

**DRAFT RULE XXX (ARB revision 11-17-93):
ADDITIONAL PROCEDURES FOR ISSUING PERMITS TO OPERATE FOR
SOURCES SUBJECT TO TITLE V OF THE FEDERAL CLEAN AIR ACT
AMENDMENTS OF 1990**

Table of Contents

	<u>Page</u>
I. PURPOSE AND GENERAL REQUIREMENTS OF RULE XXX	1
II. DEFINITIONS	2
III. APPLICABILITY	10
A. Sources Subject to Rule XXX	10
B. Sources Exempt from Rule XXX	11
IV. ADMINISTRATIVE PROCEDURES FOR SOURCES	11
A. Permit Requirement and Application Shield	11
B. Application Requirements	12
C. Application Content and Correctness	13
D. Written Requests for District Action	16
E. Response to Permit Reopening for Cause	17
V. DISTRICT ADMINISTRATIVE PROCEDURES	17
A. Completeness Review of Applications	17
B. Notification of Completeness Determination	18
C. Application Processing Timeframes	18
D. Notification and Opportunity for Review of Proposed Decision	19
E. Changes to the Proposed Decision	20
F. Final Decision	21
G. District Action on Written Requests	22
H. Permit Reopening for Cause	23
I. Options for Operational Flexibility	24
VI. PERMIT CONTENT REQUIREMENTS	26
A. Incorporation of Applicable Federal Requirements	26
B. General Requirements	26
VII. SUPPLEMENTAL ANNUAL FEE	33
A. Payment of Supplemental Fee	33
B. No Supplemental Fee	34
C. Determination of Supplemental Fee	35

D. Submittal of Information

35

Rule XXX

Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990

[Note] identifies areas of Rule XXX where the *District* may want to insert optional language or contains explanations. These "notes" are not part of Rule XXX.

[References have been added to this rule at the request of several districts. Inclusion of these references in the rule is an option.]

I. PURPOSE AND GENERAL REQUIREMENTS OF RULE XXX

[Reference: 40 CFR Part 70.1, 70.4, 70.6(a)(6) and 70.7(a)(6) and (b)]

Rule XXX implements the requirements of Title V of the federal *Clean Air Act* as amended in 1990 (CAA) for permits to operate. Title V provides for the establishment of operating permit programs for sources which emit *regulated air pollutants*, including attainment and nonattainment pollutants. ~~Additionally, Rule XXX is used to implement the Phase II acid deposition control provisions of Title IV of the CAA, including provisions for Acid Rain Permits. The effective date of Rule XXX~~ *effective date of Rule XXX* is the date the *United States Environmental Protection Agency (U.S. EPA)* promulgates interim, partial, or final approval of this rule in the ~~Code of Federal Regulations~~ *Federal Register*.

By the ~~effective date of Rule XXX~~ *effective date of Rule XXX*, the ____ *Air Pollution Control District (District)* shall implement an operating permit program pursuant to the requirements of this rule. ~~The requirements of Rule XXX shall augment and take precedence over conflicting administrative requirements of other provisions of the District's rules and regulations. ***[The District Board shall add to its permits- required regulation an interpretative ruling or a policy statement of their intent that Rule XXX supplements other rules in existence and takes precedence where there is a conflict. The District, as soon as resources and time allow, shall amend the rules to make them consistent.]***~~ The *District* shall also continue to implement its existing programs pertaining to prevention of significant deterioration, Rule ____ ~~***[The District rule for PSD, if applicable]***~~ and permits required by Regulation ____ [The *District* permits- required regulation), including authorities to construct, Rule ____ or new source review, Rule ____]. Nothing in Rule XXX limits the authority of the *District* to revoke or terminate a permit pursuant to sections 40808, and 42307-42309 of the *California Health and Safety Code (H&SC)*.

Sources subject to Rule XXX include *major sources*, *acid rain units* subject to Title IV of the CAA, *solid waste incinerators* subject to section 111 or 129 of the CAA, and any other

sources specifically designated by rule of the *U.S. EPA*. Sources subject to Rule XXX shall obtain permits to operate pursuant to this rule. Each permit to operate issued pursuant to Rule XXX shall contain conditions and requirements adequate to ensure compliance with and the enforceability of:

- A. All applicable provisions of Division 26 of the *H&SC*, commencing with section 39000;
- B. All applicable orders, rules, and regulations of the *District* and the *California Air Resources Board (ARB)*;
- C. All applicable provisions of the applicable implementation plan required by the *CAA*;
- D. Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the *CAA*; and
- E. The requirements of all preconstruction permits issued pursuant to Parts C and D of the *CAA*.

The operation of an *emissions unit* to which Rule XXX is applicable without a permit or in violation of any applicable permit condition or requirement shall be a violation of Rule XXX.

II. DEFINITIONS

The definitions in this section apply throughout Rule XXX and are derived from related provisions of the *U.S. EPA's* Title V regulations in Part 70 *Code of Federal Regulations (CFR)*, "State Operating Permit Programs." The terms defined in this section are italicized throughout Rule XXX.

- A. ***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*. ***[The *District* may choose to provide a more detailed definition when the *U.S. EPA* clarifies which sources are subject to Title IV requirements.]***
[Reference: 40 CFR Part 70.2 Affected Unit]
- B. ***Administrative Permit Amendment*** An "administrative permit amendment" is an amendment to a permit to operate which:
 - 1. Corrects a typographical error;
 - 2. Identifies a minor administrative change at the *stationary source*; for example,

a change in the name, address, or phone number of any person identified in the permit;

3. Requires more frequent monitoring or reporting by an owner or operator of the *stationary source*; or
4. Transfers ownership or operational control of a *stationary source*, provided that, prior to the transfer, the *APCO* receives a written agreement which specifies a date for the transfer of permit responsibility, coverage, and liability from the current to the prospective permittee.

[Reference: 40 CFR Part 70.7(d)]

- C. ***Affected State*** An "affected state" is any state that: 1) is contiguous with California and whose air quality may be affected by a permit action, or 2) is within 50 miles of the source for which a permit action is being proposed.

[Reference: 40 CFR Part 70.2 Affected States]

- D. ***Air Pollution Control Officer (APCO)*** "Air Pollution Control Officer" refers to the air pollution control officer of the ____ Air Pollution Control District, or his or her designee.

- E. ***Applicable Federal Requirement*** An "applicable federal requirement" is any requirement which is enforceable by the *U.S. EPA* and citizens pursuant to section 304 of the *CAA* and is set forth in, or authorized by, the *CAA* or a *U.S. EPA* regulation. An "applicable federal requirement" includes any requirement of a regulation in effect at permit issuance and any requirement of a regulation that becomes effective during the term of the permit. Applicable federal requirements include:

1. Title I requirements of the *CAA*, including:
 - a. New Source Review requirements in the State Implementation Plan approved by the *U.S. EPA* and the terms and conditions of the *preconstruction permit* issued pursuant to an approved New Source Review rule;
 - b. Prevention of Significant Deterioration (PSD) requirements and the terms and conditions of the PSD permit (40 *CFR* Part 52);
 - c. New Source Performance Standards (40 *CFR* Part 60);
 - d. National Ambient Air Quality Standards, increments, and visibility requirements as they apply to portable sources required to obtain a permit pursuant to section 504(e) of the *CAA*;
 - e. National Emissions Standards for Hazardous Air Pollutants (40 *CFR* Part 61);
 - f. Maximum Achievable Control Technology or Generally Available Control Technology Standards (40 *CFR* Part 63);
 - g. Risk Management Plans **preparation and registration requirements**

ARB Revision 11-17-93

(section 112(r) of the *CAA*);

