AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

DATE: March 7, 1995

TO: Air Pollution Control Board

SUBJECT: Adoption of Amendments to Regulation XIV - Title V Operating Permits

SUMMARY:

Regulation XIV was adopted by the Board on January 19, 1994, to establish the District's regulatory authority for implementing the federal operating permits program required by Title V of the federal Clean Air Act. It was submitted to the Air Resources Board (ARB) in March, 1994, and by the ARB to the federal Environmental Protection Agency (EPA) for approval in April, 1994. EPA found the submittal complete but in August, 1994 determined it was not approvable. The proposed amendments address issues identified by EPA. The amendments affect the applicability of the permit Regulation, procedures for issuing and modifying Title V permits, content of permits, and timelines for taking action on permit applications. The amendments do not add any substantive emission control requirements.

Amended Regulation XIV primarily affects sources having the potential to emit 50 or more tons per year of volatile organic compounds or oxides of nitrogen, or 100 or more tons per year of oxides of sulfur, carbon monoxide, fine particulate matter (10 microns or less), lead or any other regulated pollutant. It also affects sources having the potential to emit 10 or more tons per year of any federal hazardous air pollutant listed in the federal Clean Air Act or 25 or more tons per year of any combination of such hazardous air pollutants, and specified sources subject to any federal New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants.

The District anticipates that EPA will grant interim approval of the amended Regulation. However, EPA has proposed revisions to its current regulations. These revisions will likely not be final until late 1995. Following EPA's interim approval, the District will have two years to conform to EPA's revised regulations and to resolve any issues. The District will be required to proceed with implementation of the program under EPA's expected interim approval and current regulations.

The District has worked closely with affected businesses and the military in developing the proposed changes. They are supportive of the changes.

The proposed amendments are consistent with the Board's direction of February 2, 1993, which delayed implementation of new or amended District regulations unless specifically ordered by federal or state law or requested by business or for which a socio-economic impact assessment is not required. The proposed amendments are consistent with that direction because they are necessary to bring Regulation XIV into conformance with current federal law.

Issue

Should the Board adopt proposed amendments to Regulation XIV - Title V Operating Permits to meet the requirements of the 1990 federal Clean Air Act Amendments?

Recommendation

AIR POLLUTION CONTROL OFFICER

Adopt the resolution amending Regulation XIV and make appropriate findings:

(1) of necessity, authority, clarity, consistency, non-duplication, and reference as required by Section 40727 of the State Health and Safety Code;

(2) that the amendments will not significantly affect air quality or emissions limitations, and that an assessment of socioeconomic impacts is not required (Section 40728.5 of the State Health and Safety Code);

(3) that, notwithstanding that a socioeconomic impact analysis is not required, good faith efforts have been made to minimize the impacts of the proposed amendments on local businesses; and,

(4) that the adoption of the proposed amendments to Regulation XIV is categorically exempt from the provisions of the California Environmental Quality Act pursuant to the California Code of Regulations, Title 14, Section 15300 and 15308, as an action taken to assure the maintenance or protection of the environment where there is no reasonable possibility of a significant adverse impact and where the regulatory process involves procedures for the protection of the environment.

Advisory Statement

At its February 8, 1995, meeting, the Air Pollution Control District Advisory Committee considered these proposed amendments, recommended adopting the amendments as proposed and requested that the District provide the Advisory Committee an opportunity, at a later date, to review public notification procedures when developed. That will be done.

Fiscal Impact

Adopting the proposed amendments will not reduce the significant fiscal impact that implementing the Title V federal permit program will have on the District. However, the fiscal impact has been reduced by the reclassification of the San Diego Air Basin from a severe to a serious ozone nonattainment area. This has reduced the number of facilities required to obtain a Title V permit from about 65 to 35. Significant future program cost reductions have also been achieved as a result of a successful agreement reached with EPA that keeps hundreds of small emission sources in San Diego out of potentially costly and burdensome administrative procedures originally proposed by EPA for non-major sources.

The District expects to receive interim program approval from EPA later this year and will need to begin implementation shortly thereafter. The first permit applications will likely be due at the end of 1995 or early 1996. As required by federal law, the District will be proposing changes to Rule 40 (Fees) to require affected sources to pay the additional District costs associated with

evaluating and processing Title V permits. These costs will be site-specific, depending on the complexity of the source and applicable federal requirements. The District will also be required to impose federally enforceable permit conditions on approximately 65 non-major sources to keep them below federal permit thresholds. This will require developing new permit conditions for these 65 facilities. The District will continue to work closely with affected facilities to minimize the fiscal impacts of this program.

Alternatives

Not adopt amendments to Regulation XIV. This is not a viable alternative. The federal Clean Air Act requires local or state implementation of the federal permit program. The Air Resources Board (ARB) has stated that if a local air district fails to adopt such regulations, it will adopt regulations for that district. This may result in regulations that do not consider the needs of affected facilities in San Diego County. If the District and ARB fail to adopt regulations and receive program approval from EPA by November 15, 1995, federal law provides that EPA must impose sanctions (2 to 1 emission offset ratio) on new major (50 or more tons per year) stationary source construction, withhold federal transportation funds ($75,000,000) and adopt and implement the federal permit program. Local business would then have to deal with the District for permits under the local permitting program and with the EPA for permits under the federal program, instead of the coordinated permitting program reflected in Regulation XIV. Local businesses support the approach proposed by the District.

BACKGROUND:

Regulation XIV was developed to meet the federal nationwide operating permit program requirements of Title V of the 1990 federal Clean Air Act. The federal program applies to existing businesses already required by District rules to have local operating permits, as well as new and expanding businesses. The program will have no direct impact on emissions; it is an additional federal administrative program and enforcement mechanism for EPA and the public. Similar regulations have already been adopted in most other air districts in California, including the Bay Area, Sacramento, Monterey Bay, Ventura, and Santa Barbara air districts.

The District submitted its current adopted Title V program to ARB in March, 1994. ARB forwarded the program to EPA in April, 1994 and EPA determined the program was complete in July, 1994. In September, 1994, EPA advised the District that changes to Regulation XIV would be needed in order to receive interim program approval from EPA. If the District does not have a program that has received at least interim approval from EPA by November 15, 1995, EPA will promulgate and implement a program for San Diego. EPA will also impose emission offset and highway transportation fund sanctions on San Diego.

The District has worked with a group of representatives of local businesses and the military affected by the program. Regulation XIV, including these proposed amendments, represents a collaborative effort of the District and that working group. The District will continue to work with this group when developing the policies and procedures necessary to implement the program.

Program Requirements

The federal operating permit program will require permits of all existing and new major sources of regulated air pollutants. For purposes of the federal permit program in San Diego, a major source is one which emits or has the potential to emit 50 or more tons per year of either volatile organic compounds or oxides of nitrogen, 10 or more tons per year of any single hazardous air pollutant

(specified in the federal Clean Air Act), 25 or more tons per year of all hazardous air pollutants, or 100 or more tons per year of carbon monoxide, fine particulates (PM_{10}), oxides of sulfur, lead, or other regulated air pollutants. Forty-eight facilities (including military facilities) will be subject to the major source phase of the program. This is down from approximately 65 facilities as a result of the San Diego Air Basin's recent federal reclassification from a severe to a serious ozone nonattainment area. Of these 48 facilities, 14 may be able to avoid the Title V permit program by switching from a common industrial solvent, 1,1,1-trichloroethane, that is being banned by EPA as a stratospheric ozone depleter. This would leave approximately 35 major sources in San Diego subject to Title V permits.

EPA can require by regulation that smaller sources obtain Title V permits. For example, recently EPA published its final rule establishing hazardous air pollutant emission standards for chrome electroplaters and anodizers, including small decorative chrome plating shops. EPA is requiring all sources subject to this new rule to obtain Title V permits.

Major requirements for sources subject to the Title V permit program include:

- Submitting new permit applications and fees, and District evaluation and issuance of new federal operating permits.
- Total facility permitting. Permits can be issued for individual emission units or groups of units. However, all initial Title V permits at a facility will be issued concurrently. Current District permits will be reissued to meet both local and federal permit requirements.
- Issuing permits to facilities that have been granted a variance by the Air Pollution Control District Hearing Board. Although EPA does not recognize variances issued by the Hearing Board, EPA does allow a federal permit to be issued to a non-compliant source provided it contains a schedule for bringing the source into compliance. Regulation XIV provides that the compliance schedule contained in a variance will be considered in the conditions of the federal permit. This approach has been agreed to by EPA for sources in California.
- Five year permits. Federal permits can be administratively renewed annually but affected facilities must submit new applications for permits and be re-evaluated by the District every five years. This will require permanent District staff for re-permitting a portion of affected facilities each year, and processing permit revisions as necessary.
- The Title V permit program does provide opportunities for permitted sources to make specified types of changes without having to first revise their permits. In addition, flexibility can be incorporated into federal permits to allow operation under various foreseeable operating scenarios.
- Provisions to restrict enforcement (a permit shield) of District, state, and federal regulatory requirements that are identified in federal permits as not applying to a specific facility. Enforcement of District, state and federal regulatory requirements applicable to a facility is also limited when the Air Pollution Control Officer determines that compliance with permit conditions is adequate to ensure compliance with the underlying regulatory requirements.
- Provisions requiring all applicable requirements of local rules, the State Implementation Plan and the federal Clean Air Act be identified in the federal permit; and specifically designating which permit terms and conditions are federally enforceable by EPA.
- Increased record keeping, reporting and emissions monitoring requirements.

- EPA review and approval of operating permits within prescribed timelines. EPA will now have the authority to object to the issuance of federal permits for existing businesses currently operating under valid local permits.

- Increased notice to the public of permit actions, including more opportunities for public comment and appeals of permitting actions. This will apply to initial issuance of federal permits, significant permit modifications, permit reopenings, and the 5-year re-application/re-evaluation permit renewal process.

- Complex and burdensome procedures for revising Title V permits. This is an issue that has raised considerable concerns among affected sources and permitting agencies. Permit programs need to be able to respond quickly and efficiently to industries changing operations. EPA's current Title V program regulations create a complex and costly process for making many types of revisions. EPA has proposed revisions to its regulations but its initial proposal may actually create an even more difficult permit revision process. The District, the California Air Pollution Control Officer's Association (CAPCOA), affected industry, and national organizations have commented to EPA regarding these concerns. It appears that EPA is considering other approaches that will be less burdensome. It remains to be seen whether future proposals from EPA will adequately streamline the process.

Issues

In July 1992, EPA published regulations implementing the federal permit program and establishing requirements for state and local agencies that must develop approvable permit programs. These regulations impose requirements beyond those contained in the 1990 federal Clean Air Act. The District has worked with other California air districts and the ARB in a subcommittee of CAPCOA to try to resolve program regulation and implementation issues with EPA. The District is also participating on a statewide task force that includes business representatives. In addition, last year the Board of Supervisors met with the San Diego Congressional delegation to address burdensome federal regulations. The Title V program was identified as a major issue.

There has been some success. For example, an agreement was reached between CAPCOA, industry and EPA by which many small emission sources will not be required to go through the costly and time-consuming process of adding federally enforceable permit conditions to their local District permits in order to stay out of the Title V permit program. Originally, EPA would have had many hundreds of small sources in San Diego county alone, and many thousands in California, obtain federally enforceable permits, even though their emissions have historically been well below major source levels. Now most all of these small sources will be able to rely on records already maintained under the local District program. This agreement will save many small sources and the District over one million dollars in additional administrative costs that would otherwise have been imposed by EPA. In addition, during the two-year interim approval period EPA will allow air districts to identify federally enforceable requirements in Title V permits rather than have all requirements in a permit be federally enforceable if they are not specified as a state or local requirement, as EPA initially required. This issue has implications for Title V permitted sources relative to the ability of EPA and the public to directly enforce state and local requirements.

