Eastern Kern Air Pollution Control District

Rule 201.1
PERMITS TO OPERATE FOR SOURCES SUBJECT TO TITLE V OF THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990

Rule 201.2
SYNTHETIC MINOR SOURCE

Rule 201.3
FEDERALLY ENFORCEABLE LIMITS ON POTENTIAL TO EMIT

FINAL STAFF REPORT

February 15, 2012

Prepared by

Jeremiah Cravens
Air Quality Specialist II

Reviewed by

David L. Jones
Air Pollution Control Officer

Glen Stephens
Senior Air Quality Engineer III

Eastern Kern Air Pollution Control District
2700 "M" Street, Suite 302
Bakersfield, California 93301
(661) 862-5250 ● www.kernair.org

Table of Contents

I. BOARD ADOPTION

Rules 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990; 201.2, Synthetic Minor Source; and 201.3, Federally Enforceable Limits on Potential to Emit were amended by the Eastern Kern Air Pollution Control District (District) Governing Board on January 12, 2012 at the January 2012 Board meeting. Amended Rule 201.1 will become effective upon approval into the District's Title V Program by the Environmental Protection Agency (EPA). Amended Rules 201.2 and 201.3 have been submitted to the California Air Resources Board (ARB) to review and forward to the EPA for inclusion into the State Implementation Plan (SIP). Amended Rules 201.2 and 201.3 will become enforceable on Governing Board approval of the amended resolution on March 8, 2012.

II. INTRODUCTION

This staff report presents amendments made to Rules 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990; 201.2, Synthetic Minor Source; and 201.3, Federally Enforceable Limits on Potential to Emit. The primary reason for amending these rules is to align them with the federal Greenhouse Gas (GHG) requirements of the Tailoring Rule and Prevention of Significant Deterioration (PSD) permitting requirements. Definitions related to GHGs have been added to the three rules in addition to reformatting them to follow the District's standard rule template. Minor corrections have also been made such as capitalization, punctuation, and spelling.

Appendix A is amended Rule 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990

Appendix B is amended Rule 201.2, Synthetic Minor Source.

Appendix C is amended Rule 201.3, Federally Enforceable Limits on Potential to Emit.

Appendix D is the response to comments following the November 9, 2011 rule development workshop in Rosamond, CA.

III. TITLE V BACKGROUND

Under Rule 201.1, stationary sources are required to obtain Title V permits if their potential emissions exceed thresholds that depend on the attainment status of the district. In general, Title V applies to:

- Any Major Source as defined by Rule 201.1.
- 100,000 tons per year (tpy) of CO2 equivalent.

- GHG emissions that are subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of Global Warming Potential GWP, are equal to or greater than 100 tpy.

- Any stationary source with a potential to emit 100 tpy or more of any regulated air pollutant (excluding GHGs).

- Any source with a potential to emit or exceed 50 tpy of volatile organic compounds (VOC) or oxides of nitrogen (NOx)

- Any source with a potential to emit 10 tpy or more of any hazardous air pollutant or 25 tpy or more of any combination of hazardous air pollutants.

- Affected sources regulated under the CAA acid rain provisions (42 U.S.C. 7651 et seq.).

- Any source subject to Rule 210.4, Prevention of Significant Deterioration (PSD).

- Any solid waste incineration unit required to obtain a Title V permit pursuant to the CAA.

- Any other stationary source in a source category designated by rule by EPA.

- Any stationary source subject to a New Source Performance Standard (NSPS) except for some instances where EPA excludes non-major stationary sources.

- Any stationary source subject to National Emission Standards for Hazardous Air Pollutants (NESHAP) except for some instances where EPA excludes non-major stationary sources.

Greenhouse Gas Requirements

For existing Title V facilities, the Tailoring Rule does not require reopening Title V permits to address GHGs. However, when a facility triggers a modification to its Title V permit or a Title V permit is renewed, GHG emissions data must be included in their Title V renewal application.

For an existing source that becomes a Title V source, all District rules in the State Implementation Plan (SIP) are enforceable requirements that must be included in the Title V permit. A facility with a new Title V permit will also be subject to the following requirements:

- Requirements for non-GHG emissions (such as NESHAPS, and NSPS).

- Federal reporting requirements, including GHGs.

- Additional GHG requirements if facility has emissions equal to or greater than 100,000 tons of CO2e annually, which can include:
    - Best Available Control Technology (BACT) for GHGs (there is no retroactive BACT for an existing permitted emission unit);
    - Future GHG NSPS or other federal requirements; and
    - District GHG Fee.

Annual GHG Emission Report

Section VII.B.7.f of District Rule 201.1 requires all Title V permitted sources to report their GHG emissions in accordance with 40 CFR 98 calculations, methodology, and requirements. The District is using 40 CFR 98 as a standard GHG reporting approach to maintain consistent district-wide GHG reporting. This standard will insure that Title V permitted sources do not calculate their GHG emissions in a manner different form that which they are already doing for EPA. Title V sources that have determine that their GHG emissions do not exceed the 25,000 metric tonne per year (mtpy) reporting requirement are still required to report to the District that they are below the 25,000 mtpy threshold.

GHGs Measured in Short Tons

For Title V purposes the District measures all emission thresholds, including GHGs, in short tons. However, the federal Tailoring Rule uses metric tonnes for its GHG requirements. The Tailoring Rule requires metric tonnes because most of the world uses the metric system. EPA has employed this strategy in an effort to maintain GHG emissions data consistency world-wide. While recognizing this discrepancy in GHG emissions measurement, the District requests that all emissions data be reported in short tons in an effort to maintain district-wide consistency.

The District will accept an annual GHG emissions report in metric tonnes or short tons but the unit of measure must be specified in the report. If a unit of measure is not specified the District will assume annual GHG emissions are being reported in short tons.

IV. TAILORING RULE BACKGROUND

Following a decision of the U.S. Supreme Court in early 2009, EPA issued an “Endangerment Finding” for GHGs under the Federal Clean Air Act (CAA). This was the first step towards regulating GHGs under the CAA.

In October 2009, EPA approved 40 CFR Parts 86, 87, 89 et al. Mandatory Reporting of Greenhouse Gases; Final Rule. The rule does not require control of

GHGs, rather it requires only that sources above certain threshold levels monitor and report emissions.

In April 2010, EPA approved a GHG motor vehicle emission standard under the CAA. EPA also issued an Interpretive Ruling to clarify that GHGs would not become “regulated pollutants” under the CAA until the first compliance date of the effective emission standard.

In May 2010, EPA approved another GHG rule commonly referred to as the “Tailoring Rule” which adjusted or tailored the applicability thresholds for federal permitting requirements for GHGs and provides an implementation schedule. The Tailoring Rule was adopted because the primary GHG carbon dioxide (CO2) is emitted at higher rates from most operations and processes than the pollutants historically regulated under the CAA. For example, the emission threshold for many “other regulated pollutants” under Title V is 100 tons per year and any emission rate increase whatsoever for other sources under the Prevention of Significant Deterioration (PSD) program. A household water heater, which is clearly not a large industrial source, will emit CO2 at these levels.

V. PSD PROGRAM

The Prevention of Significant Deterioration (PSD) program works in conjunction with Title V. PSD requires new sources with air pollution emissions above a specified level, or modifications to an existing source that results in air pollution emissions above a specified level to undergo analysis to determine impacts on air quality and on any Class I, Class II, or Class III designated area. The District’s PSD Rule (Rule 210.4), has been amended concurrently to address GHGs.

PSD GHG Triggers

- A new source with GHG emissions that exceed 100,000 tpy of CO2e and 100 tpy or 250 tpy of GHG on a mass basis. The 100 tpy or 250 tpy threshold depends on the list of 28 source categories (see 40 CFR 52.21); or

- A modified source with GHG emissions that exceed 75,000 tpy of CO2e and 0 tpy of GHG on a mass basis.

- Both the CO2e and mass based test must be met to trigger PSD for GHGs.

Once a source triggers PSD for GHG, then the source must evaluate whether it has significant emissions of any other regulated pollutant. Any other regulated pollutant with a PTE greater than a significant threshold is also subject to PSD, unless the District is classified nonattainment for that specific pollutant. For "dual" pollutants, i.e., those being regulated both as an attainment pollutant (NO2, SO2), but also as a non-attainment precusort (NOx, SOx), are regulated under both programs.

VI. RULE 201.1

Amended Rule 201.1 incorporates by reference revisions made by EPA's Tailoring Rule. GHGs are incorporated into the rule through the definition of "Major Source" as any stationary source with a potential to emit 100,000 tpy of CO2e or with GHG emissions that are subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of Global Warming Potential (GWP), are equal to or greater than 100 tpy. A stationary source with these GHG emissions thresholds is considered a major stationary source for the purposes of Title V. This approach will maintain GHG requirements consistent with federal Title V regulations regardless of whether EPA promulgates a final rule to defer CO2 emissions from bioenergy and biogenic sources.

Amended Rule 201.1 also includes:

- Adding definitions for Carbon Dioxide Equivalent (CO2e), Greenhouse Gas (GHG), and Global Warming Potential (GWP).
- Revising the Regulated Air Pollution definition to include the terms: subject to regulation as defined in 40 CFR 70.2 and Any GHG emissions subject to regulation.
- Revising Section III, Applicability to be consistent with the language used in 40 CFR 70.3(a).
- Revising Section IV, Exemptions to be consistent with the language used in 40 CFR 70.3(a).
- Adding an insignificant activity limit for GHGs of no more than 5,000 tpy of GHG measured as CO2e located in Subsection V.C.1.v.
- Adding a GHG reporting requirement located under Section VII.B.7.f
- Adding Section VIII.A, Greenhouse Gas Fee.
- Revising language in Section VIII.B, Supplemental Fee
- Removing the Table of Contents.
- Overall clean-up and formatting.

VII. RULE 201.2

Amendments to Rule 201.2, Synthetic Minor Source were needed to align the rule with GHG provisions and references made in revised Rule 201.1, Title V. Amended Rule 201.2 includes:

- Adding definitions for Federal Clean Air Act, Greenhouse Gas (GHG), Global Warming Potential (GWP), and NOx.

- Revising the Major Stationary Source of Regulated Air Pollutants definition to include the following language: 100 tpy of any regulated air pollutant, excluding GHGs and GHG emissions that are subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of GWP, are equal to or greater than 100 tpy.

- Revising the definition of Regulated Air Pollutant from: Any of the following air pollutants are regulated to: Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) subject to regulation as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to; and adding the following language: Any GHG emissions subject to regulation.

- Overall clean-up and formatting.

VIII. RULE 201.3

Amendments to Rule 201.3, Federally Enforceable Limits on Potential to Emit were needed to align the rule with GHG provisions and references made in revised Rule 201.1, Title V. Amended Rule 201.3 includes:

- Adding definitions for Carbon Dioxide Equivalent (CO2e), Greenhouse Gas (GHG), Global Warming Potential (GWP), NOx, and Volatile Organic Compounds (VOC).

- Revising the Major Source of Regulated Air Pollutants (excluding HAP's) definition to include the following language: 100 tpy of any regulated air pollutant, excluding HAP's and GHGs; and GHG emissions that are subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of GWP, are equal to or greater than 100 tpy.

- Revising the definition of Regulated Air Pollutant from: Any of the following air pollutants are regulated to: Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) subject to regulation as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to; and adding the following language: Any GHG emissions subject to regulation.
- Adding a GHG de Minimis Emissions limit of 20,000 tpy to Section III.B.

- Revising the language in Section IV.A and including a CO2e emission limit of no more than 50,000 tpy. See Section IV, Emission Limitations of Appendix C.

- Revising the language in Section VI.B and including a CO2e emission limit of less than 25,000 tpy of GHG measured as CO2e. See Section VI, Reporting Requirements of Appendix C.

- Overall clean-up and formatting.

IX. ECONOMIC IMPACT

Amended Rules 201.1, 201.2, and 201.3 are expected to pose no significant increased cost to industry.

X. SOCIOECONOMIC IMPACTS

California Health and Safety Code Section 40728.5 exempts districts with a population of less than 500,000 persons from the requirement to assess the socioeconomic impacts of proposed rules. Eastern Kern County population is below 500,000 persons.

XI. ENVIRONMENTAL IMPACTS

No significant environmental impacts are expected as a result of these amended Rules. Pursuant to the Section 15061, Subsections (2) & (3) of the California Environmental Quality Act (CEQA) Guidelines, staff has prepared and filed a Notice of Exemption for this project.

Remainder of Page Intentionally Left Blank

APPENDIX A

AMENDED RULE 201.1

PERMITS TO OPERATE FOR SOURCES SUBJECT TO TITLE V OF THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990

RULE 201.1 Permits to Operate For Sources Subject To Title V of the Federal Clean Air Act Amendments of 1990 - Adopted 11/01/93 (effective 5/3/95), Amended 1/9/97, 5/3/01 (effective 10/22/01), Amended 3/11/04, Amended 1/12/12 (Effective Need Date)

I. Purpose and General Requirements of Rule

Rule 201.1 is intended to implement requirements of Title V of the Federal Clean Air Act amendments of 1990 (CAA) for permits to operate. Title V requires operating permits for certain sources emitting regulated air pollutants, including attainment and non-attainment pollutants.

As of October 22, 2001, the Eastern Kern Air Pollution Control District (District) shall implement an operating permits program pursuant to the requirements of this Rule. Requirements of this Rule shall augment and take precedence over any conflicting administrative requirements of any other provisions of the District's Rules and Regulations. The District shall also continue to implement its existing Rule 201 Permits program, including Authorities to Construct, Rule 210.1 (New Source Review), etc. Nothing in Rule 201.1 limits the authority of the Air Pollution Control Officer (APCO) of the District to revoke or terminate a Rule 201 permit pursuant to Sections 40808 and 42307-42309 of the California Health and Safety Code (H&SC).

Sources subject to Rule 201.1 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 EPA. Sources subject to this Rule shall obtain permits to operate issued pursuant to this Rule, and, each such permit to operate issued shall contain conditions and requirements adequate to ensure compliance with:

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 implementation plan required by the CAA. In satisfaction of this requirement, a source may ensure compliance with a corresponding District-only rule in accordance with the procedure specified in Section VI.K.;

D. Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the CAA. In satisfaction of this requirement, a source may propose compliance with a requirement of permit streamlining in accordance with procedures specified in Section VI.J.; and

E. All requirements of all preconstruction permits issued pursuant to Parts C and D of the CAA (PSD and NSR).

Operation of an emissions unit in violation of any applicable permit condition or requirement shall constitute a violation of this Rule.