- h. Solid Waste Incineration requirements (sections 111 or 129 of the *CAA*);
 - i. Consumer and Commercial Product requirements (section 183 of the *CAA*);
 - j. Tank Vessel requirements (section 183 of the *CAA*);
 - k. *District* prohibitory rules that are approved into the state implementation plan;
 - l. Standards or regulations promulgated pursuant to a Federal Implementation Plan; and
 - m. Enhanced Monitoring and Compliance Certification requirements (section 114(a)(3) of the *CAA*).
- 2. Title III, section 328 (Outer Continental Shelf) requirements of the *CAA* (40 *CFR* Part 55);
 - 3. Title IV (Acid Deposition Control) requirements of the *CAA* (40 *CFR* Parts 72, 73, 75, 76, 77, 78 and regulations implementing sections 407 and 410 of the *CAA*);
 - 4. Title VI (Stratospheric Ozone Protection) requirements of the *CAA* (40 *CFR* Part 82); and
 - 5. Monitoring and Analysis requirements (section 504(b) of the *CAA*).
[Reference: 40 *CFR* Part 70.2 Applicable Requirement]
- F. ***California Air Resources Board (ARB)*** "California Air Resources Board" refers to the Air Resources Board of the State of California.
- G. ***Clean Air Act (CAA)*** "Clean Air Act" refers to the federal Clean Air Act as amended in 1990 (42 U.S.C. section 7401 et seq.).
- H. ***Code of Federal Regulations (CFR)*** "Code of Federal Regulations" refers to the United States Code of Federal Regulations.
- I. ***Commence Operation*** "Commence operation" is the date of initial operation of an *emissions unit*, including any start-up or shakedown period authorized by a temporary permit to operate issued pursuant to section 42301.1 of the *H&SC*.
- J. ***Direct Emissions*** "Direct emissions" are emissions that may reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- K. ***District*** "District" refers to the ____ Air Pollution Control District.
- L. ***Effective Date of Rule XXX*** The "effective date of Rule XXX" is the date the *U.S. EPA* promulgates interim, partial, or final approval of the rule in the ~~Code of Federal Regulations~~ **Federal Register**. [Reference: 40 *CFR* Part 70.4(g)]

- M. **Emergency** An "emergency" is any situation arising from a sudden and reasonably unforeseeable event beyond the control of a permittee (e.g., an act of God) which causes the exceedance of a technology-based emission limitation under a permit and requires immediate corrective action to restore compliance. An "emergency" shall not include noncompliance as a result of improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. ***[The District may submit an upset or breakdown rule with Rule XXX instead of including the definition of "emergency" and section VI.B.12. Emergency Provisions, if the rule contains all the provisions of subsections VI.B.12.b. and c.]***
[Reference: 40 CFR Part 70.6(g)(1)]
- N. **Emissions Unit** An "emissions unit" is any identifiable article, machine, contrivance, or operation which emits, may emit, or results in the emissions of, any regulated air pollutant or hazardous air pollutant.
[Reference: 40 CFR Part 70.2 Emissions Unit]
- O. **Federally-enforceable Condition** A "federally-enforceable condition" is any condition set forth in the permit to operate which addresses an applicable federal requirement or a voluntary emissions cap.
- P. **Fugitive Emissions** "Fugitive emissions" are emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
[Reference: 40 CFR Part 70.2 Fugitive Emissions]
- ~~Q. **Generally Available Control Technology (GACT) Standard** A "generally available control technology standard" refers to any generally available control technology standard or management practice promulgated pursuant to section 112(d) of the CAA (40 CFR Part 63).~~
- QR. **Hazardous Air Pollutant (HAP)** A "hazardous air pollutant" is any air pollutant listed pursuant to section 112(b) of the CAA.
- RS. **Health and Safety Code (H&SC)** "Health and Safety Code" refers to the California Health and Safety Code.
- SF. **Initial Permit** An "initial permit" is the first operating permit for which a source submits an application that addresses the requirements of the federal operating permits program as implemented by Rule XXX.
- TU. **Major Source** A "major source" is a stationary source which has the potential to emit a regulated air pollutant or a HAP in quantities equal to or exceeding the lesser of any of the following thresholds:

1. 100 tons per year (tpy) of any *regulated air pollutant*;
2. 50 tpy of volatile organic compounds or oxides of nitrogen for a federal nonattainment area classified as serious, 25 tpy for an area classified as severe, or, 10 tpy for an area classified as extreme;
3. 70 tpy of PM10 (particulate matter of 10 microns or less) for a federal PM10 nonattainment area classified as serious;
4. 10 tpy of one *HAP* or 25 tpy of two or more *HAPs*; or
5. Any lesser quantity threshold promulgated by the *U.S. EPA*.

[Reference: 40 CFR Part 70.2 Major Source]

*** [Where thresholds apply to particular areas of nonattainment, the *District* may choose to specify **in the rule** only the threshold associated with its nonattainment classification.]***

~~V.~~ ~~**Maximum Achievable Control Technology (MACT) Standard**~~ A "maximum achievable control technology standard" refers to any maximum achievable control technology emission limit or other requirement promulgated pursuant to section 112(d) of the *CAA* as set forth in 40 *CFR* Part 63.

~~UW.~~ **Minor Permit Modification** A "minor permit modification" is any modification to a *federally-enforceable condition* on a permit to operate which: 1) is not a *significant permit modification*, and 2) is not an *administrative permit amendment*.
[Reference: 40 CFR Part 70.7(e)(2)]

~~VX.~~ **Permit Modification** A "permit modification" is any addition, deletion, or revision to a permit to operate condition. [Reference: 40 CFR Part 70.2 Permit Modification and Permit Revision]

~~WY.~~ **Potential to Emit** For the purposes of Rule XXX, "potential to emit" as it applies to an *emissions unit* and a *stationary source* is defined below.

1. Emissions Unit The "potential to emit" for an *emissions unit* is the maximum capacity of the unit to emit a *regulated air pollutant* or *HAP* considering the unit's physical and operational design. **Physical and operational limitations on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions which address applicable federal requirements.** ~~For limitations that are applicable federal requirements, the p~~Physical and operational limitations to be considered in determining maximum capacity to emit shall include, **but are not limited to, the following:** limits placed on emissions; and restrictions on operations, such as hours of operation and type or amount of material combusted, stored, or processed.
2. Stationary Source The "potential to emit" for a *stationary source* is the sum of the *potential to emit* from all *emissions units* at the *stationary source*. If

two or more *HAPs* are emitted at a *stationary source*, the *potential to emit* for each of those *HAPs* shall be combined to determine applicability. *Fugitive emissions* shall be considered in determining the *potential to emit* for: 1) sources as specified in 40 *CFR* Part 70.2 Major Source (2), and 2) sources of *HAP* emissions. Notwithstanding the above, any *HAP* emissions from any oil or gas exploration or production well (with its associated equipment) and any pipeline compressor or pump station shall not be aggregated with emissions of similar units for the purpose of determining a *major source* of *HAPs*, whether or not such units are located in contiguous areas or are under common control.

[Reference: 40 *CFR* Part 70.2 Potential to Emit and Major Source (2)]

XZ. *Preconstruction Permit* A "preconstruction permit" is a permit issued prior to construction which authorizes ~~authorizing construction prior to construction and includes:~~

1. ~~A preconstruction permit issued p~~Pursuant to a program for the prevention of significant deterioration of air quality required by section 165 of the *CAA* or Rule ____ (~~***[District PSD Rule ____]~~***); or
2. ~~A preconstruction permit issued p~~Pursuant to a new source review program required by sections 172 and 173 of the *CAA* or Rule ____ (~~***[District NSR Rule ____]~~***).

[Reference: 40 *CFR* Part 70.2 Applicable Requirement (2)]

YAA. *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 *U.S. EPA* has adopted an emission limit, standard, or other requirement. Regulated air pollutants include:

1. Oxides of nitrogen and volatile organic compounds;
2. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to section 109 of the *CAA*;
3. Any pollutant subject to a new source performance standard promulgated pursuant to section 111 of the *CAA*;
4. Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrofluorocarbons) substance pursuant to Title VI of the *CAA*; and
5. Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the *CAA*, including:
 - a. 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.
 - b. Any *HAP* 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(g) and (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.

- c. Any *HAP* subject to a *District* case-by-case emissions limitation determination for a new or modified source, prior to the *U.S. 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, the *HAP* shall be considered a "regulated air pollutant" only for the individual source for which the emissions limitation determination was made.

