Part 70.2, or when determining if a stationary source is a major air toxics source as defined in Rule 2520.

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Table 3.2 Major Source Emission Thresholds

Pollutant	SSPE2 Threshold (lb per year)
VOC	100,000
NOx	100,000
CO	200,000
PM10	140,000
SOx	140,000

3.24.2 For the purpose of determining major source status, the SSPE2 shall not include the quantity of emission reduction credits (ERC) which have been banked since September 19, 1991 for Actual Emissions Reductions that have occurred at the source, and which have not been used on-site. This ERC quantity includes all ERC held as certificates and all emission reduction credits that have been sold or transferred.

3.25 Modification:

3.25.1 An action including at least one of the following items:

- 3.25.1.1 Any change in hours of operation, production rate, or method of operation of an existing emissions unit which would necessitate a change in permit conditions.
- 3.25.1.2 Any structural change or addition to an existing emissions unit which would necessitate a change in permit conditions. Routine replacement shall not be considered to be a structural change.
- 3.25.1.3 An increase in emissions from an emissions unit caused by a modification of the Stationary Source when the emissions unit is not subject to a daily emissions limitation.
- 3.25.1.4 Addition of any new emissions unit which is subject to District permitting requirements.
- 3.25.1.5 A change in a permit term or condition proposed by an applicant to obtain an exemption from an applicable requirement to which the source would otherwise be subject.

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- 3.25.2 A reconstructed Stationary Source shall be treated as a new Stationary Source and not as a modification.
- 3.25.3 Unless previously limited by a permit condition, the following shall not be considered a modification:
- 3.25.3.1 A change in ownership of an existing emissions unit with valid Permit to Operate provided that the APCO determines that all applicable offset provisions required by the Permit to Operate will be met;
 - 3.25.3.2 A change in ownership of an entire existing Stationary Source with a valid Permit to Operate;
 - 3.25.3.3 A change which consists solely of a transfer of location of an emissions unit within a Stationary Source; or
 - 3.25.3.4 Routine replacement of a whole or partial emissions unit where the replacement part is the same as the original emissions unit in all respects except for the serial number.
- 3.26 Potential to Emit: the maximum capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is incorporated into the applicable permit as an enforceable permit condition.
- 3.27 PM10: particulate matter with an aerodynamic diameter smaller than or equal to a nominal ten microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 6, Title 17, California Code of Regulations (commencing with Section 94100).
- 3.28 Precursor: a directly emitted air contaminant that, when released into the atmosphere, forms or causes to be formed or contributes to the formation of a secondary air contaminant for which an Ambient Air Quality Standard has been adopted, or whose presence in the atmosphere will contribute to the violation of one or more Ambient Air Quality Standards. The following precursor-secondary air contaminant relationships shall be used for the purposes of this rule:

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Table 3-3 Precursors

PRECURSOR	SECONDARY AIR CONTAMINANT
Volatile Organic Compounds	a. Photochemical oxidants (Ozone) b. The organic fraction of PM10
Nitrogen Oxides	a. Nitrogen Dioxide b. The nitrate fraction of PM10 c. Photochemical oxidants (Ozone)
Sulfur Oxides	a. Sulfur dioxide b. Sulfates c. The sulfate fraction of PM10

- 3.29 Quarter: for a non-Seasonal Source, this is defined as a calendar quarter. For a Seasonal Source, a quarter is defined as the entire operating season.
- 3.30 Reasonable Further Progress: as defined by the federal Clean Air Act, Section 182(c)(2)(b).
- 3.31 Reconstructed Source: any Stationary Source undergoing reconstruction where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable, entirely new Stationary Source. Fixed capital cost is the capital needed to provide depreciable components. Reconstructed Source cost shall include only the cost of all emission-producing equipment and associated integral activities at the stationary source. A reconstructed Stationary Source shall be considered a new Stationary Source and not as a modification of an existing Stationary Source.
- 3.32 Routine Replacement: routine replacement in whole or in part of any article, machine, equipment, or other contrivance with a valid District Permit To Operate provided that all of the following conditions are met:
- 3.32.1 There is no increase in permitted emissions from the Stationary Source.
 - 3.32.2 There is no increase in design capacity, unless an old part is no longer available in which case the replacement can result in a design capacity increase of up to 10%. No change to the permitted throughput or emissions is authorized due to a change in design capacity as part of routine replacement. Such changes shall require application for permit modification.
 - 3.32.2.1 Permitted throughputs are throughput limits upon which emission calculations are, or could be, based.

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- 3.32.2.2 If there are no throughput limiting conditions, permitted throughput shall be a throughput rate which affects emissions.
- 3.32.3 The replacement equipment performs the same function as the equipment being replaced.
- 3.32.4 The replacement does not constitute a Reconstructed Source (as defined by this rule) or Reconstruction (as defined by any applicable New Source Performance Standard). Reconstructed Source cost shall include only the cost of all emission-producing equipment and associated integral activities at the stationary source.
- 3.32.5 When the entire emissions unit is replaced as a routine replacement action, the emissions unit shall either have been addressed by a BARCT rule or shall be equipped with a control device capable of at least 85% emission control.
- 3.33 Seasonal Source: any Stationary Source with more than 90% of its annual emissions occurring within a consecutive 120 day period.
- 3.34 Specific Limiting Condition (SLC): permit terms or conditions, which can be enforced in a practical manner, contained in Authorities to Construct and Permits to Operate and established pursuant to New Source Review provisions that restrict the total overall permitted emissions from two or more emissions units.
- 3.35 Stationary Source: any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. Building, structure, facility or installation includes all pollutant emitting activities including emissions units which:
- 3.35.1 Are under the same or common ownership or operation, or which are owned or operated by entities which are under common control; and
- 3.35.2 Belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and
- 3.35.3 Are located on one or more contiguous or adjacent properties; or
- 3.35.4 Are located on one or more properties wholly within either the Western Kern County Oil Fields or the Central Kern County Oil Fields or Fresno

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County Oil Fields and are used for the production of light oil, heavy oil or gas. Notwithstanding the provisions of this definition, light oil production, heavy oil production, and gas production shall constitute separate Stationary Sources.

- 3.36 Stationary Source Project: A single permitting action involving the modification, addition or shutdown of two or more emissions units. If any increase in emissions from new or modified emissions is permitted based on emission reductions from one or more emissions units included in the stationary source project, the following condition must also be met:
- 3.36.1 The modification or shutdown resulting in the necessary emission reductions shall occur not later than the date of initial operation of the new or modified emissions unit. If the new or modified emissions unit is, in whole or in part, a replacement for an existing emissions unit at the same stationary source, the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing emissions unit and the replacement emissions unit.
- 3.37 Temporary Replacement Emissions Unit (TREU): an emissions unit which is at a Stationary Source for less than 180 days in any twelve month period and replaces an existing emissions unit which is shutdown for maintenance or repair.
- 3.37.1 The Potential to Emit from a TREU must not exceed the Potential to Emit from the existing emissions unit.
- 3.37.2 If a TREU is used to replace a TREU, the combined time at the Stationary Source for the two TREU shall not exceed a total of 180 days in any twelve month period.
- 3.37.3 An emissions unit not removed from the Stationary Source within 180 days is not a TREU.
- 3.38 Title I Modification: a Stationary Source modification that results in one of the following emission levels. For the purpose of determining if a project is a Title I modification, fugitive emissions shall not be included in the calculation of the SSPE2 unless the source is included in the list of source categories identified in the major source definition in 40 CFR Part 70.2.
- 3.38.1 for an existing non-Major Source, the post-project Stationary Source Potential to Emit (SSPE2) is increased to equal or exceed one or more of the following threshold values:

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Table 3-4: Title 1 Modification Thresholds

Pollutant	SSPE2 (pounds per year)
VOC	100,000
NOx	100,000
CO	200,000
PM10	140,000
SOx	140,000

- 3.38.2 for an existing Major Source, the Contemporaneous Increase in Permitted Emissions (CIPE), is equal to or greater than one or more of the following threshold values;

Table 3-5: Title 1 CIPE Thresholds

Pollutant	CIPE (pounds per year)
VOC	50,000
NOx	50,000
CO	100,000
PM10	30,000
SOx	30,000

- 3.38.3 Contemporaneous Increase in Permitted Emissions (CIPE) shall be calculated, on a pollutant-by-pollutant basis, as follows:

- 3.38.3.1 Sum of Potential to Emit in pounds per year for all new emissions units permitted during the period contemporaneous to the proposed Stationary Source project. (For new units covered by a Specific Limiting Condition (SLC), the overall Potential to Emit for all units covered by the SLC shall be used.);
- 3.38.3.2 Plus the sum of Stationary Source Project Increase in Permitted Emissions (SSIPE) for modifications allowed during the period contemporaneous to the proposed Stationary Source project. (For Stationary Source projects permitted before (date of adoption of this rule), the increase in permitted emissions as calculated pursuant to the New Source Review Rule in effect at the time of the modification shall be used.);
- 3.38.3.3 Plus any on-site Actual Emission Reductions (AER) banked during the Contemporaneous Period for the proposed Stationary Source Project;

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3.38.3.4 Minus any on-site AER, occurring during the Contemporaneous Period which have not been banked; transferred to another entity; used as offsets at another Stationary Source; or for which a banking certificate is voluntarily surrendered to the APCO.

3.38.4 Stationary Source Project Increase in Permitted Emissions (SSIPE) shall be calculated, on a pollutant-by-pollutant basis, as the sum of Net Emissions Change (NEC), calculated for all emissions units contained in the Stationary Source project. A SSIPE calculated to a negative value shall be set to zero.

3.38.5 Net Emissions Change (NEC) shall be calculated, on a pollutant-by-pollutant basis, as follows

3.38.5.1 For emissions units not covered by a Specific Limiting Condition (SLC):

$$NEC = PE - BE$$

where,

NEC = Net Emissions Change for each emissions unit, pounds per year

PE = Post-project potential to emit for each emissions unit, pounds per year

BE = Baseline emissions for each emissions unit, pounds per year

3.38.5.2 For emissions units covered by a Specific Limiting Condition (SLC):

$$NEC_{SLC} = PE_{SLC} - BE_{SLC}$$

where,

NEC_{SLC} = Overall Net Emissions Change for all units covered by the SLC, pounds per year

PE_{SLC} = Overall post-project Potential to Emit for all units covered by the SLC, pounds per year

BE_{SLC} = Overall Baseline Emissions for all units covered by the SLC, pounds per year.

4.0 Source Requirements

4.1 Best Available Control Technology (BACT): BACT requirements shall be triggered on a pollutant-by-pollutant basis and on an emissions unit-by-emissions unit basis. Unless exempted pursuant to Section 4.2, BACT shall be required for the following actions:

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- 4.1.1 Any new emissions unit or relocation from one Stationary Source to another of an existing emissions unit with a Potential to Emit exceeding two pounds in any one day; and
- 4.1.2 Modifications to an existing emissions units with a valid Permit to Operate resulting in an Adjusted Increase in Permitted Emissions (AIPE) exceeding 2.0 pounds in any one day.
- 4.2 BACT Exemptions: BACT shall not be required for the following:
 - 4.2.1 CO emissions from a new or modified emissions unit at a Stationary Source with a post project Stationary Source Potential to Emit (SSPE2) of less than 200,000 pounds CO per year.
 - 4.2.2 Cargo Carriers;
 - 4.2.3 For existing facilities, the installation or modification of an emission control technique performed solely for the purpose of compliance with the requirements of District, State or Federal air pollution control laws, regulations, or orders, as approved by the APCO, shall be exempt from Best Available Control Technology for all air pollutants, provided all of the following conditions are met:
 - 4.2.3.1 There shall be no increase in the physical or operational design of the existing facility, except for those changes to the design needed for the installation or modification of the emission control technique itself;
 - 4.2.3.2 There shall be no increase in the permitted rating or permitted operating schedule of the permitted unit;
 - 4.2.3.3 There shall be no increase in emissions from the stationary source that will cause or contribute to any violation of a National Ambient Air Quality Standard, Prevention of Significant Deterioration increment, or Air Quality Related Value in Class I areas; and
 - 4.2.3.4 The project shall not result in an increase in permitted emissions or potential to emit of more than 25 tons per year of NO_x, or 25 tons per year of VOC, or 15 tons per year of SO_x, or 15 tons per year of PM-10, or 50 tons per year of CO.

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- 4.2.4 New emissions unit or modification of an existing emissions unit for voluntary reduction in emissions, for the sole purpose of generating emission reduction credits. This exemption applies only to the pollutant for which emission reduction credits are obtained. BACT may be required for other affected pollutants;
- 4.2.5 Temporary Replacement Emissions Units;
- 4.2.6 Routine Replacement; or
- 4.2.7 Transfer of location of emissions units within the same stationary source.
- 4.3 Adjusted Increase in Permitted Emissions (AIPE) Calculations: Adjusted Increase in Permitted Emissions shall be calculated as
- $$\text{AIPE} = \text{PE2} - \text{HAPE}$$
- where,
- AIPE = Adjusted Increase in Permitted Emissions, pounds per day
- PE2 = the emissions units post project Potential to Emit, pounds per day
- HAPE = the emissions unit's Historically Adjusted Potential to Emit, pounds per day
- 4.4 Historically Adjusted Potential to Emit (HAPE) Calculations: Historically Adjusted Potential to Emit shall be calculated as
- $$\text{HAPE} = \text{PE1} \times (\text{EF2} / \text{EF1})$$
- where,
- PE1 = The emissions unit's Potential to Emit prior to modification or relocation
- EF2 = The emissions unit's permitted emission factor for the pollutant after modification or relocation. If EF2 is greater than EF1 then EF2/EF1 shall be set to 1.
- EF1 = The emissions unit's permitted emission factor for the pollutant before the modification or relocation
- 4.5 Emission Offset Requirements:
- 4.5.1 If emission offset requirements are triggered pursuant to Section 4.5.3, emission offsets shall be provided for net emissions increases resulting from a project. Offset quantities shall be calculated pursuant to Section 4.7.
- 4.5.2 For Stationary Sources with a quarterly Potential to Emit which remain constant throughout the year, the amount shall be calculated in pounds per year. For Stationary Sources with quarterly Potential to Emit that is not

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constant throughout the year, and for Seasonal Sources the amount shall be calculated in pounds per quarter.