II. Definitions

Definitions in this section apply throughout this Rule and are derived from related provisions of EPA's Title V regulations in Part 70 Code of Federal Regulations (CFR), "State Operating Permit Programs."

A. Acid Rain Unit: Any fossil fuel-fired combustion device constituting an affected unit under 40 CFR Part 72.6 and therefore subject to requirements of Title IV (Acid Deposition Control) of the CAA.

B. Administrative Permit Amendment: 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 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, prior to transfer, the APCO receives a written agreement specifying a date for transfer of permit responsibility, coverage, and liability from current to prospective permittee.

C. Affected State: Any state: 1) contiguous with California and whose air quality may be affected by a permit action, or 2) within 50 miles of the source proposing a permit action.

D. Air Pollution Control Officer (APCO): Eastern Kern Air Pollution Control District Air Pollution Control Officer, or his designee.

E. Applicable Federal Requirement: Any requirement enforceable by the EPA and citizens pursuant to Section 304 of the CAA and set forth in, or authorized by, the CAA or a EPA regulation, including any requirement of a regulation in effect at permit issuance and any requirement of a regulation becoming effective during the term of the permit. Applicable federal requirements include:

1. Title I requirements of the CAA, including:

a. New Source Review (NSR) requirements in the State Implementation Plan (SIP) approved by the EPA and terms and conditions of a preconstruction permit issued pursuant to an approved New Source Review rule;

b. Prevention of Significant Deterioration (PSD) requirements and terms and conditions of a PSD permit (40 CFR Part 52);

c. New Source Performance Standards (NSPS) (40 CFR Part 60);

d. National Ambient Air Quality Standards (NAAQS), 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 (NESHAPs) (40 CFR Part 61);

f. Maximum Achievable Control Technology (MACT) or Generally Available Control Technology Standards (GACT) (40 CFR Part 63);

g. Risk Management Plan Preparation and Registration Requirements (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 approved into the SIP;

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 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);

3. Title VI (Stratospheric Ozone Protection) requirements of the CAA (40 CFR Part 82); and

4. Monitoring and Analysis requirements (Section 504(b) of the CAA).

F. California Air Resources Board (ARB): Air Resources Board of the California Environmental Protection Agency.

G. Carbon Dioxide Equivalent (CO2e): As defined in District Rule 102, Definitions.

H. Clean Air Act (CAA): Federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.).

I. Code of Federal Regulations (CFR): United States Code of Federal Regulations.

J. Commence Operation: Date of initial operation of an emissions unit, including any start-up period authorized by a temporary permit to operate issued pursuant to Section 42301.1 of the H&SC.

K. Direct Emissions: Emissions that may reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

L. District: Eastern Kern Air Pollution Control District (EKAPCD).

M. District-Only: A District rule, permit term, condition, or other requirement identified in accordance with H&SC Section 42301.12(a)(3) that is not an applicable federal requirement. If a "District-only" requirement becomes a federally-enforceable condition upon issuance of the initial permit or permit modification in accordance with requirements of Rule 201.1 and H&SC Section 42301.12(a)(3), such requirement shall no longer be a "District-only" requirement.

N. Effective Date of Rule 201.1: The initial effective date of Rule 201.1 was October 22, 2001 (District Board approved May 3, 2001). The effective date of revised Rule 201.1 is EPA approved Need Date (District Board approved January 12, 2012)

O. Emergency: Any situation arising from a sudden and reasonably unforeseeable event beyond control of a permittee causing exceedance of a technology-based emission limitation under a permit and requiring immediate corrective action to restore compliance. An emergency shall not include non-compliance resulting from improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

P. Emissions Unit: Any identifiable article, machine, contrivance, or operation which emits, may emit, or results in emissions of, any regulated air pollutant or hazardous air pollutant.

Q. Federally-enforceable Condition: Any term, condition, or requirement set forth in the Permit to Operate addressing an applicable federal requirement or voluntary emissions cap, a District-only requirement of permit streamlining imposed in accordance with Section VI.J., and H&SC Section 42301.12(a)(3), or a District-only requirement which applies in accordance with Section VI.K.1., and H&SC Section 42301.12(a)(3) for satisfaction of a corresponding requirement in the SIP.

R. Fugitive Emissions: Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

S. Greenhouse Gas (GHG): As defined in District Rule 102, Definitions.

T. Global Warming Potential (GWP): As defined in District Rule 102, Definitions.

U. Hazardous Air Pollutant (HAP): Any air pollutant listed pursuant to Section 112(b) of the CAA.

V. Health and Safety Code (H&SC): California Health and Safety Code.

W. Initial Permit: First Rule 201.1 operating permit for which a source submits an application addressing requirements of Title V of the CAA.

X. Major Source: Any stationary source having the potential to emit a regulated air pollutant or a HAP in quantities equal to or exceeding any of the following thresholds:

Major Source Type:

1. GHG emissions that are subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of Global Warming Potential (GWP), are equal to or greater than 100 tpy;

2. 100 tpy of any Regulated Air Pollutant, excluding GHGs;

3. 50 tpy of volatile organic compounds (VOC) or oxides of nitrogen (NOx);

4. 10 tpy of one HAP or 25 tpy of two or more HAP's; or

5. Any lesser quantity threshold of Regulated Air Pollutants promulgated by the EPA.

Y. Minor Permit Modification: Any modification to a federally-enforceable condition on a permit to operate: 1) not constituting a significant permit modification, and 2) not constituting an administrative permit amendment.

Z. Permit Modification: Any addition, deletion, or revision to a permit to operate condition.

AA. Potential to Emit: For purposes of this Rule, potential to emit as it applies to an emissions unit and a stationary source is defined as:

1. Emissions Unit 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. Physical and operational limitations 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 Potential to emit for a stationary source is the sum of the potentials to emit from all emissions units at the stationary source. If two or more HAP's are emitted at a stationary source, the potential to emit for each of those HAP's shall be summed to determine Section III, applicability. Fugitive emissions shall be considered in determining potential to emit for: 1) sources specified in 40 CFR Part 70.2 Major Sources Subsection(2)(i) through (xxvi), 2) sources of HAP emissions, and (3) any other stationary source category regulated under Section 111 or 112 of the CAA and for which the EPA has made an affirmative determination by rule under Section 302(j) of the CAA. Notwithstanding the above, any HAP emissions from any pipeline compressor station shall not be aggregated with emissions of similar units for the purpose of determining a major

source of HAP's, even if such units are located on contiguous or adjacent properties or under common control.

BB. Preconstruction Permit: Permit authorizing construction and issued prior to construction including:

1. Any preconstruction permit issued pursuant to a PSD program of air quality required by Section 165 of the CAA; or

2. Any preconstruction permit issued pursuant to a New Source Review (NSR) program required by Sections 172 and 173 of the CAA or Rule 210.1.

CC. Regulated Air Pollutant: Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) subject to regulation as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to:

1. VOCs and NOx;

2. Any pollutant having a NAAQS promulgated pursuant to Section 109 of the CAA;

3. Any pollutant subject to a New Source Performance Standard (NSPS) promulgated pursuant to Section 111 of the CAA;

4. Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrochlorofluorocarbons) substance pursuant to Title VI of the CAA; and

5. Any GHG emissions subject to regulation;

6. Any pollutant subject to any standard or requirement promulgated pursuant to Section 112 of the CAA, including:

   a. Any pollutant listed pursuant to Section 112(r) (Prevention of Accidental Releases) of the CAA upon promulgation of the list;

   b. Any HAP subject to a standard or other requirement promulgated by the EPA pursuant to Section 112(d) or adopted by the District pursuant to Sections 112(g) and (j) of the CAA upon promulgation of the standard or requirement, or 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the CAA; or

   c. Any HAP subject to a District case-by-case emissions limitation determination for a new or modified source, prior to EPA promulgation or scheduled promulgation of an emissions limitation 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 having had the emissions limitation determination.

DD. Responsible Official: Responsible official means one of the following:

1. For a corporation or federal research facility, a president, secretary, treasurer, or vice-president of the corporation or facility in charge of a principal business function, or any other person performing similar policy or decision-making functions for the corporation or facility, or a duly authorized representative of such person if the representative is responsible for 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;

4. For a federal military facility, the commanding officer; or

5. 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 this Rule.

EE. Significant Permit Modification: Any modification to a federally-enforceable condition on a permit to operate:

1. Involving any modification under Section 112(g) of Title I of the CAA or under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, and 63;

2. Significantly changing monitoring conditions;

3. Providing for relaxation of any reporting or recordkeeping conditions;

4. Involving a permit term or condition allowing a source to avoid an applicable federal requirement, including: 1) a federally-enforceable voluntary emissions cap established 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. Involving a case-by-case determination of any emission standard or other requirement;

6. Involving a source-specific determination for ambient impacts, visibility analysis, or increment analysis for portable sources;

7. Involves permit streamlining in accordance with Section VI.J.; or

8. Involves use of a District-only rule, in accordance with Section VI.K.1. in satisfaction of a requirement in the SIP.

FF. Solid Waste Incinerator: Any incinerator burning 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 shall not be considered solid waste incinerators for purposes of this Rule:

1. Any hazardous waste incinerator required to obtain a permit pursuant to Section 3005 of the Solid Waste Disposal Act (42 U.S.C. Section 6925);

2. Any materials recovery facility primarily recovering 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 burning homogenous waste for production of energy as defined in 16 U.S.C.A. Section 796(18)(B); or

5. Any air curtain incinerator burning only wood, yard, or clean lumber waste and complying with opacity limitations established by the Administrator of the EPA.

GG. Standard District Application: See Section V.C.

HH. Stationary Source: For purposes of this Rule, a stationary source is any building, structure, facility, or installation (or any such grouping):

1. Emitting, or having the potential to emit, or resulting in emissions of any regulated air pollutant or HAP;

2. Located on one or more contiguous or adjacent properties;

3. Under the ownership, operation, or control of the same person (or persons under common control) or entity; and

4. Belonging to a single major industrial grouping; i.e., 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.

II. United States Environmental Protection Agency (EPA): The Administrator or appropriate delegate of the "United States Environmental Protection Agency."

JJ. Voluntary Emissions Cap: An optional, federally-enforceable emissions limit on one or more emissions unit(s) established by a source to avoid an applicable federal requirement. Notwithstanding acceptance and recognition of a voluntary emissions cap, the source remains subject to all other applicable federal requirements.

III. Applicability

This rule shall apply to the following sources:

A. Major source as defined in Section II.X of this Rule;

B. Any source subject to Rule 210.4, Prevention of Significant Deterioration;

C. Source with an acid rain unit required by Title IV of the CAA to apply for an Acid Rain Permit;

D. Solid waste incineration unit required to obtain a Title V permit pursuant to Section 129(e) (42 U.S.C. Section 7429) of the CAA;

E. Any other stationary source in a source category designated, pursuant to 40 CFR Part 70.3, by rule of the EPA; and

F. Any non-major source that is subject to a standard or other requirement promulgated pursuant to Section 111 (NSPS) or 112 (HAP's) (42 U.S.C. Section 7411 or 7412) of the CAA, published after July 21, 1992, if designated by the Administrator at the time the new standard or requirement is promulgated.

IV. Exemptions

This Rule shall not apply to:

A. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);

B. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 61, Subpart M, NESHAP for Asbestos, §61.145, Standard for Demolition and Renovation; and

V. Administrative Procedures for Sources

A. Permit Requirement and Application Shield

A source shall operate in compliance with Permits to Operate issued pursuant to Rule 201.1. Rule 201.1 does not alter any applicable requirement that a source obtain preconstruction permits.

If an owner or operator submits a timely and complete application for permit, pursuant to Rule 201.1, 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.

This 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 Section V.C.2.

If an owner or operator submits a timely and complete application for an initial permit, the source shall operate in accordance with 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 201.1, notwithstanding expiration of this permit, until the APCO takes final action on the application.

This application shield does not apply to sources applying for permit modifications. For permit modifications, a source shall operate in accordance with the Permit to Operate issued pursuant to Rule 201.1 and any temporary Permit to Operate issued pursuant to Section 42301.1 of the H&SC.

B. Application Requirements

1. Initial Permit

a. For a Type 2 major source (as defined in Section II.X.2) subject to this Rule on its effective date, an owner or operator shall submit a standard District application within 6 months after this date (by December 4, 1995).

b. For a source that becomes subject to Rule 201.1 after the Rule's effective date, a responsible official shall submit a standard District application within 12 months of the source commencing operation or of otherwise becoming subject to Rule 201.1.

c. For a source becoming subject to this Rule after the effective date of the Rule, an owner or operator shall submit a standard District application within 6 months of the source commencing operation.

d. For a source with an acid rain unit, an owner or operator shall submit a standard District application and acid rain permit application to the District. Such applications shall be submitted within the following timeframe:

1) If the source is subject to Rule 201.1 because of Section III.A., within the applicable timeframe specified in Subsection V.B.1.a. or V.B.1.b., above.

2) If the source is subject to Rule 201.1 only because of Section III.B., by January 1, 1996, or, if applicable, a later date established by 40 CFR Part 72.

2. Permit Renewal

For renewal of a Rule 201.1 permit, an owner or operator shall submit a standard District application no earlier than 18 months and no later than 6 months before expiration of the current Permit to Operate. Permits to Operate for all emissions

units at a stationary source subject to this Rule shall undergo simultaneous renewal.

3. Significant Permit Modification

When applying for a District Rule 201 Authority to Construct or after obtaining any required EPA preconstruction permits to modify an existing stationary source, an owner or operator shall submit a standard District application for each emissions unit affected by a proposed permit revision constituting a significant permit modification. Upon request by the APCO, the owner or operator shall submit copies of the latest EPA preconstruction permit for each affected emissions unit. Any affected emissions unit(s) shall not commence operation until the APCO takes final action to approve the permit revision.