The joint air district/ industry task force and CAPCOA subcommittee in which the District is participating will continue to seek statewide consistency and agreement with EPA on how the federal permit program can be structured to minimize administrative burdens to affected businesses and air districts. However, there remain issues that the California air districts, ARB and industry have not yet been able to resolve with EPA. They include:

- EPA's implementing regulations for the Title V permit program are very prescriptive. EPA is requiring that local permit programs meet these detailed requirements in almost every respect. EPA is not making an effort to evaluate existing local permit programs to determine equivalency with the objectives of Title V. Yet, many local permit programs, such as that of the District, have been used successfully for years to implement substantive federal, state and local air pollution control requirements to improve air quality and to protect public health. EPA's proposed revisions to its implementing regulations do not provide a viable mechanism for determining the equivalency of existing local and state permit programs.

- The process for revising Title V permits when a facility modifies its operations. EPA's current regulations, and EPA's proposed revisions, provide a process that is too complex, burdensome, untimely and costly for sources. The District, CAPCOA, affected industry and national organizations have commented to EPA regarding these concerns.

- The terms to be contained in federal permits. EPA's requires that all applicable federal requirements be specified in federal permits, even if those requirements are less stringent than, or in conflict with, a local requirement. Some of these conflicts arise from EPA not acting in a timely manner when revised regulations are submitted to them for inclusion in the state implementation plan (SIP). EPA will not allow local Title V permit programs to shield sources from enforcement of out-of-date SIP requirements. Other conflicts arise when EPA adopts national requirements that apply to emission source types already regulated in California or by a local district. EPA's national requirements always vary from those in California, either with regard to emission standards (stringency) or administrative requirements for monitoring, records and reports. The California air districts and ARB have objected to EPA's position because it will lead to confusion for permit holders and difficulties in enforcement of permit requirements.

- How minor new source review actions will be treated under the Title V permit program. In its recent proposed amendments to its Part 70 regulations, EPA has stated that it considers changes at Title V permitted facilities that trigger state or local new source review (NSR) requirements to be Title I modifications under the federal Clean Air Act, even though such changes may not trigger federal NSR requirements. This is of considerable concern, especially in California, because the California Clean Air Act requires NSR review and controls on very small changes (e.g., 10 pounds per day emissions under California NSR versus approximately 300 pounds per day emissions under federal NSR) and applies to more pollutants.

  EPA would make these more stringent state requirements federally enforceable and would force many small changes at Title V permitted sources to be handled as significant permit modifications - a process that can take up to 18 months and requires EPA review and approval, public notice, a public comment period, and an opportunity for public hearings. This will make the process very costly and cumbersome for affected sources and the District, and puts California businesses at a further disadvantage compared to competitors in other states whose NSR requirements may not be as stringent as those in California. The District, ARB, CAPCOA, other air districts, and industries have expressed opposition to this EPA position.

Reportedly, Mary Nichols, Assistant Administrator for EPA's Office of Air and Radiation, has stated that EPA intends to abandon its recent proposal for regulatory changes and issue a new proposal that will further simplify EPA's approach. Recently, the National Governors Association (NGA) has engaged this issue, among others. Five basic principles have been identified by NGA for EPA to streamline its Title V program requirements:

- Simplification instead of complexity.

- Develop a stable, workable system that covers the minimum number of sources.
- Minimum structural requirements for the program, allowing states the maximum flexibility to meet the basic standards.
- Any public comment program must not restrict the ability of the regulated community to perform minor emissions changes in a timely manner.
- Use state programs as an example to build a workable program.

The District will continue to work at the local, state and national levels to try to resolve these issues.

Public Workshop

A public workshop on the proposed amendments to Regulation XIV was held on December 19, 1994. The workshop report is attached.

California Environmental Quality Act

The California Environmental Quality Act requires an environmental review for certain actions. Because there is no possibility of negative impacts on the environment as a result of adoption of the proposed rule, the adoption of the proposed rule amendments is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Sections 15300 and 15308, as a regulatory action taken to assure the maintenance or protection of the environment where the regulatory process involves procedures for protection of the environment.

Socioeconomic Impact Assessment

State law requires that whenever a district proposes the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the district shall perform an assessment of the socioeconomic impacts of this action. The proposed amendments to Regulation XIV will have no affect on air quality or emissions limitations and, therefore, a socioeconomic impact assessment is not required.

Concurrence:

DAVID E. JANSSEN
Chief Administrative Officer

Respectfully submitted,

R. J. SOMMERVILLE
Air Pollution Control Officer

AIR POLLUTION CONTROL BOARD
AGENDA ITEM
INFORMATION SHEET

SUBJECT: Adoption of Amendments to Regulation XIV - Title V Operating Permits

SUPV DIST.: All

TD 2/16/95

COUNTY COUNSEL APPROVAL: Form and Legality [X] Yes [ ] N/A
[ ] Standard Form [ ] Ordinance [X] Resolution

CHIEF FINANCIAL OFFICER/AUDITOR REVIEW: [ ] Yes [X] N/A
4 VOTES: [ ] Yes [X] No

CONTRACT REVIEW PANEL: [ ] Approved _____ [X] N/A

CONTRACT NUMBER(S): N/A

PREVIOUS RELEVANT BOARD ACTION: January 18, 1994; APCB #2
December 7, 1993; APCB #4

BOARD POLICIES APPLICABLE: N/A

CITIZEN COMMITTEE STATEMENT: The Air Pollution Control District Advisory Committee recommended adoption of proposed amendments to Regulation XIV at its February 8, 1995 meeting.

CONCURRENCES: N/A

ORIGINATING DEPARTMENT: Air Pollution Control District

CONTACT PERSON: Richard J. Smith, Deputy Director 750-3303 MS: 0-176

R.J. SOMMERVILLE
DEPARTMENT AUTHORIZED REPRESENTATIVE

MARCH 7, 1995
MEETING DATE

Re Rules and Regulations of the)
Air Pollution Control District)
of San Diego County .....)

RESOLUTION NO. 95-99

TUESDAY, MARCH 7, 1995

RESOLUTION AMENDING REGULATION XIV - TITLE V OPERATING PERMITS OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT

On motion of Member Roberts, seconded by Member Slater the following resolution is adopted:

WHEREAS, the San Diego County Air Pollution Control Board, pursuant to Section 40702 of the Health and Safety Code, adopted Rules and Regulations of the Air Pollution Control District of San Diego County; and

WHEREAS, said Board now desires to amend said Rules and Regulations; and

WHEREAS, notice has been given and a public hearing has been had relating to the amendment of said Rules and Regulations pursuant to Section 40725 of the Health and Safety Code.

NOW THEREFORE IT IS RESOLVED AND ORDERED by the San Diego County Air Pollution Control Board that the Rules and Regulations of the Air Pollution Control District of San Diego County be and hereby are amended as follows:

Proposed amendments to Regulation XIV - Title V Operating Permits - Rules 1401, 1410, 1411, 1412, 1413-1415, 1417, 1418, 1420-1422, 1425 and Appendix A are to read as follows:

1. **Rule 1401 Sections (b) and (c) are amended and Section (d) is added to read as follows:**

REGULATION XIV. TITLE V OPERATING PERMITS

Regulation XIV shall take effect and be in force 30 days after approval by the United States Environmental Protection Agency (EPA), as published in the Federal Register.

RULE 1401. GENERAL PROVISIONS

(a) APPLICABILITY

Notwithstanding the provisions of Rule 11, this regulation shall apply to any stationary source that is:

(1) A major stationary source as defined in this regulation, or

(2) Subject to a standard, limitation or other requirement under Section 111 of the federal Clean Air Act or Regulation X, Standards of Performance for New Stationary Sources (NSPS), except as provided in Subsection (b)(1) of this rule, or

(3) Subject to a standard, limitation or other requirement under section 112 of the federal Clean Air Act or Regulation XI, National Emission Standards for Hazardous Air Pollutants (NESHAPS), except as provided in Subsection (b)(1) of this rule, or

(4) Subject to the acid rain provisions of Title IV of the federal Clean Air Act, or

(5) A solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the federal Clean Air Act.

Terms and conditions of permits imposed pursuant to this regulation may be incorporated into permits to operate for emission units or for a group or groups of emission units at the stationary source. Terms and conditions imposed pursuant to this regulation that are applicable to more than one emission unit at the stationary source may, if appropriate, be incorporated into individual permits to operate by reference or through a common attachment.

Applicability of or exemption from this regulation does not constitute applicability of or exemption from any other provisions of these Rules and Regulations.

(b) **EXEMPTIONS**

The provisions of Regulation XIV shall not apply to any of the following:

(1) Emission units at stationary sources that are not major stationary sources, until the federal Environmental Protection Agency (federal EPA) completes rulemaking that requires any such source to have a permit under Title V of the federal Clean Air Act.

(2) Stationary sources, source categories or emission units that would be required to obtain a permit solely because they are subject to 40 CFR Part 60 Subpart AAA, Residential Wood Heaters.

(3) Stationary sources, source categories, or emission units that would be required to obtain a permit solely because they are subject to 40 CFR Part 61 Subpart M, Asbestos Demolition and Renovation.

(4) Insignificant emission units as specified in Rule 1411 provided that such unit or units are not subject to any applicable requirement other than District Rules 50 and 51. This exemption shall not exclude the emissions from such insignificant emission units in determining the applicability of or fees associated with any provisions of this regulation or of Title V of the federal Clean Air Act to any stationary source.

(c) **DEFINITIONS**

For purposes of Regulation XIV, the following definitions shall apply.

(1) **"Abrasive Blast Cabinet"** means an enclosure used to contain abrasive media and which can only be entered through ports for gloved arms and hands when abrasive blasting is conducted.

(2) **"Actual Annual Emissions"** means emissions from any stationary source established according to information gathered by means of annual emission inventory and confirmed accurate by the Air Pollution Control Officer.

(3) **"Administrative Permit Amendment"** means changes to the terms and conditions of a permit, which have been approved pursuant to this regulation. [See Rule 1410(i)]

(4) **"Affected Source (Acid Rain)"** means any emission unit that is subject to emission reduction requirements or limitations under Title IV of the federal Clean Air Act as amended in 1990.

(5) **"Aggrieved Person"** means any person, including a person or group representing the interest of the public in air quality, who alleges that the issuance of a Permit to Operate will infringe upon or deny such person's legal rights or the legal rights of the general public in respect to air quality.

(6) **"Air Contaminant(s)"** means any substance discharged, released, or otherwise propagated into the atmosphere and includes, but is not limited to, any combination of the following: volatile organic compounds, exempt compounds, oxides of nitrogen, particulate matter, gaseous sulfur compounds, carbon monoxide, smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, and federal hazardous air pollutant, including hazardous air pollutants identified in Section 112 of the federal Clean Air Act. Also included are Class I and Class II ozone depleting substances under Title VI of the federal Clean Air Act, any pollutant for which a national ambient air quality standard has been promulgated, and any substance subject to a standard promulgated under Sections 111 or 112 of the federal Clean Air Act.

(7) **"Alternative Operating Scenario"** means each coordinated set of alternative operational parameters and permit conditions proposed by an operator in a permit application, and approved and implemented pursuant to this regulation.

(8) **"Appeared, Submitted Written Testimony, or Otherwise Participated"** means communicated specific substantive or procedural air pollution issues to the Air Pollution Control District (District) staff members who were responsible for permit to operate issuance, communicated with the Air Pollution Control Officer or his designee in the context of a formal public participation process, or testified before the Hearing Board in a formal proceeding. The term does not include mere expression of general interest or concern, or oral communication outside of a formal public forum, whether by telephone or otherwise, with District staff members who were not directly responsible for issuance of the permit to operate. A party may show that it has otherwise participated in a matter by contemporaneous written documentation, or by declaration under oath.

(9) **"Applicable Requirements"** means:

(i) all federally enforceable requirements applicable to a stationary source prior to issuance of a permit to operate; and

(ii) any new federally enforceable requirements that become effective during the term of a permit.

(10) **"Application Shield"** means the protection from enforcement of the requirement to have a permit provided pursuant to Rule 1410(a).

(11) **"Architectural Surface Coating"** means any coating applied to stationary structures and their appurtenances coated onsite or in close proximity to the intended installed location, to mobile homes, to pavement, or to curbs.