[Reference: 40 CFR Part 70.2 Regulated Air Pollutant]

Z BB. *Responsible Official* A "responsible official" is an individual with the authority to certify that a source complies with all *applicable federal requirements* and *federally-enforceable conditions* of permits issued to sources in accordance with Rule XXX. "Responsible official" means one of the following:

1. For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - b. The delegation of authority to such representative is approved in advance by the *APCO*;
2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
3. For a municipality, state, federal, or other public agency, either a principal executive officer or a ranking elected official; or
4. For an *acid rain unit* subject to Title IV (Acid Deposition Control) of the CAA, the "responsible official" is the designated representative of that unit for any purposes under Title IV and Rule XXX.

[Reference: 40 CFR Part 70.2 Responsible Official]

AAEE. *Significant Permit Modification* A "significant permit modification" is any modification to a *federally-enforceable condition* on a permit to operate which:

1. Involves any *permit modification* **modification** under section 112(g) of Title I of the *CAA* or under *U.S. EPA* regulations promulgated pursuant to Title I of the *CAA*, including 40 *CFR* Parts 51, 52, 60, 61, and 63;
2. Significantly changes monitoring conditions;
3. Provides for the relaxation of any reporting or recordkeeping conditions;
4. Involves a permit term or condition which allows a source to avoid an *applicable federal requirement*, including: 1) a federally-enforceable *voluntary emissions cap* assumed in order to avoid triggering a modification requirement of Title I of the *CAA*, or 2) an alternative *HAP* emission limit pursuant to section 112(i)(5) of the *CAA*;
5. Involves a case-by-case determination of any emission standard or other requirement; or
6. Involves a source-specific determination for ambient impacts, visibility analysis, or increment analysis on portable sources.

[Reference: 40 *CFR* Part 70.7(e)(2) and (4)]

BBDD. *Solid Waste Incinerator* A "solid waste incinerator" is any incinerator which burns solid waste material from commercial, industrial, medical, general public sources (e.g., residences, hotels, or motels), or other categories of solid waste incinerators subject to a performance standard promulgated pursuant to sections 111 or 129 of the *CAA*.

The following incinerators are excluded from the definition of "solid waste incinerator" for the purpose of Rule XXX:

1. Any hazardous waste incinerator required to obtain a permit under the authority of section 3005 of the Solid Waste Disposal Act (42 U.S.C. section 6925);
2. Any materials recovery facility which primarily recovers metals;
3. Any qualifying small power production facility as defined in 16 U.S.C.A. section 796(17)(C);
4. Any qualifying cogeneration facility which burns homogenous waste for the production of energy as defined in 16 U.S.C.A. section 796(18)(B); or
5. Any air curtain incinerator which burns only wood, yard, or clean lumber waste and complies with the opacity limitations to be established by the Administrator of the *U.S. EPA*.

CCEE. *Stationary Source* For the purposes of Rule XXX, a "stationary source" is any building, structure, facility, or installation (or any such grouping) that:

1. Emits, may emit, or results in the emissions of any *regulated air pollutant* or *HAP*;
2. Is located on one or more contiguous or adjacent properties;

3. Is under the ownership, operation, or control of the same person (or persons under common control) or entity; and
4. Belongs to a single major industrial grouping; for example, each building, structure, facility, or installation in the grouping has the same two-digit code under the system described in the 1987 Standard Industrial Classification Manual.

[Reference: 40 CFR Part 70.2 Stationary Source]

DDFF. *United States Environmental Protection Agency (U.S. EPA)* "United States Environmental Protection Agency" refers to the Administrator or appropriate delegee of the "United States Environmental Protection Agency."

EEGG. *Voluntary Emissions Cap* A "voluntary emissions cap" is an optional, federally-enforceable emissions limit on one or more *emissions unit(s)* which a source assumes in order to avoid an *applicable federal requirement*. The source remains subject to all other *applicable federal requirements*.

III. APPLICABILITY

A. Sources Subject to Rule XXX [Reference: 40 CFR Part 70.3(a)]

The sources listed below are subject to the requirements of Rule XXX:

1. A *major source*;
2. A source with an *acid rain unit* for which application for an Acid Rain Permit is required pursuant to Title IV of the *CAA*;
3. A *solid waste incinerator* subject to a performance standard promulgated pursuant to section 111 or 129 of the *CAA*;
4. Any other source in a source category designated, pursuant to 40 CFR Part 70.3, by rule of the *U.S. EPA* ; and
5. Any source that is subject to a standard or other requirement promulgated pursuant to section 111 or 112 of the *CAA*, published after July 21, 1992, that designated, pursuant to 40 CFR Part 70.3, by the *U.S. EPA* at the time the new standard or requirement is promulgated does not exempt from the requirements of Title V of the *CAA*.

B. Sources Exempt from Rule XXX [Reference: 40 CFR Part 70.3(b)]

The sources listed below are not subject to the requirements of Rule XXX:

1. Sources regulated solely by 40 *CFR* Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);
2. Sources regulated solely by 40 *CFR* Part 61, Subpart M, section 145 (National Emission Standards for Asbestos, Standard for Demolition and Renovation); and
3. Any other source in a source category deferred, pursuant to 40 *CFR* Part 70.3, by U.S. EPA rulemaking.

IV. ADMINISTRATIVE PROCEDURES FOR SOURCES

A. Permit Requirement and Application Shield

A source shall operate in compliance with permits to operate issued pursuant to Rule XXX. Rule XXX does not alter any applicable requirement that a source obtain *preconstruction permits*. [Reference: 40 CFR Part 70.7(a)(6) and (b)]

If an owner or operator submits, pursuant to Rule XXX, a timely and complete application for a permit, a source shall not be in violation of the requirement to have a permit to operate until the *APCO* takes final action on the application. The application shield here will cease to insulate a source from enforcement action if an owner or operator of the source fails to submit any additional information requested by the *APCO* pursuant to subsection IV.C.2.e, below.

[Reference: 40 CFR Part 70.7(b)]

If an owner or operator submits a timely and complete application for an *initial permit*, the source shall operate in accordance with the requirements of any valid permit to operate issued pursuant to section 42301 of the *H&SC* until the *APCO* takes final action on the application. If an owner or operator submits a timely and complete application for renewal of a permit to operate, the source shall operate in accordance with the permit to operate issued pursuant to Rule XXX, notwithstanding expiration of this permit, until the *APCO* takes final action on the application.

The application shield does not apply to sources applying for *permit modifications*. For *permit modifications*, a source shall operate in accordance with the *applicable federal requirements*, the permit to operate issued pursuant to Rule XXX and any

temporary permit to operate issued pursuant to section 42301.1 of the *H&SC*.
[Reference: 40 CFR Part 70.6(a)(6)(iii) and 70.7(b) and (e)(2)(v)]

B. Application Requirements [Reference: 40 CFR Part 70.5]

1. **Initial Permit** ***[For a. and b., below, the *District* may specify a shorter timeframe. For a., below, the *District* should ~~consider~~ **place in this rule** a tiered application submittal timeframe to accommodate the requirement that the *District* issue permits to at least 1/3 of existing sources in each of the first three years of the program.]***
[Reference: 40 CFR Part 70.5(a)(1) and (c)(10)]

- a. For a source that is subject to Rule XXX on the date the rule becomes effective, an owner or operator shall submit a standard *District* application within 12 months after the date the rule becomes effective.
- b. For a source that becomes subject to Rule XXX after the date the rule becomes effective, an owner or operator shall submit a standard *District* application within 12 months of the source *commencing operation*.
- c. For a source with an *acid rain unit* ~~subject to Phase II of the Acid Deposition Control Program of Title IV of the CAA,~~ **an owner or operator shall submit a standard *District* application and initial Phase II acid rain permits applications shall be submitted to the *District*. The applications shall be submitted within the following timeframe:**
 - 1) **If the source is subject to Rule XXX because of subsection III.A.1., above, within the applicable timeframe specified in subsection B.1.a. or B.1.b., above.**
 - 2) **If the source is subject to Rule XXX only because of subsection III.A.2., above, by January 1, 1996 for sulfur dioxide and for coal-fired units by January 1, 1998 for oxides of nitrogen, or, if applicable, a latter date established by 40 CFR Part 72.**

2. **Permit Renewal** ***[The *District* may opt to be more specific.]***
[Reference: 40 CFR Part 70.5(a)(1)(iii)]

For renewal of a permit, an owner or operator shall submit a standard *District* application no earlier than 18 months and no later than 6 months before the expiration date of the current permit to operate. Permits to operate for all *emissions units* at a *stationary source* shall undergo simultaneous renewal.