4. Minor Permit Modification

When applying for a District Rule 201 Authority to Construct or after obtaining any required EPA preconstruction permits to modify an existing stationary source, an owner or operator shall submit a standard District application for each emissions unit affected by the proposed permit revision constituting a minor permit modification. Any affected emissions unit(s) shall not commence operation until the APCO takes final action to approve the permit revision. The application, in addition to information required by the District's standard application form, shall include the following:

a. A description of the proposed permit revision, any change in emissions, and additional applicable federal requirements;

b. Proposed permit terms and conditions; and

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

5. Acid Rain Unit Permit Modification

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

C. Application Content and Correctness

1. Standard District Application

An application submitted by the responsible official shall include:

a. Information identifying the stationary source;

b. Description of processes and products (by Standard Industrial Classification Code), including any associated with proposed alternative operating scenarios (see Section VI.I.1.);

c. Identification of fees required by Rules 301, and 301.3;

d. Listing of all existing emissions units at the stationary source and identification and description of all points of emissions from emissions units in sufficient detail to establish applicable federal requirements and basis for any fees pursuant to Section VIII;

e. Citation and description of all applicable federal requirements, information and calculations used to determine applicability of such requirements and other information necessary to implement and enforce such requirements;

f. Calculation of all emissions, including fugitive emissions, in tons per year and in terms necessary to establish compliance with all applicable District, state, or federal requirements for:

1) All regulated air pollutants emitted from the source;

2) Any HAP 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 HAP's in quantities equal to or in excess of 25 tons per year, all HAP's emitted by the source;

g. Identification of fuels, fuel use, raw materials, production rates, operating schedules, limitations on source operation or workplace practices if these affect source emissions;

h. Identification and description of air pollution control equipment and compliance monitoring devices or activities;

i. Any other information required by an applicable federal requirement (or a District-only rule in accordance with Section VI.K.1.);

j. Information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating scenarios pursuant to Section VI.I.1.;

k. Compliance plan and compliance schedule, including:

1) Description of the compliance status of each emissions unit within the stationary source with respect to applicable federal requirements, except as provided below:

a) For all applicable federal requirements which are to be satisfied by compliance with requirements of a permit streamlining proposal made in accordance with Subsection V.C.1.s., the responsible official may certify compliance with only requirements of the permit streamlining proposal if data on which to base such a certification is submitted or referenced with the application. Such application shall include an attachment demonstrating compliance with requirements of the permit

streamlining proposal ensures compliance with the identified applicable federal requirements;

b) In order to certify compliance with a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a District-only rule, if data on which to base such a certification is submitted or referenced with the application, and if use of the District-only rule is proposed and approved in accordance with Subsection V.C.1.t.

2) A statement the source will continue to comply with such applicable federal requirements with which the source is in compliance;

3) A statement the source will comply, on a timely basis, with applicable federal requirements which 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. However, if the source complies with a District-only rule addressed in a proposal submitted in accordance with Subsection V.C.1.t., no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District;

l. A schedule of compliance which resembles and is at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law, identifying 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 EPA and the APCO at least every 6 months for a source that is not in compliance at the time of permit issuance or renewal, and modification (if the non-compliance is with units being modified) and is:

1) A streamlined emission limit proposed in accordance with Subsection V.C.1.s.

2) A District-only rule proposed in accordance with Subsection V.C.1.t. or

3) An applicable federal requirement not to be subsumed by a proposal submitted in accordance with Subsection V.C.1.s. or V.C.1.t.;

m. A certification by a responsible official of all reports and other documents submitted for permit application, compliance progress reports at least every 6 months, statements on compliance status with any applicable enhanced monitoring, and compliance plans at least annually which shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;

n. For a source with an acid rain unit, an application shall include elements required by 40 CFR Part 72;

o. For a source of HAP's required to prepare a risk management plan pursuant to Section 112(r) of the CAA, the application shall include verification such a plan has been submitted to the authorized implementing agency, or shall include a compliance schedule for submittal of such a plan;

p. For proposed portable sources, an application shall identify all locations of potential operation and how such sources will comply with all applicable District, state, and federal requirements at each location;

q. In lieu of providing the information specified in Subsection V.C.1.e., an owner or operator may, upon written concurrence from the APCO, stipulate the source is a major source and/or identified applicable federal requirements apply to the source. A stipulation does not preclude the APCO from requiring submittal of subsequent additional information in accordance with this Rule;

r. An owner or operator may, upon written concurrence from the APCO, reference documents that contain information required in Subsections V.C.1.a. through j. and o., provided documents are specifically and clearly identified, and are readily available to the District and to the public. Each reference shall include, at a minimum, title or document number, author and recipient if applicable, date, identification of relevant sections of the document, and identification of specific application content requirements and source activities or equipment for which the referencing applies. A reference does not preclude the APCO from requiring submittal of information to supplement or verify the referencing or the submittal of other additional information in accordance with this Rule;

s. The application may contain a proposal for permit streamlining of two or more sets of applicable federal requirements and/or District-only requirements, to be reviewed by the District in accordance with Section VI.J.. The application shall clearly note any proposal for permit streamlining. The permit streamlining proposal shall include the most stringent of multiple applicable emission limitations for each regulated air pollutant in order to ensure compliance with all applicable requirements for each emission unit or group of emission units. For purposes of this paragraph, an alternative or hybrid emission limit at least as stringent as any applicable emission limitation or a District-only requirement which meets the criteria set forth in Section VI.K., may be submitted, provided the limits ensure compliance with all applicable requirements for each emission unit or group of emission units. All applicable federal requirements and permit conditions pertaining to or resulting from Title IV (acid rain) of the CAA and its implementing regulations shall remain unaltered. The application shall contain the following information for each streamlining proposal and associated emission unit:

    1) A side-by-side comparison of all District-only and applicable federal requirements that are currently applicable and effective. Requirements for

emissions and/or work practice standards shall be distinguished from provisions for monitoring and compliance demonstration;

2) A determination of the most stringent emissions and/or performance standard (or any hybrid or alternative limits as appropriate) and the documentation relied upon to make this determination;

3) A proposal for one set of permit terms and conditions to include the most stringent emissions limitations and/or standards (including pertinent work practice standards), appropriate monitoring and its associated recordkeeping and reporting requirements, and such other conditions as are necessary to ensure compliance with all applicable federal requirements affected by the proposal. The most stringent emission limits shall be determined in accordance with criteria in Subsection II.A.2.(a). of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996. Streamlining of work practice standards shall be consistent with guidance in Subsection II.A.2.(b) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996. Streamlining of monitoring, recordkeeping, and reporting requirements shall be consistent with guidance in Subsection II.A.2.(e) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996;

4) If there is pertinent source compliance data, a certification the source complies with the streamlined emission limits and compliance with the streamlined emission limits ensures compliance, in accordance with Subsection V.C.1.k., with all applicable federal requirements affected by the proposal;

5) A compliance schedule to implement any new monitoring/compliance approach relevant to the streamlined limit if the emission unit is unable to comply with the streamlined limit at the time of permit issuance. Recordkeeping, monitoring, and reporting requirements of applicable federal requirements being subsumed shall continue to apply (as would the requirement for the emission unit to operate in compliance with each of its emission limits) until the new streamlined compliance approach becomes operative;

6) A proposal for a permit shield in accordance with Subsection V.C.1.u., for applicable federal requirements and District-only requirements associated with the streamlining proposal;

7) If the proposal includes use of any District-only requirement(s) as a requirement of permit streamlining, an authorization for the APCO to identify such District-only requirement(s), and any streamlined monitoring, recordkeeping, or reporting requirement derived from it, in the

permit as a federally-enforceable condition in accordance with H&SC Section 42301.12(a)(3); and

8) Other pertinent information as specified by the APCO, including supplementary information pertaining to paragraphs 1) through 6) of this Subsection.

t. If the application contains a proposal to address a District-only rule that has been submitted to the EPA for State Implementation Plan approval, in lieu of a corresponding requirement in the State Implementation Plan, the application shall include the following additional information:

1) An indication this approach is being proposed, a list or cross-reference of all requirements from pertinent District-only rules eligible for this approach, and reference to the list maintained for this purpose by the District;

2) Identification of State Implementation Plan requirements the District-only rule(s) would replace;

3) A compliance certification for requirements of pertinent District-only rule(s) in lieu of requirements in the State Implementation Plan in accordance with Subsection V.C.1.k.;

4) A proposal for a permit shield in accordance with Subsection V.C.1.u., below, for the affected applicable federal requirements in the State Implementation Plan;

5) An authorization for the APCO to identify in the permit, in accordance with H&SC Section 42301.12(a)(3), any such District-only emission limit and any associated District-only monitoring, recordkeeping, or reporting requirement as a federally-enforceable condition; and

6) Other information as specified by the APCO in accordance with this Rule.

u. The application may contain a proposal for a permit shield to be reviewed by the District in accordance with Section VI.L., and to be included in the permit. The proposal shall indicate applicable federal requirements and District-only requirements for which the permit shield is sought. The proposal shall also specify emission unit(s) for which the permit shield is sought or whether the permit shield is sought for the entire stationary source;

v. For the purposes of this Rule, an insignificant activity shall be any activity, process, or emissions unit which is not subject to a source-specific applicable federal requirement and which emits no more than 0.5 tons per year of a HAP, no more than two tons per year of a regulated air pollutant excluding HAPs and GHGs, and no more than 5,000 tpy of GHG measured as CO2e. Source-specific applicable federal requirements include requirements for which emission unit-specific information is required to determine applicability.

w. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required in Section VIII, Annual Fees. [Reference: 40 CFR Part 70.5(c)]

2. Correctness of Applications

An owner or operator of a source shall submit an accurate and complete application in accordance with requirements of Section V.C. and

a. Upon written request of the APCO, an owner or operator shall supplement any complete application with any necessary additional information within the timeframe specified by the APCO; or

b. An owner or operator shall promptly provide additional/replacement 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 and needed for accurate analysis of the application.

c. Intentional or negligent submittal of inaccurate information shall result in denial of an application.

D. Written Requests for District Action

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

1. Administrative Permit Amendment

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 Non-Federally-Enforceable Condition

For a permit modification for a non-federally-enforceable condition, an owner or operator shall submit a written request in accordance with requirements of Rule 201, unless exempted by Rule 202 or 202.1.

3. Permit to Operate for New Emissions Unit

For a permit to operate a new emissions unit at a stationary source, an owner or operator shall submit a written request in accordance with requirements of Rule 201, except when:

a. Construction or operation of the emissions unit is a modification under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, 63;

b. Construction or operation of the emissions unit is addressed or prohibited by existing Rule 201.1 permits for other emissions units at the stationary source; or

c. The emissions unit is an acid rain unit subject to Title IV of the CAA. For circumstances specified in Subsections V.D.3.a., b., or c., above, an owner or operator shall apply for a Permit to Operate for the new emissions unit pursuant to requirements of this Rule.

E. Response to Permit Reopening For Cause

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

VI. District Administrative Procedures

Cost of all public notices published pursuant to this section shall be paid by applicant.

A. Completeness Review of Applications

The APCO shall determine if an application is complete and shall notify the responsible official of his 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. An application shall be deemed complete unless the APCO requests additional information or otherwise notifies the owner or operator the application is incomplete within the timeframes specified above.

B. Notification of Completeness Determination

The APCO shall provide written notification of a completeness determination to the EPA, the ARB and any affected state and shall submit a copy of the complete application to the EPA within five working days of the determination. If the application includes a proposal for permit streamlining, the APCO shall note this when submitting a copy of the complete application to the EPA. The APCO need not provide notification for applications from non-major sources when the 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 APCO shall act on a complete application in accordance with procedures in following Sections VI.D., VI.E. and VI.F., 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 this Rule on the effective date of the Rule, no later than three years after the effective date of the Rule;

2. For an initial permit for a source becoming subject to this Rule after the effective date of the Rule, no later than 18 months after the complete application is received;

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

4. For a significant permit modification, no later than 18 months after the complete application is received;

5. For a minor permit modification, no later than 90 days after the application is received or 60 days after written notice to the EPA of the proposed decision, whichever is later; or

6. For any permit application with early HAP's reductions pursuant to Section 112(i)(5) of the CAA, within 9 months after the complete application is received.

7. Provided the EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of a permit in accordance with Section VI.K.2., until the EPA formally acts to approve or disapprove a District-only rule submitted for inclusion in the State Implementation Plan. If the EPA disapproves the District-only rule, the APCO shall require the owner or operator to revise the application to address corresponding requirements in the State Implementation Plan not yet addressed and to provide additional information as specified by the APCO in accordance with this Rule. The APCO shall specify an expeditious timeframe for the owner or operator to submit the revised application.

D. Notification and Opportunity for Review of Proposed Decision

Within the applicable timeframe specified in Section VI.C., the APCO shall provide notice of and opportunity to review the proposed decision to issue a Permit to Operate in accordance with the following requirements:

1. For initial permits, renewal of permits, significant permit modifications, and reopenings for cause, the APCO shall provide:

   a. Written notice, the draft proposed permit and, upon request, a copy of the District analysis to interested persons or agencies. The District analysis shall include a statement setting forth the legal and factual basis for proposed permit conditions, including references to applicable statutory and regulatory provisions. "Interested persons or agencies" includes persons having requested in writing to be notified of proposed Rule 201.1 decisions, any affected state and the ARB;

   b. On or after providing written notice pursuant to Subsection VI.D.1.a., above, public notice that shall be published in at least one newspaper of general

circulation in the District and, if necessary, by other means to assure adequate notice to the affected public. The notice shall include:

1) Identification of the source, name and address of permit holder, activity(ies) and emissions change involved in the permit action;

2) Name and address of the District, name and telephone number of District staff capable of providing additional information;

3) Availability, upon request, of a statement setting forth legal and factual basis for proposed permit conditions;

4) Location where the public may inspect the complete application, District analysis, and proposed permit;

5) Statement that public may submit written comments regarding the proposed decision within at least 30 days from date of publication and brief description of commenting procedures; and

6) Statement that members of the public may request the APCO 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;

c. A copy of the complete application, District analysis and proposed permit at a District office for public review and comment during normal business hours;

d. Written response to persons or agencies submitting written comments 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; and

e. After completion of the public notice and comment period pursuant to Subsection VI.D.1.b., written notice to the EPA of the proposed decision, including copies of the proposed permit, District analysis, public notice submitted for publication, District's response to written comments, and all necessary supporting information.

2. For minor permit modifications, the APCO shall provide written notice of the proposed decision to the EPA, ARB, and any affected state. Additionally, the District shall provide to the EPA and, upon request, to ARB or any affected state copies of the proposed permit, District analysis, and all necessary supporting information. The District analysis shall include a statement setting forth legal and factual basis for proposed permit conditions, including references to applicable statutory and regulatory provisions.

E. Changes to Proposed Decision

Changes to a proposed decision shall be administered as follows:

1. The APCO may modify or change a proposed decision, the proposed permit, or District analysis based on information in comments received during the public comment period pursuant to Subsection VI.D.1.b. or based on further analysis of the APCO. Pursuant to Subsection VI.D.1.e., above, the APCO shall forward any such modified proposed decision, the proposed permit, District analysis, and all necessary supporting information to the EPA.