(12) **"Complete Application"** means an application for which the applicant has provided all information required under Rule 1414(f), or an application deemed to be complete pursuant to Rule 1414(i)

(13) **"Contiguous Property"** means two or more parcels of land with a common boundary or separated solely by a public or private roadway or other public or private right-of-way. Non-adjoining parcels of land separated solely by bodies of water designated "navigable" by the U. S. Coast Guard shall not be considered contiguous properties.

(14) **"Emission Unit"** means any non-vehicular article, machine, equipment, contrivance, process or process line, which emit(s) or reduce(s) or may emit or reduce the emission of any air contaminant.

(15) **"Exempt Compound"** means, with regard to the definition of volatile organic compounds, any of the following:

Chlorodifluoromethane (HCFC-22)

Dichlorotrifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

Pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

Tetrafluoroethane (HFC-134a)

Dichlorofluoroethane (HCFC-141b)

Chlorodifluoroethane (HCFC-142b)

1,1,1,-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

Cyclic, branched, or linear, completely fluorinated alkanes

Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

Methylene chloride

1,1,1-trichloroethane

Trifluoromethane (HFC-23)

Trichlorofluoromethane (CFC-11)

Dichlorodifluoromethane (CFC-12)

Trichlorotrifluoroethane (CFC-113)

Dichlorotetrafluoroethane (CFC-114)

Chloropentafluoroethane (CFC-115)

Any other compound(s) listed as negligibly reactive by the U.S. Environmental Protection Agency.

(16) **"Federal Hazardous Air Pollutant"** means any air pollutant which is listed pursuant to Section 112 of the federal Clean Air Act.

(17) **"Federal Non-Attainment Pollutant"** means any air pollutant for which San Diego County, or portion thereof, has been classified as exceeding a national ambient air quality standard (NAAQS) by the federal EPA.

(18) **"Federally Enforceable Requirement"** for purposes of this regulation, means all of the following as they apply to emission units at a stationary source. Requirements that have been promulgated or approved by the federal EPA through rule making at the time a permit to operate is issued, but which have future effective compliance dates, are federally enforceable requirements if listed below:

(i) Any standard or other requirement provided for in the State Implementation Plan (SIP), including any revisions approved or promulgated by the federal EPA through rule making under Title I of the federal Clean Air Act.

(ii) Any term or condition of an Authority to Construct issued pursuant to these rules and regulations which term or condition is imposed pursuant to any federally mandated new source review (NSR) or prevention of significant deterioration (PSD) regulation.

(iii) Any standard or other requirement under Sections 111 or 112 of the federal Clean Air Act.

(iv) Any standard or other requirement of the Acid Rain Program under Title IV of the federal Clean Air Act or the regulations promulgated thereunder.

(v) Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the federal Clean Air Act (enhanced monitoring and compliance certifications).

(vi) Any standard or other requirement governing solid waste incineration under Section 129 of the federal Clean Air Act.

(vii) Any standard or other requirement for consumer and commercial products under Section 183(e) of the federal Clean Air Act.

(viii) Any standard or other requirement for tank vessels under Section 183(f) of the federal Clean Air Act.

(ix) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the federal Clean Air Act.

(x) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under of the federal Clean Air Act unless the Administrator of the federal EPA has determined that such requirements need not be contained in a permit to operate.

(xi) Any national ambient air quality standard or air quality increment or visibility requirement under Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the federal Clean Air Act.

(19) **"Federally Mandated New Source Review (NSR)"** means new source review that would be required using emission thresholds specified in federal law or in the approved State Implementation Plan (SIP), and does not include new source review that is required solely as a result of state law or these Rules and Regulations.

(20) **"Final Permit Action"** means a decision by the Air Pollution Control Officer to grant, deny or cancel an application for a permit to operate, modification or renewal; solely for purposes of seeking judicial review, a failure by the Air Pollution Control Officer to take action on an application within the time periods specified in this regulation; a decision by the Hearing Board altering a permit action by the District; or a decision by the federal EPA to veto a permit, or to modify, terminate or revoke a permit or to issue a permit that differs from the permit proposed for issuance by the Air Pollution Control Officer.

(21) **"Fugitive Emissions"** means those quantifiable non-vehicular emissions which could not reasonably pass through a stack, chimney, flue, vent or other functionally equivalent opening.

(22) **"Hearing Board"** means the Hearing Board of the Air Pollution Control District of San Diego County as authorized by the California Health and Safety Code.

(23) **"In-Scope Permit Actions"** means actions not inconsistent with applicable permit conditions, including alternative conditions under any approved alternative operating scenario during the period for which the operator has designated that scenario as applicable.

(24) **"Insignificant Unit"** means any of the equipment as specified in Rule 1411 and listed in Appendix A of this regulation. An insignificant unit shall not include any unit subject to an applicable requirement other than District Rules 50 and 51.

(25) **"Major Stationary Source"** means any stationary source which emits or has the potential to emit one or more air contaminants in amounts equal to or greater than any of the following emission rates:

(i) 50 tons per year of volatile organic compounds or oxides of nitrogen.

(ii) 10 tons per year of any federal hazardous air pollutant.

(iii) 25 tons per year of any combination of federal hazardous air pollutants.

(iv) 100 tons per year or more of any regulated air pollutant (including any fugitive emission of any such pollutant, as determined by rule by the Administrator of the federal EPA). The fugitive emissions from the stationary source shall not be considered unless the stationary source belongs to one of the following categories of sources:

(A) coal cleaning plants (with thermal dryers);

(B) kraft pulp mills;

(C) portland cement plants;

(D) primary zinc smelters;

(E) iron and steel mills;

(F) primary aluminum ore reduction plants;

(G) primary copper smelters;

(H) municipal incinerators capable of charging more than 250 tons of refuse per day;

(I) hydrofluoric, sulfuric, or nitric acid plants;

(J) petroleum refineries;

(K) lime plants;

(L) phosphate rock processing plants;

(M) coke oven batteries;

(N) sulfur recovery plants;

(O) carbon black plants (furnace process);

(P) primary lead smelters;

(Q) fuel conversion plants;

(R) sintering plants;

(S) secondary metal production plants;

(T) chemical process plants;

(U) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units (Btu) per hour head input;

(V) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(W) taconite ore processing plants;

(X) glass fiber processing plants;

(Y) charcoal production plants;

(Z) fossil-fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input; or

(AA) all other stationary source categories regulated by a standard promulgated under Section 112 of the federal Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.

(26) **"Minor Permit Modification"** means any modification to a permit issued pursuant to this regulation that would not trigger federally mandated new source review. A permit modification shall not qualify as minor if the permit modification:

(i) Causes a violation of any applicable requirement;

(ii) Involves significant relaxation to monitoring, recordkeeping, or reporting requirements;

(iii) Requires the establishment of, or requires a change in an existing federally mandated source-specific emission limitation or standard (e.g., a case-by-case determination of control requirements for federal hazardous air pollutants under Section 112 of the federal Clean Air Act), or a federally mandated source-specific determination for temporary sources of ambient impacts on air quality, or a visibility or air quality increment analysis;

(iv) Changes permit terms and conditions (e.g., a voluntary emissions cap) for which there is no applicable requirement(s), but which terms and conditions the source accepted in order to qualify as exempt from an otherwise applicable requirement;

(v) Is a "modification" under any provision of Title I of the federal Clean Air Act, or results in an emissions increase that would trigger federally mandated new source review; or

(vi) Is a change involving a federal hazardous air pollutant that is subject to review and required to install Maximum Achievable Control Technology (MACT) under Section 112(g) of the federal Clean Air Act.

(27) **"Modification"** means any physical or operational change in any emission unit, or the addition of an emission unit at a stationary source, which would result in increased emissions of any air contaminant currently emitted, or emissions of air contaminants not previously emitted, except:

(i) Identical replacement in whole or in part of any emission unit at a stationary source, where a permit to operate has previously been granted for such emission unit, is not a modification.

(ii) The addition of an insignificant unit or units is not a modification.

(iii) The following changes shall not be considered modifications provided that such changes are not contrary to any permit conditions intended to limit emissions, to any emission limit established in the permit or implied by a permit condition, or to any applicable requirement of these Rules and Regulations:

(A) an increase in production rate and/or an increase in hours of operation;

(B) use of an alternate raw material;

(C) use of an alternate production method that reduces the generation of or allows for the reuse or recycling of wastes;

(D) actions pursuant to a temporary authorization issued under Subsection (b)(2) of Rule 1410 are not modifications for so long as the temporary authorization is effective, or

(E) relocation of equipment, designated as portable on the permit to operate, from one stationary source to another.

For purposes of this regulation, a modification does not have the same meaning as a permit amendment or permit modification. A modification may, but does not necessarily, require a permit amendment or permit modification and a permit amendment or permit modification may be required even if the change does not qualify as a modification.

(28) **"National Ambient Air Quality Standards (NAAQS)"** means maximum allowable ambient air concentrations for specified air contaminants and monitoring periods as established by the federal EPA.

(29) **"Non-Vehicular"** as used in this regulation means the same as "non-vehicular sources" as defined in Section 39043 of the California Health and Safety Code.

(30) **"Organic Compound"** means the same as volatile organic compound.

(31) **"Organic Solvent"** means organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, extractants, or cleaning agents, or are reactants or products in manufacturing processes except materials which exhibit an initial boiling point of 450 °F (232 °C) or higher at 760 mm Hg, unless these materials are exposed to temperatures exceeding 200 °F (93.3 °C).

(32) **"Particulate Matter (PM_{10})"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 8, Title 17, of the California Code of Regulations Section 94100 et seq.

(33) **"Permit to Operate"** means authorization to operate an emission unit or combination of emission units as specified and issued by the Air Pollution Control Officer on a form or forms prescribed by the Air Pollution Control Officer. Unless otherwise specified, the term permit to operate refers to permits issued pursuant to this regulation.

(34) **"Permit"** means the same as permit to operate.

(35) **"Permit Shield"** means the protection from enforcement of certain applicable requirements in the manner and to the extent provided in Rule 1410(p).

(36) **"Potential to Emit"** means the capacity of a stationary source to emit air pollutants, based on its physical and operational design, taking into consideration any federally enforceable requirements applicable to the source. Potential to emit includes fugitive emissions, except to the extent such emissions are excluded under the definition of "major stationary source" in this regulation.

(37) **"Quantifiable"** means that a reliable basis for calculating the amount, rate, nature and characteristics of an emission reduction can be established.

(38) **"Regulated Air Pollutant"** means any of the following:

(i) Oxides of nitrogen and volatile organic compounds.

(ii) Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the federal Clean Air Act.

(iii) Any pollutant subject to a new source performance standard promulgated pursuant to Section 111 of the federal Clean Air Act.

(iv) Any ozone-depleting compound specified as a Class I or Class II substance pursuant to Title VI of the federal Clean Air Act.

(v) Any federal hazardous air pollutant subject to a standard or requirement promulgated pursuant to Section 112 of the federal Clean Air Act.

(39) **"Related Emission Units"** means emission units, where the operation of one emission unit is dependent upon, or affects the process or operation (which may include duration of operation) of another emission unit, as determined by the Air Pollution Control Officer.

(40) **"Reopening of the Permit to Operate"** means reconsideration of a permit to operate or modification of a permit to operate as provided in Rule 1410(o).

(41) **"Responsible Official"** means, for each source required to have a permit, any one of the following:

(i) For a corporation:

(A) corporation president,

(B) corporation secretary,

(C) corporation treasurer,

(D) corporation vice-president,

(E) any other person who performs policy or decision-making functions for the corporation similar to (A), (B), (C) or (D), or

(F) a duly authorized designated representative of any of the above persons if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(1) the facility employs more than 250 persons or has gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(2) the delegation of authority to such representatives is approved in advance by the permitting authority.

(ii) For a partnership or sole proprietorship:

(A) a general partner, or

(B) the proprietor, respectively.

(iii) For a municipality, state, federal, or other public agency:

(A) the principal executive officer, or

(B) a ranking elected official.

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

(iv) For affected sources (Acid Rain):

(A) the designated representative for purposes of actions, standards, requirements, or prohibitions under Title IV of the federal Clean Air Act or regulations promulgated thereunder, as they exist on January 18, 1994; and

(B) the designated representative for any other purposes under these rules and regulations or 40 CFR Part 70 as it exists on January 18, 1994.