- 4.5.3 Offset requirements shall be triggered on a pollutant-by-pollutant basis. Unless exempted pursuant to Section 4.6, offsets shall be required if the post-project Stationary Source Potential to Emit (SSPE2) equals or exceeds the following offset threshold levels:

Table 4-1: Emissions Offset Threshold Levels

Pollutant	SSPE2,
NOx	20,000
VOC	20,000
CO (non-	30,000
CO (attainment	200,000
SOx	54,750
PM10	29,200

- 4.6 Emission Offset Exemptions: Emission offsets shall not be required for the following:
- 4.6.1 Increases in carbon monoxide in attainment areas if the applicant demonstrates to the satisfaction of the APCO, that the Ambient Air Quality Standards are not violated in the areas to be affected, and such emissions will be consistent with Reasonable Further Progress, and will not cause or contribute to a violation of Ambient Air Quality Standards;
- 4.6.2 Emergency equipment that is used exclusively as emergency standby equipment for electric power generation or any other emergency equipment as approved by the APCO that does not operate more than 200 hours per year for non-emergency purposes and is not used pursuant to voluntary arrangements with a power supplier to curtail power. Equipment exempted by this section shall maintain a written record of hours of operation and shall have permit conditions limiting non-emergency operation;
- 4.6.3 Portable equipment which is registered as such in accordance with the provisions of Rule 2280 (Portable Equipment Registration) or the Statewide Portable Equipment Registration Program (California Code of Regulation Title 13, Article 5, Sections 2450-2465).
- 4.6.4 On-site soil or groundwater decontamination performed by, under the jurisdiction of, or pursuant to the requirements of an authorized health

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officer, agricultural commissioner, fire protection officer, or other authorized government officers, provided emissions do not exceed 4,000 pounds per year of any affected pollutant from all emissions units associated with decontamination project;

- 4.6.5 Temporary Replacement Emissions Units.
- 4.6.6 A transfer of location of an entire Stationary Source within the District, under the same owner and provided
 - 4.6.6.1 The Potential to Emit of any affected pollutant will not be greater at the new location than at the previous location when all emissions units are operated at the same permitted conditions; and
 - 4.6.6.2 BACT is applied to all units with emissions equal to or greater than two (2) pounds per day; and
 - 4.6.6.3 The transferred Stationary Source is not added to an existing Stationary Source.
- 4.6.7 A transfer of location of an emissions unit from one Stationary Source to another within the District, under the same owner and provided:
 - 4.6.7.1 The Potential to Emit of any affected pollutant will not be greater at the new location than at the previous location when all emissions units are operated at the same permitted conditions, and
 - 4.6.7.2 The offsets that would be otherwise required for the unit at the new location have been provided for the emissions unit previously.
- 4.6.8 For existing facilities, the installation or modification of an emission control technique performed solely for the purpose of compliance with the requirements of District, State or Federal air pollution control laws, regulations, or orders, as approved by the APCO, shall be exempt from offset requirements for all air pollutants provided all of the following conditions are met:
 - 4.6.8.1 There shall be no increase in the physical or operational design of the existing facility, except for those changes to the design needed for the installation or modification of the emission control technique itself;

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- 4.6.8.2 There shall be no increase in the permitted rating or permitted operating schedule of the permitted unit;
 - 4.6.8.3 There shall be no increase in emissions from the stationary source that will cause or contribute to any violation of a National Ambient Air Quality Standard, Prevention of Significant Deterioration increment, or Air Quality Related Value in Class I areas; and
 - 4.6.8.4 The project shall not result in an increase in permitted emissions or potential to emit of more than 25 tons per year of NO_x, or 25 tons per year of VOC, or 15 tons per year of SO_x, or 15 tons per year of PM-10, or 50 tons per year of CO.
- 4.7 Emission Offset Quantity Calculations:
- 4.7.1 For pollutants with a pre-project Stationary Source Potential to Emit (SSPE1) greater than the emission offset threshold levels, emission offsets shall be provided for
 - 4.7.1.1 All increases in Stationary Source emissions, calculated as the sum of differences between the post-project Potential to Emit and the Baseline Emissions of all new and modified emissions units, plus
 - 4.7.1.2 All increases in Cargo Carrier emissions.
 - 4.7.2 For pollutants with a pre-project Stationary Source Potential to Emit (SSPE1) below the offset threshold levels, emission offsets shall be provided for
 - 4.7.2.1 All increases in Stationary Source emissions above the offset trigger levels, calculated as the difference between the SSPE2 and the offset trigger level, plus
 - 4.7.2.2 All increases in Cargo Carrier emissions.
 - 4.7.3 The quantity of offsets calculated pursuant to Sections 4.7.1 and 4.7.2 shall be multiplied by the appropriate Distance Offset Ratio to determine the final quantity of offsets required.
 - 4.7.4 PM₁₀ Emissions: In determining the quantity of required PM₁₀ offsets, the Total Suspended Particulate Matter (TSP) emissions for which full offsets have been previously provided shall not be recalculated as PM₁₀.

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- 4.8 Distance Offset Ratio: For offset calculations, the Distance Offset ratio shall be as shown below:

Table 4-3: Distance Offset Ratio

Original Location of Emission Offsets	Offset Ratio
at the same Stationary Source as the new or modified emissions unit	1.0
within 15 miles of the new or modified emissions unit's Stationary Source	1.2
15 miles or more from the new or modified emissions unit's Stationary Source	1.5

- 4.9 Pre-project Stationary Source Potential to Emit (SSPE1) shall be calculated as the sum of the following:
- 4.9.1 The Potential to Emit from all units with valid Authorities to Construct (ATC) or Permits to Operate (PTO) at the Stationary Source.
- 4.9.1.1 For a unit with both a valid ATC and a PTO or a unit with multiple valid ATC, use the ATC or PTO with the highest potential emissions.
- 4.9.1.2 For units subject to an SLC, the Potential to Emit shall be based on the overall Potential to Emit limit for all units covered by the SLC and not the sum of the individual Potential to Emit of each emissions unit.
- 4.9.2 The quantity of emission reduction credits (ERC) which have been banked since September 19, 1991 for Actual Emissions Reductions that have occurred at the source, and which have not been used on-site. This quantity includes all ERC held as certificates and all emission reduction credits that have been sold or transferred. Reductions shall be added to the SSPE1 as positive values.
- 4.10 Post-project Stationary Source Potential to Emit (SSPE2) shall be calculated, on a pollutant-by-pollutant basis, as the sum of the following:
- 4.10.1 The Potential to Emit from all units with valid Authorities to Construct or Permits to Operate at the Stationary Source, except for emissions units proposed to be shutdown as part of a Stationary Source Project.

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- 4.10.1.1 The Potential to Emit of the post-project Authority to Construct will be used for new or modified units, provided that the ATC will include new conditions canceling the existing ATC or PTO for those units, otherwise use the ATC or PTO with the highest potential emissions.
- 4.10.1.2 For units subject to an SLC, the Potential to Emit shall be based on the overall Potential to Emit limit for all units covered by the SLC and not the sum of the individual Potential to Emit of each emissions unit.
- 4.10.2 The quantity of emission reduction credits (ERC) which have been banked since September 19, 1991 for Actual Emissions Reductions that have occurred at the source, and which have not been used on-site. This quantity includes all ERC held as certificates and all emission reduction credits that have been sold or transferred. Reductions shall be added to the SSPE2 as positive values.
- 4.11 Calculations involving PM10 emissions
- 4.11.1 For existing Stationary Sources for which particulate matter emissions have been calculated as Total Suspended Particulate (TSP), the PM10 emissions shall be recalculated from TSP values using PM10 emission factors or speciation data.
- 4.11.2 In absence of PM10 emissions factors or speciation data, assume 50% of the total suspended particulates is PM10.
- 4.11.3 If the applicant has previously provided full offsets for total suspended particulate matter emissions, those total suspended particulate matter emissions need not be recalculated as PM10, for the purpose of determining the quantity of offsets.
- 4.12 Actual Emissions Reductions (AER) Calculations: Actual Emissions Reductions shall be calculated, on a pollutant-by-pollutant basis, as follows:
$$\text{AER} = \text{HAE} - \text{PE2}$$
Where,
HAE = Historic Actual Emissions
PE2 = Post-project Potential to Emit

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- 4.12.1 Prior to banking, AER shall be discounted by 10 percent (10%) for Air Quality Improvement Deduction, and shall comply with all applicable provisions of Rule 2301 (Emission Reduction Credit Banking).
- 4.13 Additional Offset Requirements: Offsets obtained subject to this rule shall comply with the following provisions:
- 4.13.1 Major Source shutdowns or permanent curtailments in production or operating hours of a Major Source may not be used as offsets for emissions from a Major Source or a Title I modification, unless the ERC, or the emissions from which the ERC are derived, has been included in an EPA-approved attainment plan.
- 4.13.2 Offsets from another district may be used only if the source of the offsets is within 50 miles of the proposed emissions increases and the APCO has reviewed the permit conditions issued by the district in which the proposed offsets are obtained and certifies that such offsets meet the requirements of this rule and CH&SC Section 40709.6.
- 4.13.3 Interpollutant offsets may be approved by the APCO on a case-by-case basis, provided that the applicant demonstrates to the satisfaction of the APCO, that the emission increases from the new or modified source will not cause or contribute to a violation of an Ambient Air Quality Standard. In such cases, the APCO shall, based on an air quality analysis, impose offset ratios equal to or greater than the requirements, of this rule.
- 4.13.3.1 In no case shall exempt compounds or the other compounds excluded from the definition of VOC be used as offsets for VOC.
- 4.13.3.2 Interpollutant offsets between PM₁₀ and PM₁₀ precursors may be allowed.
- 4.13.3.3 PM₁₀ emissions shall not be allowed to offset NO_x or reactive organic compound emissions in ozone nonattainment areas, nor be allowed to offset SO₂ emissions in sulfate nonattainment areas.
- 4.13.3.4 Interpollutant offsets between NO_x and VOC may be allowed.
- 4.13.4 Actual Emissions Reductions (AER) used as offsets must have occurred during the same calendar quarter as the emissions increases being offset except as allowed pursuant to Sections 4.13.6 through 4.13.9.

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- 4.13.5 AER used as offsets for a Seasonal Source must have occurred during the same time period as the proposed source will operate except as allowed pursuant to Sections 4.13.6 through 4.13.9.
 - 4.13.6 AER used as offsets for a biomass-fired cogeneration facility may have occurred during any quarter.
 - 4.13.7 AER for PM that occurred from October through March, inclusive, may be used to offset increases in PM during any period of the year.
 - 4.13.8 AER for NO_x and VOC that occurred from April through November may be used to offset increases in NO_x and VOC during any period of the year.
 - 4.13.9 AER for CO that occurred from November through February may be used to offset increases in CO during any period of the year.
 - 4.13.10 AER used as offsets for new and modified Major Sources must be obtained from an area
 - 4.13.10.1 that has a nonattainment classification that is equal to or higher than the area in which the new or modified Major Source is located, and
 - 4.13.10.2 where emissions contribute to a violation of a national Ambient Air Quality Standard in the area in which the new or modified Major Source is located.
 - 4.13.11 Offsets required as a condition of an Authority to Construct or a Permit to Operate shall commence not later than the date of initial operation of the new or modified emissions unit.
 - 4.13.11.1 If the new or modified emissions unit is, in whole or in part, a replacement for an existing emissions unit at the same stationary source, the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing emissions unit and the replacement emissions unit.
 - 4.13.12 Nothing in this rule shall be construed as requiring ERC used as NSR offsets to be discounted at time of use, except for the additional offsets as required by Sections 4.8 and 4.13.3.

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4.14 Additional Source Requirements:

4.14.1 Alternative siting: For those sources for which an analysis of alternative sites, sizes, and production processes is required under Section 172 of the Federal Clean Air Act, the applicant shall prepare an analysis functionally equivalent to the requirements of Division 13, Section 21000 et. seq. of the Public Resources Code.

4.14.2 Ambient Air Quality Standards: Emissions from a new or modified Stationary Source shall not cause or make worse the violation of an Ambient Air Quality Standard. In making this determination, the APCO shall take into account the increases in minor and secondary source emissions as well as the mitigation of emissions through offsets obtained pursuant to this rule. Modeling used for the purposes of this rule shall be consistent with the requirements contained in the most recent edition of EPA's "Guideline on Air Quality Models" unless the APCO finds such model is inappropriate for use. After making such a finding, the APCO may designate an alternative model only after allowing for public comments and only with the concurrence of the ARB or the EPA.

4.14.2.1 At the discretion of the APCO, a new or modified source which is not subject to the public noticing requirements of Section 5.4 shall be exempted from the requirements of Section 4.14.2.

4.14.3 Compliance by Other Owned, Operated, or Controlled Source: The owner of a proposed new Major Source or Title I modification shall demonstrate to the satisfaction of the APCO that all major Stationary Sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in California which are subject to emission limitations are in compliance or on a schedule for compliance with all applicable emission limitations and standards.

5.0 Administrative Requirements

The administrative requirements of Sections 5.1 through 5.7, inclusive, shall be applied to all applications for a new or modified emissions unit except for applications for power plants over 50 megawatts. For such power plants, the administrative requirements of Section 5.8 shall apply.

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- 5.1. Complete Application: The APCO shall determine whether the application is complete not later than 30 days after receipt of the application, or after such longer time as both the applicant and the APCO may agree.
- 5.1.1 If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any resubmittal of the application, a new 30 day period to determine completeness shall begin.
- 5.1.2 Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in the District Rules and Regulations as they exist on the date on which the application or resubmitted application is received.
- 5.1.3 Upon determination that the application is complete, the APCO shall notify the applicant in writing.
- 5.1.4 The APCO may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.
- 5.2 Preliminary Decision: Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine compliance with this rule and make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or disapproved.
- 5.2.1 The APCO shall deny any Authority to Construct if the APCO finds that the subject of the application would not comply with the standards set forth in this rule or any other District rule.
- 5.2.2 The decision shall be supported by a succinct, written analysis.
- 5.3 Final Action: Within 180 days after acceptance of an application as complete, or within 180 days after the lead agency has approved the project under the California Environmental Quality Act, whichever occurs later, the APCO shall take final action on the application after considering all written comments.
- 5.4 Public Notification and Publication Requirements: The APCO shall provide public notification and publication for the following types of applications:
- 5.4.1 New Major Sources and Title I modifications.