3. **Significant Permit Modification** ***[The *District* may allow a source to operate, with certain provisions/cautions, up to 12 months before applying.]*** [Reference: 40 CFR Part 70.5(a)(1)(ii)]

After obtaining any required *preconstruction permits*, an owner or operator

shall submit a standard *District* application for each *emissions unit* affected by a proposed permit revision that qualifies as a *significant permit modification*. Upon request by the *APCO*, an owner or operator shall submit copies of the latest *preconstruction permit* for each affected *emissions unit*. The *emissions unit(s)* shall not *commence operation* until the *APCO* takes final action to approve the permit revision.

4. **Minor Permit Modification** ***[The *District* may allow a source to operate immediately after applying with certain provisions/cautions.]***
[Reference: 40 CFR Part 70.5(a)(ii) and 70.7(e)(2)(ii and v)]

After obtaining any required *preconstruction permits*, an owner or operator shall submit a standard *District* application for each *emissions unit* affected by the proposed permit revision that qualifies as a *minor permit modification*. The *emissions unit(s)* affected by the proposed *permit modification* shall not *commence operation* until the *APCO* takes final action to approve the permit revision. In the application, an owner or operator shall include the following:

- a. A description of the proposed permit revision, any change in emissions, and additional *applicable federal requirements* that will apply;
- b. Proposed permit terms and conditions; and
- c. A certification by a *responsible official* that the permit revision meets criteria for use of *minor permit modification* procedures and a request that such procedures be used.

5. **Acid Rain Unit Permit Modification** [Reference: 40 CFR Part 70.7(e)]

A *permit modification* of the acid rain portion of the operating permit shall be governed by regulations promulgated pursuant to Title IV of the CAA.

C. **Application Content and Correctness** [Reference: 40 CFR Part 70.5]

1. **Standard District Application Content** ***[The *standard District* application form will be submitted with the operating permit program for U.S. EPA approval.]***

~~The standard *District* application submitted~~ When submitting an application, an owner or operator shall include the following information:

- a. Information identifying the source;
[Reference: 40 CFR Part 70.5(c)(1)]
- b. Description of processes and products (by Standard Industrial Classification Code) including any associated with proposed alternative operating scenarios;

- [Reference: 40 CFR Part 70.5(c)(2)]
- c. Identification of fees specified in Rule _____ ***[current *District* fee rule]***; [Reference: 40 CFR Part 70.6(a)(7)]
- d. A listing of all existing *emissions units* at the *stationary source* and identification and description of all points of emissions from the *emissions units* in sufficient detail to establish the *applicable federal requirements* and the basis for fees pursuant to section VII, below; [Reference: 40 CFR Part 70.5(c)(3)(i)]
- e. Citation and description of all *applicable federal requirements*, information and calculations used to determine the applicability of such requirements and other information that may be necessary to implement and enforce such requirements; [Reference: 40 CFR Part 70.5(c)(3)(vii) and (4)(i and ii)]
- f. Calculation of all emissions, including *fugitive emissions*, in tons per year and in such terms as are necessary to establish compliance with the all applicable *District*, state, or federal requirements for the following:
- 1) All *regulated air pollutants* emitted from the source,
 - 2) Any *HAP* that the source has the *potential to emit* in quantities equal to or in excess of 10 tons per year, and
 - 3) If the source has the potential to emit two or more *HAPs* in quantities equal to or in excess of 25 tons per year, all *HAPs* emitted by the source;
- [Reference: 40 CFR Part 70.5(c)(3)(i and viii)]
- g. As these affect emissions from the source, the identification of fuels, fuel use, raw materials, production rates, operating schedules, limitations on source operation or workplace practices; [Reference: 40 CFR Part 70.5(c)(3)(iv and vi)]
- h. An identification and description of air pollution control equipment and compliance monitoring devices or activities; [Reference: 40 CFR Part 70.5(c)(3)(v)]
- i. Other information required by an *applicable federal requirement*; [Reference: 40 CFR Part 70.5(c)(3)(vii) and (5)]
- j. The information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating scenarios, pursuant to subsection V.GI., below; [Reference: 40 CFR Part 70.5(c)(7)]
- k. A compliance plan and compliance schedule with the following:
- 1) A description of the compliance status of each *emissions unit* within the *stationary source* with respect to *applicable federal requirements*,
 - 2) A statement that the source will continue to comply with such *applicable federal requirements* that the source is in compliance,

- 3) A statement that the source will comply, on a timely basis, with ~~future-effective requirements which have been adopted,~~ *applicable federal requirements that will become effective during the permit term*, and
- 4) A description of how the source will achieve compliance with requirements for which the source ~~is~~ not in compliance;
[Reference: 40 CFR Part 70.5(c)(8)]
- l. For a source not in compliance with ~~any~~ *an applicable federal requirement* at the time of permit issuance or renewal, a schedule of compliance approved by the *District* hearing board that identifies remedial measures with specific increments of progress, a final compliance date, testing and monitoring methods, recordkeeping requirements, and a schedule for submission of certified progress reports to the *U.S EPA* and the *APCO* at least every 6 months;
[Reference: 40 CFR Part 70.5(c)(8)(iii)(C)]
- m. A certification by a *responsible official* of the truth, accuracy and completeness of application forms, progress reports at least every 6 months, statements on compliance status with any applicable enhanced monitoring, and compliance plans at least annually;
[Reference: 40 CFR Part 70.5(c)(9) and (d)]
- n. For a source with an *acid rain unit*, an application shall include the elements required by 40 *CFR* Part 72;
[Reference: 40 CFR Part 70.5(c)(10)]
- ~~o. For a source of *HAPs*, the application shall include verification that a risk management plan has been prepared in accordance with section 112(r) of the *CAA* and registered with the authorized local fire or health department; and~~
- o. *For a source of HAPs required to prepare a risk management plan pursuant to section 112(r) of the CAA, the application shall include verification that such a plan has been submitted to the authorized implementing agency or a compliance schedule for the submittal of such a plan; and*
- p. For proposed portable sources, an application shall identify all locations of potential operation and how the source will comply with all applicable *District*, state, and federal requirements at each location.
[Reference: 40 CFR Part 70.6(e)]

2. **Correctness of Applications**

[Reference: 40 CFR Part 70.5(a)(2) and (b)]

An owner or operator of a source shall submit an accurate and complete application in accordance with the requirements of the *District*.

- a. Upon written request of the *APCO*, an owner or operator shall

- supplement any complete application with additional information within the timeframe specified by the *APCO*.
- b. An owner or operator shall promptly provide additional information in writing to the *APCO* upon discovery of submittal of any inaccurate information as part of the application or as a supplement thereto, or of any additional relevant facts previously omitted which are needed for accurate analysis of the application.
 - c. Intentional or negligent submittal of inaccurate information shall be reason for denial of an application.

D. Written Requests for *District* Action

A owner or operator shall submit a written request to the *APCO* for the following permit actions:

1. **Administrative Permit Amendment** [Reference: 40 CFR Part 70.7(d)(3)]

For an *administrative permit amendment*, an owner or operator may implement the change addressed in the written request immediately upon submittal of the request.