2. If the 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 VI.D.1.e., above, the APCO shall not issue the permit. Also, if the public petitions the EPA within 60 days after the end of the EPA's 45-day review period and the permit has not yet been issued, the APCO shall not issue the permit until EPA objections in response to the petition are resolved. The APCO shall, either, respond in writing to EPA's comments, deny the application, or revise and resubmit a permit addressing EPA's identified deficiencies within the following timeframes:

   a. For initial permits, permit renewals, and significant permit modifications, within 90 days of receiving the EPA objection; or

   b. For minor permit modifications, within 90 days of receipt of the application or 60 days of the notice to EPA, whichever is later.

F. Final Decision

If the EPA does not object in writing within 45 days of a notice provided pursuant to Subsection VI.D.1.e., or the APCO submits a revised permit pursuant to Section VI.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 applicable timeframes specified in Section VI.C. Failure of the APCO to act on a permit application or permit renewal application in accordance with timeframes provided in Section VI.C., shall be considered final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously.

Written notification of the final decision shall be sent to the owner or operator of the source, EPA, ARB and any person and affected state having submitted comments during the public comment period. Written notification of any refusal by the District to accept all recommendations for the proposed permit that an affected state submitted during the public comment period shall be sent to EPA and affected states. The APCO shall submit a copy of an as-issued Permit to Operate to the EPA and provide a copy to any person or agency requesting a copy for the cost of producing and mailing. If the application is denied, the APCO shall provide, in writing, to the owner or operator reasons for the denial and the District analysis, including specific statute, rule, or regulation upon which the denial is based.

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

The APCO shall take final action no later than 60 days after receiving a written request for an administrative permit amendment and:

a. After designating the permit revision(s) 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 the responsible official and the EPA; and

c. The APCO is not required to make a completeness determination on a written request, but shall notify the owner or operator if the APCO determines the permit can not be revised as an administrative permit amendment.

2. Permit Modification for Non-Federally-Enforceable Condition

The APCO shall take action on a written request for a permit modification for a non-federally-enforceable condition in accordance with requirements of Rule 201 if:

a. Any change at the stationary source allowed by the permit modification shall comply with all permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules imposed in accordance with Section VI.K.1., and all applicable federal requirements not subsumed by a permit streamlining requirements imposed in accordance with Section VI.J., or District-only rules substituting for provisions of the State Implementation Plan pursuant to Section VI.K.1., and will not violate any existing permit term or condition; and

b. The APCO shall provide to the EPA a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement applying as a result of the change.

3. Permit to Operate for New Emissions Unit

The APCO shall take action on a written request for a Permit to Operate a new emissions unit in accordance with requirements of Rule 201.1 under circumstances specified in Subsection VI.G.2.a. and VI.G.2.b., above, unless Subsections V.D.3.a., V.D.3.b., or V.D.3.c., apply. If these Subsections apply, the APCO shall require submittal of a standard District application and take action on that application pursuant to requirements of this Rule.

H. Permit Reopening for Cause

The APCO shall reopen and revise a Permit to Operate during the annual review period authorized by Section 42301(c) of the H&SC, or petition the District hearing board to do so, as applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by the 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.

1. Circumstances constituting cause for reopening and revision of a permit include, but are not limited to, the following:

   a. Need to correct a material mistake or inaccurate statement;

   b. Need to revise or revoke a permit to operate to assure compliance with permit streamlining requirements imposed in accordance with Section VI.J., District-only rules imposed in accordance with Section VI.K.1., all applicable federal requirements not subsumed by permit streamlining requirements imposed in accordance with Section VI.J., or District-only rules substituting for provisions of the State Implementation Plan pursuant to Section VI.K.1.;

   c. Need to incorporate any new, revised, or additional applicable federal requirement, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after promulgation of such requirement (if 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. Need to reopen a permit issued to an acid rain unit subject to Phase II of Title IV of the CAA to include:

      1) NOx 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.

2. In processing a permit reopening, the APCO shall use the same procedures as for an initial permit and shall additionally:

   a. Provide written notice to an owner or operator and the 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 EPA pursuant to Subsection VI.D.1.e., if the EPA does not object, or after the APCO has responded to EPA objection pursuant to Section VI.E.2.

I. Options for Operational Flexibility

The APCO shall allow specified changes in operations at a source without requiring a permit revision for conditions addressing an applicable federal requirement. The APCO shall not allow such changes constituting a modification under Title I of the CAA or Rule 210.1, or resulting in exceedance of emissions allowed by 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 using the following options:

1. Alternative Operating Scenarios

The APCO shall allow use of alternative operating scenarios provided:

a. Terms and conditions applicable to each operating scenario are identified by the owner or operator in the permit application;

b. Terms and conditions are approved by the APCO;

c. Terms and conditions are incorporated into the permit; and

d. Terms and conditions are in compliance with all applicable District, state, and federal requirements.

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

2. Voluntary Emissions Caps

The APCO shall issue a permit containing terms and conditions allowing 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:

a. Requirements of Subsections VI.I.1.a., 1.c., and 1.d., above, are met;

b. Terms and conditions are approved by the APCO as quantifiable and enforceable; and

c. Terms and conditions are consistent with any applicable preconstruction permit.

A permit condition shall require an owner or operator to provide written notice to EPA and the APCO 30 days in advance of a change by clearly requesting operational flexibility pursuant to this Subsection. Such written notice shall describe the change, identify the emissions unit to be affected, date on which the change will occur and duration of 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

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

a. Changes will not violate any applicable federal requirement or any previously District-only rule used in accordance with Section VI.K.1.;

b. Changes will not contravene monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements constituting federally-enforceable conditions;

c. Changes are not modifications under Title I of the CAA or any provision of Rule 210.1;

d. Changes do not result in exceeding emissions allowable by the permit, whether expressed therein as a rate of emissions or in terms of total emissions;

e. Written notice is given to EPA and the APCO 30 days in advance of a change, and such notice clearly indicates term(s) or condition(s) to be contravened, requests operational flexibility under this Subsection, describes the change, identifies emissions units to be affected, date on which the change will occur, 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. APCO has not provided a written denial to the owner or operator within 30 days of receipt of the request for an operational change. The written denial shall identify which of the requirements of Subsections VI.I.3.a., b., c., d., or e., above, have not been satisfied.

J. Permit Streamlining

The APCO may approve a proposal in the application, submitted in accordance with Section V.C.1.s., for permit streamlining, provided the proposal and permit terms and conditions are sufficient to ensure compliance with all applicable federal requirements for each emission unit or group of emission units and with Section VII., "Permit Content Requirement". The APCO shall not approve any streamlined permit term or condition unless it is enforceable as a practical matter. Streamlined permit terms and conditions based on District-only requirements shall be federally-enforceable in accordance with H&SC Section 42301.12(a)(3). The permit shall include a permit shield provided in accordance with Section VI.L., for applicable federal requirements and District-only requirements subsumed by the permit streamlining action.

The APCO may approve a proposal which includes either: 1) the most stringent of multiple applicable emission limitations (including work practice and operational standards) for each regulated air pollutant, 2) an alternative or hybrid emission limitation at least as stringent as any applicable emission limitation, or 3) a District-

only requirement which meets criteria set forth in Section VI.K., and is at least as stringent as the applicable federal requirement(s) which it subsumes.

K. Requirements From the State Implementation Plan

1. In response to a proposal in the application submitted in accordance with Section V.C.1.t., the APCO may issue a permit with permit terms and conditions in accordance with Section VII., "Permit Content Requirements" based on a District-only rule in lieu of a corresponding rule in the State Implementation Plan, provided the following requirements are met:

   a. Compliance with one of the following criteria:

      1) The EPA has determined in writing the District-only rule is at least as stringent as, and ensures compliance with, the corresponding rule in the applicable State Implementation Plan, or

      2) The owner or operator has demonstrated to satisfaction of the APCO and EPA, expressed in writing, that compliance with the District only rule assures compliance with the corresponding rule in the State Implementation Plan, and

   b. Once the permit is issued, the permit terms and conditions based on the District-only rule shall be federally-enforceable in accordance with H&SC Section 42301.12(a)(3) and Section VII.A.2.,. The permit shall include a permit shield provided in accordance with Section VI.L., for applicable federal requirements associated with the District-only rule. Requirements of the corresponding rule in the Implementation Plan shall remain federally enforceable until the EPA approves the District-only rule for inclusion in the State Implementation Plan. If, after permit issuance, the District or EPA determines the permit does not assure compliance with applicable federal requirements, the permit shall be reopened.

2. Provided the EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of the permit until the EPA formally acts to approve or disapprove the District-only rule submitted for inclusion in the State Implementation Plan.

L. Permit Shield

1. In response to a proposal in the application, the APCO may include in the permit a provision stating compliance with specifically-identified conditions of the permit shall be deemed compliance with any applicable federal requirement(s) or with any District-only requirement(s) set forth in accordance with Section VI.J., as of the date of permit issuance, provided:

   a. Such applicable federal requirements and/or District-only requirements are specifically identified and included in the permit; or

b. The APCO, in acting on the permit application or revision, determines in writing other specifically identified requirements are not applicable to the source, and the permit includes the determination or a concise summary thereof.

2. When a permit shield is provided by the APCO for permit streamlining in accordance with Section VI.J., the permit shield shall be effective only when the source is in compliance with streamlined emission limits (including applicable work standards and operational practices), during which time no enforcement action shall be taken for non-compliance with subsumed requirements. If the source is not in compliance with the streamlined emission limits, the permit shield shall not be in effect and enforcement action may be taken for non-compliance with subsumed emissions limitations to the extent such noncompliance can be established.

3. A permit that does not expressly state a permit shield exists shall be presumed not to provide such a shield.

4. A permit shield shall not be provided for the following:

   a. Any minor permit modification;

   b. Any change in operation allowed by Section VI.I.3., for contravening an express permit condition; or

   c. Any change in operation or any permit modification pursuant to Section VI.G.2. or VI.G.3.

5. Provisions of Section VI.L.1., shall not alter or affect any of the following:

   a. Provisions of Section 303 (Emergency Orders) of the CAA, including the authority of the EPA Administrator;

   b. Liability of an owner or operator of a source for any violation of applicable federal requirements prior to or at the time of permit issuance;

   c. Applicable federal requirements of Title IV (Acid Rain) of the CAA and the regulations promulgated thereunder;

   d. Ability of the EPA or APCO to implement and enforce provisions of Section 114 of the CAA and regulations promulgated thereunder;

   e. Applicability of state or District-only requirements not associated with any permit streamlining action in accordance with Section VI.J., at the time of permit issuance but which do apply to the source; or

   f. Applicability of regulatory requirements with compliance dates after the permit issuance date.

VII. Permit Content Requirements

A Permit to Operate shall contain permit conditions ensuring compliance with all requirements of permit streamlining imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirements not subsumed by such permit streamlining requirements or District-only rules.

A. Incorporation of Applicable Federal Requirements

1. A Permit to Operate shall incorporate all applicable federal requirements (or District-only rules which apply in accordance with Section VI.K.1., in lieu of applicable federal requirements) as permit conditions. Streamlining, if any, of requirements shall be accomplished in accordance with Section VI.J.

2. A permit condition addressing an applicable federal requirement, a permit streamlining requirement imposed in accordance with Section VI.J., or a District-only rule which applies in accordance with Section VI.K.1., shall be specifically identified in the permit, or otherwise distinguished from any requirement not enforceable by EPA in accordance with H&SC Section 42301.12(a)(3).

B. General Requirements

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

1. Emission and Operational Limitations

The permit shall contain terms and conditions ensuring compliance with all permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirements not subsumed by such permit streamlining requirements or District-only rules, including any operational limitations or requirements.

2. Preconstruction Permit Requirements

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

3. Origin and Authority for Permit Conditions

The origin and authority for each permit term or condition shall be referenced in the permit. If a permit term or condition is used to subsume requirements in accordance with this Rule, the origin and authority of the subsumed requirements shall also be referenced in the permit.

4. Equipment Identification

The permit shall identify all equipment to which permit conditions apply.

5. Monitoring, Testing, and Analysis

The permit shall contain terms and conditions requiring monitoring, analytical methods, compliance certification, test methods, equipment management, and statistical procedures consistent with all permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirement (including those imposed pursuant to Sections 114(a)(3) and 504(b) of the CAA (authority to require testing), and 40 CFR Part 64) not subsumed by such permit streamlining requirement(s) or District-only rules. Periodic monitoring shall be required as a condition to ensure monitoring is sufficient to yield reliable data representative of the source's compliance with permit conditions over the relevant time period.

6. Recordkeeping

The permit shall include recordkeeping conditions requiring:

a. Recording of maintenance of all monitoring and support information associated with all permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirement not subsumed by such permit streamlining requirement(s) or District-only rules, including:

1) Date, place, and time of sampling;
2) Operating conditions at time of sampling;
3) Date, place, and method of analysis; and
4) Results of 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 permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules.

7. Reporting

The permit shall include reporting conditions requiring the following:

a. Any non-conformance with permit requirements, including any attributable to emergency conditions (as defined in the permit) shall be promptly reported to the APCO and in accordance with Rule 111;

b. Monitoring report shall be submitted at least every six months identifying any non-conformance with permit requirements, including any previously reported to the APCO;

c. All reports of non-conformance with permit requirements shall include probable cause of non-conformance and any preventative or corrective action taken;

d. Progress report shall be made on a compliance schedule at least semiannually and including: 1) date when compliance will be achieved, 2) explanation of why compliance was not, or will not be achieved by the scheduled date, and 3) log of any preventative or corrective action taken; and

e. Each monitoring report shall be accompanied by a written statement from the responsible official certifying the truth, accuracy, and completeness of the report.

f. Any source subject to this rule shall submit to the District by March 31 of each year, actual GHG emissions for the previous calendar year. Emissions shall be calculated and reported in accordance with 40 CFR Part 98, Mandatory Greenhouse Gas Reporting.

8. Compliance Plan

The permit shall include a compliance plan:

a. Describing the compliance status of an emissions unit with respect to each applicable federal requirement, except as provided below:

1) For all applicable federal requirements which are satisfied by compliance with streamlining requirements approved by the District in accordance with Section VI.J., the responsible official may certify compliance with streamlined requirement(s) if there are data on which to base such a certification. The compliance plan shall include an attachment that indicates compliance with the permit streamlining requirement ensures compliance with identified applicable federal requirements being subsumed; and

2) In lieu of a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a Districtonly rule allowed by the District in accordance with Section VI.K.1., if there are data on which to base such a certification;

b. Describing how compliance will be achieved if an emissions unit is not in compliance with an applicable federal requirement at time of permit issuance. However, if the emission unit complies with a District-only rule in accordance with Section VI.K.1., no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District;

c. Assuring an emissions unit will continue to comply with all permit conditions with which it is in compliance; and

d. Assuring an emissions unit will comply with, on a timely basis, any applicable federal requirement becoming effective during the permit term.