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- 5.4.2 Applications which include a new emissions units with Potential to Emit greater than 100 pounds during any one day for any one pollutant;
- 5.4.3 Modifications that increase the Stationary Source Potential to Emit (SSPE1) from a level below the emissions offset threshold level to a level exceeding the emissions offset threshold level for one or more pollutants;
- 5.4.4 New Stationary Sources with post-project Stationary Source Potential to Emit (SSPE2) exceeding the emissions offset threshold level for one or more pollutants;
- 5.4.5 Any permitting action resulting in a Stationary Source Project Increase in Permitted Emissions (SSIPE) exceeding 20,000 pounds per year for any one pollutant.
- 5.5 Public Notification and Publication Actions: For the types of applications listed in Section 5.4, the APCO shall perform the following actions:
 - 5.5.1 Within ten (10) calendar days following the preliminary decision the APCO shall publish in at least one newspaper of general circulation in the District a notice stating the preliminary decision, noting how pertinent information can be obtained, and inviting written public comment for a 30 day period following the date of publication.
 - 5.5.2 No later than the date of publication, the APCO shall transmit to the applicant its preliminary written decision, the analysis, and a copy of the notice submitted for publication,
 - 5.5.3 No later than the date of publication, the APCO shall transmit to the USEPA and the CARB and to any person who requests such information, its preliminary written decision; the analysis; and a copy of the notice submitted for publication, .
 - 5.5.4 No later than the time the notice of the preliminary decision is published, the APCO shall make available for public inspection at the District office the information submitted by the applicant and the analysis.
 - 5.5.5 The APCO shall provide written notice of the final action to the applicant, the USEPA, and the CARB, and shall publish such notice in a newspaper of general circulation, except that for an application not subject to Section 5.4, the APCO shall not be subject to this section. In such a case, the applicant shall receive notification as provided in Rule 2040 (Applications).

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5.5.6 No later than the time of notice of final action is published, the APCO shall make available for public inspection at the District office a copy of the notice submitted for publication and all supporting documents.

5.6 Authority to Construct (ATC) - General Conditions

5.6.1 An ATC shall not be issued unless the new or modified source complies with the provisions of this rule and all other applicable District Rules and Regulations.

5.6.2 An ATC shall require that the new or modified source be built according to the specifications and plans contained in the application.

5.6.3 An ATC shall include all those conditions which the APCO deems necessary to assure construction and operation in the manner assumed in making the analysis to determine compliance with this rule.

5.6.4 An ATC shall include all those conditions relating to the satisfaction of the offset requirements of this rule.

5.6.5 An ATC issued for an emissions unit that relies on reduction in emissions from other units included in the Stationary Source Project, must include a condition that requires initiating and completing construction on those units that provide the reduction prior to commencing operation of the unit with increase in emissions.

5.6.5.1 If the new or modified emissions unit is, in whole or in part, a replacement for an existing emissions unit at the same stationary source, the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing emissions unit and the replacement emissions unit.

5.7 Permit to Operate (PTO) - General Conditions

5.7.1 A PTO shall require that the new source or modification be operated in the manner assumed in making the analysis to determine compliance with this rule and as conditioned in the Authority to Construct.

5.7.2 A PTO shall include daily emissions limitations and other enforceable conditions which reflect applicable emission limits including the offset requirements.

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- 5.7.3 The APCO shall determine if the applicant has complied with all the conditions in the ATC. The APCO may allow conditions which have not been met at the time the PTO is issued to be incorporated into the Permit to Operate, provided that compliance with that condition is demonstrated by a specified date.
- 5.7.4 Any source which provides offsets shall be subject to enforceable permit conditions containing specific operational and emissions limitations, which ensure that the emissions reductions will be provided in accordance with the provisions of this rule and shall continue for the reasonably expected life of the proposed source. Where the source of offsets is not subject to a permit, a written contract shall be required between the applicant and the owner of such source, which contract, by its terms, shall be enforceable by the APCO. The permit and contract shall be submitted to the ARB to be forwarded to the Environmental Protection Agency as part of the State Implementation Plan. A violation of the emission limitation provisions of any such contract shall be chargeable to the applicant.
- 5.7.5 Offsets required as a condition of an ATC or a PTO shall commence not later than the date of initial operation of the new or modified source,
- 5.7.5.1 If a new or modified Stationary Source is, in whole or in part, a replacement for an existing Stationary Source on the same or contiguous property the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing Stationary Source and the new or replacement source.
- 5.8 Power plants over 50 megawatts: The administrative requirements of this section shall be applied to all power plants over 50 megawatts proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission. The APCO may apply for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this section.
- 5.8.1 Intent to Participate and Preliminary Report: Within 14 days of receipt of a NOI, the APCO shall notify the ARB and the California Energy Commission of the APCO's intent to participate in the NOI proceeding. If the APCO chooses to participate in the NOI proceeding, the APCO shall prepare and submit a report to the ARB and the California Energy Commission prior to the conclusion of the nonadjudicatory hearings

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specified in Section 25509.5 of the Public Resources Code. The report shall include at least:

- 5.8.1.1 A preliminary specific definition of BACT for the proposed facility.
 - 5.8.1.2 A preliminary discussion of whether there is substantial likelihood that the requirements of this rule and all other District rules can be satisfied by the proposed facility.
 - 5.8.1.3 A preliminary list of conditions which the proposed facility must meet in order to comply with this rule or any other applicable District rules. The preliminary determinations contained in the report shall be as specific as possible within the constraints of the information contained in the NOI.
- 5.8.2 Equivalency of Application for Certification to Application for Authority to Construct: The APCO shall consider an Application for Certification (AFC) to be equivalent to an application for an Authority to Construct, and subject, as such, to all definitions and requirements of this rule.
- 5.8.3 Upon receipt of an AFC for a power plant, the APCO shall conduct a Determination of Compliance review. This review shall determine whether an AFC is complete, and within 20 calendar days of receipt of the AFC, the APCO shall so inform the California Energy Commission and the applicant in writing.
- 5.8.3.1 If the APCO determines that the application is not complete, the information required shall be specified, and the AFC shall be returned to the applicant for resubmittal. Upon receipt of any resubmittal of the application, a new 20 day period to determine completeness shall begin.
 - 5.8.3.2 Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in District Rules and Regulations as they exist on the date on which the application or resubmitted application is received.
- 5.8.4 The APCO may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the APCO is unable to obtain the information, the APCO may petition the presiding

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Commissioner of the California Energy Commission for an order directing the applicant to supply such information.

- 5.8.5 Within 180 days of accepting an AFC as complete, the APCO shall make a preliminary written decision as to whether a Determination of Compliance Certification should be approved, conditionally approved, or disapproved. The APCO shall deny any Determination of Compliance Certification if the APCO finds that the subject of the application would not comply with the standards set forth in this rule or any other District rule. The decision shall be supported by a succinct, written analysis.
- 5.8.6 Notification and Publication actions shall be conducted according to the requirements of Section 5.5.
- 5.8.7 Within 240 days after acceptance of an application as complete, the APCO, after considering all written comments, shall take final action on the application, which action shall consist of the following:
 - 5.8.7.1 the APCO, if all requirements of this rule are met, shall issue and submit to the California Energy Commission a Determination of Compliance, or advise the Commission that a Determination of Compliance cannot be issued.
 - 5.8.7.2 public inspection of final action documents shall be provided for in accordance with Section 5.5.6
- 5.8.8 Equivalency of Determination of Compliance to Authority to Construct:: A Determination of Compliance shall confer the same rights and privileges as an Authority to Construct provided that the California Energy Commission approves the Application for Certification and the certificate granted by the Commission includes all conditions of the Determination of Compliance.
- 5.8.9 The APCO shall issue a Permit to Operate to any applicant receiving a certificate from the California Energy Commission pursuant to this rule provided that the construction or modification is in compliance with all conditions of the certificate and of the Determination of Compliance, and provided that the Permit to Operate includes the conditions prescribed in Section 5.7.

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5.9 Enhanced Administrative Requirement

Application for a certificate of conformity with the procedural requirements of 40 CFR Part 70, shall be subject to the following enhanced administrative requirements in addition to any other applicable administrative requirements of Section 5.0:

5.9.1 New Sources and Significant Permit Modifications

5.9.1.1 Public Notification: The APCO shall provide a written notice of the proposed permit and, upon request, copies of the APCO analysis to interested parties. Interested parties shall include affected states, ARB and persons who have requested in writing to be notified. The notice shall also be given by publication in a newspaper of general circulation in the District and by any other means if necessary to assure adequate notice to the affected public. The public shall be given 30 days from the date of publication to submit written comments on the APCO's proposed action.

5.9.1.2 The notice shall provide the following information:

5.9.1.2.1 The identification of the source, the name and address of the permit holder, the activities and emissions change involved in the permit action;

5.9.1.2.2 The name and address of the APCO, the name and telephone number of District staff to contact for additional information;

5.9.1.2.3 The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions;

5.9.1.2.4 The location where the public may inspect the Complete Application, the APCO's analysis, the proposed permit, and all relevant supporting materials;

5.9.1.2.5 A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures, and

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- 5.9.1.2.6 A statement that members of the public may request the APCO or his designee to preside over a public hearing for the purpose of receiving oral public comment, if a hearing has not already been scheduled. The APCO shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing;
- 5.9.1.3 The APCO shall provide written response to persons or agencies that submitted written comments which are postmarked by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the District office and made available upon request.
- 5.9.1.4 A copy of the Complete Application, the APCO's analysis and the proposed permit shall be made available at District offices for public review and comment during normal business hours. The APCO's analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions.
- 5.9.1.5 The APCO shall provide written notice to the EPA of the proposed decision along with copies of the proposed permit, the APCO's analysis, the public notice submitted for publication, and all necessary supporting information.
- 5.9.1.6 If the EPA does not object pursuant to Section 5.9.1.9, the APCO shall issue the final permit.
- 5.9.1.7 If the EPA does not object in writing to the APCO's preliminary decision during the EPA's 45 day review period, any person may petition the EPA within 60 days after the expiration of the EPA's 45 day review period. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates to the EPA that it was impracticable to raise such objections within such period, or unless grounds for such objections arose after such period. Petitions shall be based on the compliance of the permit provisions with applicable requirements.
- 5.9.1.8 Within 180 days after acceptance of an application as complete, or within 180 days after the lead agency has approved the project

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under the California Environmental Quality Act, whichever occurs later, the APCO shall take final action on the application after considering all written comments.

5.9.1.9 The APCO shall not issue a permit if the EPA objects to its issuance in writing within 45 days of receipt of the APCO's notice of preliminary decision on the proposed permit.

5.9.1.9.1 Any EPA objection shall include a statement of the EPA's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections. The EPA shall provide the permit applicant a copy of the objection.

5.9.1.9.2 If the APCO fails, within 90 days after the date of EPA's objection, or within 180 days from the date the application was deemed complete plus any extension allowed by the state law, whichever is sooner, to revise and submit a proposed permit in response to the objection, the APCO shall not issue a certification on conformity to Title V.

5.9.1.9.3 If the EPA objects to the permit as a result of a public petition, the APCO shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the APCO has issued a permit prior to receipt of an EPA objection, the EPA will modify, terminate, or revoke such permit, and shall do so consistent with procedures in Section 70.7(g)(4) or (5)(i) and (ii) of the 40 CFR regulations, and the APCO may thereafter reissue only a revised permit that satisfies EPA objection.

5.9.1.9.4 EPA objection shall be limited to compliance with applicable requirements and the requirements of 40 CFR part 70.

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5.9.2 Minor Permit Modifications

5.9.2.1 Within 5 working days after the receipt of a Complete Application for a minor permit modification, the APCO shall provide notification of the proposed permit modification to the EPA, affected states, and interested parties pursuant to Section 5.9.1.1.

5.9.2.2 The APCO shall not issue a final permit modification until after a 45-day period review of the proposed permit modification by EPA or until EPA has notified the APCO that EPA will not object to issuance of the permit modification, whichever is first.

5.9.2.3 Within 90 days after APCO's receipt of an application for a minor permit modification or 15 days after the end of the EPA's 45-day review, whichever is later, the APCO shall do one of the following:

5.9.2.3.1 Issue the permit as proposed;

5.9.2.3.2 Deny the permit modification application;

5.9.2.3.3 Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed pursuant to the administrative requirements for significant permit modifications; or

5.9.2.3.4 Revise the draft permit modification and transmit the new proposed permit modification to EPA and the affected states.

6.0 Certification of Conformity

A new or modified source subject to the requirements of Rule 2520 may choose to apply for a certificate of conformity with the procedural requirements of 40 CFR Part 70. A certification of conformity will allow changes authorized by the Authority to Construct to be incorporated into the Part 70 permit as administrative permit amendments.

6.1 The APCO will issue a written certificate of conformity with the procedural requirements of 40 CFR 70.7 and 70.8, and with the compliance requirements of 40 CFR 70.6(8)(c), if the following conditions are met:

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- 6.1.1 The Authority to Construct is issued in conformance with the Enhanced Administrative Requirements of this rule;
 - 6.1.2 The content of the Authority to Construct issued by the APCO complies with the requirements set forth in Section 9.0 of District Rule 2520 (Federally Mandated Operating Permits);
 - 6.1.3 An application for a certificate of conformity with the requirements of 40 CFR Part 70 is submitted with the application for Authority to Construct. The content of application for the certificate of conformity must comply with the requirements of Sections 7.1 of District Rule 2520 (Federally Mandated Operating Permits);
 - 6.1.4 The Authority to Construct contains a statement of conformity with the requirements of Title V and 40 CFR Part 70;
 - 6.1.5 EPA has not objected to the issuance of the Authority to Construct, or EPA's objections have been resolved to the satisfaction of EPA administrator; and
 - 6.1.6 The Part 70 operating permit being issued will contain the federally enforceable requirements contained in the Authority to Construct.
 - 6.2 The certificate of conformity with the procedural requirements of 40 CFR Part 70 is valid as long as the Authority to Construct with which it was issued is valid.
 - 6.3 Modifications to an Authority to Construct for which a certificate of conformity has been issued are subject to the administrative requirements of Section 11.0 of District Rule 2520 that apply to permit modifications and changes, as well as the requirements of all District Rules that apply to modifications of Authorities to Construct.
- 7.0 Emission Offset Trading and Reporting
- 7.1 The APCO shall monitor and report emission offset transactions when the ERC are used for emission offsets in Major Source or Title I modification projects. Transactions which consist solely of the sale or transfer of ERC shall not be included.
 - 7.2 The APCO shall annually report such ERC transactions to the USEPA and CARB. The report shall include an analysis which compares the reductions achieved by the ERC calculation methods and the reductions which would occur using ERC which

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are adjusted at time of use for prevailing federal, state and District Rules and Regulations.