(42) **"Section 502(b)(10) Change"** means a change, pursuant to Section 502(b)(10) of the federal Clean Air Act, that contravenes the express terms and conditions of a permit to operate, but which does not violate any applicable requirement or a federally enforceable permit term establishing monitoring, recordkeeping, reporting or compliance certification requirements.

(43) **"Significant Permit Modification"** means any modification to a permit issued pursuant to this regulation that is not an administrative amendment or a minor modification, or any modification to such permit which:

(i) Causes a violation of any applicable requirement; or

(ii) Involves significant relaxation to monitoring, recordkeeping, or reporting requirements; or

(iii) Requires the establishment of, or requires a change in, an existing federally mandated source-specific emission limitation or standard (e.g., a case-by-case determination of control requirements for federal hazardous air pollutants under Section 112 of the federal Clean Air Act), or a federally mandated source-specific determination for temporary sources of ambient impacts on air quality, or a visibility or air quality increment analysis; or

(iv) Changes permit terms and conditions (e.g., a voluntary emissions cap) for which there is no applicable requirement(s), but which terms and conditions the source accepted in order to qualify as exempt from an otherwise applicable requirement; or

(v) Is a "modification" under any provision of Title I of the federal Clean Air Act, or results in an emissions increase that would trigger federally mandated new source review; or

(vi) Is a change involving a federal hazardous air pollutant that is subject to review and required to install Maximum Available Control Technology (MACT) under Section 112(g) of the federal Clean Air Act.

Any relaxation of monitoring, reporting or recordkeeping requirements at a source required to have a permit to operate (e.g., a change from daily to monthly recordkeeping) shall be a significant modification.

(44) **"Source"** means any emission unit; any combination of emission units; any owner or operator of an emission unit, combination of emission units, or stationary source; or any applicant for a permit to operate for any emission unit, or combination of emission units.

(45) **"Stationary Source"** means an emission unit, or aggregation of emission units which are located on the same or contiguous properties and which units are under common ownership or entitlement to use. Stationary sources also include those emission units or aggregation of emission units located in the California Coastal Waters.

(46) **"Volatile Organic Compound (VOC)"** means any volatile compound containing at least one atom of carbon excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, and exempt compounds.

(d) REQUIREMENT FOR AUTHORITY TO CONSTRUCT

Nothing in this regulation shall provide relief from the requirement of Rule 10 of these Rules and Regulations to obtain an authority to construct.

RULE 1402 THROUGH 1409. RESERVED

2. Rule 1410 Sections (a), (b), (h)-(i), (n), (o)-(q) are amended to read as follows:

RULE 1410. PERMITS REQUIRED

(a) APPLICATION SHIELD

Any source that submits a timely and complete application for permit issuance or renewal under this regulation shall not be in violation of the requirement to have a permit to operate under this rule until the Air Pollution Control Officer takes final permit action on the permit application or the permit expires. If a timely and complete application is submitted and the Air Pollution Control Officer does not issue a permit renewal prior to the expiration of the term of the existing permit, then the permit shall not expire and the terms and conditions of the permit, including any permit shield, shall remain in effect until the permit renewal is issued or denied. These protections shall cease to apply if, subsequent to the permit application being determined to be complete or being deemed complete, the applicant fails to submit by the deadline specified in writing by the Air Pollution Control Officer, pursuant to Rule 1414 (h), any additional information identified as being needed to process the application.

(b) PERMIT TO OPERATE

Except as provided in Section (a) above and Subsection (b)(2) below, no source subject to this regulation may operate after the time that it is required to submit a timely and complete application for a permit to operate unless the source is operating in compliance with permit(s) issued pursuant to this regulation.

(1) **Multiple Emission Unit Permits to Operate and Multiple Permits to Operate.** Nothing in these Rules and Regulations shall prohibit the Air Pollution Control Officer from issuing more than one permit to operate to a stationary source or from grouping more than one emission unit under a single permit to operate, which will supersede any permits to operate previously issued to the affected emission units, provided the Air Pollution Control Officer determines that:

(i) Such units or groupings of units comply with the applicable requirements of these Rules and Regulations,

(ii) The units or grouping of units included under a single permit to operate are adequately and clearly described,

(iii) The applicability of particular conditions within such a permit to operate to one or more units is clearly specified, for all alternative operating scenarios applicable to the source,

(iv) All conditions of such a permit to operate are reasonably enforceable:, and

(v) All emission units, excluding insignificant units, are covered by a permit to operate or a timely application for a permit to operate.

The Air Pollution Control Officer shall group units into a single permit to operate if such a grouping is proposed by the applicant for a permit to operate, unless the Air Pollution Control Officer determines that such grouping will violate the conditions set forth above, or will not facilitate operational flexibility at the source, or will result in violation of any applicable requirement of these Rules and Regulations.

(2) **Temporary Authorizations, Duration.** The Air Pollution Control Officer may grant a temporary authorization to operate any new or modified emission unit for which a complete application for a Title V permit to operate must be submitted within 12 months after operation has been commenced pursuant to Rule 1414(c) provided all of the following have been met:

(i) Construction or modification has been completed in accordance with an Authority to Construct issued pursuant to Rule 10.

(ii) Construction or operation of the new or modified unit is not prohibited by any existing permit issued pursuant to this regulation.

(iii) The Air Pollution Control Officer finds that operation of the new or modified emission unit is expected to comply with all applicable requirements of these Rules and Regulations and all terms and conditions of the Authority to Construct.

A temporary authorization may be issued if the operator of a source subject to this regulation submits or proposes to submit a complete application for a permit to operate that includes permit terms and conditions and if the operator demonstrates to the satisfaction of the Air Pollution Control Officer that the proposed new terms and conditions create a need for research and development, or additional testing or evaluation, before the proposed terms and conditions can be approved. A temporary authorization may also be issued to a source that is subject to this regulation to allow development, advancement and field testing of technology to meet pending and anticipated regulations or best available control technology (BACT) standards.

An application for a permit to operate shall not be found to be incomplete solely because research and development, testing or evaluation is determined to be necessary before a permit can be issued, and any source whose application for a permit to operate is otherwise timely and complete shall have the benefit of the application shield set forth in Section (a) of this rule. If the Air Pollution Control Officer determines that additional information is needed to take final permit action on an application that was determined or deemed to be complete, the Air Pollution Control Officer may request such information and require the applicant to furnish the information within a reasonable time. The ability of a source to operate under an application shield shall cease to be in effect if the source fails to provide the required information within the specified time.

Issuance of a temporary authorization shall not relieve the owner or operator of a source from the obligation to file a timely and complete application for a permit to operate or a permit revision, nor from the obligation to comply with all federally enforceable requirements.

A temporary authorization issued pursuant to this regulation shall expire on the date that a timely and complete application for a permit to operate or modification is due.

(3) **Availability and Effects of Appeals.** An owner or operator may appeal any permit action proposed by the Air Pollution Control Officer in response to an application for a permit to operate or modification. Appeals shall be made to the Hearing Board in accordance with Rule 1425, before the proposed permit action is noticed for public review and comment or before it is forwarded to the federal EPA and affected states for consideration. A proposed permit to operate shall not be noticed for public review or forwarded to the federal EPA and affected states for review while any permit action or proposed permit action is being appealed before the Hearing Board. No final permit to operate shall be issued during this period or during the time for public review and comment and the federal EPA review set forth in Rule 1415. An appeal to the Hearing Board shall be resolved in a timely manner and in no case shall an appeal delay final permit action on a permit beyond 45 days from receipt of a request for an administrative permit amendment, 60 days for a minor permit modification, or 18 months for a significant permit modification, initial permit, permit reopening or permit renewal.

In the case of an appeal of any permit action for equipment proposed to be installed in conjunction with existing equipment operating under a permit to operate to comply with new requirements of District Rules and Regulations or other applicable law, District enforcement of the new requirements shall be deferred until the appeal is resolved. This paragraph applies only to any permit action taken before the effective date of the new requirements.

In the case of an appeal of any permit terms and conditions proposed to be deleted from or added to permits to operate, such permit actions and District enforcement thereof shall be deferred until the appeal is resolved.

(c) POSTING OF PERMIT TO OPERATE

A person who has been granted a valid permit to operate shall firmly affix such permit, a true copy of such permit, or other approved identification bearing the permit number upon the emission unit in such a manner as to be clearly visible and accessible. In the event that the emission unit is so constructed or operated that the permit to operate cannot be so placed, the permit shall be mounted so as to be clearly visible in an accessible place within 25 feet of the emission unit, or maintained readily available at all times on the operating premises.

(d) ALTERATION OF PERMIT

A person shall not willfully deface, alter, forge, counterfeit or falsify any permit issued under these Rules and Regulations.

(e) RESERVED

(f) EXISTING REQUIREMENTS

The terms and conditions of permits to operate shall be maintained in the permit, except as provided in Rule 1420(b).

(g) CONTROL EQUIPMENT

Nothing in this rule shall be construed to authorize the Air Pollution Control Officer to require the use of machinery, devices or equipment of a particular type or design, if the required emission standard may be met by machinery, device, equipment, product or process

changes otherwise available unless a regulation promulgated by the federal EPA and required to be enforced through this regulation specifies the use of specific machinery, device, equipment, product or process change.

(h) RENEWAL OF PERMITS TO OPERATE

A permit to operate issued under this regulation shall have a life of five years from the date of issuance. Permits to operate shall be renewed upon approval of the Air Pollution Control Officer in accordance with the procedures in this rule every five years on a staggered schedule to be determined by the Air Pollution Control Officer.

In addition to this five year renewal the permit to operate will be subject to annual review in accordance with Rule 10(h) of these Rules and Regulations.

An application for renewal of a permit to operate issued must be submitted at least 12 months, but not more than 18 months, prior to permit expiration, on forms prescribed by the Air Pollution Control Officer. The application and any necessary certification of compliance must be submitted by a responsible official of the source.

Permits to operate may be renewed only upon:

(1) Submission of a complete application for permit, including required statements and certifications, as set forth in Rule 1414.

(2) Payment of appropriate renewal fees as prescribed in Rule 40.

(3) Annual submittal of a supplemental statement certified by a responsible official setting out the status of the source with respect to past and current compliance with substantive requirements of the existing permit to operate, as evidenced by monitoring or other compliance reports (including progress reports if any are required under an applicable schedule of compliance).

(4) Determination by the Air Pollution Control Officer that the source can be operated in compliance with the terms and conditions of the proposed renewed permit to operate, taking into account any compliance schedule that will be a part of that permit.

(5) Completion of a 30-day public comment period and a 45-day review period for affected states and the federal EPA.

(6) There being no objection to the renewal of the permit from the Administrator of the federal EPA. If the Administrator objects within the 45-day period, a permit shall not be renewed until the Administrator has withdrawn the objection.

(7) Inactive Status. Any person who holds a permit to operate as required by Rule 1410(b) and who desires to not operate or rent any emission unit for at least one-year after the expiration date of the permit, prior to the expiration date of the permit, may apply to the Air Pollution Control Officer for a permit indicating the equipment is to be maintained in an inactive status. A renewal permit in this case shall contain all of the terms and conditions of an active permit applicable under this regulation and shall also contain a condition prohibiting operation of the equipment and suspending the effect of other permit conditions. All such inactive status permits shall be renewable annually as well as every five years pursuant to this regulation.

The condition prohibiting operation of the equipment and suspending the effect of other permit conditions, shall be removed by the Air Pollution Control Officer, notwith-

standing Rule 1421, upon receipt of an application and payment of the appropriate renewal fees pursuant to these Rules and Regulations. At the same time, the permit will be modified and conditions added, as appropriate, to reflect any new requirements that have become applicable to the emission unit as a result of changes in these Rules and Regulations during the period the unit was inactive. Operation of equipment on inactive status without prior authorization from the District shall constitute a violation of Rules 1410(b) and 1421. No changes shall be made to the emission unit without the source applying for and obtaining any necessary approval to change the unit pursuant to the permit modification procedures of this rule.