9. Compliance Schedule

The permit shall include a compliance schedule for any emissions unit which is not in compliance, at the time of permit issuance, renewal, and modification (if the non-compliance is with units being modified), with any permit streamlining requirement imposed in accordance with Section VI.J., any District-only rule which applies in accordance with Section VI.K.1., and any current applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules. The compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law and shall require:

a. Statement the emissions unit will continue to comply with all permit conditions with which it is in compliance;

b. Statement the emissions unit will comply, on a timely basis, with an applicable federal requirement becoming effective during the permit term;

c. For each condition with which the emissions unit is not in compliance with a permit streamlining requirement imposed in accordance with Section VI.J., a District-only rule which applies accordance with Section VI.K.1., or an applicable federal requirement not subsumed by such permit streamlining requirements or District-only rules, a schedule of compliance listing all preventative or corrective activities, and dates when these activities will be accomplished; and

d. For each emissions unit not in compliance with a permit streamlining requirement imposed in accordance with Section VI.J., a District-only rule which applies in accordance with Section VI.K.1., or an applicable federal requirement not subsumed by such permit streamlining requirements or District-only rules, a schedule of progress on at least a semi-annual basis including: 1) date when compliance will be achieved, 2) explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) log of any preventative or corrective actions taken.

10. Right of Entry

The permit shall require the source to allow entry of District, ARB, or EPA officials for 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

The permit shall include the following compliance provisions:

a. Permittee shall comply with all permit conditions;

b. Permit does not convey any property rights or any exclusive privilege;

c. Non-compliance with any permit condition shall be grounds for permit termination, revocation and reissuance, modification, enforcement action, or denial of permit renewal;

d. Permittee shall not use "need to halt or reduce a permitted activity in order to maintain compliance" as a defense for non-compliance with any permit condition;

e. Pending permit action or notification of anticipated non-compliance does not stay any permit condition; and

f. Within a reasonable time period, permittee shall furnish any information requested by the APCO, in writing, for 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 permit shall include the following emergency provisions:

a. The permittee shall comply with the requirements of Rule 111 and the emergency provisions contained in all permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules.

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;

c. In any enforcement proceeding, the permittee has the burden of proof for establishing that an emergency occurred.

13. Severability

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

14. Compliance Certification

The permit shall contain conditions for compliance certification requiring the following:

a. The responsible official shall submit a compliance certification to the EPA and the APCO every 12 months or more frequently as specified in an applicable requirement or by the District. All compliance reports and other documents required to be submitted to the District by the responsible official shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;

b. Such 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. Such compliance certification shall include compliance status and method(s) used to determine compliance for the current time period and over entire reporting period; whether compliance was continuous or intermittent; and

d. Such compliance certification shall include any additional inspection, monitoring, or entry requirement promulgated pursuant to Sections 114(a) and 504(b) of the CAA.

15. Permit Life

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 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; but such permit shall be reviewed at least every five years.

16. Payment of Fees

The permit shall include a condition ensuring that appropriate permit fees are paid on schedule. If fees are not paid on schedule, the permit shall be forfeited. Operation without a permit shall subject the source to potential enforcement action by the District and the EPA pursuant to Section 502(a) of the CAA.

17. Alternative Operating Scenarios

Where an owner or operator requests 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 shall ensure compliance with all permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules, and all requirements of this Section. The source shall maintain a contemporaneous log to record each change from one operating scenario to another.

18. Voluntary Emissions Caps

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, permitting one or more emissions unit(s) under a voluntary emissions cap. The permit for each emissions unit included under a voluntary emissions cap shall include federally-enforceable conditions requiring:

a. Compliance with all permit streamlining requirements imposed in accordance with Section VI.J., all District-only rules which apply in accordance with Section VI.K.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules, including those authorizing emissions averaging;

b. Compliance of all individual emissions units with applicable emissions limitations, standards, or other requirements;

c. Any emissions limitation, standard, or other requirement be enforced through continuous emission monitoring, where applicable; and

d. All affected emissions units under a voluntary emissions cap 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

The permit for an acid rain unit shall include conditions requiring 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 requirements of 40 CFR Part 72.9 and the following:

a. Sulfur dioxide emissions from an acid rain unit shall not exceed annual emissions allowances (up to one ton per year of sulfur dioxide may be emitted for each emission allowance allotted) the source lawfully holds for such 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. There is no limit on the number of sulfur dioxide emissions allowances held by a source, but a source with an acid rain unit shall not use such emissions allowances as a defense for non-compliance with any applicable federal requirement or District requirement, including District Rule 210.1 (New Source Review Rule); and

d. An acid rain unit's sulfur dioxide allowances shall be accounted for according to procedures established in regulations promulgated pursuant to Title IV of the CAA.

20. Portable Sources

The permit for any portable source, allowed to operate at two or more locations, shall contain conditions requiring the portable source to:

a. Meet all applicable District, state, and federal requirements at each location;

b. Specify monitoring methods, or other methods, e.g., air quality modeling, approved by the APCO, demonstrating compliance with all District, state, and federal requirements; and

c. Notify the APCO ten working days prior to a change in location.

21. Permit Shield

In response to a proposal in the application and upon approval by the APCO, the permit may contain a permit shield in accordance with Section VI.L. The permit shield shall specify requirements of permit streamlining, the applicable federal requirements, and District-only requirements for which the permit shield applies. The permit shield shall also state the specific emission units for which the permit shield applies or whether the permit shield applies to the entire stationary source.

C. Referencing of District and Applicable Federal Requirements

In lieu of specifying detailed requirements, the permit may reference documents that contain the detailed requirements; provided such documents are specifically and clearly identified, and are readily available to the District and to the public. Each reference shall include, at a minimum, title or document number, author and recipient if applicable, date, citation of relevant sections of the Rule or document, and identification of specific source activities or equipment for which the referencing applies.

VIII. Annual Fees

A. Greenhouse Gas Fee

Title V permitted sources with actual Greenhouse Gas (GHG) emissions, in the prior calendar year, greater than or equal to 100,000 tons of CO2e shall be subject to District Rule 301.4, Greenhouse Gas Fee.

B. Supplemental Fee

1. Supplemental Fee Required

Fees collected pursuant to this section shall supplement applicable Rules 301 and 301.3 fee requirements as specified in CFR 40 Part 70.9.

An owner or operator, or his designee, shall pay an annual supplemental fee for a permit to operate pursuant to this Rule as determined by the calculation method in Section VIII.B.3., to provide a District-wide fee rate of $25 per ton of fee-based emissions (CPI-adjusted) for all facilities subject to this Rule, unless Section VIII.B.2. applies.

a. "Fee-based emissions" means the actual rate of emissions in tons per year of any fee pollutant, including fugitive emissions, emitted from all stationary sources 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.

b. "Fee pollutant" means VOCs, NOx, any pollutant for which a National Ambient Air Quality Standard has been promulgated by the EPA (excluding carbon monoxide), and any other pollutant subject to a standard or regulation, excluding Greenhouse Gases, promulgated by the EPA under the CAA or adopted by the District pursuant to Section 112(g) and (j) of the CAA. Any air pollutant 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.

c. "(CPI-adjusted)" means adjusted by the percentage, if any, by which the Consumer Price Index for the year exceeds the Consumer Price Index for calendar year 1989. The value for (CPI-adjusted) shall be obtained from the EPA.

2. Supplemental Fee Not Required

There shall not be a supplemental annual fee if:

a. The total annual fee rate paid by all sources subject to this Rule pursuant to Rules 301 and 303 (except Section III of Rule 303) (Permit Fees Rules) and

301.3 (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 funding direct and indirect costs associated with activities related to the operating permits program as specified in Section 502(b)(3)(A) of the CAA shall be used to meet the overall fee rate of $25 per ton of fee-based emissions (CPI adjusted), or

b. The District satisfactorily demonstrates to EPA that collection of less than the amount prescribed in Section VIII.B.1., is sufficient to administer a program for sources subject to Title V which adequately implements applicable CAA requirements, or

c. EPA promulgates a regulation, guidance, or policy establishing a lower minimum dollars per ton. Should this occur, such new minimum shall be used in Section VIII.B.3., below.

3. Determination of Supplemental Fee
Any supplemental annual fee due shall be determined by completing the following steps:

a. Step 1: Calculation of District-wide Supplemental Annual Fee:

S = [$25 per ton (CPI adjusted) x e] – F

where:

S = supplemental District-wide annual fee in dollars

e = fee-based emissions in tons per year from all facilities subject to this Rule.

F = District-wide sum (in dollars) of annual fees for sources subject to this Rule under Rule 301; 303 (excluding Section III, CEQA Documents Preparation); and that portion of Rule 301.3 fees collected for District costs associated with activities related to the operating permits program as specified in Section 502(b)(3)(A) of the CAA.

b. Step 2: Calculation of each Facility's Supplemental Annual Fee:

s = S x f

where:

s = Given Facility's Supplemental Annual Fee

S = District-wide Supplemental Annual Fee Calculated in Step 1,above

f = Given Facility's decimal fraction of F used in Step 1, above.

c. Step 3: 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 Section VIII.B.2., applies. If "F" is less than [$25 per ton (CPI adjusted) x e], then "S" shall be as calculated as in Step 1.

C. Submittal of Information

The owner or operator, or his designee, shall provide the APCO sufficient information to determine any GHG Fee or Supplemental Fee.

Remainder of Page Intentionally Left Blank

APPENDIX B

AMENDED RULE 201.2

SYNTHETIC MINOR SOURCE

RULE 201.2 Synthetic Minor Source - Adopted 1/25/96, Amended 1/12/12 (Effective 3/8/12)

I. Purpose

The purpose of this Rule is to allow owners or operators of specified stationary sources that would otherwise be major stationary sources to request and accept federally-enforceable emissions limit sufficient to enable the sources to be considered "synthetic minor" stationary sources.

A "synthetic minor" stationary source is not subject to Rule 201.1 (Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990) unless it is subject to that Rule for a reason other than being a major stationary source. A synthetic minor stationary source is subject to all applicable federal requirements for non-major stationary sources and to all federally enforceable conditions and requirements pursuant to this Rule. In addition, a synthetic minor stationary source is subject to all applicable State and District Rules, Regulations, and other requirements.

II. Definitions

All terms shall retain the definitions provided under District Rule 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990, as applicable, unless otherwise defined herein.

A. Federal Clean Air Act: The Federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.) and its implementing regulations (CAA).

B. Federally-Enforceable: All limitations and conditions which are directly enforceable by EPA, including:

1. District requirements developed pursuant to 40 CFR Parts 60 (NSPS), 61 (NESHAP), 63 (NESHAP), 70 (Title V Operating Permit Program), and 72 (Permits Regulation, Acid Rain);

2. Requirements contained in the California State Implementation Plan (SIP) that are applicable to the District; and

3. District permit requirements established pursuant to 40 CFR Part 52.21 (PSD) or District permit requirements established pursuant to 40 CFR Part 51, Subpart 1 (NSR) and approved by EPA into the SIP.

C. Fugitive Emissions: Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

D. Greenhouse Gas (GHG): As defined in District Rule 102, Definitions.

E. Global Warming Potential (GWP): As defined in District Rule 102, Definitions.

F. Hazardous Air Pollutant (HAP): Any air pollutant listed pursuant to Section 112(b) (42 U.S.C. Section 7412(b)) of the Federal Clean Air Act.

G. Major Stationary Source of Regulated Air Pollutants: A stationary source that emits or has the potential to emit a regulated air pollutant in quantities equal to or exceeding any of the following thresholds:

1. 50 tons per calendar year of NOx or VOCs;

2. 100 tons per calendar year of any regulated air pollutant, excluding GHGs; or

3. GHG emissions subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of GWP, are equal to or greater than 100 tons per year.

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2.

H. Major Stationary Source of Hazardous Air Pollutants (HAP's): A stationary source that emits or has the potential to emit quantities equal to or exceeding the lesser of the following thresholds:

1. 10 tons per calendar year or more of a single HAP listed in Section 112(b) of the Federal Clean Air Act;

2. 25 tons per calendar year or more of any combination of HAP's; or

3. Any such lesser quantity as the EPA may establish by rule.

Fugitive emissions of HAP's shall be considered in calculating emissions for stationary sources. The definition of a major stationary source of radionuclides shall be specified by rule by the EPA.

I. Major Stationary Source Threshold: The potential to emit a regulated air pollutant or HAP in the amounts specified under Sections II.G. and II.H.

J. Modification: Any physical or operational change at a stationary source or facility which necessitates a revision of any federally-enforceable condition, established pursuant to this Rule or by any other mechanism, that enables a source to be a synthetic minor source.

K. NOx: All oxides of nitrogen, except Nitrous Oxide, measured as NO_2, Nitrogen Dioxide.

L. Operating Scenario: An operating scenario is any permitted mode of operation, including normal operation, startup, shutdown, and reasonably foreseeable changes in process, feed, or product.

M. Owner or Operator: Any person who owns, leases, operates, controls, or supervises a stationary source.

N. Potential to Emit: Maximum physical and operational design capacity to emit a pollutant during each calendar year. Limitations on physical or operational design capacity, including emissions control devices and limitations on hours of operation, may be considered only if such limitations are federally-enforceable.

O. Regulated Air Pollutant: Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) subject to regulation as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to:

1. NOx and VOCs;

2. Any pollutant having a National Ambient Air Quality Standard (NAAQS) promulgated pursuant to Section 109 of the CAA;

3. Any pollutant regulated under any standard promulgated under Section 111 (42 U.S.C. Section 7411) of the CAA, including New Source Performance Standards (NSPS) in 40 CFR Part 60;

4. Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the CAA;

5. Any GHG emissions subject to regulation; or

6. Any pollutant subject to any standard or requirement promulgated pursuant to Sections 112 of the CAA, including:

   a. Any pollutant listed pursuant to Section 112(r) (Prevention of Accidental Release) upon promulgation of the list;

   b. Any HAP subject to a standard or other requirement promulgated by the EPA pursuant to Sections 112(d) or adopted by the District pursuant to Sections 112(g) and (j) shall be considered a regulated air pollutant for all sources or categories of sources:

      (1) Upon promulgation of a standard or requirement; or

      (2) 18 months after a standard or requirement is scheduled to be promulgated pursuant to Section 112(e)(3); and

   c. Any HAP 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). 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.