8.0 Application Shield for Routine Replacement

8.1 For a Routine Replacement for which an Authority to Construct is required, the permitted source may continue to operate under an application shield, provided that all of the following conditions are met.

8.1.1 An application for the Routine Replacement has been submitted within seven calendar days of completing the routine replacement.

8.1.2 The source operates in compliance with all applicable requirements of the federal, state, and District rules and regulations.

8.2 When the application has been deemed complete by the APCO, the application shield shall be made effective retroactive from the date of application submittal until the application is either approved or denied,

8.2.1 The application shield is not applicable if the District's final action is delayed due to the failure of the applicant to submit timely information requested by the District. The source must also submit additional information for any requirements that become applicable after a complete application is submitted, but before a PTO is issued.

8.3 The application shield does not exempt the operator from any applicable requirements.

8.4 The application shield applies only to an application for a Routine Replacement and does not authorize any increases to the permitted throughput or emissions due to a change in design capacity as part of a Routine Replacement.

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RULE 2520 FEDERALLY MANDATED OPERATING PERMITS (Adopted June 15, 1995,
Amended June 21, 2001)

1.0 Purpose

The purpose of this rule is to provide for the following:

- 1.1 An administrative mechanism for issuing operating permits for new and modified sources of air contaminants in accordance with requirements of 40 CFR Part 70.
- 1.2 An administrative mechanism for issuing renewed operating permits for sources of air contaminants in accordance with requirements of 40 CFR Part 70.
- 1.3 An administrative mechanism for revising, reopening, revoking, and terminating operating permits for sources of air contaminants in accordance with requirements of 40 CFR Part 70.
- 1.4 An administrative mechanism for incorporating requirements authorized by preconstruction permits issued under District Rule 2201 (New and Modified Stationary Source Review) in a Part 70 permit as administrative amendments, provided that such permits meet procedural requirements substantially equivalent to the requirements of 40 CFR 70.7 and 70.8, and compliance requirements substantially equivalent to those contained in 40 CFR 70.6.
- 1.5 The applicable federal and local requirements to appear on a single permit.

2.0 Applicability

The provisions of this rule shall apply to the following sources:

- 2.1 Major air toxics sources,
- 2.2 Any stationary source that emits or has the with a potential to emit 100 tons per year of any air contaminant,
- 2.3 Any major source,
- 2.4 Any emissions unit, including an area source, subject to a standard or other requirement promulgated pursuant to section 111 (NSPS) or 112 (HAPs) of the CAA published after July 21, 1992 except as provided for in section 4.2 of this rule.
 - 2.4.1 For stationary sources, which are subject to Rule 2520 solely as a result of Section 2.4, only the emissions units within the a stationary source that are

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subject to the section 111 or 112 standard or requirement shall be subject to the Part 70 permitting requirements;

- 2.5 A source with an acid rain unit for which application for an acid rain permit is required pursuant to Title IV of the CAA;
- 2.6 Any source required to have a preconstruction review permit pursuant to the requirements of the prevention of significant deterioration (PSD) program under Title I of the Federal Clean Air Act;
- 2.7 A solid waste incinerator subject to a performance standard promulgated pursuant to section 111 or 129 of the CAA; and
- 2.8 Any source in a source category designated, pursuant to 40 CFR Part 70.3, by rule of the EPA.
- 2.9 When calculating the potential to emit for the purpose of determining if the requirements of this rule are applicable, fugitive emissions must only be included for determining non-hazardous air pollutant emissions if the source is included in the list of source categories identified in the major source definition in 40 CFR part 70.2, or when determining if a stationary source is a major air toxics source.

3.0 Definitions

- 3.1 Acid Rain Unit: an acid rain unit is any fossil fuel-fired combustion device that is an affected unit under 40 CFR Part 72.6 and therefore subject to the requirements of Title IV (Acid Deposition Control) of the CAA.
- 3.2 Administrative Permit Amendments: Administrative amendment is a permit amendment that:
 - 3.2.1 Corrects typographical errors;
 - 3.2.2 Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
 - 3.2.3 Requires more frequent monitoring or reporting by the permittee; or
 - 3.2.4 Allows for a change in ownership or operational control of a source where the District determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of

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permit responsibility, coverage, and liability between the current and new permittee has been submitted to the District; and

- 3.2.5 Incorporates other applicable requirements which the EPA has determined as part of an approved part 70 program to be similar to those in Sections 3.2.1 through 3.2.4.
- 3.2.6 Incorporates requirements from an Authority to Construct for a new or modified emissions unit pursuant to the provisions of District Rule 2201 (New and Modified Stationary Source Review) provided that a certificate of conformity with procedural requirements of 40 CFR part 70 has been issued in conjunction with the Authority to Construct.
- 3.3 Affected Source: a source that contains one or more affected units.
- 3.4 Affected Unit: an emissions unit subject to a requirement or limitation of Title IV of the Federal Clean Air Act.
- 3.5 Affected States: states that are within 50 miles of a permitted source, or states contiguous to California whose air quality may be affected by a Part 70 permitting action, renewal, or modification.
- 3.6 Applicable Requirements: any of the federally enforceable requirements listed in the definition of applicable requirements in 40 CFR part 70.2.
- 3.7 Certificate of Conformity: a written document issued by the District certifying that an Authority to Construct for the new or modified source issued under District Rule 2201 (New and Modified Stationary Source Review) has been issued in accordance with procedural requirements substantially equivalent to the requirements of 40 CFR 70.7 and 70.8, and compliance requirements substantially equivalent to those contained in 40 CFR 70.6(c).
- 3.8 Clean Air Act (CAA): refers to the Federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.).
- 3.9 Designated representative: a responsible person or official authorized by the owner or operator of a unit at an affected source to represent the owner or operator in manners pertaining to emission allowances, permitting, and compliance plans.
- 3.10 District's Effective Date of Major Source Permitting Program: date of approval by EPA of the District's Title V operating permits program.

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- 3.11 Emissions Unit: any part or activity of a stationary source which emits, may emit, or results in the emissions of any regulated pollutant or hazardous air pollutant.
- 3.12 Federally Enforceable: enforceable by the EPA or the public.
- 3.13 Final Permit: a permit that has completed all review requirements of Section 11 of this rule.
- 3.14 Fugitive Emissions: emissions that could not reasonably pass through a vent, chimney, stack, or other functionally equivalent opening.
- 3.15 General Permit: a Part 70 permit issued to sources qualifying for a model general permit. Permits issued under general permit provisions shall be subject to the same requirements of any Part 70 permit relating to renewal, revision, and permit term and content.
- 3.16 Hazardous Air Pollutant: pollutants listed pursuant to section 112(b) of the Federal Clean Air Act.
- 3.17 Initial Permits: the first permits issued to sources in accordance with the requirements of this rule for emissions units that were in existence and not exempted from the requirements of this rule on the District's effective date of major source permitting.
- 3.18 Major Air Toxics Source: a stationary source that emits or has the ~~with~~ potential to emit, including fugitive emissions, 10 tons per year or more of a hazardous air pollutant, or 25 tons per year or more, including fugitive emissions, of a combination of hazardous air pollutants or such lesser quantity as the EPA may establish by rule. Emissions from any oil or gas production well, with its associated equipment, and emissions from any pipeline compressor station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major air toxic sources.
- 3.19 Major Source: same as that defined in District Rule 2201 (New and Modified Stationary Source); except that the reference to ~~50~~ a threshold in tons per year of nitrogen oxides shall not apply with respect to any source for which the EPA Administrator has made a finding, under section 182(f)(1) or (2) of the CAA, that requirements under section 182(f) of the CAA do not apply.

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- 3.20 Minor Permit Modifications: are permit modifications that:
- 3.20.1 Do not violate requirements of any applicable federally enforceable local or federal regulations;
 - 3.20.2 Do not relax monitoring, reporting, or recordkeeping requirements in the permit and are not significant changes in existing monitoring permit terms or conditions;
 - 3.20.3 Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
 - 3.20.4 Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
 - 3.20.4.1 A federally enforceable emission cap assumed to avoid classification as a modification under any provisions of title I of the Federal Clean Air Act, prevention of significant deterioration (PSD) provisions of the CAA, or EPA PSD regulations; and
 - 3.20.4.2 An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Federal Clean Air Act; and
 - 3.20.5 Are not Title I modifications as defined in this rule, ~~or~~ modifications as defined in section 111 or 112 of the Federal Clean Air Act, or major modifications under the prevention of significant deterioration (PSD) provisions of Title I of the CAA or under EPA PSD regulations; and
 - 3.20.6 Do not seek to consolidate overlapping applicable requirements.
- 3.21 Model General Permit: a model permit issued by the District after notice and opportunity for public participation provided under sections 11.1.4 and 11.1.5 of this rule covering numerous similar sources. Any general permit shall meet the requirements of 40 CFR 70.6(d). Any model general permit shall comply with all requirements applicable to other Part 70 permits and shall identify criteria by which sources may qualify for the general permit. A model general permit shall specify the necessary application content for sources applying for the general permit. General permits shall not be authorized for affected sources under the acid rain program

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unless otherwise provided in regulations promulgated by EPA under Title IV of the CAA.

- 3.22 Model General Permit Template: a list of conditions issued by the District after notice and opportunity for public participation provided under section 11.1.4 and 11.1.5 of this rule covering numerous similar sources that address general non-source-specific requirements applicable to a source category. A model general permit template shall specify the necessary application content, including the criteria that must be met by the applicants in order to qualify for the template, for sources applying to include the general permit template in their Part 70 permit.
- 3.23 New Source: for the purpose of determining the applicable administrative requirements of Rule 2520, a new source is a source that commences operation after the District's effective date of the District's Part 70 permitting program.
- 3.24 Part 70 Permit: an operating permit that is issued pursuant to the requirements of this rule.
- 3.25 Permit Amendment: revision to a federally enforceable term or condition of a permit issued pursuant to the requirements of this rule.
- 3.26 Potential to Emit: the maximum capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is incorporated into the applicable permit as a federally enforceable permit condition, or is contained in an EPA approved State Implementation Plan (SIP). In addition, until 1/25/97 any physical or operational limitation on the capacity of the source to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if such limitations are contained in a District permit, or a District SIP submittal on which EPA has not taken a final action.
- 3.27 Regulated Air Pollutant: A "regulated air pollutant" is any pollutant: 1) which is emitted into or otherwise enters the ambient air, and 2) for which the EPA has adopted an emission limit, standard, or other requirement. Regulated air pollutants include:
- 3.27.1 Oxides of nitrogen and volatile organic compounds;

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- 3.27.2 Any pollutant for which a national ambient air quality standard has been promulgated pursuant to section 109 of the CAA;
- 3.27.3 Any pollutant subject to a new source performance standard promulgated pursuant to section 111 of the CAA;
- 3.27.4 Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrofluorocarbons) substance pursuant to Title VI of the CAA; and
- 3.27.5 Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the CAA, including:
- 3.27.5.1 Any pollutant listed pursuant to section 112(r) of the CAA (Prevention of Accidental Releases) shall be considered a "regulated air pollutant" upon promulgation of the list.
 - 3.27.5.2 Any hazardous air pollutant subject to a standard or other requirement promulgated by the U.S. EPA pursuant to section 112(d) or adopted by the District pursuant to 112(j) of the CAA shall be considered a "regulated air pollutant" for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to section 112(e)(3) of the CAA, whichever is earlier.
 - 3.27.5.3 Any hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a "regulated air pollutant" when the determination is made pursuant to section 112(g)(2) of the CAA. In case-by-case emissions limitation determinations made pursuant to section 112(g) of the CAA, the hazardous air pollutant shall be considered a "regulated air pollutant" only for the individual source for which the emissions limitation determination was made.
- 3.28 Responsible Official: is one of the following:
- 3.28.1 For a corporation, the responsible official shall be a president, secretary, treasurer, or vice president in charge of a principal business function, or any

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other person who performs similar policy or decision-making functions for the corporation. The responsible official may be a duly authorized representative rather than any of the above if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit; and

3.28.1.1 the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million in 1980 dollars; or

3.28.1.2 the District has approved a petition from the original responsible person to delegate authority.

3.28.2 For a public agency the responsible official shall be either the principal executive officer or the ranking elected official. The principal executive officer, in the case of a federal agency, may be the executive officer having responsibility for a geographical unit.

3.28.3 For a partnership or sole proprietorship, the responsible official is a general partner or the proprietor, respectively.

3.29 Significant Permit Modification: Permit amendments that do not qualify as minor permit modifications or as administrative amendments.

3.30 Stationary Source: same as that defined in District Rule 2201 (New and Modified Stationary Source Review)

3.31 Title I Modification: same as that defined in District Rule 2201 (New and Modified Stationary Source Review).

4.0 Sources Exempt from Rule 2520

The following sources are exempt from obligation to obtain a Part 70 permit subject to the provisions of this rule or 40 CFR part 70:

4.1 Any source listed in section 2.0 of this rule that is not: 1) a major source; 2) a major air toxics source; 3) a stationary source with the potential to emit of 100 tons per year of any air contaminant, 4) affected source; 5) a source that EPA determines is required to obtain a Part 70 permit upon promulgation of a standard issued pursuant to section 111 or 112 of the CAA; or 6) a solid waste incineration unit required to obtain a Part 70 permit pursuant to section 129(e) of the CAA,

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- 4.2 Non-major sources subject to a standard or other requirement under either section 111 (NSPS) or section 112 (HAPs) of the CAA after July 21, 1992 publication, if the EPA, at the time the new standard is promulgated, determines that such sources are deferred or exempt from the requirements to obtain a Part 70 permit under the provisions of this rule;
- 4.3 All sources and source categories that would be required to obtain a Part 70 permit solely because they are subject to 40 CFR part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters;
- 4.4 All sources and source categories that would be required to obtain a Part 70 permit solely because they are subject to 40 CFR part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation; and
- 4.5 Permitting actions that do not involve a change to the federally enforceable terms or conditions of a Part 70 permit. The requirements of other applicable rules, such as Rule 2201 (New and Modified Stationary Source Review), apply to these permitting actions.
- 4.6 All sources exempted from the requirements of 40 CFR part 70 by District Rule 2530 (Federally Enforceable Potential to Emit) as approved by the EPA into the state implementation plan.