2. **Permit Modification for a Condition that is not Federally Enforceable**

For a *permit modification* for a condition that is not federally enforceable, an owner or operator shall submit a written request in accordance with the requirements of Rule ____ ***[*District* rule addressing current requirements for permits to operate and their modification]***

3. **Permits to Operate for New Emissions Units**

For permits to operate for a new *emissions unit* at a *stationary source*, an owner or operator shall submit a written request in accordance with the requirements of Rule ____ ***[*District* rule addressing current requirements for permits to operate]***, except under the following circumstances:

- a. The construction or operation of the *emissions unit* is a modification under *U.S. EPA* regulations promulgated pursuant to Title I of the *CAA*, including 40 *CFR* Parts 51, 52, 60, 61, 63;
[Reference: 40 *CFR* Part 70.7(e)(2)(i)(A)(5)]
- b. The construction or operation of the *emissions unit* is addressed or prohibited by permits for other *emissions units* at the *stationary source*; or [Reference: 40 *CFR* Part 70.5(a)(ii)]
- c. The *emissions unit* is an *acid rain unit* subject to Title IV of the *CAA*;
[Reference: 40 *CFR* Part 70.7(e)]

In the circumstances specified in subsections a., b., or c., above, an owner or operator shall apply for a permit to operate for the new *emissions unit* pursuant to the requirements of Rule XXX.

E. Response to Permit Reopening For Cause

[Reference: 40 CFR Part 70.6(a)(6)(v)]

Upon notification by the *APCO* of a reopening of a permit for cause for an *applicable federal requirement* pursuant to section V.H., below, an owner or operator shall respond to any written request for information by the *APCO* within the timeframe specified by the *APCO*.

V. DISTRICT ADMINISTRATIVE PROCEDURES

A. Completeness Review of Applications *[The *District* shall submit its completeness criteria to the *U.S. EPA* along with the operating permit program.]*****
[Reference: 40 CFR Part 70.5(a)(2) and 70.7(a)(4)]

The *APCO* shall determine if an application is complete and shall notify an owner or operator of the determination within the following timeframes:

1. For an *initial permit*, permit renewal, or a *significant permit modification*, within 60 days of receiving the application;
2. For a *minor permit modification*, within 30 days of receiving the application;

The application shall be deemed complete unless the *APCO* requests additional information or otherwise notifies an owner or operator that the application is incomplete within the timeframes specified above.

B. Notification of Completeness Determination

[Reference: 40 CFR Part 70.7(e)(2)(iii) and 70.8(a)(1 and 2)]

The *APCO* shall provide written notification of the completeness determination to the *U.S. EPA*, the *ARB* and any *affected state* and shall submit a copy of the complete application to the *U.S. EPA* within five working days of the determination ***[The *District* and *U.S. EPA* regional office may agree in an implementation agreement upon sources for which an application summary is sufficient]***. The *APCO* need not provide notification for applications from sources that are not major sources when the *U.S. EPA* waives such requirement for a source category by regulation or at the time of approval of the *District* operating permits program.

C. Application Processing Timeframes *[The *District* may opt for shorter timeframes as long as *affected state*, public and *U.S. EPA* notice and review is provided. The *District* should give priority for projects involving *preconstruction permits* and attempt to complete *significant permit modification* procedures in 9 months.]*** [Reference: 40 CFR Part 70.7(a)(2)]**

The *APCO* shall act on a complete application in accordance with the procedures in subsections D., E. and F., below (except as application procedures for *acid rain units* are provided for under regulations promulgated pursuant to Title IV of the *CAA*), and take final action within the following timeframes:

1. For an *initial permit* for a source subject to Rule XXX on the date the rule becomes effective, no later than three years after the date the rule becomes effective;***[The *District* needs a transition plan to permit at least 1/3 of existing sources in each year.]*** [Reference: 40 CFR Part 70.4(b)(11)]
2. For an *initial permit* for a source that becomes subject to Rule XXX after the date the rule becomes effective, no later than 18 months after the **complete** application is ~~deemed complete~~ **received**;
3. For a permit renewal, no later than 18 months after the **complete** application is ~~deemed complete~~ **received**;
4. For a *significant permit modification*, no later than 18 months after the **complete** application is ~~deemed complete~~ **received**;
5. For a *minor permit modification*, within 90 days after the application is received or 60 days after written notice to the *U.S. EPA* on the proposed decision, whichever is later; or [Reference: 40 CFR Part 70.7(e)(2)(iv)]
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 ~~deemed complete~~ received. [Reference: 40 CFR Part 70.4(b)(11)(iii)]

D. Notification and Opportunity for Review of Proposed Decision
[Reference: 40 CFR Part 70.7(h) and 70.8]

Within the applicable timeframe specified in subsection C., above, the *APCO* shall provide notice of and opportunity to review the proposed decision to issue a permit to operate in accordance with requirements in this subsection.

1. For *initial permits*, renewal of permits, *significant permit modifications*, and reopenings for cause, the *APCO* shall provide the following:
 - a. Written notice, the proposed permit and, upon request, copies of the *District* analysis to interested persons or agencies. 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. Interested persons or agencies shall include persons who have requested in writing to be notified of proposed Rule XXX decisions, any *affected state* and the *ARB*. [Reference: 40 CFR Part 70.7(h)(3) and 70.8 (b)(1)]
 - b. On or after providing written notice pursuant to subsection a., above, public notice that shall be published in at least one newspaper of general circulation in the *District*. The notice shall provide the following information:
 - 1) The identification of the source, the name and address of permit holder, the activity(ies) and emissions change involved in the permit action;
 - 2) The name and address of the *District*, the name and telephone number of *District* staff to contact for additional information;
 - 3) The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions;
 - 4) The location where the public may inspect the complete application, the *District* analysis, and the proposed permit;
 - 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
 - 6) A statement that members of the public may request **the *APCO* 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 in accordance with Rule _____****[The *District* rule or

~~policy on permit hearings]~~***;

[Reference: 40 CFR Part 70.7(a)(5) and 70.7(h)(1, 2 and 4)]

- c. A copy of the complete application, the *District* analysis and the proposed permit at *District* offices for public review and comment during normal business hours;
 - d. A 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. [Reference: 40 CFR Part 70.7(h)(5) and 70.8]
 - e. After completion of the public notice and comment period pursuant to subsection ~~ab.~~, above, written notice to the *U.S. EPA* of the proposed decision along with copies of the proposed permit, the *District* analysis, the public notice submitted for publication, the *Districts's* response to written comments, and all necessary supporting information. [Reference: 40 CFR Part 70.8]
2. For *minor permit modifications*, the *APCO* shall provide written notice of the proposed decision to the *U.S. EPA*, the *ARB*, and any *affected state*. ***[The *District* should plan to make a proposed decision concurrently with , or very soon after, deeming the application complete.]*** Additionally, the *District* shall provide to the *U.S. EPA* (and, upon request, to the *ARB* or any *affected state*) copies of the proposed permit, the *District* analysis, and all necessary supporting information. 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.
[Reference: 40 CFR Part 70.7(a)(1)(iii and v) and (5)]

E. Changes to the Proposed Decision

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

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 D.1.~~ab.~~, above, or due to further analysis of the *APCO*. Pursuant to subsection D.1.~~e.~~, above, the *APCO* shall forward any such modified proposed decision, the proposed permit, the *District* analysis, and all necessary supporting information to the *U.S. EPA*. ~~above.~~
[Reference: 40 CFR 70.7(g)(5) and 70.8(b)(2)]
2. If the *U.S. EPA* objects in writing to the proposed decision within 45 days of

being notified of the decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to subsection D.1.e., above, the *APCO* shall not issue the permit. The *APCO* shall either deny the application or revise and resubmit a permit which addresses the deficiencies identified in the *U.S. EPA* objection within the following timeframes:

- a. For *initial permits*, permit renewals, and *significant permit modifications*, within 90 days of receiving the *U.S. EPA* objection; or
- b. For *minor permit modifications*, within 90 days of receipt of the application or 60 days of the notice to *U.S. EPA*, whichever is later.
[The *District* must revise the permit, resubmit it to *U.S. EPA*, and take final action within this timeframe.]

[Reference: 40 CFR Part 70.7(e)(2)(iv) and 70.8(c)]

F. Final Decision

If the *U.S. EPA* does not object in writing within 45 days of the notice provided pursuant to subsection D.1.e., above, or the *APCO* submits a revised permit pursuant to subsection E.2., above, the *APCO* shall, expeditiously, deny the application or issue the final permit to operate. In any case, the *APCO* shall take final action on an application within the applicable timeframe specified in subsection C., above. Failure of the *APCO* to act on a permit application or permit renewal application in accordance to the timeframes provided in subsection C., above, shall be considered final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously.