P. Responsible Official: Responsible official shall mean one of the following:

1. For a corporation or limited liability company; a president, chief executive officer, secretary, treasurer, chief financial officer, 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 limited liability company, or a duly authorized representative of such person if the representative is responsible for overall operation of one or more manufacturing, productions, or operating facilities applying for or subject to a Title V permit and either:

   a. The facility(s) 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 writing in advance by the Air Pollution Control Officer;

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 ranking elected official. For purposes of this Rule, a principal executive officer of a federal agency includes the chief executive officer having responsibility for overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

4. For Phase II acid rain facilities subject to Title IV requirements:

   a. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Federal Clean Air Act or the regulations promulgated thereunder are concerned; and

   b. The designated representative for any other purposes under 40 CFR Part 70 regulations.

Q. Synthetic Minor Source: A stationary source which, pursuant to this Rule or another mechanism, is subject to federally-enforceable conditions that limit its potential to emit to less than major stationary source thresholds.

R. United States Environmental Protection Agency (EPA): The Administrator or appropriate delegatee of the United States Environmental Protection Agency.

S. Volatile Organic Compound (VOC): As defined in District Rule 102, Definitions.

III. Applicability

This Rule applies to any major stationary source located within the District for which the owner or operator requests, and would be able to comply with, federally-enforceable limitations or conditions that qualify the source to be a Synthetic Minor source, as defined herein. This Rule shall not apply to any stationary source that is subject to District Rule

201.1 (Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990) for a reason other than being a major stationary source.

IV. Standards

Modification Requirements for a Synthetic Minor Source: The following requirements apply to any modification of a synthetic minor source:

A. For a modification which would not increase the synthetic minor source's potential to emit to equal or exceed any major stationary source threshold, the source shall comply with requirements of District Rule 210.1 (New and Modified Stationary Source Review);

B. For a modification which would increase the synthetic minor source's potential to emit to equal or exceed any major stationary source threshold or would affect a monitoring, recordkeeping, or reporting requirement pursuant to this Rule, the owner or operator shall comply with applicable requirements of District Rule 210.1 (New and Modified Stationary Source Review) and shall:

1. Submit a revised request for synthetic minor source status in accordance with Section V.A. no later than 180 days prior to the anticipated commencement date of modification; or

2. Submit an application in accordance with requirements of Rule 201.1 (Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990) no later than 180 days prior to the anticipated commencement date of the modification. (Administrative requirements of District Rule 201.1 for when a stationary source shall make permit application after the date the Rule becomes effective, i.e., within 12 months of commencing operation, do not apply to modifying a synthetic minor source subject to this provision.)

V. Administrative Requirements

A. Request for Synthetic Minor Source Status: A request for a synthetic minor source status shall not relieve a stationary source of the responsibility to comply with application requirements of Rule 201.1 (Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990) within specified timeframes. A major stationary source subject to this Rule may request synthetic minor source status in accordance with the following:

1. Content of Request: A request for designation as a synthetic minor source shall include all applicable information required by the District's List and Criteria (adopted pursuant to Article 3, Sections 65940 through 65944 of Chapter 4.5 of Division 1 of Title 7 of the California Government Code).

2. Timely Request: The owner or operator of a major stationary source who chooses to request synthetic minor source status shall make such request within the following timeframes:

a. For any major stationary source that is operating or is scheduled to commence operation on the effective date of District Rule 201.1, the owner or operator shall request synthetic minor source status no later than the date a Title V permit application is required under District Rule 201.1, or within 90 days of becoming subject to Rule 201.1 if in an area new to District's jurisdiction.

b. For any major stationary source that commences operation after the effective date of District Rule 201.1, the owner or operator shall request synthetic minor source status no later than 180 days before a Title V permit application is required under District Rule 201.1; or

c. For any major stationary source that is operating in compliance with a Title V permit issued pursuant to District Rule 201.1, the owner or operator may request synthetic minor source status at any time, but no later than eight months prior to Title V permit renewal.

B. Completeness Determination

1. The Air Pollution Control Officer shall determine whether the request for synthetic minor source status is complete not later than 30 days after receipt of the request, or after such longer time as both the owner or operator of the stationary source and the Air Pollution Control Officer have agreed in writing. If the Air Pollution Control Officer determines the request is not complete, the owner or operator shall be notified in writing of the decision specifying information required. Upon receipt of any re-submittal of the request, a new 30-day period to determine completeness shall begin. Completeness of the request or a re-submitted request shall be evaluated on the basis of information requirements set forth in the District's List and Criteria as it exists on the date on which the request or re-submitted request was received and on payment of appropriate fees pursuant to Regulation III.

2. The Air Pollution Control Officer may, during processing of the request, request the owner or operator of the stationary source to clarify, amplify, correct, or otherwise supplement information submitted in the application.

C. Designation of Federally-Enforceable Conditions: Conditions enabling a source to become a synthetic minor source shall be identified as federally-enforceable and included in the source's Permit to Operate issued by the District pursuant to District Rule 201 (Permits Required), and Sections V.D through V.F. of this Rule. Federally-enforceable conditions shall contain monitoring and recordkeeping requirements sufficient to determine ongoing compliance with emissions limits set forth pursuant to Section V.C., and shall be:

1. At least as stringent as other federally-enforceable applicable requirements of the District;

2. Permanent, quantifiable, and practical-to-enforce permit conditions, including any operational limitations or conditions, which limit the source's potential to emit to below major source thresholds; and

3. Subject to public notice and EPA review pursuant to Sections V.D. and V.E.

   Conditions in the Permit to Operate that do not conform to requirements of this Section, any other requirements of this Rule, or any underlying federal regulations which set forth criteria for federal-enforceability may be deemed not federally-enforceable by EPA.

D. Public Notification and Review: After a request for synthetic minor source status is determined to be complete, the Air Pollution Control Officer shall:

   1. Publish a notice of the request in one or more newspapers of general circulation in the area where the source is located;

   2. In the public notice:

      a. State that conditions identified as federally-enforceable in the source's permit will establish a voluntary emissions limit in accordance with this Rule, and

      b. Describe how the public may obtain copies of the proposed permit, including federally-enforceable conditions addressing the emissions limit; and

   3. Provide 30 days for public review of the proposed permit prior to final permit action.

E. EPA Review: After a request for synthetic minor source status is determined to be complete, the Air Pollution Control Officer shall:

   1. Provide EPA with copies of the proposed permit including conditions which:

      a. Are identified as federally-enforceable, and

      b. Limit emissions to below major stationary source thresholds;

   2. Provide 30 days for EPA review of the proposed permit prior to final permit action; and

   3. Provide the EPA with copies of the final permit.

F. Final Action

   1. Until the Air Pollution Control Officer takes final action to issue the Permit to Operate pursuant to this Section, a stationary source requesting synthetic minor source status shall not be relieved from the responsibility to comply with the application or other requirements of District Rule 201.1 (Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990), within specified timeframes.

2. Upon fulfilling requirements of Sections V.A. through V.E., the Air Pollution Control Officer shall consider any written comments received during public and EPA review and take final action on the Permit to Operate of a source requesting synthetic minor source status within 90 days of deeming such request complete.

3. The District shall maintain a public record of all pertinent documents regarding a request for synthetic minor source status, including the request, proposed permit, and all written comments and responses, and the final permit.

G. Renewal of Synthetic Minor Source Status: Renewal of synthetic minor source status shall be made in accordance with District Rule 201 (Permits Required). In addition, at permit renewal, any revision of conditions identified as federally-enforceable shall be subject to requirements of Sections IV. and Subsections V.A. through V.F. of this Rule.

VI. Monitoring and Records

Reporting Requirements: The owner or operator of a synthetic minor source which exceeds the permit conditions identified as federally-enforceable and established pursuant to Section V.C. shall report such exceedances to the Air Pollution Control Officer within 24 hours of exceedance.

VII. Violations

Non-Compliance Provision: The owner or operator of a synthetic minor source that is not in compliance with any permit condition identified as federally-enforceable or with any requirement set forth in this Rule, or that files false information with the District to obtain synthetic minor source status, is in violation of the Federal Clean Air Act and District Rules and Regulations. A non-complying synthetic minor source may be subject to any one or combination of the following actions:

Civil or criminal penalties;

Permit termination;

Permit revocation and reissuance;

Permit renewal denial; and

Any other enforcement action or remedy authorized by law.

Remainder of Page Intentionally Left Blank

APPENDIX C

AMENDED RULE 201.3

FEDERALLY ENFORCEABLE LIMITS ON POTENTIAL TO EMIT

RULE 201.3 Federally Enforceable Limits on Potential to Emit - Adopted 1/25/96, Amended 1/12/12 (Effective 3/8/12)

I. Purpose

The purpose of this Rule is to allow relatively small sources of air pollution to avoid requirements of Rule 201.1, Permits to Operate for Sources Subject to Title V of The Federal Clean Air Act Amendments of 1990 by obtaining federally-enforceable limitations on the source's potential to emit.

II. Definitions

All terms shall retain the definition provided under Rule 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990 unless otherwise defined herein.

A. 12-month period: A period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

B. Actual Emissions: The emissions of a regulated air pollutant from a stationary source for every 12-month period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications, material VOC content reports or laboratory analyses; other information required by this Rule and applicable District, State and Federal regulations; or information requested in writing by the District. All calculations of actual emissions shall use United States Environmental Protection Agency (EPA), California Air Resources Board (ARB) or District approved methods, including emission factors and assumptions.

C. Alternative Operational Limit: A limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product, as specified in Section VII., Alternative Operational Limit and Requirements.

D. Carbon Dioxide Equivalent (CO2e): As defined in District Rule 102, Definitions.

E. Emission Unit: Any article, machine, equipment, operation, contrivance or related groupings of such that may produce and/or emit any regulated air pollutant or hazardous air pollutant.

F. Federal Clean Air Act: The Federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.) and its implementing regulations (CAA).

G. Greenhouse Gas (GHG): As defined in District Rule 102, Definitions.

H. Global Warming Potential (GWP): As defined in District Rule 102, Definitions.

I. Hazardous Air Pollutant (HAP): Any air pollutant listed pursuant to Section 112(b) of the Federal Clean Air Act.

J. Major Source of Regulated Air Pollutants (excluding HAP's): A stationary source that emits or has the potential to emit a regulated air pollutant in quantities equal to or exceeding any of the following thresholds:

1. 50 tons per year (tpy) of NOx or VOCs;

2. 100 tpy of any regulated air pollutant, excluding HAP's and GHGs; or

3. GHG emissions subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of GWP, are equal to or greater than 100 tpy.

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)".

K. Major Source of Hazardous Air Pollutants: A stationary source that emits or has the potential to emit 10 tons per year or more of a single HAP listed in Section 112(b) of the CAA, 25 tons per year or more of any combination of HAP's, or such lesser quantity as the EPA may establish by rule. Fugitive emissions of HAP's shall be considered in calculating emissions for all stationary sources. The definition of a major source of radionuclides shall be specified by rule by the EPA.

L. NOx: All oxides of nitrogen, except Nitrous Oxide, measured as NO_2, Nitrogen Dioxide.

M. Part 70 Permit: An operating permit issued to a stationary source pursuant to an interim, partial or final Title V program approved by the EPA. (See Rule 201.1)

N. Potential to Emit: The maximum capacity of a stationary source to emit a regulated air pollutant based on its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on 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 is federally-enforceable.

O. Process Statement: An annual report on permitted emission units from an owner or operator of a stationary source certifying under penalty of perjury the following: throughputs of process materials; throughputs of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this Rule or requested in writing by the District.

P. Regulated Air Pollutant: Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) subject to regulation as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to:

1. NOx and VOCs;

2. Any pollutant having a National Ambient Air Quality Standard (NAAQS) promulgated pursuant to Section 109 of the CAA;

3. Any Class I or Class II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the CAA;

4. Any pollutant subject to a New Source Performance Standard (NSPS) promulgated pursuant to Section 111 of the CAA; and

5. GHG emissions subject to regulation;

6. 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) (Prevention of Accidental Releases) upon promulgation of the list;

   b. Any HAP subject to a standard or other requirement promulgated by the EPA pursuant to Section 112(d) or adopted by the District pursuant to 112(g) and (j) 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); or

   c. Any HAP 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). 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.

Q. Volatile Organic Compounds (VOC): As defined in District Rule 102, Definitions.

III. Applicability

A. General Applicability: This Rule shall apply to any stationary source which would, if it did not comply with the limitations set forth in this Rule, have the potential to emit air contaminants equal to or in excess of the threshold for a major source of regulated air pollutants or a major source of HAP's and which meets one of the following conditions:

1 In every 12-month period, the actual emissions of the stationary source are less than or equal to the emission limitations specified in Section IV.A.; or

2. In every 12-month period, at least 90 percent of the emissions from the stationary source are associated with an operation limited by any one of the alternative operational limits specified in Section VII.A.1.

B. Stationary Source with De Minimis Emissions: The recordkeeping and reporting provisions in Sections V., VI., or VII. shall not apply to a stationary source with de minimis emissions or operations as specified in either Subsection III.B.1. or III.B.2., below:

1. In every 12-month period, the stationary source emits less than or equal to the following quantities of emissions:

a. 5 tpy of a regulated air pollutant (excluding GHGs and HAPs);

b. 20,000 tpy of CO2e;

c. 2 tpy of a single HAP;

d. 5 tpy of any combination of HAP's; or

e. 20 percent of any lesser threshold for a single HAP that the EPA may establish by rule.

2. In every 12-month period, at least 90 percent of the stationary source's emissions are associated with an operation for which the throughput is less than or equal to one of the quantities specified in Subsections III.B.2.a. through III.B.2.i., below:

a. 1,400 gallons of any combination of solvent-containing materials but not more than 550 gallons of any one solvent-containing material, provided the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;

b. 750 gallons of any combination of solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1- trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, but not more than 300 gallons of any one solvent-containing material;

c. 550 gallons of organic solvent-containing material used at a paint spray unit(s) if the organic solvent content of the material used at a paint spray unit(s) does not exceed 7.3 pounds per gallon;

d. 4,400,000 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery systems;

e. 470,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery systems;

f. 1,400 gallons of gasoline combusted;

g. 16,600 gallons of diesel fuel combusted;

h. 500,000 gallons of distillate oil combusted; or

i. 71,400,000 cubic feet of natural gas combusted.

Within 30 days of a written request by the District or the EPA, the owner or operator of a stationary source not maintaining records pursuant to Sections V or VII shall demonstrate that the stationary source's emissions or throughput are not in excess of the applicable quantities set forth in Section III.B. above.

C. Provision for Air Pollution Control Equipment: The owner or operator of a stationary source may take into account operation of air pollution control equipment on the capacity of the source to emit an air contaminant if the equipment is required by Federal, State, or District Rules and Regulations or permit terms and conditions. The owner or operator of the stationary source shall maintain and operate such air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. This provision shall not apply after January 1, 1999 unless such operational limitation is federally-enforceable or unless the District Board specifically extends this provision and it is submitted to the EPA. Such extension shall be valid unless, and until, the EPA disapproves the extension of this provision.