5.0 Requirements for Filing Timely Applications

The owner or operator of any source subject to the requirements of this rule shall file timely and complete applications in accordance with the following requirements:

5.1 Initial Permits

- 5.1.1 For sources subject to the requirements of this rule, and in existence prior to effective date of the District's Part 70 permitting program, no later than 12 months after the effective date of the District's Part 70 permitting program. To allow for an orderly transition, the District may establish an earlier application deadline for various sources or source categories. In no event shall applications be required prior to the effective date of the District's Part 70 permitting program.
- 5.1.2 For a source that becomes subject to the requirements of this rule, including a sources previously exempt from the requirements of Rule 2520 pursuant to section 5.2 of Rule 2530, no later than 12 months after the source becomes subject to the requirements of this rule. To allow for an orderly transition,

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the District may establish an earlier application deadline for various sources or source categories. The District may also receive applications for the purpose of determining applicability of the requirement to obtain a Part 70 permit.

5.2 Permit Renewals

The holder of a Permit to Operate issued subject to the provisions of this rule shall submit to the District an application for renewal at least six months, but not greater than 18 months, prior to the permit expiration date. Permits to operate for all emissions units at a stationary source shall undergo simultaneous renewal.

5.3 New and Modified Sources Subject to the Requirements of this Rule

5.3.1 New Sources

New Sources, or sources subject to section 5.2 of Rule 2530 shall submit an application for Permit to Operate that complies with the requirements of this rule within 12 months of commencing operations.

5.3.2 Minor or Significant Permit Modifications

Except when allowed by the operational flexibility provisions of section 6.4 of this rule, the permittee shall file an application for a permit modification prior to implementing the requested change. This also applies to sources not previously subject to the requirements of this rule that become subject to the requirements due to a minor or significant modification. Applications for permit amendments to conditions or limitations required under title IV (acid rain) must meet the requirements of 40 CFR part 72 of the Federal Clean Air Act and all applicable District rules.

5.3.3 A source applying for an Authority to Construct for a new or modified emissions unit pursuant to the provisions of District Rule 2201 (New and Modified Stationary Source Review) may apply simultaneously for a Part 70 permit, or a certificate of conformity in accordance with the deadlines specified in subsections 5.3.1 or 5.3.2 of this rule.

5.3.4 Administrative Permit Amendments

Except when allowed by the operational flexibility provisions of section 6.4 of this rule, the permittee shall file an application for administrative permit amendments prior to implementing the requested change.

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6.0 Source's Ability to Make Changes

Except as provided by the application shield provisions of section 13.1 of this rule, or by the operational flexibility provisions of section 6.4 of this rule, a source's ability to implement changes shall be limited to the following:

6.1 Administrative Permit Amendments

The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request. Should the District or EPA ultimately reject the source's proposed amendments, the source shall be subject to enforcement proceedings for violation of any existing permit terms and conditions.

6.2 Minor Permit Modifications

The source may implement the changes addressed in the request for a minor permit modification immediately upon submittal of the request, provided that the modification has been authorized by an Authority to Construct if required by District Rule 2010. If the source implements the changes before its part 70 permit is amended, the source need not comply with the existing part 70 permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions, the existing permit terms and conditions it seeks to modify may be enforced against it. Should the District or EPA ultimately reject the source's proposed amendments, the source shall be subject to enforcement proceedings for violation of any existing permit terms and conditions.

6.3 Significant Permit Amendments

The source may implement the changes addressed in the request for a significant permit modification only after a final Part 70 permit amendment is issued by the District.

6.4 Operational Flexibility

The APCO shall allow specified changes in operations at a source without requiring a permit amendment. The source may gain operational flexibility through the use of the following options:

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6.4.1 Contravening an Express Permit Term

The permittee may implement certain changes that contravene an express condition without triggering the requirements of this rule for permit modifications, if the following conditions are met:

- 6.4.1.1 At least 7 days prior to implementation of the proposed change the District and the EPA are notified in a written notice which includes a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change;
- 6.4.1.2 The District does not object in writing to the proposed change within the 7 day review period;
- 6.4.1.3 The proposed change is not a Title I modification, ~~or~~ a modification under section 111 or 112 of the CAA, or a major modification under the prevention of significant deterioration (PSD) provisions of Title I of the CAA or EPA PSD regulations;
- 6.4.1.4 The change will not violate any applicable federal requirement;
- 6.4.1.5 The change will not contravene federally enforceable conditions for monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; and
- 6.4.1.6 The proposed change will not result in emissions in excess of those allowed by the permit, including a work place standard or a federally enforceable emissions cap.

6.4.2 Alternative Operating Scenarios

The Part 70 permit may include alternative operating scenarios provided that:

- 6.4.2.1 Each alternative operating scenario is identified in the permit application;

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- 6.4.2.2 The terms and conditions are approved in writing by the APCO;
- 6.4.2.3 The terms and conditions are incorporated into the permit; and
- 6.4.2.4 The terms and conditions are in compliance with all applicable District, state, and federal requirements.
- 6.4.2.5 Changes between operating scenarios must be recorded in a contemporaneous log.

6.4.3 Voluntary Emission Caps

The APCO shall issue a Part 70 permit that contains terms and conditions that allow for trading of emissions increases and decreases within the stationary source solely for the purpose of complying with a voluntary emissions cap established in the permit independent of otherwise applicable federal requirements provided that:

- 6.4.3.1 The requirements of subsections 6.4.2.1, 6.4.2.3, and 6.4.2.4 are met;
- 6.4.3.2 The terms and conditions are approved in writing by the APCO as quantifiable and enforceable;
- 6.4.3.3 The terms and conditions are consistent with the applicable Authority to Construct: and
- 6.4.3.4 At least 7 days prior to implementation of the proposed change the District and the EPA are notified in a written notice which includes when the change will occur, a brief description of the change in emissions that will occur, and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

6.4.4 Other Changes Not Requiring Permit Amendment

A permittee may implement changes, including the addition of new emission units, without triggering the permit modification or amendment requirements of this rule until the time of permit renewal, provided:

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- 6.4.4.1 The changes meet all applicable District, state, and federal requirements;
 - 6.4.4.2 Contemporaneous with implementation of the change, the District and the EPA are notified in a written notice which includes a brief description of the change, the date the change occurred, any change in emissions, the pollutants emitted, and any new applicable requirement as a result of the change;
 - 6.4.4.3 The owner or operator of the source maintains records of the resulting emissions changes;
 - 6.4.4.4 The changes are neither addressed nor prohibited in any existing permit term or condition;
 - 6.4.4.5 The changes, either by themselves or in combination with all other changes that have occurred without permit amendment under the requirements of this rule since the most recent renewal, do not constitute a Title I modification or a major modification under the prevention of significant deterioration (PSD) provisions of Title I of the CAA; or
 - 6.4.4.6 The changes do not constitute a modification as defined in Section 111 (NSPS) or section 112 (Hazardous Air Pollutants) of the Federal Clean Air Act; and
 - 6.4.4.7 The change does not violate any terms or conditions of the existing permit.
- 6.4.5 Temporary Sources

The District may issue a single permit authorizing emissions from similar operations by the same source owner or operator at more than one location provided:

- 6.4.5.1 The source is not subject to the provisions of Title IV of the CAA;
- 6.4.5.2 The permit contains conditions that assure compliance with all applicable requirements at each location; and

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6.4.5.3 The permit includes a requirement that the operator notifies the District in writing at least 10 days prior to changing locations.

6.4.5.4 The operation is temporary and involve at least one change of location during the term of the permit.

7.0 Application Content

7.1 Permit Applications

To be deemed complete, a Part 70 permit application must contain the following:

7.1.1 Identifying information, including company name and address (or plant name and address if different from the company name and address), owner's name and agent, and telephone number and names of plant site contact person.

7.1.2 A description of the source's processes and products (by Standard Industrial Classification Code), including any associated with each alternate scenario(s) proposed by the applicant.

7.1.3 The following emission-related information:

7.1.3.1 All emissions of pollutants, including fugitive emissions, for which the source is major, and all emissions of regulated air pollutants, including fugitive emissions, for which the source is subject to an underlying applicable requirement. A permit application shall describe all emissions of regulated air pollutants emitted from any permitted emissions unit, and list the exempt categories from Rule 2020 which describe any insignificant equipment located at the facility. Applicant may submit quantification of actual emissions, except when potential emissions are needed to demonstrate compliance with an applicable requirement. As a demonstration of actual emissions, a source may submit the most recent emissions statement under Rule 1160, Emissions Statement, or emissions inventory report under Health and Safety Code 44300, to the extent that the statement addresses all regulated pollutants.

~~7.1.3.2 Fugitive emissions associated with source categories identified in the major source definition in 40 CFR part 70.2 and associated with major air toxics sources.~~

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- 7.1.3.2 Information related to emissions of air pollutants needed by the District to verify which requirements are applicable to the source, and other information necessary to determine and collect the fees as prescribed in Regulation III of the District rules and regulations.
- 7.1.3.3 Identification and description of all points of emissions described in section 7.1.3.1 of this rule in sufficient detail to establish the basis for fees and applicable requirements.
- 7.1.3.4 Emissions rate in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.
- 7.1.3.5 the following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, process weight rate, production rates, and operating schedules.
- 7.1.3.6 Identification and description of air pollution control equipment and compliance monitoring devices or activities.
- 7.1.3.7 Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants.
- 7.1.3.8 Other information required pursuant to any applicable requirement (including information related to stack height limitations developed pursuant to section 123 of the CAA).
- 7.1.3.9 Calculations on which the information in sections 7.1.3.1 through 7.1.3.8 of this rule is based.
- 7.1.4 The following air pollution control requirements:
 - 7.1.4.1 Citation and description of all applicable requirements, and
 - 7.1.4.2 Description of or reference to any applicable test method for determining compliance with each applicable requirement.
 - 7.1.4.3 In addition to identifying all applicable requirements, an applicant may propose consolidation of overlapping

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requirements. The applicant shall provide information that demonstrates that the proposed consolidation of requirements, as a whole, is at least as stringent as, and assures compliance with, each individual requirement.

- 7.1.5 Other specific information that may be necessary to implement and enforce other applicable requirements of the CAA or of 40 CFR Part 70 or to determine the applicability of such requirements.
- 7.1.6 An explanation of any proposed exemptions from otherwise applicable requirements.
- 7.1.7 The applicant may submit copies of valid Permits to Operate issued by the District, to the extent that the information required under sections 7.1.1 through 7.1.6 is contained in those permits.
- 7.1.8 Additional information as determined to be necessary by the District to define alternative operating scenarios proposed by the source or to define other permit terms and conditions implementing the operational flexibility provisions of section 6.4 of this rule.
- 7.1.9 A compliance plan that contains all the following:
 - 7.1.9.1 A description of the compliance status of the source with respect to all applicable requirements.
 - 7.1.9.2 For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - 7.1.9.3 For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - 7.1.9.4 For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - 7.1.9.5 A compliance schedule as follows:
 - 7.1.9.5.1 For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements

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on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

7.1.9.5.2 A schedule of compliance for a source that will not be in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will not be in compliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree, Hearing Board order or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

7.1.9.6 For sources required to have a schedule of compliance to remedy a violation, a schedule for submission of certified progress reports no less frequently than every 6 months .

7.1.9.7 The compliance plan content requirements specified in this section shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the CAA with regard to the schedule and method(s) the source will used to achieve compliance with the acid rain emissions limitations.

7.1.10 Requirements for compliance certification, including the following:

7.1.10.1 A certification of compliance with all applicable requirements by a responsible official consistent with

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requirements of section 10.0 of this rule and section 114(a)(3) of the CAA;

7.1.10.2 A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

7.1.10.3 A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the District; and

7.1.10.4 A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the CAA, which includes 40 CFR part 64 requirements under section 114(a)(3) of the CAA.

7.1.11 The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under title IV of the Act.

7.1.12 Corrected information shall be provided to the District when the responsible official becomes aware that incorrect or incomplete information has been submitted.

7.1.13 Demonstration of applicability of the most stringent applicable requirement amongst multiple options can be made by a simple declaration of applicability by the applicant.

7.2 General Permit

The District may, in a model general permit, provide for permit applications that deviate from the application content requirements of section 7.1, provided that such applications meet the requirements of Title V of the CAA, and include all information necessary to determine qualification for, and to assure compliance with, the model general permit.

7.3 General Permit Template

The District may, in a model general permit template, provide for permit applications that deviate from the application content requirements of section 7.1, provided that such applications meet the requirements of Title V of the CAA, and include all information necessary to determine qualification for, and to assure

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compliance with, the model general permit template. For applicable requirements not covered by the general permit template, an application shall include information required pursuant to section 7.1 of this rule.

8.0 Duration of a Permit to Operate

8.1 Each Permit to Operate, ~~excluding~~ including model general permits and model general permit templates, shall be valid for up to five years, or twelve years for solid waste incineration units combusting municipal waste under section 129(e) of the Federal Clean Air Act unless revoked or suspended by the Air Pollution Control Officer, the EPA, or the District's Hearing Board. ~~Model general permits and model general permits shall be valid until revoked, suspended, or modified by the District or the EPA.~~ Any permit for solid waste incineration units combusting municipal waste under section 129(e) of the Federal Clean Air Act that has a permit term of more than 5 years shall be subject to review, including public notice and comment in accordance with section 11.3 of this rule, at least once every 5 years. The District shall also revoke, suspend, or modify a model general permit or a model general permit template when the sources described in the model permit become subject to additional applicable requirements.

8.2 The permit expiration date shall be specified on the Permit to Operate.

8.3 Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with the requirements of section 5.2 of this rule. Once a timely and complete renewal application has been submitted, all terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

8.4 Failure to pay the annual permit fees and other applicable fees as prescribed in Regulation III of these Rules and Regulations may result in revocation or suspension of the Permit to Operate.

9.0 Permit Content

Each permit issued under this rule, including model general permits and temporary source permits, shall include the following elements:

9.1 Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.