[Reference: 40 CFR Part 70.4(b)(xi), 70.7(a)(1)(v) and (a)(2), and 70.8(c)]

Written notification of the final decision shall be sent to an owner or operator of the source, the *U.S. EPA*, the *ARB* and any person ~~or~~ **and** *affected state* that submitted comments during the public comment period. The *APCO* shall submit a copy of a permit to operate as issued to the *U.S. EPA* and provide a copy to any person or agency requesting a copy. If the application is denied, the *APCO* shall provide reasons for the denial in writing to an owner or operator along with the *District* analysis and cite the specific statute, rule, or regulation upon which the denial is based. [Reference: 40 CFR Part 70.8(a)(1)]

G. District Action on Written Requests

The *APCO* shall act on a written request of an owner or operator for permit action using the applicable procedure specified in this subsection.

1. Administrative Permit Amendment [Reference: 40 CFR Part 70.7(d)(3)]

The *APCO* shall take final action no later than 60 days after receiving the written request for an *administrative permit amendment*.

- a. After designating the permit revisions as an *administrative permit amendment*, the *APCO* may revise the permit without providing notice to the public or any *affected state*.
- b. The *APCO* shall provide a copy of the revised permit to an owner or operator of the source and the *U.S. EPA*.
- c. While the *APCO* need not make a completeness determination on a written request, the *APCO* shall notify an owner or operator of the source if the *APCO* determines that the permit can not be revised as an *administrative permit amendment*.

2. Permit Modification for a Condition that is not Federally Enforceable [Reference: 40 CFR Part 70.4(b)(14) and 70.6(b)]

The *APCO* shall take action on a written request for a *permit modification* for a condition that is not federally enforceable in accordance with the requirements of Rule ____ ~~***[The *District* rule addressing existing requirements for permits to operate and their modification]***~~ under the following circumstances:

- a. Any change at the ~~*stationary source*~~ *stationary source* allowed by the *permit modification* shall meet all *applicable federal requirements* and shall not violate any existing permit term or condition; and
- b. The ~~*APCO*~~ *APCO* provides to the ~~*U.S. EPA*~~ *U.S. EPA* a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement that would apply as a result of the change.

3. Permits to Operate for New Emissions Unit

The *APCO* shall take action on a written request for a permit to operate for a new *emissions unit* in accordance with the requirements ~~for~~ of Rule ____ ~~***[*District* rule addressing current requirements for permits to operate]~~ under the circumstances specified in subsection 2.a. and 2.b., above. However, if subsections IV.D.3.a., IV.D.3.b., or IV.D.3.c., above, apply, the

APCO shall require the submittal of a standard *District* application and take action on that application pursuant to the requirements of Rule XXX.

H. Permit Reopening for Cause [Reference: 40 CFR Part 70.7(f)]

The *APCO* shall reopen and revise a permit to operate during the annual review period required by section 42301(c) of the *H&SC*, or petition the *District* hearing board to do so pursuant to section 42307 of the *H&SC*, whichever is applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by the *U.S. EPA*, or within 18 months of promulgation of a new *applicable federal requirement*. The *APCO* shall act only on those parts of the permit for which cause to reopen exists.

[Reference: 40 CFR Part 70.7(f)(2)]

1. Circumstances that are cause for reopening and revision of a permit include, but are not limited to, the following:
 - a. The need to correct a material mistake or inaccurate statement;
 - b. The need to revise or revoke a permit to operate to assure compliance with *applicable federal requirements*;
 - c. The need to incorporate any new, revised, or additional *applicable federal requirements*, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after the promulgation of such requirement (where less than 3 years remain in the authorized life of the permit, the *APCO* shall incorporate these requirements into the permit to operate upon renewal); or
 - d. The need to reopen a permit issued to *acid rain unit* subject to Phase II of Title IV of the *CAA* to include:
 - 1) Oxides of nitrogen requirements prior to January 1, 1999, and
 - 2) Additional requirements promulgated pursuant to Title IV as they become applicable to any *acid rain unit* governed by the permit.

[Reference: 40 CFR Part 70.7(f)(1)]

2. In processing a permit reopening, the *APCO* shall use the same procedures as for an *initial permit*~~initial permit~~ and shall additionally:
 - a. Provide written notice to an owner or operator of the source and the *U.S. EPA* at least 30 days, or a shorter period in the case of an *emergency*, prior to reopening a permit; and
 - b. Complete action to revise the permit as specified in the notice of reopening within 60 days after the written notice to the *U.S. EPA* pursuant to subsection D.1.e., if the *U.S. EPA* does not object, or after the *APCO* has responded to *U.S. EPA* objection pursuant to subsection E.2., above.

[Reference: 40 CFR Part 70.7(f)(2 and 3) and (g)(5)(i)]

I. Options for Operational Flexibility

[Reference: 40 CFR Part 70.4(b)(12) and (d)(3)(viii)]

The *APCO* shall allow specified changes in operations at a source without requiring a permit revision for conditions that address an *applicable federal requirement*. The *APCO* shall not allow changes which constitute a modification under Title I of the *CAA* or Rules ____ *****[The *District* rules for NSR, PSD, etc.]*****, or that result in an exceedance of the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility through use of the following options:

1. Alternative Operating Scenarios [Reference: 40 CFR Part 70.6(a)(9)]

The *APCO* shall allow the use of alternative operating scenarios provided that:

- a. Terms and conditions applicable to each operating scenario are identified by owner or operator of source in the permit application,
- b. The terms and conditions are approved by the *APCO*,
- c. The terms and conditions are incorporated into the permit; and
- d. The terms and conditions are in compliance with all applicable *District*, state, and federal requirements.

A permit condition shall require a contemporaneous log to record each change made from one operating scenario to another.

2. Voluntary Emissions Caps

[Reference: 40 CFR Part 70.4(b)(12)(iii) and 70.6 (a), (a)(10) and (c)]

The *APCO* shall issue a 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:

- a. The requirements of subsections 1.a., 1.c., and 1.d., above, are met;
- b. The terms and conditions are approved by the *APCO* as quantifiable and enforceable; and
- c. The terms and conditions are consistent with the applicable *preconstruction permit*.

A permit condition shall require that an owner or operator of the source provide written notice to the *U.S EPA* and the *APCO* 30 days in advance of a change by clearly requesting operational flexibility under this subsection of Rule XXX. The written notice shall describe the change, identify the

emissions unit which will be affected, the date on which the change will occur and the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not.

3. Contravening an Express Permit Condition

[Reference: 40 CFR Part 70.4(b)(12)]

The *APCO* shall allow for changes in operation that contravene an express condition addressing an *applicable federal requirement* in a permit to operate provided that:

- a. The change will not violate any *applicable federal requirement*;
- b. The change will not contravene *federally-enforceable conditions* that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;
- c. The change is not a modification under Title I of the *CAA* or any provision of Rule _____ ***[The *District* NSR and PSD rules]***;
- d. The change does not result in exceeding the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
- e. Written notice is given to the *U.S. EPA* and the *APCO* 30 days in advance of a change, and the notice clearly indicates which term or condition will be contravened, requests operational flexibility under this subsection, describes the change, identifies the *emissions units* which will be affected, the date on which the change will occur, the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and
- f. The *APCO* has not provided a written denial to an owner or operator of the source within 30 days of receipt of the request for an operational change. **The written denial shall identify which of the requirements of subsections a., b., c., d., or e., above, have not been satisfied.**

VI. PERMIT CONTENT REQUIREMENTS [Reference: 40 CFR Part 70.6]

A permit-to-operate shall contain permit conditions that will assure compliance with all *applicable federal requirements*.