(i) **ADMINISTRATIVE PERMIT AMENDMENTS.**

Administrative permit amendments are changes that can be made to a permit which has been granted pursuant to this regulation without being subject to the requirements of Sections (j) and (k) of this rule. These shall include the following:

(1) Address changes that do not result in physical relocation of equipment.

(2) Correction of typographical errors and updates to information such as phone numbers.

(3) Incorporation of Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permits issued through an Authority to Construct pursuant to federal EPA approved new source review and prevention of significant deterioration rules, provided that such Authority to Construct has been issued in accordance with the provisions of Section (q) of this rule.

(4) Any emission unit that is the subject of a permit to operate and which is transferred from one person to another shall not be operated until application is made to the Air Pollution Control Officer for a revised permit and such permit is issued unless a temporary authorization pursuant to Rule 1410(b)(2) has been issued to the new owner or operator. Such revisions shall be administrative permit amendments. The revision shall specify a date for the transfer of permit responsibility, coverage and liability between the prior and the new permittee. If such transfer is accompanied by modification of the emission unit, which modification is not exempt under this regulation, an application for permit modification shall be required.

Any permit or written authorization issued hereunder shall not be transferable, by operation of law or otherwise, from one piece of equipment to another.

Administrative permit amendments will be recorded by the Air Pollution Control Officer upon request from the applicant for such amendment, are not subject to any notice requirements of this regulation unless otherwise specified in this Section, and may be implemented by the applicant upon filing of the application with the Air Pollution Control Officer. The Air Pollution Control Officer shall provide the federal EPA with a copy of each approved revised permit.

Administrative permit amendments shall be reflected in the next application to renew the affected permit to operate.

(j) MINOR PERMIT MODIFICATIONS.

The owner or operator of any emission unit that is the subject of a permit to operate may make changes in the operation and physical characteristics of the subject equipment if the changes qualify as a minor permit modification, and the following requirements are met:

(1) Minor permit modifications that do not also require new source review under these Rules and Regulations are subject to the following procedural requirements:

(i) The application may be approved with or without public notification, as requested by the applicant. Minor permit modifications shall not be eligible for the permit shield provided by Rule 1410(p). However, any permit shield specified in permit terms or conditions that are not affected by an application for minor permit modification shall remain intact.

(ii) An application for a minor permit modification shall include all information consistent with Rule 1414(f) for each emission unit being modified and for each emission unit affected by the modification. The application shall also include:

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

(B) the source's suggested draft permit;

(C) certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the proposed modification meets the criteria for use of minor permit modification and that the statements and information contained in the application in support of this determination are true, accurate, and complete, and a request that such procedure be used; and

(D) completed forms for the District to use to notify the federal EPA and affected States.

(iii) The applicant may make the change as soon as a complete application is filed. If the source makes a change prior to a permit action, and until the District takes final permit action on the change, the source must comply with both the applicable requirements governing the change and the terms and conditions proposed by the source. During this time period the source need not comply with existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions the source seeks to modify may be enforced against it.

(iv) The Air Pollution Control Officer must notify affected states and the federal EPA within five days of receipt of a complete application.

(v) The preliminary decision by the Air Pollution Control Officer to approve a minor permit modification shall be subject to a 45-day period for comments or objection by the federal EPA.

(vi) The Air Pollution Control Officer must act on an application within 90 days of receipt, or within 15 days of the expiration of the federal EPA's 45-day review period, whichever is later. An application for a minor modification shall

remain pending until action is taken on the application, or the application is canceled or withdrawn.

(2) A change that would otherwise be processed as a minor permit modification under this section but which has been approved in an Authority to Construct in accordance with the procedures prescribed in Section (q) of this rule, may be processed as an administrative permit amendment.

(3) If a source implements a minor permit modification without waiting for final approval, and the permit modification is disapproved, the source shall be subject to enforcement action for operating outside the terms and conditions of its permits to operate while the proposed permit modification was under review.

(4) Nothing in this Section (j) shall provide immunity from enforcement of any applicable requirement (whether the requirement arises under an applicable permit, these Rules and Regulations, or state or federal law), for operations that are not the subject of an application for a minor permit modification, or if the application for a minor permit modification is denied.

(k) SIGNIFICANT PERMIT MODIFICATION

(1) **Procedures for Significant Permit Modifications.** A modification that would be a significant permit modification under this regulation that is also subject to new source review shall first be processed under the new source review rules. This process shall include an opportunity for public review and comment, and notice and review by the federal EPA and affected states, whether or not such procedures would otherwise be required under the new source review rules. Permit terms and conditions that otherwise would be significant permit modifications but have been approved through the enhanced procedures for Authorities to Construct specified in Section (q) of this rule shall be incorporated into the permit to operate as administrative permit amendments.

A person shall not make a modification to a source requiring a significant permit modification unless such modification is authorized by the Air Pollution Control Officer and such modification is made a part of the permit to operate or a temporary authorization has been issued pursuant to Rule 1410(b)(2).

Any significant permit modification that is not subject to enhanced procedures for Authorities to Construct shall be subject to all provisions of this regulation for initial permit to operate, including provisions for application, completion of form used by the Air Pollution Control Officer to notify the federal EPA and affected states, public notice and comment, review by affected states, and review by the federal EPA, as prescribed for initial permit issuance and five-year permit renewal.

Applications for significant permit modifications shall remain pending until approved, canceled, or denied.

(2) **Action on Significant Permit Modifications.** The Air Pollution Control Officer shall make every effort to act on a complete application for a significant modification within 12 months of receipt but in no case shall final permit action be taken more than 18 months from the date a complete application is received or an application is deemed complete.

(3) **Change of Location.** Any person who possesses a permit to operate any emission unit at a source that is subject to this regulation and desires to change the location of such emission unit shall first apply to the Air Pollution Control Officer for a significant

modification to the permit to operate pursuant to this section. The provisions of this paragraph shall not apply to any change of location for any portable emission unit provided such change will not violate a term or condition of the permit or cause or exacerbate violation of any national ambient air quality standard, air quality increment, or visibility requirement and the owner or operator has notified the Air Pollution Control Officer at least 10 days in advance of each change in location. Any change of location of a non-portable emission unit within a contiguous parcel of land in the possession of, or owned by, or recorded as the property of, the same person shall not be considered a change of location.

(l) OPERATIONAL FLEXIBILITY: SECTION 502(b)(10) CHANGES

The owner or operator of any emission unit that has a permit to operate may make changes in the operation and physical characteristics of the subject equipment, without seeking or receiving approval for a modification, provided such operational or physical changes:

(1) Are not "modifications" under any provision of Title I of the federal Clean Air Act, and

(2) Do not cause a violation of any applicable requirements, and

(3) Do not contravene federally enforceable requirements that are monitoring, recordkeeping, reporting, or compliance certification requirements, including requirements related to test methods, and

(4) Do not result in exceedance of emissions allowed under the permit, whether expressed therein as a rate of emissions or in terms of total emissions, or implied by a specific permit term that has the effect of limiting emissions from one or more emission units at the source.

For each such change, notification shall be provided to the Air Pollution Control Officer at least 45 days prior to implementation of such operational or physical changes. This notice shall be in writing and must include a brief description of the change, the date on which the change will occur, any change in emissions, and a listing of any permit term or condition affected. The notice shall be attached to copies of affected permits to operate maintained by the source.

A source may make a change within 45 days after notice to the Air Pollution Control Officer provided such change meets the requirements of this section. If the Air Pollution Control Officer subsequently determines that the change does not qualify as a Section 502 (b)(10) change, enforcement action may be taken against the source for making the change without prior approval. If the operator requests an affirmative determination by the Air Pollution Control Officer that the proposed change qualifies as a Section 502(b)(10) change, and agrees not to implement that change until a determination is made, the Air Pollution Control Officer shall make a determination and notify the operator within 60 days of receipt of notice of the proposed change.

The permit shield if any provided pursuant to Section (p) of this rule, shall not be applicable to changes made pursuant to this Section (l).

The Air Pollution Control Officer may determine that a planned or implemented Section 502(b)(10) change does not meet the requirements of this section at any time. Any such determination must be in writing setting out the specific reason or reasons that the change does not qualify as a Section 502(b)(10) change. Any determination by the Air Pollution Control Officer that a proposed change is not a Section 502(b)(10) change may be appealed to the Hearing Board. If notice of an adverse determination is received by the operator from the Air

Pollution Control Officer before the 45-day notice period has expired, the operator may not implement the proposed change, unless an appeal is taken to the Hearing Board and resolved in favor of the operator. If notice is received by the operator after the 45-day period for notice has expired and after the change has been implemented, and if the operator appeals the Air Pollution Control Officer's determination to the Hearing Board within 30 days of notice by the Air Pollution Control Officer, the change may remain in place until the matter is decided upon by the Hearing Board. In no case shall an appeal to the Hearing Board or decision by the Hearing Board affect or abridge the authority of EPA to object to a change or to determine that a change does not qualify as a Section 502 (b)(10) change.

Nothing in this section shall prohibit an operator from applying for a revision to a permit or the Air Pollution Control Officer from revising a permit to reflect the change made. Any such permit application shall be processed pursuant to the applicable permit processing provisions of this regulation. If the permit is revised pursuant to the provisions of this regulation for a significant permit modification, reopening of the permit to operate, or renewal of the permit to operate, the permit shield, if any provided to a source pursuant to Section (p) of this rule, may thereafter apply to the revised permit.

(m) OPERATIONAL FLEXIBILITY: TRADING UNDER AN EMISSIONS CAP

An applicant that has sought and received permit terms and conditions to allow internal trading of emissions solely for the purpose of complying with a federally enforceable emissions cap established independent of otherwise applicable requirements, may make any trade that is consistent with those permit terms and conditions upon seven days notice to the Air Pollution Control Officer.

This notice shall be in writing and must include a brief description of the trade, the date or dates on which the trade will occur, and information on any change in emissions.

The Air Pollution Control Officer may determine that a planned trade is not within the scope of the applicable permit at any time. Any such determination must be in writing setting out the specific reason or reasons that the proposed trade is not within the scope of the permit. Upon such a determination, the trade shall not proceed.

(n) OPERATIONAL FLEXIBILITY: ALTERNATIVE OPERATING SCENARIOS

Any applicant that identifies alternative operating scenarios in an application for permit pursuant to this regulation may exercise such alternative operating scenarios without prior notice to the Air Pollution Control Officer provided:

(1) The Air Pollution Control Officer determines during issuance of the permit to operate that such alternative operating scenarios do not violate any provisions or standards of these Rules and Regulation or of state, or federal law.

(2) Each alternative operating scenario is identified in all affected permits to operate.

(3) The applicant maintains current operating logs, in the manner and form prescribed by the Air Pollution Control Officer, identifying which alternative operating scenario the operation is under, and all information necessary to determine compliance as specified in the permit to operate.

(o) REOPENING OF A PERMIT TO OPERATE

Any permit to operate issued pursuant to this regulation shall be reopened prior to expiration following written notice of intent by the Air Pollution Control Officer to the permit holder at least 30 days prior to reopening, if any of the following occur:

(1) Additional requirements promulgated under the federal Clean Air Act become applicable for a major stationary source with at least three years remaining on the permit term. Such reopening shall be completed within 18 months after promulgation of the applicable requirement.

(2) Additional requirements (including excess emissions requirements) become applicable under the federal Clean Air Act Acid Rain Program.

(3) The Air Pollution Control Officer or the Administrator of the federal EPA determines that the permit must be revised or revoked:

(i) to correct a material mistake, or because inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(ii) to assure compliance with all applicable requirements.

The procedures for reopening and revising or reissuing a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

Reopenings by the Administrator of the federal EPA shall be performed in accordance with Section 70.7 (g) of 40 CFR Part 70.

Any source whose permit is partially reopened may request that the entire permit be reopened and reissued for a new five-year term.

In-scope permit actions, Section 502(b)(10) changes, trades under an emissions cap, administrative permit amendments, and minor permit modifications shall not require the use of permit reopening procedures.

(p) PERMIT SHIELD

Any source seeking a permit pursuant to this regulation may request that a permit shield be provided, to preclude enforcement of specific enumerated requirements where the Air Pollution Control Officer has determined in writing that such requirements are not applicable to the source and summarized the determination in the permit, or to limit enforcement to permit conditions for specified applicable requirements where the Air Pollution Control Officer has determined that compliance with such conditions may be deemed compliance with the underlying specified applicable requirements and the requirements are specifically identified as such in the permit.

