

SANTA BARBARA COUNTY AIR POLLUTION CONTROL DISTRICT

**RULE 1304 -- PART 70 OPERATING PERMITS – ISSUANCE, RENEWAL,
MODIFICATION AND REOPENING**

(Adopted 11/09/1993) (Revised 1/18/2001)

A. Applicability

The provisions of this Rule shall apply to permit issuances, renewals, modifications or reopenings for any Part 70 source.

B. Exemptions

No exemptions apply to permit issuances, renewals, modifications and reopenings required under this Rule.

C. Definitions

For purposes of this Rule, definitions listed in Rule 1301, Section C shall apply.

D. Requirements

Permit issuances, renewals, modifications and reopenings shall be carried out in accordance with the following provisions and with other applicable provisions of Regulation XIII:

1. Permit Issuances, Renewals and Significant Modifications

a. Timely Submission of Applications

Any Part 70 source required to obtain a Part 70 permit shall submit an application for such permit in the following manner:

- i. For any Part 70 source that is required to obtain a Part 70 permit on the effective date of this Rule, an application for a Part 70 permit shall be submitted to the District, with a copy to USEPA, Region IX.
- ii. For any Part 70 source that becomes subject to the requirement to obtain a Part 70 permit based on Rules 1301.C. "Part 70 Source - 1.b, 1.c, 2 and 6 categories," after the effective date of Rule 1301, and provided the source was operated prior to the date on which such source becomes subject to the requirement to obtain a Part 70 permit, an application for a Part 70 permit shall be submitted to the District, with a copy to the USEPA, Region IX, by no later than 12 months after such source becomes subject to such requirement.
- iii. For any Part 70 source, including a new or modified source, that becomes subject to the requirement to obtain a Part 70 permit after the effective date of Rules 1301 through 1305, except a source subject to Section D.1.a.ii. of this Rule, an application for a Part 70 permit shall be submitted to the District, with a copy to the USEPA, Region IX, prior to commencing operation of those portions of the

source that caused the source to become subject to the requirement to obtain a Part 70 permit.

- iv. For any Part 70 source that is requesting a significant permit modification, an application for a Part 70 permit shall be submitted to the District, with a copy to the USEPA, Region IX, prior to operating such source pursuant to the modification. Where an existing Part 70 permit would prohibit such construction or change in operation, the Part 70 source must obtain a permit revision prior to commencing operation.
- v. For any Part 70 source that is applying for renewal/reissuance of a Part 70 permit, an application for a Part 70 permit shall be submitted to the District, with a copy to the USEPA, Region IX. Part 70 sources shall submit an application for permit renewal two years and six months after the date of issuance of the initial Part 70 permit or subsequent permit renewals. The District may approve a later submittal date, but in no case shall the time period for a renewal application exceed four years and six months from the date of issuance.
- vi. Applications from acid rain sources for initial phase II acid rain permits shall be submitted to the District with a copy to the USEPA, Region IX, by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.

b. Completeness Determinations

The Control Officer shall provide written notice to an applicant regarding whether or not a Part 70 permit application is complete. Unless the Control Officer requests additional information or otherwise notifies the applicant that the application is incomplete within 60 days after receipt of such application, the application shall be deemed complete.

c. Action on Applications

The Control Officer shall take final action on each complete Part 70 permit application within the following time frame:

- i. For applications for an initial Part 70 permit, the Control Officer shall take final action:
 - (A) On at least one third of all initial applications, no later than (1 year after the effective date of USEPA approval of Rules 1301 through 1305), and
 - (B) On at least two thirds of all initial applications, no later than (2 years after the effective date of USEPA approval of Rules 1301 through 1305), and
 - (C) On all initial applications, no later than (3 years after the effective date of USEPA approval of Rules 1301 through 1305).
- ii. For any complete application for a Part 70 permit that contains an early reduction demonstration pursuant to Section 112(i)(5) of the CAA and its implementing regulations, the Control Officer shall take final action no later than nine months after receipt of such complete application.

- iii. For any applications for a Part 70 permit for a phase II acid rain source, the Control Officer shall take final action in accordance with the deadlines in Title IV of the federal CAA and its implementing regulations and 40 CFR 72.
- iv. Except for applications listed pursuant to Sections D.1.c.i, D.1.c.ii and D.1.c.iii of this Rule, and applications for significant modifications, the Control Officer shall take final action on an application no later than 18 months after the receipt of such complete application.
- v. Review of the majority of significant permit modification applications shall be completed within nine (9) months after the receipt of a complete application.
- vi. All permit renewal applications from a Part 70 source shall be subject to the same procedures as apply to the initial permit issuance application, including those for public participation and USEPA, public and affected states review.
- vii. For all permit issuances, renewals and significant modifications, no final permits shall be issued by the District unless the "Public Notification" procedures listed in Section D.6 of this Rule and the "USEPA and Affected States Notification" procedures outlined in Section D.7 of this Rule have been implemented.