A. Incorporation of *Applicable Federal Requirements*
[Reference: 40 CFR Part 70.3(c) and 70.6(a)(1) and (b)]

A permit to operate shall incorporate all *applicable federal requirements* as permit conditions. The following procedure shall be used to incorporate an *applicable federal requirement* as a permit condition:

1. A permit condition that addresses an *applicable federal requirement* shall be specifically identified in the permit, or otherwise distinguished from any requirement that is not ~~federally~~-enforceable **by the U.S. EPA**;
2. Where an *applicable federal requirement* and a similar requirement that is not federally enforceable apply to the same *emissions unit*, both shall be incorporated as permit conditions, provided that they are not mutually exclusive; and
3. Where an *applicable federal requirement* and a similar requirement that is not federally enforceable apply to the same *emissions unit* and are mutually exclusive (e.g., require different air pollution control technology), the requirement specified in the *preconstruction permit* (or, in the case of sources without preconstruction permits, the more stringent requirement) shall be incorporated as a permit condition and the other requirement shall be referenced.

B. General Requirements

All permits to operate shall contain the conditions or terms consistent with 40 CFR Part 70.6 Permit Content, including:

1. Emission and Operational Limitations
[Reference: 40 CFR Part 70.6(a)(1)]

The permit shall contain conditions that require compliance with all *applicable federal requirements*, including any operational limitations or requirements.

2. **Preconstruction Permit Requirements**

[Reference: 40 CFR Part 70.2 Applicable Requirement (2) and 70.3(c)]

The permit shall include all of the *preconstruction permit* conditions for each *emissions unit*.

3. **Origin and Authority for Permit Conditions**

[Reference: 40 CFR part 70.6(a)(1)(i)]

The origin and authority for each permit term or condition shall be referenced in the permit.

4. **Equipment Identification**

The permit shall identify the equipment to which a permit condition applies.

5. **Monitoring, Testing, and Analysis**

[Reference: 40 CFR Part 70.6(a)(3)(i)]

The permit shall contain conditions that require monitoring, analytical **methods**, compliance certification, test methods, equipment management, and statistical procedures consistent with any *applicable federal requirement*, including those pursuant to sections 114(a)(3) and 504(b) of the CAA, and 40 CFR Part 64. Periodic monitoring shall be required as a condition to ensure that the monitoring is sufficient to yield reliable data which are representative of the source's compliance with permit conditions over the relevant time period.

6. **Recordkeeping** [Reference: 40 CFR Part 70.6(a)(3)(ii)]

The permit shall include recordkeeping conditions that require:

- a. Record maintenance of all monitoring and support information associated with any *applicable federal requirement*, including:
 - 1) Date, place, and time of sampling;
 - 2) Operating conditions at the time of sampling;
 - 3) Date, place, and method of analysis; and
 - 4) Results of the analysis;
- b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of sample collection, measurement, report, or application; and

- c. Any other recordkeeping deemed necessary by the *APCO* to ensure compliance with all *applicable federal requirements*.

7. **Reporting** [Reference: 40 CFR Part 70.6(a)(3)(iii)]

The permit shall include reporting conditions that require the following:

- a. Any deviation from permit requirements, including that attributable to upset conditions (as defined in the permit), shall be promptly reported to the *APCO* who will determine what constitutes "prompt" reporting in terms of the requirement, the degree, and type of deviation likely to occur;
- b. A monitoring report shall be submitted at least every six months and shall identify any deviation from permit requirements, including that previously reported to the *APCO* (see subsection 7.a. above);
- c. All reports of a deviation from permit requirements shall include the probable cause of the deviation and any preventative or corrective action taken;
- d. A progress report shall be made on a compliance schedule at least semi-annually and shall include: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective action taken; and
- e. Each monitoring report shall be accompanied by a written statement from the *responsible official* which certifies the truth, accuracy, and completeness of the report.

8. **Compliance Plan** [Reference: 40 CFR Part 70.5(c)(8)]

The permit shall include a compliance plan that:

- a. Describes the compliance status of an *emissions unit* with respect to each *applicable federal requirement*;
- b. Describes how compliance will be achieved if an *emissions unit* is not in compliance with an *applicable federal requirement* at the time of permit issuance;
- c. Assures that an *emissions unit* will continue to comply with those permit conditions with which it is in compliance; and
- d. Assures that an *emissions unit* will comply with, **on a timely basis, any applicable federal requirement that will become effective during the permit term.** ~~any future applicable federal requirement on a timely basis.~~

9. **Compliance Schedule** [Reference: 40 CFR Part 70.5(c)(8)(iii)(C)]

The permit shall include a compliance schedule for any *emissions unit* which is not in compliance with current *applicable federal requirements*. The compliance schedule shall require:

- a. A statement that the *emissions unit* will continue to comply with those permit conditions with which it is in compliance;
- b. A statement that the *emissions unit* will comply, **on a timely basis, with an applicable federal requirement that will become effective during the permit term;** ~~with any future applicable federal requirement on a timely basis;~~
- c. For each condition with which the *emissions unit* is not in compliance with an applicable federal requirement, a schedule of compliance which lists all preventative or corrective activities, and the dates when these activities will be accomplished; and
- d. For each *emissions unit* that is not in compliance with an *applicable federal requirement*, a schedule of progress on at least a semi-annual basis which includes: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective actions taken.

10. Right of Entry [Reference: 40 CFR Part 70.6(c)(2)]

The permit shall require that the source allow the entry of the *District, ARB,* or *U.S. EPA* officials for the purpose of inspection and sampling, including:

- a. Inspection of the *stationary source*, including equipment, work practices, operations, and emission-related activity;
- b. Inspection and duplication of records required by the permit to operate; and
- c. Source sampling or other monitoring activities.

**11. Compliance with Permit Conditions
[Reference: 40 CFR Part 70.6(a)(6)]**

The permit shall include the following provisions regarding compliance:

- a. The permittee shall comply with all permit conditions;
- b. The permit does not convey property rights or exclusive privilege of any sort;
- c. The non-compliance with any permit condition is grounds for permit termination, revocation and reissuance, modification, enforcement action, or denial of permit renewal;
- d. The permittee shall not use the "need to halt or reduce a permitted activity in order to maintain compliance" as a defense for non-compliance with any permit condition;

- e. A pending permit action or notification of anticipated non-compliance does not stay any permit condition; and
- f. Within a reasonable time period, the permittee shall furnish any information requested by the *APCO*, in writing, for the purpose of determining: 1) compliance with the permit, or 2) whether or not cause exists for a permit or enforcement action.

12. Emergency Provisions ***[The *District* may submit an upset or breakdown rule instead of including this subsection on *emergency* provisions and the definition of "emergency" in section II.M., if the rule contains all the provisions of subsections b. and c., below.]***
[Reference: 40 CFR Part 70.6(g)]

The permit shall include the following *emergency* provisions:

- a. The permittee shall comply with the requirements of Rule ____
[District Upset/Breakdown Rule] and the *emergency* provisions contained in all applicable federal requirements;
- b. **Within two weeks of an emergency event**, an owner or operator of the source shall submit to the *District* a properly signed, contemporaneous log or other relevant evidence which demonstrates that:
 - 1) An *emergency* occurred;
 - 2) The permittee can identify the cause(s) of the *emergency*;
 - 3) The facility was being properly operated at the time of the *emergency*;
 - 4) All steps were taken to minimize the emissions resulting from the *emergency*; and
 - 5) Within two working days of the *emergency* event, the permittee provided the *district* with a description of the *emergency* and any mitigating or corrective actions taken;
- cb. In any enforcement proceeding, the permittee has the burden of proof for establishing that an *emergency* occurred. ~~and~~
- c. ~~In addition to the emergency provisions above, the permittee shall comply with the emergency or upset provisions contained in all applicable federal requirements and District requirements.~~

13. Severability [Reference: 40 CFR Part 70.6(b)(5)]

The permit shall include a severability clause to ensure the continued validity of otherwise unaffected permit requirements in the event of a challenge to any portion of the permit.

14. Compliance Certification [Reference: 40 CFR Part 70.6(b)(5)]

The permit shall contain conditions for compliance certification which include the following requirements:

- a. An owner or operator of the source shall submit a compliance certification to the *U.S. EPA* and the *APCO* every 12 months;
- b. The compliance certification shall identify the basis for each permit term or condition (e.g., specify the emissions limitation, standard, or work practice) and a means of monitoring compliance with the term or condition;
- c. The compliance certification shall include the compliance status and method(s) used to determine compliance for the current time period and over the entire reporting period; and
- d. The compliance certification shall include any additional inspection, monitoring, or entry requirement that may be promulgated pursuant to sections 114(a) and 504(b) of the *CAA*.