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- 9.1.1 The permit shall specify and reference the origin of an authority for each term or condition, and identify any difference in form as compared to the applicable requirements upon which the term or condition is based.
- 9.1.2 The permit shall state that, where an applicable requirement of the CAA is more stringent than an applicable requirement or regulations promulgated under title IV of the CAA, both provisions shall be incorporated into the permit and shall be enforceable by the administrator.
- 9.1.3 If an applicable implementation plan allows a determination of an equivalent alternative emission limit to be made in the permit issuance, renewal, or significant modification process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
- 9.2 The permit expiration date shall be specified on the Permit to Operate.
- 9.3 Monitoring Requirements

Each permit shall contain the following requirements with respect to monitoring:

- 9.3.1 All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 504(b) or 114(a)(3) of the CAA. Where standard test methods or procedures are used, a reference to the test method or procedure shall be sufficient;
- 9.3.2 Where applicable requirements do not require periodic testing or instrumental or non-instrumental monitoring, periodic monitoring to yield reliable data for the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to the requirements of section 9.5 of this rule. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with applicable requirement. Recordkeeping requirements may be sufficient to meet the requirements of this section; and
- 9.3.3 As necessary, requirements concerning the use, maintenance, and where appropriate, installation of monitoring equipment or methods.

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9.4 Recordkeeping Requirements

The permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

9.4.1 Records of required monitoring that include the following:

- 9.4.1.1 The date, place as defined in the permit, and time of sampling or measurement;
- 9.4.1.2 The date(s) analyses were performed;
- 9.4.1.3 The company or entity that performed the analysis;
- 9.4.1.4 The analytical techniques or methods used;
- 9.4.1.5 The results of such analysis; and
- 9.4.1.6 The operating conditions as existed at the time of sampling or measurement;

9.4.2 Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, or report. Support information includes copies of all reports required by the permit and, for continuous monitoring instrumentation, all calibration and maintenance records and all original strip-chart recordings.

9.5 Reporting Requirements

The permit shall incorporate all applicable reporting requirements and require the following:

- 9.5.1 Submittal of reports of any required monitoring at least every six months unless a different frequency is required by an applicable requirement. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with requirement of section 10.0 of this rule.
- 9.5.2 Prompt reporting of deviations from permit requirements, including those attributable to upset conditions, as defined in the permit. The report shall include the probable cause of such deviations, and any corrective actions or preventive measures taken.

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- 9.6 A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under title IV of the CAA or the regulation promulgated thereunder.
- 9.6.1 No permit amendment shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit amendment under any other applicable requirement and are not considered a modification pursuant to District Rule 2201 (New and Modified Stationary Source Review).
- 9.6.2 No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.
- 9.6.3 Any such allowance shall be accounted for according to the procedures established in regulations promulgated under title IV of the CAA.
- 9.7 A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.
- 9.8 Provisions stating the following:
- 9.8.1 The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the CAA, and the District Rules and Regulations, and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
- 9.8.2 That it should not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- 9.8.3 The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- 9.8.4 The permit does not convey any property rights of any sort, or any exclusive privilege.
- 9.8.5 The Permittee shall furnish to the District, within a reasonable time, any information that the District may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the

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permittee shall also furnish to the District copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of confidentiality.

- 9.9 Provisions to ensure payment of annual permit fees and other applicable fees as prescribed in Regulation III of these Rules and Regulations.
- 9.10 Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application and approved by the District. Such terms and conditions:
- 9.10.1 Shall require the source, contemporaneous with making a change from one operating scenario to another, to record in a log at the permitted facility the scenario under which it is operating; and
- 9.10.2 Meet all applicable requirements and the requirements of 40 CFR Part 70.
- 9.11 Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent ~~allowed by that any applicable requirement provides for such trading District Rule 2201 (New and Modified Stationary Source Review)~~ without a case-by-case approval of each emissions trade, if the District is given 7 days advance notice. With regards to emissions reduction credits, this provision only applies to the transfer of emissions reduction credits from one entity to another. The banking or use of emission reduction credits requires case-by-case approval in accordance with District Rules 2201 and 2301. Such conditions:
- 9.11.1 Shall include all terms required to determine compliance with all applicable requirements; and
- 9.11.2 Must meet all applicable requirements and requirements of 40 CFR Part 70.
- 9.12 Federally-enforceable requirements
- 9.12.1 All terms and conditions of a permit that are required pursuant to the CAA, including provisions designed to limit potential to emit, are enforceable by the EPA and Citizens under the CAA.
- 9.12.2 Notwithstanding section 9.12.1 of this rule, the District shall specifically designate as not being federally enforceable under the Federal Clean Air Act any terms and conditions included in the permit that are not required under the CAA or under any of its applicable requirements. Terms and conditions

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so designated are not subject to the administrative requirements of this rule, but are still subject to the requirements of other District rules, when applicable.

9.13 Compliance Requirements

All permits, including model general permits and temporary source permits, shall contain the following elements with respect to compliance:

9.13.1 Compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any report or document submitted under a permit requirement or a request for information by the District or EPA shall contain a certification by a responsible official of truth, accuracy, and completeness.

9.13.2 Inspection and entry requirements that require that, upon presentation of credentials and other documents that may be required by law, the permittee shall allow an authorized representative of the District to perform the following:

9.13.2.1 Enter upon the permittee's premises where a permitted source is located or emissions related activity is conducted, or where records must be kept under condition of the permit;

9.13.2.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

9.13.2.3 Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and

9.13.2.4 Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

9.14 Compliance Schedules

9.14.1 For sources in violation of any applicable requirement, a schedule of compliance approved by the District Hearing Board in accordance with the procedure outlined in District Rule 5050 and meeting the requirements of section 7.1.9.5.2 of this rule, or as contained in applicable requirement;

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- 9.14.2 For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements; and
- 9.14.3 For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement,
- 9.15 For sources in violation of any applicable requirement, progress reports consistent with the applicable schedule of compliance shall be submitted at least semiannually, or at a more frequent period if required by the District Hearing Board or any other applicable requirement. Such progress report shall contain the following:
- 9.15.1 Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were or will be achieved; and
- 9.15.2 An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- 9.16 Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
- 9.16.1 The frequency (not less than annually or such more frequent periods as specified in applicable requirements or by the District) of submission of compliance certifications;
- 9.16.2 A means for monitoring the compliance of the source with its emission limitations, standards, and work practices;
- 9.16.3 A requirement that the compliance certification include the following:
- 9.16.3.1 The identification of each term or condition of the permit that is the basis of the certification;
- 9.16.3.2 The compliance status;
- 9.16.3.3 Whether compliance was continuous or intermittent;

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- 9.16.3.4 The methods used for determining the compliance status of the source, currently and over the reporting period consistent with section 9.5 of this rule; and
- 9.16.3.5 Such other facts as the District may require to determine the compliance status of the source.
- 9.16.4 A requirement that all compliance certifications be submitted to the EPA as well as to the District; and
- 9.16.5 Any additional requirements under sections 114(a)(3) and 504(b) of the CAA.
- 9.16.6 Other provisions to assure compliance with all applicable requirements, including applicable requirements with future compliance deadlines.
- 9.17 Part 70 permits utilizing one or more model general permit templates shall contain the terms and conditions of each template without any revisions.
- 9.18 Permit shield provisions indicating that compliance with the permit shall be deemed compliance with all other applicable provisions of the CAA, if the applicable requirements of such provisions are included in the permit or if the District, in acting on the permit, determines that other provisions are not applicable. A concise summary of this determination shall be included in the permit.

10.0 Certification Requirements

Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification of truth, accuracy, and completeness by a responsible official. This certification and any other certification required under this rule shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

11.0 Administrative Requirements

11.1 Model General Permits and Model General Permit Templates

All model general permits and model general permit templates shall be issued subject to the following procedures:

- 11.1.1 The APCO may issue a model general permit or model general permit template on the APCO's own initiative or in response to a petition.

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11.1.2 Any person may submit a written petition to the APCO requesting the issuance of a model general permit or model general permit template for a defined class of sources. The petition shall propose a particular class of facilities, list the expected number and size of sources in the proposed class, and include a description of the processes and operating conditions of the sources within the proposed class.

11.1.3 The APCO shall provide a written response to the petition within 60 days of receipt.

11.1.4 Public Notification

11.1.4.2 The APCO shall provide a written notice of the proposed permit and, upon request, copies of the District analysis to interested parties. Interested parties shall include affected states, ARB and persons who have requested in writing to be notified. The notice shall also be given by publication in a newspaper of general circulation in the District and by any other means if necessary to assure adequate notice to the affected public. The public shall be given 30 days from the date of publication to submit written comments on the District's proposed action.

A copy of the District analysis and the proposed permit shall be made available at District offices for public review and comment during normal business hours. The District analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions.

The notice shall provide the following information:

11.1.4.2.1 The identification of the source categories, the activities and emissions change involved in the permitting action;

11.1.4.2.2 The name and address of the District, the name and telephone number of District staff to contact for additional information;

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- 11.1.4.2.3 The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions;
- 11.1.4.2.4 The location where the public may inspect the complete application, the District analysis, the proposed permit, and all relevant supporting materials;
- 11.1.4.2.5 A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures, and
- 11.1.4.2.6 A statement that members of the public may request the APCO or his designee to preside over a public hearing for the purpose of receiving oral public comment, if a hearing has not already been scheduled. The APCO shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing.

11.1.5 EPA Notification

The APCO shall provide written notice to the EPA of the proposed decision along with copies of the proposed permit, the District analysis, the public notice submitted for publication, and all necessary supporting information.

- 11.1.6 The APCO shall provide written response to persons or agencies that submitted written comments which are postmarked by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the District office and made available upon request.

- 11.1.7 For permit applications utilizing model general permit templates, public and agency comments on District's proposed actions shall be limited to the applicant's eligibility for the model general permit template, applicable requirements not covered by the model general permit template, and the applicable procedural requirements of this rule.

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11.1.8 Changes to the Proposed Decision

Changes to the proposed decision shall be governed by the following procedure:

11.1.8.1 The APCO may modify or change the proposed decision, the proposed permit, or the District analysis on the basis of information set forth in the comments received during the public comment period provided pursuant to subsection 11.1.4 and 11.1.5, or due to further analysis by the APCO. The APCO shall forward any such modified proposed decision, the proposed permit, the District analysis, and all necessary supporting information to the EPA. EPA shall be given 45 days to review the District's revised decision.

11.1.8.2 If the EPA objects pursuant to section 11.7 of this rule, the APCO shall either not issue the model general permit or model general permit template, or revise and submit a model permit which addresses the deficiencies identified by the EPA within 90 days.

11.1.9 Final Decision

If the EPA does not object pursuant to section 11.7 of this rule, the APCO shall issue the final model general permit or model general permit template.

11.1.10 Notification and Publication of Final Action

Written notification of the final decision shall be sent to the EPA, the ARB and any person and affected state that submitted comments during the public comment period. The APCO shall submit a copy of the model general permit or model general permit template as issued to the EPA and provide a copy to any person or agency requesting a copy. The APCO shall publish such notice in a newspaper of general circulation.

11.1.11 Public Inspection of Final Action Documents

No later than at the time that notice of final action is published, the APCO shall make available for public inspection at the District office a copy of the notice submitted for publication and all supporting documents. Information submitted which contains trade secrets shall be handled in accordance with Rule 1030 (Confidential Information) of these Rules and Regulations, with section 6254.7 of the Government Code, and with relevant sections of the

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Administrative Code of the State of California. The contents of a permit issued under the requirements of this rule may not be considered a trade secret.

11.1.12 Public Petitions to the EPA

If the EPA does not object in writing to the District's preliminary decision during the EPA's 45 day review period, any person may petition the EPA within 60 days after the expiration of the EPA's 45 day review period. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided in section 11.1.4 of this rule, unless the petitioner demonstrates to the EPA that it was impracticable to raise such objections within such period, or unless grounds for such objections arose after such period. Petitions shall be based on the compliance of the permit provisions with applicable requirements.

11.2 General Permits

11.2.1 For applications meeting the qualifications as specified in a model general permit, the APCO may issue a general permit containing the terms and conditions of the model general permit without repeating the public participation procedures required under section 11.1.4 of this rule.

11.2.2 The APCO shall submit a copy of the application to the EPA within 30 days of receipt of a complete application.

11.2.3 If the EPA does not object pursuant to section 11.7 of this rule, the APCO shall issue the final general permit.

11.3 Initial Permits, Permit Renewals, New Sources, and Significant Permit Modifications

Except for permitting actions that qualify as general permits, minor modifications, or administrative amendments, all permits shall be issued subject to the following procedures:

11.3.1 Public Notification

11.3.1.1 The APCO shall provide a written notice of the proposed permit and, upon request, copies of the District analysis to interested parties. Interested parties shall include affected states, ARB and persons who have requested in writing to be

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notified. The notice shall also be given by publication in a newspaper of general circulation in the District and by any other means if necessary to assure adequate notice to the affected public. The public shall be given 30 days from the date of publication to submit written comments on the District proposed action.

- 11.3.1.2 The notice shall provide the following information:
- 11.3.1.2.1 The identification of the source, the name and address of the permit holder, the activities and emissions change involved in the permit action;
 - 11.3.1.2.2 The name and address of the District, the name and telephone number of District staff to contact for additional information;
 - 11.3.1.2.3 The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions;
 - 11.3.1.2.4 The location where the public may inspect the complete application, the District analysis, the proposed permit, and all relevant supporting materials;
 - 11.3.1.2.5 A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures, and
 - 11.3.1.2.6 A statement that members of the public may request the APCO or his designee to preside over a public hearing for the purpose of receiving oral public comment, if a hearing has not already been scheduled. The APCO shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing;

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11.3.1.3 The APCO shall provide written response to persons or agencies that submitted written comments which are postmarked by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the District office and made available upon request. The APCO shall notify the EPA and any affected State in writing of any refusal by the District to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the District's reason for not accepting any such recommendation.

11.3.1.4 A copy of the complete application, the District analysis and the proposed permit shall be made available at District offices for public review and comment during normal business hours. The District analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions.

11.3.2 EPA Notification

The APCO shall provide written notice to the EPA of the proposed decision along with copies of the proposed permit, the District analysis, the public notice submitted for publication, and all necessary supporting information.

11.3.3 Changes to the Proposed Decision

Changes to the proposed decision shall be governed by the following procedure:

11.3.3.1 The APCO may modify or change the proposed decision, the proposed permit, or the District analysis on the basis of information set forth in the comments received during the public comment period provided pursuant to subsection 11.1.4 and 11.1.5, or due to further analysis by the APCO. The APCO shall forward any such modified proposed decision, the proposed permit, the District analysis, and all necessary supporting information to the EPA. EPA shall be given 45 days to review the District's revised decision.