No shield may apply to requirements promulgated after the permit to operate is issued nor to permit modifications or Section 502(b)(10) changes implemented without public notice and comment and an opportunity for review by the federal EPA and affected states.

A permit shield shall exist only as stated in the permit to operate. A permit shield shall not be in effect if the source is not in compliance with the terms and conditions of the permit that provide the permit shield.

The Air Pollution Control Officer may grant or deny permit shields, or limit the scope of such shields. District determinations may be based on the applicant's circumstances, the level of effort that would be required to identify or verify all requirements applicable to a source, the state of the law in the area where the shield is proposed, and other relevant considerations.

Nothing in this section shall alter or affect the following:

(1) The provisions of Section 303 of the federal Clean Air Act including the authority of the Administrator under that section,

(2) The liability of a source for any violation of applicable requirements prior to or at the time of permit issuance,

(3) The applicable requirements of the acid rain program consistent with Section 408 (a) of the federal Clean Air Act, and

(4) The ability of EPA to obtain information from a source pursuant to Section 114 of the federal Clean Air Act.

(q) ENHANCED PROCEDURES FOR AUTHORITIES TO CONSTRUCT

At the request of an applicant, the Air Pollution Control Officer shall process applications for permit modifications that would otherwise be considered minor permit modifications or significant permit modifications to a permit to operate, issued pursuant to this regulation, using the Administrative Permit Amendment procedures prescribed in Rule 1410(i) provided that the change for which the permit modification is sought has been previously approved by the Air Pollution Control Officer by issuance of an Authority to Construct as required by Rule 10 and provided that:

(1) The application for Authority to Construct includes:

(i) A compliance plan containing the elements specified in Rule 1414(f)(3)(viii) for any new or modified emission units.

(ii) A description of the methods the applicant proposes to use to determine compliance of the new or modified units with any applicable requirements, including descriptions of monitoring, recordkeeping and reporting requirements and test methods. Such compliance determination methods shall not be less stringent than the minimum standards contained in any applicable requirements.

(iii) A schedule for submission of initial compliance certifications for each new or modified unit. Such compliance certifications shall be submitted not later than one year after construction or modification of a unit is completed or sooner if specified by an applicable requirement or by the Air Pollution Control Officer.

(iv) Any other information deemed necessary by the Air Pollution Control Officer to determine compliance with all applicable requirements.

(2) The Authority to Construct includes:

(i) For each new or modified unit not in compliance with an applicable requirement or for which an applicable requirement becomes effective before issuance of a modified permit, a compliance schedule specifying the increments of progress under which the new or modified units will be brought into compliance and contain-

ing the elements specified in Rule 1421(b)(2)(ii). The compliance schedule shall also require periodic compliance progress reports to the Air Pollution Control Officer, to be submitted not less frequently than semi-annually.

(ii) A requirement for submission of initial compliance certifications for each new or modified unit consistent with the elements specified in Rule 1421 (b)(2)(iii). Such compliance certifications shall be submitted not later than one year after construction or modification of a unit is completed or sooner if specified by an applicable requirement or by the Air Pollution Control Officer. Each compliance certification shall contain a description of the monitoring methods, data, records, reports and test methods used to determine compliance.

(iii) A requirement that the new or modified unit not be operated until a modified permit is granted unless such operation can be allowed under the provisions of Sections (b), (i) or (j) of this rule.

(iv) A requirement that representatives of the District shall be allowed access to the source and all required records pursuant to State Health and Safety Code Section 41510.

(v) Requirements for monitoring, recordkeeping, testing and reporting as specified by applicable requirements or by these Rules and Regulations, or as determined necessary by the Air Pollution Control Officer to ensure compliance with all applicable requirements, and consistent with the elements specified in Rule 1421(b)(1)(iii).

(3) Prior to issuance of the Authority to Construct, the Air Pollution Control Officer has done all of the following:

(i) Publicly noticed the proposed issuance of an Authority to Construct and made available a draft of the proposed Authority to Construct for public review and comment for 45 days, following the procedures specified in Sections (a), (d), (e), (j) and (k) of Rule 1415 as if the Authority to Construct were a permit to operate.

(ii) Conducted a public hearing when, as a result of a petition from the public, the Air Pollution Control Officer has determined that there is reasonable cause to hold such a hearing. All public hearings shall be publicly noticed at least thirty days prior to the hearing. The public notice shall contain all of the information specified in Rule 1415(d) as if the Authority to Construct were a permit to operate.

(iii) Submitted a draft of the proposed Authority to Construct to any affected states and to the federal EPA Region IX, for a period of 45 days for review and comment. In the event the proposed Authority to Construct is substantively changed after submittal to EPA, such changes shall be resubmitted to EPA for a new 45-day review and comment period.

(4) All comments received from the public, affected states and federal EPA notification procedures described above have been considered and responded to by the Air Pollution Control Officer.

(5) The Administrator of the federal EPA has not objected to the issuance of the proposed Authority to Construct within the review periods prescribed in Subsection (3)(iii) above.

(6) The provisions of Rule 1425 with regard to appeals to the Hearing Board, petitions to the Administrator of the federal EPA and judicial review shall also apply to the granting of such Authority to Construct.

3. Rule 1411 is amended to read as follows

RULE 1411. EXEMPTION FROM PERMIT TO OPERATE FOR INSIGNIFICANT UNITS

A permit to operate shall not be required for any insignificant unit (see Appendix A). However, all such non-vehicular equipment shall be described in the initial application for permit to operate, and each application for renewal of a permit to operate, to the extent required by Rule 1414(f) of this regulation. Emissions from such non-vehicular equipment shall be included if deemed necessary by the Air Pollution Control Officer to determine the applicability of this regulation, any applicable requirement or applicable fees.

Nothing in the permit exemption provided in this rule shall preclude the equipment or processes described from meeting all other applicable requirements of these Rules and Regulations.

It is the responsibility of a person claiming an exemption under this rule to maintain and provide all data and/or records necessary to demonstrate the exemption is applicable. This information shall be made available to the Air Pollution Control Officer upon request.

4. Rule 1412 is added to read as follows:

RULE 1412. FEDERAL ACID RAIN PROGRAM REQUIREMENTS

The provisions of 40 CFR Part 72 in effect on (date of adoption) are hereby adopted by reference and made part of these Rules and Regulations for the purposes of implementing an acid rain program that meets the requirements of Title IV of the federal Clean Air Act. For the purposes of this rule, the term "permitting authority", as that term is used in 40 CFR Part 72, shall mean the San Diego County Air Pollution Control District, and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

For those facilities which are subject to this rule, if the provisions or requirements of 40 CFR Part 72 are determined to conflict with Regulation XIV, the provisions and requirements of 40 CFR Part 72 shall apply and take precedence.

5. Rule 1413 Sections (b) and (c) are amended to read as follows:

RULE 1413. EARLY REDUCTION OF HAZARDOUS AIR POLLUTANTS

(a) GENERAL

Any source seeking a permit under this regulation, that expects to be subject to requirements to reduce emissions of federal hazardous air pollutants during the term of the proposed permit, may propose to make reductions in emissions of such pollutants or contaminants in advance of new requirements becoming applicable.

If the requirements of this rule are met, early reduction requirements shall be incorporated into the permit to operate and the source shall, to the extent permitted by law, be protected from the imposition of additional requirements for the reduction of federal hazardous air pollutants, as provided in Sections (b) and (c) of this rule.

(b) FEDERAL EARLY REDUCTION PROGRAM

Any source proposing to implement alternative emissions limitations for hazardous air pollutants under Section 112(i)(5) of the federal Clean Air Act and implementing regulations promulgated by the federal EPA at 40 CFR Part 63, shall include proposed permit terms and conditions in its permit application. Those terms and conditions shall provide for at least a 95% reduction in particulate federal hazardous air pollutants, and at least a 90% reduction in all other federal hazardous air pollutants that would be subject to regulation under Section 112 of the federal Clean Air Act, in comparison to the baseline specified in Section 112(i)(5) of the federal Clean Air Act and implementing regulations promulgated by the federal EPA at 40 CFR Part 63. The proposed early reductions must occur before applicable federal standards are promulgated, and all other requirements of Section 112(i)(5) and implementing regulations promulgated by the federal EPA at 40 CFR Part 63, must also be met. If the requirements of the federal Clean Air Act and implementing regulations promulgated by the federal EPA at 40 CFR Part 63 are met, the source shall receive a six-year delay in the effective date of requirements that would be otherwise applicable under Section 112 of the federal Clean Air Act, or under state and local programs implementing that Act.

(c) PROTECTION OF PUBLIC HEALTH

Nothing in this rule shall prevent the Air Pollution Control Officer from imposing additional requirements for the control of federal hazardous air pollutants on a source whose permit to operate includes early reduction terms and conditions and associated protections, if risks from emissions from that source are later determined to pose a significant threat to human health.

6. Rule 1414 Sections (a)-(d), (f), (g) and (h) are amended to read as follows:

RULE 1414. APPLICATIONS

(a) GENERAL

Every application for a permit required under Rule 1410 shall be filed in the manner and form prescribed by the Air Pollution Control Officer and Section (f) of this rule. Each application must include the appropriate District supplemental standard forms for the equipment covered by the permit, or must reference applicable forms previously provided to the District. Upon request by the Air Pollution Control Officer an applicant shall give all the information necessary to enable the Air Pollution Control Officer to make the determinations required by Rules 1420 and 1421 of this regulation. Submittal of a complete application does not relieve the source from obtaining an authority to construct pursuant to Rule 10 of these Rules and Regulations.

Every application for a permit required under Rule 1410 shall be accompanied by permit fees as specified by Rule 40 of these Rules and Regulations. Upon request by the applicant, the Air Pollution Control Officer will consider alternative payment arrangements in connection with applications for initial permit to operate, where processing of such applications is expected to be significantly delayed.

(b) INITIAL PERMIT TO OPERATE FOR EXISTING SOURCES

The first application for a permit to operate for a source that is in operation at the time this regulation becomes effective, and which source is subject to this regulation, shall be submitted no later than 12 months after the effective date of this regulation. Within 30 days of the effective date of this regulation, the Air Pollution Control Officer may direct up to one third of the sources expected to be required to apply for initial permits to submit their applications no later than six months after the effective date of this regulation. The Air Pollution Control Officer shall endeavor to limit this call for accelerated application submissions to sources that are expected to submit relatively simple permit applications, and that are expected to receive permits to operate that carry over existing permit to operate terms and conditions with little change (other than the addition of new terms and conditions that are mandatory for all permits to operate). In selecting sources for accelerated application submission, the Air Pollution Control Officer shall take into account any information provided by a potential applicant that indicates that applicant's permit application will not be relatively simple.

(c) INITIAL PERMIT TO OPERATE FOR NEW AND MODIFIED SOURCES

A complete application for a permit to operate for a source constructed or modified after the effective date of this regulation and required to comply with Section 112 (g) of the federal Clean Air Act or to have an Authority to Construct under a program approved into the State Implementation Plan pursuant to Parts C or D, Title I of the federal Clean Air Act must be submitted not later than 12 months after the source has commenced operation. Where an existing permit to operate would prohibit such construction or modification, the owner or operator of such source must obtain a permit revision before commencing operation.

(d) INITIAL PERMIT TO OPERATE FOR NEWLY REGULATED SOURCES

The owner or operator of any source that will become subject to the applicability of this regulation as a result of equipment modification or a change to equipment operation, shall apply for a permit to operate within 12 months after the source becomes subject to this regulation.

Where an authority to construct is not required for an existing emission unit, the owner or operator of a stationary source that becomes subject to this regulation due to an increase in emissions at the stationary source, a change in the applicability of this regulation made by the Administrator of the federal EPA, or for any other reason, shall apply for a permit under this regulation not later than 12 months after becoming subject to this regulation.