15. Permit Life [Reference: 40 CFR Part 70.6(a)(2)]

With the exception of *acid rain units* subject to Title IV of the *CAA* and *solid waste incinerators* subject to section 129(e) of the *CAA*, each permit to operate for any source shall include a condition for a fixed term not to exceed five years from the time of issuance. A permit to operate for an *acid rain unit* shall have a fixed permit term of five years. A permit to operate for a *solid waste incinerator* shall have a permit term of 12 years; however, the permit shall be reviewed at least every five years.

16. Payment of Fees [Reference: 40 CFR Part 70.6(a)(7)]

The permit shall include a condition to ensure that appropriate permit fees are paid on schedule. If fees are not paid on schedule, the permit is forfeited. Operation without a permit subjects the source to potential enforcement action by the *District* and the *U.S. EPA* pursuant to section 502(a) of the *CAA*.

17. Alternative Operating Scenarios [Reference: 40 CFR Part 70.6(a)(9)]

Where an owner or operator requests that an alternative operating scenario be included in the permit for an *emissions unit*, the permit shall contain specific conditions for each operating scenario, including each alternative operating scenario. Each operating scenario, including each alternative operating scenario, identified in the permit must meet all *applicable federal requirements* and all of the requirements of this section. Furthermore, the source is required to maintain a contemporaneous log to record each change from one operating scenario to another.

18. Voluntary Emissions Caps [Reference: 40 CFR Part 70.6(a)(10)]

To the extent *applicable federal requirements* provide for averaging emissions increases and decreases within a stationary source without case-by-case approval, an owner or operator may request, subject to approval by the APCO, to permit one or more *emissions unit(s)* under a *voluntary emissions cap*. The permit for each *emissions unit* shall include *federally-enforceable conditions* requiring that:

- a. All *applicable federal requirements*, including those authorizing emissions averaging, are complied with;
- b. No individual *emissions unit* shall exceed any emissions limitation, standard, or other requirement;
- c. Any emissions limitation, standard, or other requirement shall be enforced through continuous emission monitoring, where applicable; and
- d. All affected *emissions units* under a *voluntary emissions cap* shall be considered to be operating in violation of the permit, if the *voluntary emissions cap* is exceeded.

**19. Acid Rain Units Subject to Title IV
[Reference: 40 CFR Part 70.6(a)(4)]**

The permit for an *acid rain unit* shall include conditions that require compliance with any federal standard or requirement promulgated pursuant to Title IV (Acid Deposition Control) of the CAA and any federal standard or requirement promulgated pursuant to Title V of the CAA, except as modified by Title IV. *Acid rain unit* permit conditions shall include the requirements of 40 CFR Part 72.9 and the following provisions:

- a. The sulfur dioxide emissions from an *acid rain unit* shall not exceed the annual emissions allowances (up to one ton per year of sulfur dioxide may be emitted for each emission allowance allotted) that the source lawfully holds for that unit under Title IV of the CAA or the regulations promulgated pursuant to Title IV;
- b. Any increase in an *acid rain unit's* sulfur dioxide emissions authorized by allowances acquired pursuant to Title IV of the CAA shall not require a revision of the acid rain portion of the operating permit provided such increases do not require permit revision under any other *applicable federal requirement*;
- c. Although there is no limit on the number of sulfur dioxide emissions allowances held by a source, a source with an *acid rain unit* shall not use these emissions allowances as a defense for noncompliance with any *applicable federal requirement* or *District* requirement, including

- District* Rule ___ ***[*District* New Source Review Rule]; and
- d. An *acid rain unit's* sulfur dioxide allowances shall be accounted for according to the procedures established in regulations promulgated pursuant to Title IV of the CAA.

20. **Portable Sources** [Reference: 40 CFR Part 70.6(e)]

The permit for any portable source, which may operate at two or more locations, shall contain conditions that require the portable source to:

- a. Meet all applicable *District*, state, and federal requirements at each location;
- b. Specify the monitoring methods, or other methods (e.g. air quality modeling) approved by the *APCO*, that will be used to demonstrate compliance with all *District*, state, and federal requirements; and
- c. Notify the *APCO* ten working days prior to a change in location.

VII. SUPPLEMENTAL ANNUAL FEE ***[This is an optional approach that we believe meets the minimum criteria for Title V fees. The *District* may adopt Title V fees requirements that meet specific *District* needs and current *District* fee structure.]***

The fees collected pursuant to this section shall supplement the fee requirements in Rule ___ ***[*District* Permit Fee Rule]***, if applicable.

A. Payment of Supplemental Fee [Reference: 40 CFR Part 70.9(b)(2)(i)]

An owner or operator, or his or her delegee, shall pay an annual supplemental fee for a permit to operate pursuant to this rule as determined by the calculation method in subsection C. below to meet an overall fee rate of \$25 per ton of fee-based emissions (CPI adjusted), unless subsection B. below applies.

1. "Fee-based emissions" means the actual rate of emissions in tons per year of any fee pollutant, including *fugitive emissions*, emitted from the *stationary source* over the preceding year or any other period determined by the *APCO* to be representative of normal operation. Fee-based emissions shall be calculated using each *emission unit's* actual operating hours, production rates, and in-place control equipment; types of material processed, stored, or combusted during the preceding calendar year, or other time period established by the *APCO*. [Reference: 40 CFR Part 70.9(b)(2)(iii)]
2. "Fee pollutant" means oxides of nitrogen, volatile organic compounds, any pollutant for which a national ambient air quality standard has been promulgated by the *U.S. EPA* (excluding carbon monoxide), and any other

pollutant that is subject to a standard or regulation promulgated by the *U.S. EPA* under the *CAA* or adopted by the *District* pursuant to section 112(g) and (j) of the *CAA*. Any air pollutant that is regulated solely because of a standard or regulation under section 112(r) of the *CAA* for accidental release or under Title VI of the *CAA* for stratospheric ozone protection shall not be included. [Reference: 40 CFR Part 70.2 Regulated Pollutant (for Presumptive Fee Calculation)]

3. "(CPI adjusted)" means adjusted by the percentage, if any, by which the Consumer Price Index of the year exceeds the Consumer Price Index for calendar year 1989. The value for (CPI adjusted) shall be obtained from the *U.S. EPA*. [Reference: 40 CFR Part 70.9(b)(2)(iv)]

B. No Supplemental Fee [Reference: 40 CFR Part 70.9(b)(1)]

There shall not be a supplemental annual fee if the total annual fee rate paid by the source under Rule ____ (Permit Fees Rule) and *H&SC* section 44380 (AB 2588 Toxic Hot Spots) equals or exceeds \$25 per ton of fee-based emissions (CPI adjusted). Only those AB 2588 Toxic Hot Spots fees that fund direct and indirect costs associated with activities related to the operating permits program as specified in section 502(b)(3)(A) of the *CAA* are to be used to meet the overall fee rate of \$25 per ton of fee-based emissions (CPI adjusted).

C. Determination of Supplemental Fee

The supplemental annual fee shall be determined by completing the following steps:

Step 1: Calculation of Supplemental Annual Fee

$$s = [\$25 \text{ per ton (CPI adjusted)} \times e] - f$$

where:

s = supplemental annual fee in dollars

e = fee-based emissions in tons per year

f = sum (in dollars) of annual fee under Rule ____ (Permit Fee Rule) and that portion of AB 2588 Toxic Hot Spots fees that funds direct and indirect costs associated with activities related to the operating permits program as specified in section 502(b)(3)(A) of the CAA

Step 2: When the Supplemental Annual Fee is Zero

If "f" is equal to or greater than "[\$25 per ton (CPI adjusted) x e]", then "s" shall be zero and subsection B., above, applies. If "f" is less than "[\$25 per ton (CPI adjusted) x e]", then "s" shall be as calculated in Step 1.

D. Submittal of Information [Reference: 40 CFR Part 70.6(a)(7)]

An owner or operator of a source, or his or her delegee, shall provide the *APCO* sufficient information to determine the supplemental fee.