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11.3.3.2 If the EPA objects pursuant to section 11.7 of this rule, the APCO shall either not issue the permit, or revise and submit a permit which addresses the deficiencies identified by the EPA within 90 days.

11.3.4 Final Decision

If the EPA does not object pursuant to section 11.7 of this rule, the APCO shall issue the final permit.

11.3.5 Notification and Publication of Final Action

Written notification of the final decision shall be sent to ~~an~~ the EPA, the ARB and any person and affected state that submitted comments during the public comment period. The APCO shall submit a copy of the permit as issued to the EPA and provide a copy to any person or agency requesting a copy. The APCO shall publish such notice in a newspaper of general circulation.

11.3.6 Public Inspection of Final Action Documents

No later than at the time that notice of final action is published, the APCO shall make available for public inspection at the District office a copy of the notice submitted for publication and all supporting documents. Information submitted which contains trade secrets shall be handled in accordance with Rule 1030 (Confidential Information) of these Rules and Regulations, with section 6254.7 of the Government Code, and with relevant section of the Administrative Code of the State of California. The contents of a permit issued under the requirements of this rule may not be considered a trade secret.

11.3.7 Public Petitions to the EPA

If the EPA does not object in writing to the District's preliminary decision during the EPA's 45 day review period, any person may petition the EPA within 60 days after the expiration of the EPA's 45 day review period. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided in section 11.3.1 of this rule, unless the petitioner demonstrates to the EPA that it was impracticable to raise such objections within such period, or unless grounds for such objections arose after such period.

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11.3.8 For permit applications utilizing or model general permit templates, public and agency comments on District's proposed actions shall be limited to the applicant's eligibility for the model general permit template, applicable requirements not covered by the model general permit template, and the applicable procedural requirements of this rule.

11.4 Minor Permit Modifications

11.4.1 Within 5 working days after the receipt of a complete application for a minor permit modification, the District shall provide notice of the requested modification to the EPA pursuant to section 11.3.2 of this rule, and affected states pursuant to section 11.3.1.1 of this rule.

11.4.2 An application requesting the use of minor permit modification procedures shall meet the requirements of section 7.0 of this rule and shall include the following:

11.4.2.1 A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

11.4.2.2 The source's suggested draft permit;

11.4.2.3 Certification by a responsible official that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used.

11.4.3 The District shall not issue a final permit modification until after a 45-day period review of the proposed permit modification by EPA or until EPA has notified the District that EPA will not object to issuance of the permit modification, whichever is first.

11.4.4 Within 90 days after District's receipt of an application for a minor permit modification or 15 days after the end of the EPA's 45-day review, whichever is later, the District shall do one of the following:

11.4.4.1 Issue the permit as proposed;

11.4.4.2 Deny the permit modification application;

11.4.4.3 Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed

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pursuant to the administrative requirements for significant permit modifications; or

- 11.4.4.4 Revise the draft permit modification and transmit the new proposed permit modification to EPA and the affected states.

11.5 Administrative Permit Amendments

- 11.5.1 Within 60 days after receiving an application for an administrative change, the District shall do one of the following:

- 11.5.1.1 Take final action on the request incorporating the requested administrative amendments in the Part 70 permit; or

- 11.5.1.2 Determine that the requested amendments do not meet the Administrative Permit Amendment criteria and should be reviewed pursuant to the administrative requirements for minor or significant permit modifications.

- 11.5.2 A copy of the permit revised by administrative amendments shall be sent to the EPA within 10 days of the date that final action is taken.

- 11.5.3 Administrative amendments to permit conditions related to Title IV requirements shall be consistent with the requirements of 40 CFR part 72 and any District rule that implements the requirements of 40 CFR part 72.

11.6 Application Processing Deadlines

11.6.1 Completeness Determination

For all permitting actions except for applications for administrative amendments, the APCO shall determine whether the application is complete not later than 60 days after receipt of the application. If the APCO determines that the application is incomplete, the applicant shall be notified in writing of the decision specifying the information required. Unless the APCO requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. Upon receipt of any resubmittal of the application, a new 60-day period to determine completeness shall begin. Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in the District Rules and Regulations as they exist on the date on which the application or resubmitted application is received. Upon determination that the application

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is complete, the APCO shall notify the applicant in writing. The APCO may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application. The APCO shall submit a copy of the complete application to the EPA within five working days of the determination. The APCO need not provide notification for applications from sources that are not major sources when the EPA waives such requirements for a source category by regulation or at the time of approval of the District Part 70 permitting program.

11.6.2 Final Action

The APCO shall act on a complete application and take final action within the following time frames:

- 11.6.3 For an initial permit for a source subject to this rule on the date the rule becomes effective, no later than three years after the date the rule becomes effective.
- 11.6.4 For an initial permit for a source that becomes subject to this rule after the date the rule becomes effective, no later than 18 months after the complete application is received;
- 11.6.5 For a permit renewal, no later than 18 months after the complete application is received;
- 11.6.6 For a significant permit modification, no later than 18 months after the complete application is received;
- 11.6.7 For a minor permit modification, within 90 days after the application is received or 60 days after written notice to the EPA on the proposed decision, whichever is later; or
- 11.6.8 For any permit application with early reductions pursuant to section 112(i)(5) of the CAA, within 9 months after the complete application is received;
- 11.6.9 For applications for administrative amendments, no later than 60 days from receipt of the application.

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11.7 EPA Objection

- 11.7.1 If the EPA objects in writing to the District's proposed decision within 45 days of being notified of the decision, the APCO shall not issue the permit.
- 11.7.2 Any EPA objection shall include a statement of the EPA's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections. The EPA shall provide the permit applicant a copy of the objection.
- 11.7.3 If the District fails, within 90 days after the date of EPA's objection to revise and submit a proposed permit in response to the objection, the EPA will issue or deny the permit in accordance with requirements of 40 CFR Part 70.
- 11.7.4 If the EPA objects to the permit as a result of a public petition, the APCO shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the District has issued a permit prior to receipt of an EPA objection, the EPA will modify, terminate, or revoke such permit, and shall do so consistent with procedures in section 70.7(g)(4) or (5)(i) and (ii) of the 40 CFR regulations, and the District may thereafter reissue only a revised permit that satisfies EPA objection.
- 11.7.5 For applications for a Part 70 permit, EPA objection shall be limited to the compliance with applicable requirements and the requirements of 40 CFR part 70.
- 11.7.6 For applications utilizing model general permit templates, EPA's objection shall be limited to the applicants eligibility for the model general permit template, applicable requirements not covered by the model general permit template, and the applicable procedural requirements of this rule.
- 11.7.7 For applications for general permits, EPA's objection shall be limited to the applicants eligibility for the model general permit and the applicable procedural requirements of this rule.

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12.0 Reopening of Permits for Cause

12.1 Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

12.1.1 The source becomes subject to additional applicable requirements and there is at least three years remaining on the permit term.

12.1.2 Additional requirements become applicable to Phase II acid rain facilities under the acid rain program. Upon approval by the District, excess emissions offset plans shall be deemed to be incorporated into the permit.

12.1.3 The District or EPA determine that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

12.1.4 The District or EPA determine that the permit must be revised or revoked to assure compliance with the applicable requirements.

12.2 Administrative requirements to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Reopenings made under section 12.1.1 of this rule shall be completed no later than 18 months after promulgation of the applicable requirement.

12.3 Reopenings under section 12.1 of this rule shall not be initiated before a notice of such intent is provided to the permittee by the APCO at least 30 days in advance of the date that the permit is to be reopened, except that the APCO may provide a shorter time period in the case of an emergency.

12.4 Reopenings for cause by EPA

12.4.1 If the EPA finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to sections 12.1.1 through 12.1.4 of this rule, the EPA will notify the District and the permittee of such finding in writing.

12.4.2 The District, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The EPA may extend this 90-day period for an additional 90 days if it finds that a new or revised permit application is

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necessary or that the District must require the permittee to submit additional information.

- 12.4.3 The EPA will review the proposed determination from the District authority within 90 days of receipt.
- 12.4.4 The District shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke an reissue the permit in accordance with the Administrator's objection.
- 12.4.5 If the District fails to submit a proposed determination pursuant to section 12.4.2 of this rule or fails to resolve any objection pursuant to paragraph 12.4.4 of this rule, the EPA will terminate, modify, or revoke and reissue the permit after taking the following actions:
 - 12.4.5.1 Providing at least 30 days' notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in sections 12.4.1 through 12.4.4 of this rule.
 - 12.4.5.2 Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing.

13.0 Compliance

13.1 Application Shield

- 13.1.1 Stationary sources for which timely and complete applications for initial permits have been submitted in accordance with the requirements of this rule may continue to operate under an application shield until the application is either approved or denied. Sources operating under the application shield shall not be in violation of the requirement of this rule to obtain a permit to operate. This requirement does not allow the source to operate in violation of any other requirement. The source is still required to comply with the requirements of District Rule 2010 (Permits Required). For the purpose of this subsection, an application may be deemed complete if all information required under section 7.0 of this rule, except for information required under subsections 7.1.3.3 through 7.1.3.10, is provided.
- 13.1.2 Stationary Sources for which timely and complete renewal applications have been submitted may continue to operate until the renewal is either issued or denied. Under the renewal application shield, the existing permit shall not

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expire and the conditions of the existing permit shall remain in effect until the renewal permit has been issued or denied.

13.1.3 The application shield is not applicable if the District's final action is delayed due to the failure of the responsible official of the source to submit timely information requested by the District. The source must also submit additional information regarding applicable requirements that become applicable after a complete application is submitted, but before a draft permit is released.

13.2 Permit Shield

Compliance with permit conditions in part 70 permits that expressly state that a permit shield exists shall be deemed compliance with the applicable requirements on which the permit conditions are based, except for:

13.2.1 Requirements that become applicable after the permit is issued;

13.2.2 Requirements that become applicable with minor permit modifications, or any other changes, made without public comment; and

13.2.3 Requirements not specifically addressed in writing in response to an application for a permit or a revision to a permit. The permit shield applies only to requirements that are either ~~addressed~~ identified and included by the District in the permit, conditions or in written application reviews or are requirements that the District, in acting on the application, determines in writing are not applicable to the source. In cases where the District determines that a requirement is not applicable to the source and provides a permit shield, the permit shall include the determination or a concise summary of the determination.

13.2.4 A part 70 permit that does not expressly state that a permit shield exists.

Notwithstanding these permit shield provisions, if a source that is operating under a general permit or a part 70 permit based on a general permit template is later determined not to qualify for the terms and conditions of the general permit or template, then the source is subject to enforcement action for operation without a part 70 permit. For sources operating under a part 70 permit based on a general permit template, if the source is later determined not to qualify for the template, only the portion of the facility covered by the template shall be subject to enforcement action for operation without a part 70 permit.

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13.3 Penalties

Any person who violates any provision of this rule is guilty of a misdemeanor and is liable for a penalty as provided for in the California Health and Safety Code. Every day during any portion of which such violation occurs constitutes a separate offense.

13.4 Emergency Provisions

13.4.1 An emergency shall constitute an affirmative defense to an action brought for noncompliance with a technology based limitation providing:

13.4.1.1 The emergency arises from unforeseeable events beyond the control of the source;

13.4.1.2 The emergency does not result from improperly designed equipment, careless or improper operation, lack of preventive maintenance, or operator error;

13.4.1.3 Signed contemporaneous operating logs or other evidence demonstrate that the facility was being operated properly at the time of the emergency and that the permittee took all reasonable steps to minimize excessive emissions and meet all applicable requirements; and

13.4.1.4 The permittee notified the district within 48 hours of the time that the emergency occurred. Notification must contain a description of the emergency, steps taken to mitigate emissions, and corrective actions taken.

13.4.2 The provisions of District Rule 1100 (Breakdowns) apply in addition to the provisions of this section.

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RULE 3010 PERMIT FEE (Adopted May 21, 1992; Amended December 17, 1992; Amended July 20, 1995; Amended May 21, 1998; Amended June 21, 2001)

1.0 Filing Fee

1.1 Every applicant for an Authority to Construct or a Permit to Operate any source operation for which an Authority to Construct or a Permit to Operate is required by California State Law or the District Rules and Regulations shall pay a nonrefundable filing fee of \$60 per permit unit, except as provided in Section 1.2 below. All filing fees paid shall be credited toward the evaluation fee if it applies.

1.2 Part 70 permits as required by District Rule 2520

Every applicant for an initial or new federally mandated operating permit, or renewal of or modification to an existing permit, shall pay a nonrefundable filing fee of \$15 per emissions unit up to a maximum of \$1,200 per stationary source facility. All filing fees paid shall be credited toward the evaluation fee if it applies.

2.0 Permit Fee

2.1 Every applicant for a Permit to Operate, who files an application with the District, shall in addition to the filing fee and evaluation fee prescribed herein, pay the fee for the issuance of a Permit to Operate in the amount prescribed in Rule 3020 (Permit Fee Schedules).

2.2 Part 70 General Permits

Every applicant for a general permit shall pay a nonrefundable fee of \$25 per emissions unit upon receipt of the Part 70 general permit.

3.0 Evaluation/Air Quality Impact Analysis Fee

3.1 Every applicant who files an application for an Authority to Construct or a Permit to Operate with the District, for projects which require public noticing in accordance with the administrative requirements of Rule 2201 (New and Modified Stationary Source Review Rule), or require refined health risk assessment analysis, shall pay an engineering evaluation fee for the issuance of an Authority to Construct or Permit to Operate. The fee shall be calculated using the staff hours expended and the prevailing weighted labor rate. All filing fees paid shall be credited towards the evaluation fee.

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3.2 Part 70 permits as required by District Rule 2520

Every applicant for a federally mandated operating permit, a modification or amendment to a federally mandated operating permit, or a certificate of conformity, shall also pay an evaluation fee for the issuance of the federally mandated operating permit or certificate of conformity. The fee shall be calculated using the staff hours expended and an average weighted labor rate. All filing fees paid shall be credited towards the evaluation fee. The hourly fees charged to the applicant shall not exceed by more than 10% the amount of the advance fee estimate, or a revision thereto provided by the District.

3.3 Advance Fee Estimate

The District shall advise the applicant of the estimated evaluation fees in writing in conjunction with notification that the application is deemed complete. The fee estimate shall include a breakdown by major application processing steps. The District may only increase the estimated cost for processing an application and issue a revised advance fee estimate prior to expending 50% or a previous advance fee estimate. After the expenditure of 50% of the advance fee estimate, the District shall make no further upward revisions to the advance fee estimate.

