

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

**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 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

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 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.
- 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 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 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.
- 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 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;
  - 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 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,

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, 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.

### 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:

### 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;

- 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:

- 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
- 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 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 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 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 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 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, 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. 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.
  - 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.

#### 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.
- 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 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 that any applicable requirement provides for such trading 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 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;

- 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;

- 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.
- 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

11.1.4.1 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 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:

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

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

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

11.1.4.1.4 The location where the public may inspect the complete application, the District analysis, the

proposed permit, and all relevant supporting materials;

11.1.4.1.5 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

11.1.4.1.6 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.

#### 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 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 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;
- 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.

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.

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 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 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:

11.6.2.1 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.

11.6.2.2 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;

11.6.2.3 For a permit renewal, no later than 18 months after the complete application is received;

- 11.6.2.4 For a significant permit modification, no later than 18 months after the complete application is received;
- 11.6.2.5 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
- 11.6.2.6 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;
- 11.6.2.7 For applications for administrative amendments, no later than 60 days from receipt of the application.

## 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.

## 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 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 and 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 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 identified and included by the District in the permit, 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.

## 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.