2. Administrative Permit Amendment

- a. An applicant shall submit an application for an administrative permit amendment prior to implementing the requested change. An applicant may implement the changes addressed in an application for an administrative permit amendment immediately after the submission of such application to the District.
- b. The Control Officer shall take final action on any request for an administrative permit amendment within 60 days after receipt of such request. No USEPA, public or affected States review is required prior to taking this final action.
- c. Administrative permit amendments for purposes of the acid rain portion of a Part 70 permit shall be governed by 40 CFR 72.

3. Minor Permit Modifications

a. Application Submittal

An applicant for a minor Part 70 permit modification shall submit to the District and the USEPA, Region IX an application for such modification prior to implementing such change. An applicant may implement the changes addressed in an application for a minor permit modification immediately after the submission of such application to the District and USEPA. After the source makes the proposed change and before the District takes action on the application, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period the existing permit terms and conditions shall be enforced against it.

b. Action on Applications

The Control Officer shall take final action on an application for a minor Part 70 permit modification within 90 days of receipt of such application or within 15 days after USEPA's 45-day review period, whichever is later. Also, the Control Officer shall not take this action until after USEPA's (45-day) review period or until the USEPA has notified the District that it will not object to the permit modification, whichever is first. Under this final action the Control Officer shall:

- i. Issue the permit modification as proposed; or
- ii. Deny the permit modification application; or
- iii. Determine the proposed permit modification does not meet the minor permit modification criteria and should be reviewed under the significant permit action procedures; or
- iv. Revise the draft permit modification and transmit the new proposed permit to USEPA.

4. Non-Federal Minor Permit Change

a. Application Submittal

An applicant for a non-federal minor permit change shall submit an application for such change prior to implementing such change. An applicant shall submit such application to the District and shall provide a copy of the application to the USEPA, Region IX. An applicant may implement the changes addressed in an application for a non-federal minor permit change upon submission of such application to the District.

b. Action on Applications

The Control Officer shall take final action on an application for a minor non-federal Part 70 permit modification within 90 days of receipt of such application. Under this final action the Control Officer shall:

- i. Issue the permit modification as proposed; or
- ii. Deny the permit modification application; or
- iii. Determine the proposed permit change does not meet the non-federal minor permit change criteria and should be reviewed under the significant permit action procedures or minor permit modification procedures.

5. USEPA Objection

The Control Officer shall not issue a final Part 70 permit to an applicant if the USEPA objects to the issuance of such permit in writing within 45 days of the receipt of a copy of the District's proposed permit, and all necessary supporting information.

6. Public Notification

- a. The Control Officer shall publish a notice, as specified in Section D.6.b of this Rule, of any preliminary decision to grant a Part 70 permit, if such granting would constitute a significant Part 70 permit action. Notice shall be provided by other means if necessary to assure adequate notice to the affected public.
- b. Any notice of a preliminary decision required to be published pursuant to Section D.6.a of this Rule, shall:
 - i. Be published in at least one newspaper of general circulation in Santa Barbara County.
 - ii. Be provided to all persons on the "general public notice mailing list." The "general public notice mailing list" shall include any person(s) who request to be on such list provided the request is in writing and any fee for providing the document has been paid.
 - iii. Include, information that identifies the source, and the name and address of the applicant; also, the activities involved in the permit action, and the emission changes involved in the permit modification.
 - iv. Include the location where the public may inspect the information required to be made available pursuant to Section D.6.c of this Rule.
 - v. Provide at least 30 days from the date of publication for the public to submit written comments regarding such preliminary decision.
 - vi. Provide a brief description of comment procedures including procedures by which the public may request public hearing, if a hearing has not been scheduled. The Control Officer shall provide notice of any public hearing scheduled pursuant to this subsection at least 30 days prior to such hearing.
- c. The Control Officer shall, by no later than the date of publication, make available for public inspection at the District office the information submitted by the applicant and the Control Officer's supporting analysis for any preliminary decision subject to the notification requirements of Section D.6.a of this Rule. Information which contains trade secrets shall be handled in accordance with District Policy and Procedure Number 6100.020 (copy available from District), based on California laws.
- d. The Control Officer shall keep a written log containing records of the commenters and issues raised during the public participation process.
- e. The Control Officer need only consider comments regarding a preliminary decision to grant or reissue a Part 70 permit if the comments are germane to the applicable requirements implicated by the permit action in question. Comments will be germane only if they address whether the permit action in question is consistent with all applicable requirements including those of District Regulation XIII and of federal regulations listed in 40 CFR 70. Comments that address a portion of a Part 70 permit that would not be affected by the permit action in question would not be germane.

7. Concurrent Review

At the Control Officer's discretion, the preliminary decision and proposed operating permit may be issued concurrently for public and USEPA review. If public comment results in a significant change to the permit, then USEPA may require an extension of their 45-day review period.