D. Exemption, Stationary Source Subject to Rule 201.1: This Rule shall not apply to the following stationary sources:

1. Any stationary source whose actual emissions, throughput, or operation, at any time after the effective date of this Rule, is greater than quantities specified in Sections IV.A. or VII.A., and which meets both of the following conditions:

   a. The owner or operator has notified the District at least 30 days prior to any exceedance that the owner/operator will submit an application for a Rule 201.1 (Part 70) permit, or otherwise obtain federally-enforceable permit limits, and

   b. A complete Rule 201.1 (Part 70) permit application is received by the District, or the permit action to otherwise obtain federally-enforceable limits is completed, within 12 months of the date of notification.

      However, the stationary source may be immediately subject to applicable federal requirements, including but not limited to, a maximum achievable control technology (MACT) standard;

2. Any stationary source that has applied for a Rule 201.1 (Part 70) permit in a timely manner and in conformance with Rule 201.1, and is awaiting final action by the District and EPA;

3. Any stationary source required to obtain an operating permit under Rule 201.1 for any reason other than being a major source of regulated air pollutants or a major source of hazardous air pollutants; or

4. Any stationary source with a valid Rule 201.1 (Part 70) permit.

Notwithstanding Subsections III.D.2. and III.D.4. above, nothing in this Section shall prevent any stationary source which has had a Rule 201.1 (Part 70) permit from qualifying to comply with this Rule in the future in lieu of maintaining an application for a Rule 201.1 (Part 70) permit or upon rescission of a Rule 201.1 permit if the owner or operator demonstrates the stationary source is in compliance with emissions limitations in Subsection IV.A. or an applicable alternative operational limit in Subsection VII.A..

E. Exemption, Stationary Source with a Limitation on Potential to Emit: This Rule shall not apply to any stationary source which has a valid operating permit with federally-enforceable conditions or other federally-enforceable limits limiting its potential to emit to below the applicable threshold(s) for a major source as defined in Sections II.J. and II.K.

F. Within three years of the effective date of Rule 201.1, the District shall maintain and make available to the public upon request, for each stationary source subject to this Rule, information identifying provisions of this Rule applicable to the source.

G. This Rule shall not relieve any stationary source from complying with requirements pertaining to any otherwise applicable preconstruction permit, or to replace a condition or term of any preconstruction permit, or any provision of a preconstruction permitting program. This does not preclude issuance of any preconstruction permit with conditions or terms necessary to ensure compliance with this Rule.

IV. Emission Limitations

A. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in Section VII.A., no stationary source subject to this Rule shall emit more than 50 percent of a major source threshold in every 12-month period in the following quantities:

1. 25 tpy NOx or VOC;

2. 50 tpy of any regulated air pollutant (excluding GHGs and HAPs);

3. 50,000 tpy of CO2e;

4. 5 tpy of a single HAP;

5. 12.5 tpy of any combination of HAP's; or

6. 50 percent of any lesser threshold for a single HAP as the EPA may establish by rule.

B. The APCO shall evaluate a stationary source's compliance with the emission limitations in Section IV.A., above as part of the District's annual permit renewal process required by California Health & Safety Code Section 42301(e). In performing the evaluation, the APCO shall consider any annual process statement submitted pursuant to Section VI., Reporting Requirements. In the absence of valid continuous emission monitoring data or source test data, actual emissions shall be calculated using emissions factors approved by the EPA, ARB or the APCO.

C. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in Section VII., the owner or operator of a stationary source subject to this Rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed limits specified in Section IV.A., above.

V. Recordkeeping Requirements

Immediately after adoption of this Rule, the owner or operator of a stationary source subject to this Rule shall comply with any applicable recordkeeping requirements in this Section. However, for a stationary source operating under an alternative operational limit, the owner or operator shall instead comply with applicable recordkeeping and reporting requirements specified in Section VII., Alternative Operational Limit and Requirements. Recordkeeping requirements of this Rule shall not replace any recordkeeping requirement contained in an operating permit or in a District, State, or Federal Rule or Regulation.

A. A stationary source previously covered by the provisions in Section III.B. shall comply with the applicable provisions of Section V., VI., and VII. if the stationary source exceeds quantities specified in Section III.B.1.

B. The owner or operator of a stationary source subject to this Rule shall keep and maintain records for each permitted emission unit or groups of permitted emission units sufficient to determine actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to District, ARB or EPA staff upon request.

1. Coating/Solvent Emission Unit

The owner or operator of a stationary source subject to this Rule that contains a coating/solvent emission unit or uses a coating, solvent, ink or adhesive shall keep and maintain the following records:

a. A current list of all coatings, solvents, inks and adhesives in use. This list shall include: information on the manufacturer, brand, product name or code, VOC content in grams per liter or pounds per gallon, HAP's content in grams per liter or pounds per gallon, or manufacturer's product specifications, material VOC content reports or laboratory analyses providing this information;

b. A description of any equipment used during and after coating/solvent application, including type, make and model; maximum design process rate or throughput; control device(s) type and description (if any); and a description of the coating/solvent application/drying method(s) employed;

c. A monthly log of the consumption for each solvent (including solvents used in clean-up and surface preparation), coating, ink and adhesive used; and

d. All purchase orders, invoices, and other documents to support information in the monthly log.

2. Organic Liquid Storage Unit

The owner or operator of a stationary source subject to this Rule that contains a permitted organic liquid storage unit shall keep and maintain the following records:

a. A monthly log identifying the liquid stored and monthly throughput; and

b. Information on the tank design and specifications including control equipment.

3. Combustion Emission Unit

The owner or operator of a stationary source subject to this Rule that contains a combustion emission unit shall keep and maintain the following records:

a. Information on equipment type, make and model, maximum design process rate or maximum power input/output, minimum operating temperature (for thermal oxidizers) and capacity, control device(s) type and description (if any) and all source test information; and

b. A monthly log of hours of operation, fuel type, fuel usage, fuel heating value (for non-fossil fuels; in terms of BTU/lb or BTU/gal), percent sulfur for fuel oil and coal, and percent nitrogen for coal.

4. Emission Control Unit

The owner or operator of a stationary source subject to this Rule that contains an emission control unit shall keep and maintain the following records:

a. Information on equipment type and description, make and model, and emission units served by the control unit;

b. Information on equipment design including where applicable: pollutant(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and

c. A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.

5. General Emission Unit

The owner or operator of a stationary source subject to this Rule that contains an emission unit not included in Subsections V.B.1. through V.B.4. shall keep and maintain the following records:

a. Information on the process and equipment including the following: equipment type, description, make and model; maximum design process rate or throughput; control device(s) type and description (if any);

b. Any additional information requested in writing by the APCO;

c. A monthly log of operating hours, each raw material used and its amount, each product produced and its production rate; and

d. Purchase orders invoices, and other documents to support information in the monthly log.

VI. Reporting Requirements

A. The owner or operator of a stationary source subject to this Rule shall submit a process statement to the District thirty-days prior to the date of annual Permit to Operate renewal. The statement shall be signed by the owner or operator and certify that the information provided is accurate and true.

B. For the purpose of determining compliance with this Rule, Section VI.A. shall not apply to a stationary source which emits less than 25 percent of a major source threshold in every 12-month period in the following quantities:

1. 25 tpy of any regulated air pollutant (excluding GHGs and HAPs);

2. 12.5 tpy NOx or VOC;

3. 25,000 tpy of CO2e;

4. 2.5 tpy of a single HAP;

5. 6.25 tpy of any combination of HAP's; or

6. 25 percent of any lesser threshold for a single HAP as the EPA may establish by rule.

C. If a stationary source previously covered by provisions in Section VI.B. exceed any major source threshold, the source shall comply with the provisions of Section VI.A..

D. Any additional information requested by the APCO under Section VI.A., above shall be submitted to the APCO within 30 days of the date of request.

VII. Alternative Operational Limit and Requirements

The owner or operator may operate the permitted emission units at a stationary source subject to this Rule under any one alternative operational limit, provided that at least 90 percent of the stationary source's emissions in every 12-month period are associated with the operation(s) limited by the alternative operational limit.

A. Upon choosing to operate a stationary source subject to this Rule under any one alternative operational limit, the owner or operator shall operate the stationary source in compliance with the alternative operational limit and comply with the specified recordkeeping and reporting requirements.

1. The owner or operator shall report within 24 hours to the APCO any exceedance of the alternative operational limit.

2. The owner or operator shall maintain all purchase orders, invoices, and other documents to support information required to be maintained in a monthly log. Records required under this Section shall be maintained on site for five years and be made available to District or EPA staff upon request.

3. Gasoline dispensing facility equipment with Phase I and II Vapor Recovery Systems

   The owner or operator shall operate the gasoline dispensing equipment in compliance with the following requirements:

   a. No more than 7,000,000 gallons of gasoline shall be dispensed in every 12-month period,

   b. A monthly log of gallons of gasoline dispensed in the preceding month with a monthly calculation of the total gallons dispensed in the previous 12 months shall be kept on site, and

   c. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

4. Degreasing or Solvent-Using Unit

   The owner or operator shall operate the degreasing or solvent-using unit(s) in compliance with the following requirements:

   a. If the solvents do not include methyl chloroform (1,1,1-tricholoroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 5,400 gallons of any combination of solvent-containing materials and no more than 2,200 gallons of any one solvent-containing material shall be used in ever 12-month period,

b. If the solvents include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 2,900 gallons of any combination of solvent-containing materials and no more than 1,200 gallons of any one solvent-containing material shall be used in every 12-month period,

c. A monthly log of amount and type of solvent used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site, and

d. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

5. Paint Spraying Unit

The owner or operator shall operate the paint spraying unit(s) in compliance with the following requirements.

a. Total usage rate of all organic solvent-containing materials, including but not limited to, coatings, thinners, reducers, and cleanup solution shall not exceed 2,200 gallons in every 12-month period, and the organic solvent content of the material used at a paint spray unit(s) shall not exceed 7.3 pounds per gallon,

b. A monthly log of the gallons of organic solvent-containing materials used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site, and

c. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

6. Diesel-Fueled Emergency Standby Engine (s) with Output Less Than 1,000 Brake Horsepower

The owner or operator shall operate the emergency standby engine(s) in compliance with the following requirements:

a. For a federal ozone non-attainment area classified as serious, the emergency standby engine(s) shall not operate more than 2,600 hours in a 12-month period and shall not use more than 133,000 gallons of diesel fuel in every 12-month period,

b. A monthly log of hours of operation, gallons of fuel used, and monthly calculation of the total hours operated and gallons of fuel used in the previous 12 months shall be kept on site, and

c. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

B. The owner or operator of a stationary source subject to this Rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in an exceedance of an applicable operational limit specified in Section VII.A.

VIII. Violations

A. Failure to comply with any of the applicable provisions of this Rule shall constitute a violation of this Rule. Each day during which a violation of this Rule occurs is a separate offense.

B. A stationary source subject to this Rule shall be subject to applicable federal requirements for a major source, including Rule 201.1 when conditions specified in either Subsections VIII.B.1. or VIII.B.2., below, occur:

1. Commencing on the first day following every 12-month period in which the stationary source exceeds a limit specified in Section IV.A., and any applicable alternative operational limit specified in Section VII.; or

2. Commencing on the first day following every 12-month period in which the owner or operator can not demonstrate that the stationary source is in compliance with the limits in Section IV.A., or any applicable alternative operational limit specified in Section VII.A..

Remainder of this Page Intentionally Left Blank

APPENDIX D

Rule 201.1
PERMITS TO OPERATE FOR SOURCES SUBJECT TO TITLE V OF THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990

Rule 201.2
SYNTHETIC MINOR SOURCE

Rule 201.3
FEDERALLY ENFORCEABLE LIMITS ON POTENTIAL TO EMIT

RESPONSE TO COMMENTS

On November 9, 2011 the District held a public rule development workshop at the Rosamond CSD in Rosamond, CA to present proposed revisions of the following rules: Rules 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990; 201.2, Synthetic Minor Source; and 201.3, Federally Enforceable Limits on Potential to Emit. The District submitted copies of the proposed revisions to the Air Resources Board (ARB) and the Region IX office of the U.S. Environmental Protection Agency (EPA) on October 24, 2011 for an initial 30-day review.

Upon completion of their review ARB and EPA offered comments and suggested changes to District staff regarding the proposed revisions of Rules 201.1, 201.2, and 201.3. In addition, industry representatives asked various questions at the 11/9/2011 workshop. Appendix D addresses comments, questions, and suggested changes regarding the proposed revisions of Rules 201.1, 201.2, and 201.3.

Appendix D is separated into two sections based on ARB/EPA comments and suggested changes and industry/public comments and questions.

I. ARB/EPA COMMENTS

Rules 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990

The following changes were made to the 10/20/2011 proposed revision of Rule 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990 in response to ARB and EPA comments.

Rule Adoption/Amendment Dates

EPA commented: *Every time the District revises their Part 70 program, you must obtain EPA approval before the revisions can become effective. Therefore EPA suggests including an effective date to be matched with each adoption/amendment date. I suspect that Kern has not received EPA approval for all of these revisions.*

The District verified and included the effective dates of (effective 5/3/95) and (effective 10/22/01) in the rule header.

Purpose

EPA commented: *What is, or was the effective date? Maybe at this point you should insert the date EPA first granted interm approval, which made the rule effective for the District? I see this is defined later in the rule. Why not just insert here?*

The 1995 initial approval was recinded but the District has had approval continuously since 10/22/2001. The term: By the effective date of Rule 201.1 was removed and replaced with the term As of October 22, 2001 in the beginning of the second paragraph under Section I, Purpose and General Requirements of Rule.

Definitions

The District added: 100,000 tons per year (tpy) of CO2e in the previous version of Rule 201.1 as the first condition. The EPA commented: *Why not make this last on the list and it would not have to be renumbered?* The District listed this as the first condition because it has the largest threshold and the other emissions thresholds reduce in succession.

The following language was added to the Major Source definition at EPA's request: GHG emissions that are "subject to regulation" as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of Global Warming Potential GWP, are equal to or greater than 100 tons per year.

EPA state: *that by adding this language, if EPA changes the threshold, your rule will already be changed because it mirrors 70.2.*

Language in the definition for Regulated Air Pollutant has been changed from: Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) having a EPA-adopted emission limit, standard, or other requirement. Regulated air pollutants include.

To:
Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) "subject to regulation" as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to.