(e) PHASE II ACID RAIN PERMITS

Applications for approval of initial Phase II acid rain permits, required pursuant to Section 408, Title IV of the federal Clean Air Act, as a part of the permit to operate issued pursuant to this regulation shall be submitted to the Air Pollution Control Officer by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.

(f) COMPLETE APPLICATION

A complete application for a permit to operate shall contain all of the following:

(1) Information sufficient to determine all applicable requirements and to evaluate the subject source for compliance with all applicable requirements. This information shall include emissions of insignificant units if determined necessary by the Air Pollution Control Officer for determining the applicability of this regulation or any applicable requirement to a source.

(2) A certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete.

(3) Information as described below for each source, except for insignificant units, covered by the application:

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

(ii) A description of the source's processes and products including any associated with each alternative operating scenario identified by the source;

(iii) The following emissions-related information:

(A) all emissions of pollutants for which the source is a major stationary source, and all emissions of regulated air pollutants. A permit application shall describe all emissions of federally regulated air pollutants emitted from any emission unit. The applicant is required to submit additional information related to the emissions of air pollutants sufficient to allow the Air Pollution Control Officer to verify which requirements are applicable to the source, and other information necessary to determine any fees pursuant to Rule 40;

(B) identification and description of all points of emissions described in paragraph (A) above in sufficient detail to establish the basis for fees and applicability of requirements of these Rules and Regulations, state and federal law;

(C) emissions rate in tons per year (tpy) and in such terms and conditions as are necessary to establish compliance consistent with the applicable standard reference test method;

(D) the following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules;

(E) identification and description of air pollution control equipment and compliance monitoring devices or activities;

(F) limitations on source operation affecting emissions or any work practice standards, where applicable, for all federally regulated air pollutants at the source;

(G) other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the federal Clean Air Act); and

(H) calculations on which the information in paragraphs (A) through (G) above is based.

(iv) The following air pollution control information:

(A) citation and description of all applicable requirements, all other terms and conditions of existing permits to operate proposed to be carried over

in the permit to operate, and any additional terms and conditions proposed for that permit. Where a proposed new term or condition is intended to substitute for an existing term or condition that the applicant proposes not be carried over, the relationship between old and new terms and conditions shall be set forth;

(B) the applicant may, but need not, submit a statement of the permit applicant's understanding or proposal as to which proposed terms and conditions of the permit to operate are or should become federally enforceable; and

(C) description of or reference to any applicable test method for determining compliance with each applicable requirement.

(v) Other specific information that may be necessary to implement and enforce other applicable requirements of these Rules and Regulations or state and federal law or to determine the applicability of such requirements.

(vi) An explanation of any proposed exemptions from otherwise applicable requirements.

(vii) Additional information as determined to be necessary by the Air Pollution Control Officer to define alternative operating scenarios identified by the source or to define permit terms and conditions for emissions trading.

(viii) A compliance plan that contains all of the following:

(A) a description of the compliance status of the source with respect to all applicable requirements;

(B) for applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(C) for applicable requirements that will become effective during the permit term (five years), a statement that the source will meet such requirements on a timely basis and a proposed schedule of increments of progress towards compliance;

(D) for requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements, together with a copy of any applicable variance order issued by the Hearing Board. A variance order issued by the Hearing Board may be used as information for consideration in developing a compliance plan or schedule but does not constitute a compliance plan or schedule under this rule;

(E) a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. For applicable requirements with which the source is in compliance, the schedule of compliance shall include a statement that the source will continue to comply with such requirements. For applicable requirements that will become effective during the permit term, the schedule of compliance shall include a statement that the source will meet such requirements on a timely basis. This compliance schedule shall resemble and be at

least as stringent as that contained in any Hearing Board order, judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

(F) a schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation; and

(G) the compliance plan content requirements specified in this subsection shall apply and be included in the acid rain portion of a compliance plan for an affected source (Acid Rain), except as specifically superseded by regulations promulgated under Title IV of the federal Clean Air Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(ix) A compliance certification, including the following:

(A) a certification of compliance with all applicable requirements signed by a responsible official consistent with Subsection (f)(2) of this rule and Section 114(a)(3) of the Act;

(B) a statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) a schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the applicable requirement or by the Air Pollution Control Officer; and

(D) a statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the federal Clean Air Act.

(x) Nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated by the federal EPA under Title IV of the federal Clean Air Act.

(xi) For any source seeking to trade emissions under a federally enforceable emissions cap for which the existence or federal enforceability was established in the permit independent of otherwise applicable requirements, the source must specify replicable procedures that ensure that trades are enforceable, accountable, and quantifiable. (See Rule 1420 for a discussion of the standards the Air Pollution Control Officer will apply to determine whether this requirement has been met.)

(4) A list of insignificant units which are exempt from the requirement to have a permit based on size or production rate.

(g) **OPTIONAL INFORMATION ON FEDERAL HAZARDOUS AIR POLLUTANTS**

Any source may use the permit application process as an occasion for identifying and resolving issues related to the control of federal hazardous air pollutants at the source over the life of the permit. Any source seeking permit terms and conditions that will define applicable

requirements over the life of the permit shall provide the information set forth in Subsection (f)(3) of this rule for any federal hazardous air pollutant or toxic air contaminant that is likely to be regulated at that source under federal or state law or local regulations over the life of the permit.

Nothing in this section shall be construed to limit the applicability and effect of requirements that become applicable to a source during the life of the permit.

(h) **ADDITIONAL INFORMATION**

Additional information necessary for determining compliance with any applicable requirements may be requested by the Air Pollution Control Officer after an application has been determined to be or deemed to be complete. The applicant must provide such information within a reasonable time as specified by the Air Pollution Control Officer, but in no case later than six months from the date requested.

Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

7. Rule 1415 Sections (a), (c), (d), (h), (k) and (l) are amended and Section (m) is added to read as follows:

RULE 1415. PERMIT PROCESS-PUBLIC NOTIFICATION

(a) **PUBLIC NOTICE**

At least 45 days prior to issuance of a five year initial permit to operate subject to this regulation, a revised permit resulting from an application for significant modification or renewal of such a permit, the Air Pollution Control Officer shall publicly notice and make available a draft of the proposed permit for public review and comment as follows:

(1) Publication in a newspaper of general circulation of a notice of intent to issue a permit to operate.

(2) Notification to all persons requesting to be included in a mailing list for purposes of notification of all permit actions.

(3) By other means if determined necessary by the Air Pollution Control Officer to assure adequate notice to the affected public.

(4) Availability of a copy of the draft permit for public review at the Air Pollution Control District offices.

(b) **PUBLIC HEARINGS**

Pursuant to any petition from the public as a result of public notice, the Air Pollution Control Officer shall, with reasonable cause, hold a public hearing to receive comments regarding initial issuance, modification, or renewal of a permit to operate. All public hearings

shall be preceded by issuance of a public notice containing all information specified in Section (d) of this rule at least 30 days prior to the public hearing.

(c) NOTICE TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)

At least 45 days prior to issuance of a five year initial permit to operate subject to this regulation, or significant modification or renewal of such a permit, a draft of the proposed permit shall be made available to the federal EPA, Region IX for the purpose of comment on the proposed permit. In the event a proposed permit to operate issuance or renewal is substantively changed after submittal to federal EPA, such changes shall be resubmitted to federal EPA. An additional 45 days shall be provided for federal EPA review and comment regarding the changes. The federal EPA shall be provided with a copy of the final permit with supporting analysis used as a basis for permit issuance.

The Air Pollution Control Officer shall not issue a permit to operate required by this regulation if the Administrator of the federal EPA objects, within the specified review period, to such issuance. In such case, a permit to operate shall not be issued by the Air Pollution Control Officer except in a form consistent with the objection, or after the Administrator withdraws the objection.

(d) CONTENTS OF PUBLIC NOTICE.

Notice to the public shall:

(1) Identify the affected facility by name and address;

(2) Provide the name and address of the District processing the permit;

(3) Identify the activity or activities involved in the proposed permit action;

(4) Identify the emissions change involved in any modification;

(5) Identify the name, telephone number and address of the person who can provide additional information including:

(i) a copy of the permit draft;

(ii) the permit application; and

(iii) all relevant supporting materials available to the Air Pollution Control Officer.

(6) Describe procedures for providing comments;

(7) Include the time and place of any hearing, if already scheduled, or the procedures for petitioning for a hearing; and

(8) Identify the scope of the permit review and identify areas that are appropriate for public comment.

(e) COORDINATED PROCESSING OF RELATED PERMITS

The District shall endeavor to issue a single public notice, to hold a single public hearing (if a hearing is necessary), and to coordinate notice to the federal EPA for any group of permits for similar sources that raises similar issues.

(f) EXCEPTIONS

The public notice requirements of this rule shall not apply to minor modifications and administrative amendments.

(g) NEW APPLICATION LISTS

Lists of new permit applications received will be posted in the District office on a weekly basis. These lists will be available for public review during normal business hours. A copy of the list will be provided to any person or interested group who has requested a copy in writing.

(h) CONSIDERATION OF COMMENTS

All comments received from the public notification process shall be retained by the Air Pollution Control Officer. Comments that are relevant to the permit review and areas appropriate for public comment identified pursuant to Subsection (d)(8) of this rule shall be considered and responded to by the District in the review of an application for permit.

(i) COPIES OF PERMIT ACTION

Upon issuance of an Authority to Construct, Temporary Authorization, Permit to Operate, or a revised Permit to Operate, the Air Pollution Control Officer shall mail a copy of such action to any person or interested group who has requested a copy in writing.

(j) PUBLIC INSPECTION

The permit file will be open to public inspection to the extent required by District Rules and Regulations, and state and federal law.

(k) TRADE SECRETS

Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public or the federal EPA any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX and 40 CFR Section 70.4 (b)(3)(viii). However, the Air Pollution Control Officer will provide the federal EPA with notice of which specific trade secret information has been withheld.

(l) ACTION ON APPLICATIONS

Notwithstanding the requirements of Sections (a) through (k) of this rule, the Air Pollution Control Officer shall take final permit action on an application for an initial permit, a revised permit, or a reopening of a permit within the time limits specified in Rule 1410.

(m) TRANSMITTAL OF PERMIT DOCUMENTS TO THE FEDERAL EPA

The Air Pollution Control Officer shall provide to the Administrator of the federal EPA a copy of each application (or summary thereof) for initial permit, permit renewal, administrative permit amendment and permit modification, each proposed permit, and each final initial, revised or renewed permit.

RULE 1416. RESERVED.

8. Rule 1417 Section (a) is amended to read as follows:

RULE 1417. PENDENCY AND CANCELLATION OF APPLICATIONS

(a) PENDENCY AND APPLICATION SHIELD

An application for a permit to operate filed pursuant to this regulation shall remain pending until it is approved, denied or canceled by the Air Pollution Control Officer, or withdrawn by the applicant pursuant to the time limits required by Rule 1418. Except as otherwise specified in Rule 1410(a), the application shield (for permit issuance and renewal) provided by Rule 1410(a) shall remain in effect from the time an application is determined to be or is deemed to be complete until an application is approved, denied, canceled or withdrawn pursuant to the time limits specified in Rule 1418.

(b) EFFECT OF DENIAL OR CANCELLATION OF REQUIRED PERMIT TO OPERATE

Denial or cancellation of an application filed pursuant to this regulation is a final permit action, which may affect existing permits to operate.

(c) FAILURE TO PROVIDE ADDITIONAL INFORMATION

An application for an initial, modified or renewed permit to operate may be canceled if the Air Pollution Control Officer requests additional information necessary to complete evaluation of the application and the applicant fails to furnish the information within six months after the request.

(d) DELIVERY OF NOTICE OF CANCELLATION

Notice of any cancellation action taken pursuant to this regulation shall be deemed to have been given when written notification has been delivered to the applicant or a designated representative.

9. Rule 1418 is amended to read as follows:

RULE 1418. ACTION ON APPLICATIONS

Action on applications submitted pursuant to this regulation shall be in accordance with this rule notwithstanding other provisions of these Rules and Regulations.