8. USEPA and Affected State Notification

a. Administrative Permit Amendments

The Control Officer shall submit a copy of the revised permit to the USEPA.

b. Minor Permit Modifications

i. The Control Officer shall, no later than 7 days after receipt of a complete application for a minor permit modification, provide to the USEPA and affected states a copy of such application.

ii. The Control Officer shall provide to the USEPA and any affected state written notification of any refusal by the District to accept all recommendations that an affected state submitted for the permit. The notice shall include the District's reasons for not accepting such recommendations, and a copy of the new proposed permit modification.

iii. The Control Officer shall provide written notice to USEPA of the final decision to grant or deny a minor permit modification, along with the new final permit modification.

c. Significant Permit Actions

i. The Control Officer shall provide to the USEPA, affected states and any person that requests such information a copy of any notification made pursuant to Section D.6.a of this Rule, and the supporting data and analysis relating to any such preliminary decision.

ii. The Control Officer shall provide to the USEPA and any affected state written notification of any refusal by the District to accept all recommendations that an affected state submitted for the permit. The notice shall include the District's reasons for not accepting such recommendations. A copy of the proposed permit shall also be provided to the USEPA, Region IX, and the affected states at this time.

iii. The Control Officer shall provide written notification of the final decision to grant or deny a Part 70 permit to USEPA and any affected states. If applicable, a copy of the final permit shall be provided to the USEPA, Region IX along with the notification.

9. Public Petitions to USEPA

If the USEPA does not object in writing to the issuance of a Part 70 permit pursuant to Section D.5 of this Rule, any person may petition the USEPA within 60 days after the expiration of USEPA's 45 day comment period.

Such petition shall be based only on issues relating to the permit that were raised during the public comment period specified pursuant to Section D.6.b.v. of this Rule, unless:

- a. The petitioner demonstrates that it was impracticable to raise such issues during such public comment period, or
- b. Grounds for such petition arose after the end of such public period.

If the USEPA objects to the permit as a result of a petition filed pursuant to this section, the District shall not issue the permit. Notwithstanding the previous sentence, a petition does not stay the effectiveness of a permit if the permit was issued after the end of the 45 day USEPA comment period and prior to an USEPA objection.

10. Reopening of Permits for Cause

A permit shall be reopened and revised for cause as provided below.

- a. If additional applicable requirements become applicable to the Part 70 source which has an unexpired permit term of three (3) or more years, the Control Officer will reopen the permit. Such a reopening shall be completed no later than 18 months after promulgation of the applicable requirement. However, no such reopening will be required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to Rule 1304. Also, all such reopenings shall not be initiated before a notice of such intent is provided to the permittee by the Control Officer at least 30 days in advance of the date that the permit is to be reopened, except that the Control Officer may provide a shorter time period in the case of an emergency.
- b. If additional requirements become applicable to an acid rain source under the acid rain program, a Part 70 permit reopening shall be made. Upon approval by the U.S. Environmental Protection Agency (USEPA), excess emissions offset plans shall be deemed to be incorporated into the permit.
- c. If the District or the USEPA determine that the Part 70 permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit, a permit reopening shall be made. Such reopenings shall be made as expeditiously as practicable.
- d. If the District determines that the Part 70 permit must be revised or revoked to assure compliance with any applicable requirement, or USEPA determines that the Part 70 permit must be revised or revoked to assure compliance with any federally enforceable requirement, the permit shall be reopened. Such reopenings shall also be made as expeditiously as practicable.

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.

11. Reopenings for Cause by USEPA

Procedures and time frames for permit reopenings by the USEPA for cause will be, as follows:

- a. The USEPA will notify the District and the permittee of their findings for cause, in writing.
- b. The District shall, within 90 days after receipt of such notification, forward to USEPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The USEPA may extend this 90-day period for an additional 90 days if it finds

that a new or revised permit application is necessary or that the District must require the permittee to submit additional information.

- c. If USEPA's review of the proposed determination results in an USEPA objection, the District shall, within 90 days after receipt of an USEPA objection, resolve any such USEPA objection and terminate, modify, or revoke and reissue the permit in accordance with such USEPA objection.
- d. If the District fails to submit a proposed determination pursuant to Section D.10.a of this Rule or fails to resolve any objection pursuant to Section D.10.b of this Rule, the USEPA shall terminate, modify or revoke and reissue the Part 70 permit after taking the following actions:
 - i. The permittee shall be provided with a 30 days' notice prior to USEPA's final action, if any is taken.
 - ii. The permittee shall also be provided with an opportunity for comment on USEPA's proposed action and an opportunity for a hearing.

12. Permit Processing Costs

All costs incurred by the District for the issuance of a Part 70 permit shall be "reimbursable costs" pursuant to District Rule 210 and shall be subject to all requirements therein. Such costs shall include requirement for the public notices, hearings, and additional permit program activities necessary to issue the Part 70 permit, but shall not include any cost for work necessitated by District requirements which are funded by the Fee Schedule of Rule 210.

E. Rule Compliance Schedule

All Part 70 sources subject to this Rule, except the outer continental shelf (OCS) sources, shall comply with this Rule on the date they become subject to the federal operating permit program as approved by the USEPA for the District. All OCS sources shall comply with this Rule either on the USEPA's approval date for this Rule or on the date USEPA delegates the OCS program to the District, whichever is later. Specific dates for compliance are provided in relevant sections of this Rule.

F. Effective Date of Rule

The requirements of this Rule shall become effective on the date of approval by USEPA.