EPA explains that: *This phrase "subject to regulation" has generally taken the place of the struck language in EPA's regs, but specifically states that GHG emissions are only subject to regulation if a source has a PTE GHG over 100K on a CO2e basis.*

The District added Section II.CC.5: Any GHG emissions "subject to regulation" to the Regulated Air Pollutants definition at EPA's request.

Applicability

The EPA made the following comment in regards to Section III, Applicability: *Several of these provisions are inconsistent with the current 70.3 language. EPA suggests that the District revise the entire section to more closely match 70.3(a). This has potential approval issues.*

In response the District updated the section to more closely match 70.3(a). See Section III, Applicability in Appendix A for revised language.

Exempt Sources

The EPA made the following comment in regards to Section IV, Exempt Sources: *These provisions are inconsistent with the current 70.3 language. EPA suggests that the District revise the entire section to more closely match 70.3(a). This has potential approval issues.*

In response the District updated the section to more closely match 70.3(a). See Section IV, Exempt Sources in Appendix A for revised language.

Administrative Procedures for Sources

The District was asked to include the term GHG measured as in Section V.C.1.v. Section V.C.1.v. has been revised as follows: For the purposes of this Rule, an insignificant activity shall be any activity, process, or emissions unit which is not subject to a source-specific applicable federal requirement and which emits no more than 0.5 tons per year of a HAP, no more than two tons per year of a regulated air pollutant excluding HAPs and GHGs, and no more than 5,000 tons per year of GHG measured as CO2e. Source-specific applicable federal requirements include requirements for which emission unit-specific information is required to determine applicability.

Annual Fees

EPA suggested changing prior calendar year in Section VIII.A. to emissions per 12-month period. The District did not change this provision because Rule 301.4 GHG Fees is based of calendar year GHG emissions not 12-month period GHG emissions.

201.2, Synthetic Minor Source

The following changes were made to the 10/20/2011 proposed revision of Rule 201.2, Synthetic Minor Source in response to ARB and EPA comments.

Definitions

It was recommended that the District remove excluding Greenhouse Gases (GHGs) as defined in District Rule 102, Definitions From Section II.D, Major Stationary Source of Regulated Air Pollutants and add the term to the threshold limit definition for regulated air pollutant located with in Section II.D.

Section II.D, Major Stationary Source of Regulated Air Pollutants was moved to Section II.G. and the term “excluding GHGs” was added Section II.G.2 which has been revised as follows: 100 tons per calendar year of any regulated air pollutant, excluding GHGs.

EPA suggested adding a limit for GHGs to Section II.G, Major Stationary Source of Regulated Air Pollutants. In response the District added Section II.G.3 as follows: GHG emissions that are “subject to regulation” as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of GWP, are equal to or greater than 100 tpy.

It was suggested that the District revise the definition of Regulated Air Pollutant located in Section II and remove the term “excluding GHGs”. In response the definition of Regulated Air Pollutant located has been revised from: For the purpose of this Rule, any of the following air pollutants, excluding GHGs, are regulated.

To:
Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) “subject to regulation” as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to.

In addition, Section II.O.5 was added to Section II.O, Regulated Air Pollutant as follows: Any GHG emissions “subject to regulation”.

201.3, Federally Enforceable Limits on Potential to Emit

The following changes were made to the 10/20/2011 proposed revision of Rule 201.3, Federally Enforceable Limits on Potential to Emit in response to ARB and EPA comments.

Definitions

It was suggested that a GHG threshold be added to the definition for Major Source of Regulated Air Pollutants (excluding HAP's). There was a threshold for CO2e but EPA asked that the GHG limit be more defined. Section II.G.2: 100,000 tons per year of CO2e as defined in Rule 102, Definitions was removed and Section II.J.3. was added as follows: GHG emissions that are “subject to regulation” as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of GWP, are equal to or greater than 100 tpy.

Section II.G.3: 100 tons per year of any regulated air pollutant was revised to: 100 tpy of any regulated air pollutant, excluding HAP's and GHGs and moved to Section II.J.2.

EPA commented that the definition of Regulated Air Pollutant should match the revised definition in Rule 201.2, Synthetic Minor. The definition was revised from: The following air pollutants are regulated.

To:
Any pollutant: 1) emitted into or otherwise entering the ambient air, and 2) "subject to regulation" as defined in 40 CFR 70.2. Regulated air pollutants include, but are not limited to.

In addition, the following GHG provision was added to the Regulated Air Pollution definition under Section II.P.5: GHG emissions "subject to regulation".

Applicability

EPA suggested that CO2e De Minimis emission threshold listed in Section III.B.e. should be changed from 27,500 tpy to 20,000 tpy. EPA explains: *20,000 is the threshold for being exempt from all recordkeeping. The Model Rule was 5,000, but several Districts have proposed 20K, and EPA is OK with that.*

Emission Limitations

The District corrected the CO2e emission limitation listed under Section IV.A.3. from 100,000 tpy to 50,000 tpy.

Reporting Requirements

Language in Section VI.B has been revised from: For the purpose of determining compliance with this Rule, this requirement shall not apply to stationary sources which emit in every 12-month period less than or equal to the following quantities.

To:
For the purpose of determining compliance with this Rule, Section VI.A. shall not apply to a stationary source which emits less than 25 percent of a major source threshold in every 12-month period which equates to the following limits.

The EPA asked that a GHG limit be added to Section VI.B. The District added the following condition as Section VI.B.3: 25,000 tpy of GHG measured as CO2e.

Alternative Operational Limit and Requirements

EPA asked District to verify that the threshold established in Section VII.6. for NOx, is also applicable for GHG emissions.

The District verified this threshold as follows: Based on the average fuel use for a 1000 bhp engine (133,000 gallons) CO2e emissions are calculated to be 1,486 tons per year. This is well below the GHG limit.

II. INDUSTRY/PUBLIC COMMENTS

The following questions were asked by industry representatives at the 11/9/2011 workshop in Rosamond, CA. Most of these questions equally pertain to all three rules.

Are tons measured as tons or metric tons?

All Title V, Synthetic Minor, and PTE thresholds are measured in tons not metric tons.

Can a language be added to Applicability sections of the rule that specify if thresholds are measured in tons or metric tons?

The District does not believe language is required in the Applicability sections of the rules that specifies ton type because every threshold listed within the rules state tons, not metric tons.

Ask EPA why the De Minimis GHG Emissions level is 20,000 tpy not 25,000 tpy in Rule 201.3, PTE?

EPA states: "*20,000 tpy is the threshold for being exempt from all recordkeeping. The GHG Model Rule was 5,000, but several Districts have proposed 20K, and EPA is ok with that."*

What is the GHG threshold for a modification?

Pleas see PSD GHG Trigger under Section IV of this staff report.

Edwards Air Force Base

Edwards Air force Base (Edwards) submitted the following written comments regarding rules 201.1, 201.2, and 201.3 to the District on 12/21/2011. The District addressed the comments in a formal letter submitted to Edwards dated 1/12/2011. Edwards comment and the Districts responses are as follows:

9 December 2011 Staff Report for the proposed amended Rule 201.1 – PTO for Sources Subject To Title V of the Federal CAA, proposed amended Rule 201.2 –

Synthetic Minor Source and proposed amended Rule 201.3 – Federally Enforceable Limits on PTE.

Page 2 of the Staff Report specifies that a facility with a Title V permit is subject to Federal report requirements, including GHGs. Note that the United States Environmental Protection Agency (EPA) Mandatory Reporting Regulation codified in 40 Code of Federal Regulations (CFR), Part 98 established mandatory GHG reporting requirements for owners and operators of certain facilities that directly emit GHG. For combustion sources like Edwards AFB, the threshold to report is in actual emissions greater than 25,000 metric tons (MT) of carbon dioxide equivalent ($CO2_e$). Title V thresholds are based on PTE and calculated in short tons (tons) of $CO2_e$. It is possible for a source to be subject Title V because the PTE exceeds the 100,000 ton $CO2_e$ threshold but not subject to the Part 98 because actual emissions are less than the 25,000 MT $CO2_e$ threshold. An affected Title V source should not be subject to standards if they are not applicable. We request that the Staff Report be revised to reflect these caveats in applicability to Title V and Part 98. Additionally, we request the following verbiage revision under the ***Greenhouse Gas Requirements*** *section on page 2:*

For an existing source that becomes a Title V source, all District rules in the State Implementation Plan (SIP) are enforceable requirements that must be included in the Title V permit. A facility with a new Title V permit may ~~will~~ also be subject to the following requirements:

As detailed above, Edwards AFB is subject to Title V. However, Edwards AFB is currently neither subject to the EPA Mandatory Reporting Regulation nor subject to the EKAPCD GHG Fee Rule as currently drafted.

The District feels that this section of the Rule should be left as it is. Edwards AFB is already a Title V source for reasons other than GHG emissions. All existing Title V sources are subject to the GHG portions of District rules and federal requirements even if they did not have to report to EPA or pay a GHG fee this year. Some specific parts of the Title V rules and regulations may not apply to every Title V source because their emission levels are below certain thresholds, but all Title V sources are still subject to the rules and regulations for Title V Sources.

The 40 CFR Part 98 reporting requirements have a threshold of 25,000 metric tons per year (mtpy) of actual emissions. If Edwards AFB emissions are below that threshold they would not have to report to EPA for that year. The proposed rules require that as a major source, Edwards AFB would have to report emissions to the District using the federal methodology listed in 40CFR Part 98. Edwards AFB under District rules would be required to report to the District at a minimum* that they were below the federal 25,000 mtpy reporting limit. Consequently, Edwards AFB would not be required to pay a fee for GHG emissions for that year, since only sources with 100,000 tpy CO2e are required to pay a District GHG fee.

*The District under existing statute has the authority to require a source to report emissions of air pollutants subject to control by the EPA and state, whenever District has need of that information. For example, as part of the Title V permit

renewal this coming year the District will require Edwards AFB to supply emissions data for GHGs, toxics and criteria pollutants in order to process their Title V renewal.

*Page 2 of the Staff Report under the **Greenhouse Gas Requirements**. Existing facilities that emit GHG emissions and exceed the applicable threshold are required to obtain a Title V permit. However, these facilities are not subject to Best Available Control Technology (BACT). The third bullet under the **Greenhouse Gas Requirements** section indicates that existing Title V facilities exceeding the 100,000 ton $CO2_e$ threshold may be subject to BACT. Edwards AFB requests the EKAPCD provide verbiage in the Staff Report stating these regulations do not require retroactive BACT on existing or new Title V sources exceeding the GHG thresholds. BACT is assigned to new GHG emission sources associated with prevention of Significant Deterioration (PSD) permitting actions. As you confirmed at the 9 November 2011 workshop, incorporating the EPA Tailoring Rule requirements for existing sources emitting GHGs does not constitute PSD.*

The District will clarify on the Final Staff Report that there are no retroactive BACT requirements on existing permitted equipment.

II Industry/Public Comments Section: At the 9 November 2011 workshop, stakeholders stated that the EPA and California Air Resources Board (CARB) GHG reporting regulations specify metric tonnes and represent actual emissions. This differs from the Tailoring Rule that accounts for GHG emissions through the potential to emit and by short tons. We requested EKAPCD discuss these differences in the Staff Report and clearly identify the units in the proposed regulations. The EKAPCD 9 December 2011 Staff Report response to Industry/Public Comments specified that this clarification would not be included because the rules clearly identify tons.

Edwards AFB believes this represents a fundamental flaw in the regulations and that the EPA and CARB need to rectify this disconnect with respect to mandatory reporting requirement units (metric tons) and regulatory applicability and reporting units (tons).

The District will add the following paragraph to the final staff report.

<u>For Title V purposes the District measures all emission thresholds, including GHGs, in short tons. However, the federal Tailoring Rule uses metric tonnes for its GHG requirements. The Tailoring Rule requires metric tonnes because most of the world uses the metric system. EPA has employed this strategy in an effort to maintain GHG emissions data consistency world-wide. While recognizing this discrepancy in GHG emissions measurement, the District requests that all emissions data be reported in short tons in an effort to maintain district-wide consistency. The District will accept an annual GHG emissions report in metric tonnes or short tons but the unit of measure must be specified in the report. If a unit of measure is not specified the District will assume annual GHG emissions are being reported in short tons.</u>

The District notes that Edwards AFB would like to see EPA and CARB use a consistent unit of measure for recordkeeping and reporting requirements for these programs.

Staff Report – Proposed Amended Rule 201.1 – PTO for Sources Subject To Title V of the Federal CAA, Proposed Amended Rule 201.2 – Synthetic Minor Source and Proposed Amended Rule 201.3 – Federally Enforceable Limits on PTE.

Page A-7: The regulated air pollutant definition includes GHG emissions "subject to regulation". What is the significance of the quotations surrounding the phrase? We interpret 40 CFR Part 98 as a non-applicable requirement.

EPA has stated that the phrase “subject to regulation” as defined in 40 CFR 70.2 has generally taken the place of “having a U.S. EPA-adopted emission limit, standard, or other requirement”, but specifically states that GHG emissions are only subject to regulation if a source has a PTE GHGs over 100K on a CO2e basis.

“Subject to regulation” is in quotations because it is a term that is defined in 40 CFR 70.2. The District proposes to remove the quotes as the section already states as defined in 40 CFR 70.2.

Lastly, subject to regulation as defined in 40 CFR 70.2 is in reference to part 70.2 not part 98.

Page A-32; Section B.7.f. of the proposed rule states that "Any source subject to this rule shall submit to the District by March 31 of each year, actual GHG emissions for the previous calendar year. Emissions shall be calculated and reported in accordance with 40 CFR Part 98, Mandatory Greenhouse Gas Reporting." As previously stated, not all sources subject to Title V are subject to 40 CFR Part 98 requirements. We understand the need to report GHG emissions. However, because sources may not be subject to 40 CFR, Part 98, the requirement to report in accordance with this Part should be removed. We request the following change to this section of the rule:

"Any source subject to this rule shall submit to the District by March 31 of each year actual GHG emissions for the previous calendar year. Emissions shall be calculated and reported in accordance with ~~40 CFR Part 98, Mandatory Greenhouse Gas Reporting~~ 40 CFR Part 70".

Whether a source is subject to 40 CFR 98 or not, Rule 201.1 requires that all Title V sources report their GHG emissions using 40 CFR 98 calculations, methodology, and requirement in an effort to maintain consistent district-wide GHG reporting. Requiring a standard GHG reporting approach will keep Title V sources from having to calculate their GHG emissions in a manner different form that which they are already doing for EPA. Title V sources that determine that they do not exceed the 25,000 mtpy reporting limit will have had to use EPA’s methodology to make that determination anyway.