3.4 Part 70 Permit Applicability Determination

Every applicant who requests that the District prepare a determination as to the applicability of the requirement for a facility to obtain a federally mandated operating permit shall also pay an analysis fee. The fee shall be calculated using the staff hours expended on preparing the determination and an average weighted labor rate.

3.5 Recordkeeping

All time spent by the permit processing staff on the project, beginning with pre-application meeting through issuance of the final decision, must be logged on a "Breakdown of Application Processing Time" log. The log shall not include the time spent by the permit services division director, manager, compliance staff, or clerical support. The time spent by the above mentioned personnel is accounted for in the average weighted labor rate for permit processing engineers. Upon formal request by an applicant, the District shall provide a current status of actual time expenditure versus the advance fee estimate, broken down by major application processing steps.

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3.6 Activities Excluded from Hourly Billings

- 3.6.1 No applicant shall be charged for staff hours associated with staff training or correction of staff errors.
- 3.6.2 No evaluation fee shall be charged in conjunction with general permits.
- 3.6.3 The applicant shall not be billed for the time spent by the permit services division director, manager, compliance staff, or clerical support. The time spent by the above mentioned personnel is accounted for in the average weighted labor rate for permit processing engineers.

4.0 Cancellation or Denial

If an Authority to Construct or a Permit to Operate or an application for an Authority to Construct or a Permit to Operate expires, is canceled, withdrawn by the applicant, revoked, or denied and such denial becomes final, the filing, permit and evaluation fee required herein shall not be refunded nor applied to any subsequent application or permit.

5.0 Transfer of Owner Without an Alteration or Addition

Where an application is filed for a Permit to Operate any source operation by reason of transfer from one person to another and where a Permit to Operate has previously been granted under Rule 2010 (Permits Required), and where no alteration or addition has been made or where no transfer of location has been made, the applicant shall pay a nonrefundable fee of \$20 per permit unit. A \$20 fee will be charged for the change of name only.

6.0 Permit Fee Penalty

After the provisions for granting permits as set forth in Division 26 of the Health and Safety Code and the District Rules and Regulations have been complied with, the applicant shall be notified in writing by the APCO of the filing fee, permit fee, and evaluation fee to be paid for the issuance of the Permit to Operate or the Authority to Construct. Such notice shall be given by personal service or by deposit, postpaid, in the United States mail. If the permit fee is not paid within 60 days, the fee shall be increased by 50% and the APCO shall thereupon promptly notify the applicant by mail of the increased fee which is due within 90 days of the initial due date. Nonpayment of the fee and penalty fee within 90 days of the initial due date may result in the cancellation of the application and the Authority to Construct or suspension of the Permit to Operate.

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7.0 Permit Granted by Hearing Board

In the event that an Authority to Construct or a Permit to Operate is granted by the Hearing Board after denial by the APCO or after the applicant deems his application denied, the applicant shall pay the permit fee prescribed in Section 2.0 and the evaluation fee prescribed in Section 3.0 within 60 days after the date of the decision of the Hearing Board. If the fee is not paid within this period of time, the fee shall be increased by 50%. Nonpayment of the increased fee and penalty within 90 days after the initial due date shall result in the automatic cancellation of the Authority to Construct or the Permit to Operate and the application.

8.0 Annual Renewal Fee

On the anniversary of the issuance of a Permit to Operate granted under Rule 2010 (Permits Required), the permittee shall pay a renewal fee equal to the fee in the current Fee Schedules in Rule 3020 (Permit Fee Schedules). The holder of permits with more than one anniversary date may adjust annual renewal payments to a single anniversary date by prorating renewal fee(s) as necessary. If the renewal fee is not paid within 60 days after it becomes due, the fee shall be increased by 50%. Nonpayment of the increased fee and penalty within 90 days of the due date may result in the suspension of the permit.

9.0 Multiple Locations

When permits have been issued to operate movable equipment at two or more locations, only one annual renewal fee will be charged.

10.0 Duplicate Authority to Construct or Permit to Operate

A request for a duplicate Authority to Construct or Permit to Operate shall be made in writing to the APCO within 10 days after the destruction, loss or defacement of the Authority to Construct or the Permit to Operate. A fee of \$15 shall be charged for issuing a duplicate Authority to Construct or a duplicate Permit to Operate.

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Final Draft Staff Report

Amendments to Rule 2020 (Exemptions); Rule 2201 (New and Modified Stationary Source Review Rule); Rule 2520 (Federally Mandated Operating Permits); and Rule 3010 (Permit Fee)

**Prepared by Rick McVaigh, Permit Services Manager
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Robert Bashian, Senior Air Quality Inspector**

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I. EXECUTIVE SUMMARY

A. Reasons for Rule Development and Implementation

The District is proposing amendments to Rules 2020, 2201, 2520, and 3010 to obtain final Federal approval of the District's Title V permitting program..

On May 24, 1996, after several rounds of negotiations with the District, EPA granted interim approval of the District's Title V permitting program. This interim approval allowed the District to retain unique program provisions, such as the use of general permit templates and enhanced NSR review, which were designed to make the Title V permitting process less burdensome for both affected industry and the District. The interim approval also provided additional time (18 months) for the District to address certain other issues which were identified as deficiencies in the interim approval notice.

Since 1996, EPA has provided two extensions to the interim program approvals, so addressing the program deficiencies identified in 1996 has not been a high priority. However, recent court actions brought by environmental groups against EPA have resulted in a settlement agreement that prohibits EPA from granting any further extensions of interim program approvals. Based on this agreement, EPA is now requiring that State and local permitting authorities correct the deficiencies identified in interim approval notices by June 5, 2001. Under the agreement, failure to obtain final program approval would result in Federal sanctions and an EPA takeover of local Title V permitting programs on December 1, 2001. District staff worked diligently to meet the June 5 deadline, but last-minute EPA comments added a one month delay to the rule development process.

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The language changes required to address District interim approval issues and obtain final approval of our District Title V program are included in the proposed amendments to Rules 2020, 2201 and 2520. In addition to these changes, before approval of the District program can be granted, EPA has also indicated that the California State Legislature must revise the Health and Safety Code to eliminate the exemption of agricultural sources from Title V permitting.

Drafts of the proposed rule amendments were prepared and published. Staff conducted a series of public workshops to discuss these amendments and to receive comments from the public and industry. This Staff Report was revised to account for information obtained during the workshop process, and was published before the adoption of the proposed amendments. Changes proposed are primarily to address the Federal requirements and did not significantly change the intent or provisions of the proposed rules. Staff intend to propose the amendments for adoption by the District Governing Board in the second quarter of 2001.

II. CURRENT AND PROPOSED REGULATIONS

A. Rule 2020 (Exemptions):

Rule 2020 (Exemptions), specifies the less significant emission units which are exempt from permits and those sources which are precluded from the District's permitting authority.

Key features of Rule 2020 include:

- Permit to Operate (PTO) and Authority to Construct (ATC) exemptions for "Low Emitting Units," which are defined as having uncontrolled emissions of less than 2 pounds per day or less than 75 pounds per year, unless the source category is included on the specific list of exempt equipment and operations,
- Exemptions from ATC and PTO requirements are also included for equipment used in agricultural operations, residential equipment, motor vehicles, registered portable equipment, and repair and maintenance of permitted units.
- Regardless of the provisions of this rule, an emission unit may require an ATC or PTO if it is subject to Federal New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants; if the APCO determines that the unit may not operate in compliance with all District Rule

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and Regulations; if the owner requests a permit; or if the equipment controls emissions from soil or groundwater decontamination projects.

The major amendments to Rule 2020, as proposed, would include the following:

- Removal of the reference to agricultural operations in Section 4.1 of the exemption rule. Although this would remove the local exemption, the District would still be prohibited from permitting such operations by California Health and Safety Code, Section 42310 (e). EPA has indicated that, in order to make California Title V programs approvable, the State Legislature must also eliminate this prohibition as it applies to major sources.

B. Rule 2201 (New and Modified Stationary Source Review Rule):

The District has not attained Federal and state standards for ozone and PM10 and must therefore implement programs which address current and future emissions. Regulation of new emissions is accomplished through an NSR program that addresses both adequate control and mitigation requirements. The District's NSR program is designed to meet the state and Federal NSR requirements for non-attainment areas. The District NSR Rule (Rule 2201) applies to new and modified stationary sources which emit NO_x, CO, VOC, SO_x, PM10 and other pollutants subject to District permit requirements pursuant to District Rule 2010 (Permits Required).

Key features of Rule 2201 include:

- Best Available Control Technology (BACT): which mandates emission controls to minimize emission increases above de minimus values;
- Emission offsets: which requires emissions above specified offset threshold levels to be mitigated with either concurrent reductions or emission reduction credits (ERC);
- Public notification: a 30-day period prior to issuance of an Authority to Construct (ATC) to garner comments on projects that result in emissions above specified levels;
- Required elements for ATC and PTO;
- Administrative requirements for the processing of NSR applications.

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The major amendments to Rule 2201, as proposed, would include the following:

- Modification of Section 2.0 to state that the currently proposed amendments do not become effective until the EPA promulgates final authority of the 1998 rule amendments in the Federal Register.
- Minor wording changes to Section 3.24 and 5.9.1 to obtain final approval of the District's Title V program.

C. Rule 2520 (Federally Mandated Operating Permits):

District Rule 2520 (Federally Mandated Operating Permits) provides administrative mechanisms for issuing Title V operating permits for new and modified sources of air pollution in accordance with the requirements of 40 CFR part 70. The rule includes unique provisions, such as the use of general permit templates and enhanced NSR review, which were designed to make the Title V permitting process more streamlined and less burdensome for affected industry and the District. Permits issued in accordance Rule 2520 include both Federal and local requirements.

Key features of Rule 2520 include:

- Title V permit application requirements for initial permits, renewals, modifications and administrative amendments. These provisions address the application requirements of the Federal 40 CFR part 70 regulations.
- Procedures for amending Title V permits. The rule defines administrative amendments, minor modifications, and significant permit amendments. Allowances for operational flexibility, alternative operating scenarios, voluntary emission caps, changes without Title V permit amendment, and temporary sources are also included in the rule.
- Title V permit content requirements. Under Federal regulations, Title V permits are generally required to contain emission limits and standards, an expiration date, monitoring requirements, recordkeeping requirements, reporting requirements, a severability clause, fee requirements, terms and conditions for alternative operating scenarios, Federally applicable requirements, compliance requirements, compliance schedules, and certification requirements.
- Administrative requirements for issuing and amending Title V permits. For minor modifications, EPA review is required. For initial permits, renewals, and significant modifications, administrative requirements include EPA review and public notice.

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- Provisions for application shields, permit shields, and penalties. Application shields allow facilities with complete applications to continue to operate until their initial Title V permits are either issued or denied. Under certain circumstances, a permit shield can allow compliance with permit requirements to be deemed compliance with the requirements on which the permit is based.

The major amendments for Rule 2520 required by EPA include the following:

- Revisions to Applicability and Definition Sections 2.2, 3.18, and 3.19 to specify that, in addition to applying to sources that have the potential to emit at major source levels, Title V permitting requirements also apply to facilities that actually “emit” at major source levels;
- Revisions to Section 3.20 so that major Prevention of Significant Deterioration (PSD) modifications are treated as significant modifications under Title V;
- Revisions to limit the exemptions in Section 4.1, so that if a Federal Clean Air Act Section 111 New Source Performance Standards (NSPS) or Section 112 Maximum Achievable Control Technology (MACT) standard requires a source to obtain a Title V permit, Rule 2520 does not exempt the source from that requirement
- A revision to Section 7.1.3.1 so that fugitive emission estimates must also be included with applications;
- Additional provisions in Section 8.1 stating that General Permit Templates be renewed every 5 years and that solid waste incineration permits must undergo review every 5 years;
- Revisions to Sections 11.1.4.2 and 11.3.1.1 to require that, in addition to newspaper publication, public notice be required by any other means necessary;
- Changes to Section 11.3.1.3 to require the District to notify EPA and any affected States if recommendations by affected states were not accepted;
- Revisions to Sections 11.6.1 so that applications are deemed complete within 60 days by default, unless the District notifies the application of incompleteness;
- Revisions to Section 11.7.5 of the rule to make it consistent with 40 CFR part 70 provisions for EPA objection to permits;

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- Provisions in Section 13.2.3 restricting the applicability of permit shields to requirements addressed in the permit or evaluation in accordance with 40 CFR part 70.
- Provisions in Section 13.2.4 stating that if a source is determined to be operating under a general permit that the source does not qualify for, the facility will be deemed in violation of the requirement to obtain a Title V permit.

D. Rule 3010 (Permit Fee):

District Rule 3010 (Permit Fee) includes fees established to recover a portion of the costs of associated with District programs including permitting. These fees include application filing fees, permit fees, evaluations fees, and renewal fees.

Key features of current Rule 3010 include:

- Application Filing Fees for Authorities to Construct and Permits to Operate.
- Permit fees for the issuance or renewal of Permits to Operate.
- Evaluation fees for permitting actions requiring public notice .

The amendments to Rule 3010 consist of:

- Add a provision as Section 3.4 to allow the District to recover the cost of performing an analysis for those sources that would like the District to prepare Title V applicability determinations on their behalf .

III COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSIS

Pursuant to state law, the District is required to analyze the cost effectiveness of new rules that implement Best Available Retrofit Control Technology (BARCT). The proposed amendments do not add BARCT requirements, and are therefore not subject to the cost effectiveness analysis mandate. Additionally, state law requires the District to analyze the socioeconomic impacts of any proposed rule amendments that significantly affects air quality or strengthens an emission limitation. The proposed amendments will have neither effect, and are therefore not subject to the socioeconomic analysis mandate.

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IV RULE CONSISTENCY ANALYSIS

Pursuant to CH&SC Section 40727.2 (g) a rule consistency analysis of these draft rules is not required. The draft rules do not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

V. ENVIRONMENTAL EFFECTS

Pursuant to the California Environmental Quality Act, staff investigated the possible environmental impacts of the proposed amendments. Based on lack of evidence to the contrary, District staff have concluded that the proposed amendments will not have any significant adverse effect on the environment. Staff recommend filing a Notice of Exemption under the provisions of Public Resource Code 15061(b)(3).