(a) COMPLETENESS DETERMINATION

The Air Pollution Control Officer shall, within 60 days of receipt of an application for an initial permit to operate, for significant modification of a permit to operate or for renewal of such a permit, determine whether the application is complete or incomplete and so notify the applicant; if incomplete, the notice shall specify the additional information needed from the applicant to complete the application. An application for a permit to operate shall be determined to be complete when all required information and fees specified in Rule 1414 are sub-

mitted, even if the applicant or the Air Pollution Control Officer determines that testing will be required, before a decision can be made to approve or disapprove the permit application. The completeness determination for a permit application shall not be delayed pending compliance with any authority to construct conditions that are unrelated to the completeness determination. When all the additional information is received and the application is deemed complete, the applicant will be so notified. Unless the Air Pollution Control Officer determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed complete.

(b) **ACTION TIME**

The Air Pollution Control Officer shall act on at least one third of initial permit applications for existing sources in each of the three years following the effective date of this regulation.

For all other applications, the Air Pollution Control Officer shall approve or deny each complete application within the following time limits:

(1) For administrative permit amendments, no more than 60 days from receipt of a request by the applicant;

(2) For minor permit modification, no more than 90 days from receipt of a complete application or 15 days after the end of the Administrator's 45-day review period, whichever is later;

(3) For a significant permit modification, not more than 18 months from the receipt of a complete application; or

(4) For an initial permit or renewal, not more than 18 months from the receipt of a complete application except as provided above in this section.

(c) **DELAY IN SUBMISSION TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)**

The Air Pollution Control Officer shall delay the submission of decisions on permits to operate and appeals to the federal EPA, in order to allow time for an appeal to the Hearing Board, in the following circumstances:

(1) Submission shall be delayed for 10 days after notice has been provided to the applicant if the Air Pollution Control Officer has reason to expect an appeal to be filed; or if the Air Pollution Control Officer has been notified by the applicant or by any person entitled to appeal, that an appeal will be taken; or if the permit would substantially modify the terms and conditions proposed by the applicant in a manner adverse to the applicant; or if the proposed action has not been subject to prior public notice and comment, and the approval allows the permit holder to conduct operations for more than 40 days that will result in increased emissions or in the release of different pollutants regulated under Section 44300 (et seq.) of the Health and Safety Code, as compared to emissions from operations conducted by the permit holder prior to issuance of the permit.

(2) Submission shall be further delayed until any appeal to the Hearing Board is resolved or until 30 days after the appeal is filed (whichever occurs first), if an appeal raising issues within Hearing Board jurisdiction is filed within 10 days after notice to the applicant by a person entitled to appeal, or if any person entitled to appeal notifies the Clerk of the Hearing Board and the Air Pollution Control Officer in writing, within 10 days after notice to the applicant, that an appeal will be filed.

(3) Notwithstanding the above, there shall be no delay in submission of a proposed action on a permit or modification beyond 30 days after notice to the applicant unless an appeal raising issues within the Hearing Board's jurisdiction is actually filed by a person entitled to make such appeal within such 30 days.

(d) **DELIVERY OF NOTICE OF ACTION**

Notice of any action taken shall be deemed to have been given when written notification has been delivered to the applicant or the applicant's representative.

(e) **EFFECTIVE DATE OF PERMIT ACTION**

Administrative amendments shall be effective on the date they are approved by the Air Pollution Control Officer. For issuance and renewals of permits, and approval of modifications that are subject to review by the federal EPA, the Air Pollution Control Officer shall make the effective date of the permit action the first day following the last day for federal EPA review unless the federal EPA has objected to the permit action.

RULE 1419. PROVISION OF SAMPLING AND TESTING FACILITIES AND EMISSION INFORMATION

The Air Pollution Control Officer may require that additional sampling and testing facilities be provided by a source seeking a permit to operate if the same requirement is also being imposed on similar emission units that are not subject to this regulation, or if the terms and conditions of the permit to operate create a need for increased sampling and testing to ensure compliance with new permit terms and conditions (e.g., in connection with alternative operating scenarios or trading under an emissions cap). A person owning or operating any emission unit for which additional sampling or testing is determined to be necessary pursuant to this rule shall provide and maintain such sampling and testing facilities as are specified in the permit to operate.

Nothing in this rule shall preclude the Air Pollution Control Officer from imposing requirements for the provision of sampling and testing facilities by rule.

RULE 1419.2. RESERVED

10. Rule 1420 Sections (e), (f), (g) and (i) are amended to read as follows:

RULE 1420. STANDARDS FOR GRANTING PERMITS

(a) **COMPLIANCE**

The Air Pollution Control Officer shall deny a permit to operate, except as provided in Rule 1421, unless the requirements of this rule are met.

(b) **NEW TERMS AND CONDITIONS**

The Air Pollution Control Officer shall not impose any new or additional terms or conditions on any emission unit presently under permit that were not previously required in the

currently valid permit to operate for that unit (or, if the unit is new, in permits to operate for similar units at other sources), unless:

(1) The new or additional term or condition is required by the federal Clean Air Act, or is required to implement an applicable requirement;

(2) The new or additional term or condition updates the permit to operate to conform to, or clarify, the requirements of these Rules and Regulations;

(3) The new or additional term or condition is a part of an alternative operating scenario proposed by the applicant, or is necessary to regulate trading under an emissions cap proposed by the applicant; or

(4) Terms or conditions substantially the same as the new or existing terms or conditions in the permit to operate are being imposed at the same time and in the same manner on similar emission units that are not subject to this regulation. If an affected emission unit is unique due to physical or operational characteristics, the emissions controls in place, or the permit conditions imposed previously, those requirements for equal treatment of "similar" emission units shall not be applicable.

(c) PROVISIONS FOR SAMPLING AND TESTING

Before a permit to operate is granted, the Air Pollution Control Officer may require the applicant to provide and maintain such additional facilities for sampling and testing purposes as may be necessary to monitor compliance with any terms and conditions of the permit to operate that were not already contained in the existing permits to operate for the source. In the event of such a requirement, the Air Pollution Control Officer shall notify the applicant in writing of the required size, number and location of sampling holes; the size and location of the sampling platform, the access to the sampling platform; and the utilities for operating the sampling and testing equipment. The platform and access shall be constructed in accordance with the General Industrial Safety Orders of the State of California.

(d) INCORRECT INFORMATION IN AN APPLICATION

In acting upon a permit application, if the Air Pollution Control Officer finds that an emission unit does not correspond to the information in the permit application, he shall request clarifying or supplemental information. If satisfactory information is not received within 90 days of this request, or any longer period specified in the request, the Air Pollution Control Officer may cancel the application.

(e) APPLICATIONS PROPOSING TRADING UNDER AN EMISSIONS CAP

If an applicant proposes internal trading under a federally enforceable emissions cap to be established in the permit to operate independent of otherwise applicable requirements, the Air Pollution Control Officer shall approve the proposed trading provisions only if the applicant demonstrates, or the Air Pollution Control Officer otherwise determines, that the permit will specify replicable procedures that ensure that trades are enforceable, accountable and quantifiable. The terms and conditions of the permit allowing such emissions trading must ensure compliance with all applicable requirements.

For trades to be enforceable, the requirements applicable to emission units involved in a trade must be clear and unambiguous, and it must be practicable to determine compliance with those requirements. For trades to be accountable, it must be clear how trades will affect emissions from the source. For trades to be quantifiable, the permit must specify measuring

techniques, including test methods, monitoring, recordkeeping and reporting requirements, as appropriate, which will be used to measure emissions.

(f) SPECIFIC COMPLIANCE REQUIREMENTS

The Air Pollution Control Officer shall deny a permit to operate or revised permit to operate, except as provided in Rule 1421, if the applicant does not show in its permit application that every emission unit at the source can be operated in compliance with:

(1) All relevant requirements of these Rules and Regulations including new source review. Where the proposed revision of permit to operate conditions, including the proposed revision of conditions relating to the method of operations, will result in an increased aggregate potential to emit for the source, the Air Pollution Control Officer shall evaluate the proposed revision in accordance with the provisions of the District's new source review rules and shall determine compliance with the District's new source review rules as if an application for an authority to construct had been received containing the proposed revised conditions. In said situations, the permit to operate with revised conditions shall not be granted in cases where such an authority to construct would not have been granted.

(2) All relevant requirements of Division 26 of the California Health and Safety Code.

(3) All applicable requirements of Section 112 of the federal Clean Air Act as amended in 1990.

(4) All applicable requirements of the federal Acid Rain Program contained in Title IV of the federal Clean Air Act as amended in 1990.

(5) Any requirements established in the permit to operate that were not already contained in permits to operate for the source.

(g) COMPLIANCE SCHEDULES

In acting upon a permit or modification application, if the Air Pollution Control Officer finds that the source is in compliance with all applicable requirements except those for which the Hearing Board has issued a variance, the Air Pollution Control Officer may approve the application provided a compliance plan is included with the application which meets the requirements of Rule 1414 (f)(3)(viii) and a compliance schedule and a requirement for submission of certified progress reports no less frequently than every six months are included as conditions of the permit to operate pursuant to Rule 1421.

(h) NOTIFICATION REQUIREMENTS MANDATORY

The Air Pollution Control Officer shall not issue a permit to operate unless all applicable provisions of Rule 1415, Permit Process-Public Notification, have been met.

(i) FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA) OBJECTIONS

The Air Pollution Control Officer shall not issue a permit to operate required by this regulation if the Administrator of the federal EPA objects, within the review periods specified in Rule 1410, to such issuance. In such case, a permit to operate shall not be issued by the Air Pollution Control Officer except in a form consistent with the objection, or after the Administrator withdraws the objection.

11. Rule 1421 Sections (a), (b), and (d) amendments are to read as follows:

RULE 1421. PERMIT CONDITIONS

(a) CONDITIONS AND COMPLIANCE SCHEDULES AUTHORIZED

A permit to operate shall include any conditions that are necessary to ensure compliance with these Rules and Regulations and applicable state and federal laws and regulations. Subject to the limitations set forth in Rule 1420(b), new conditions may be imposed when a permit to operate is issued. New conditions shall be imposed to require that the permittee shall submit reports at least once every six months which summarize the results of all monitoring and recordkeeping required.

Any conditions or increments of progress associated with any compliance schedule that is made a part of a permit to operate shall be in writing, shall become part of the permit to operate, and shall be complied with at all times. The permit shall require progress reports describing the status of compliance with increments of progress prescribed in the compliance schedule to be submitted not less frequently than semi-annually.

Commencing or continuing operation under a permit to operate shall be deemed acceptance of all the conditions specified in the permit. This does not limit the right of the applicant to seek judicial review or seek federal EPA review of a permit term or condition.

(b) PERMIT CONTENT

(1) Each permit shall include the following elements:

(i) Conditions that establish emission limitations and standards for all applicable requirements and will assure compliance with all applicable requirements through compliance certification, testing, monitoring, reporting and recordkeeping.

(ii) The term of the permit.

(iii) Conditions establishing applicable emissions monitoring and emissions testing or continuous monitoring requirements and related recordkeeping and reporting requirements. Where an applicable requirement does not require periodic testing or monitoring, conditions establishing periodic monitoring sufficient to yield reliable data from the relevant time period and to ensure compliance with the applicable requirement.

Conditions requiring that all applicable records and support information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit be maintained for a period of at least five years. All records of required monitoring must include:

(A) the date, the location as defined in the permit, and the time of sampling or measurement;

(B) the date(s) analyses were performed;

(C) the company or entity that performed the analyses;

(D) the analytical techniques or methods used;

(E) the results of such analyses; and

(F) the operating conditions as existing at the time of sampling and measurement.

All required reports shall be submitted to the District at least every six months and shall be certified by a responsible official. Such reports shall identify any deviations from federally enforceable permit conditions. In addition, prompt reporting to the District of any deviations from federally enforceable permit conditions shall be required. The report must include the probable cause of such deviations and any corrective actions or preventive measures taken.

(iv) If applicable a federally enforceable permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the federal Clean Air Act or rules promulgated under Title IV.

(v) A severability clause to ensure the continued validity of the various federally enforceable permit requirements in the event of a challenge to any portions of the permit.

(vi) A statement that the source must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(vii) A statement that the need for a source to halt or reduce activity in order to maintain compliance shall not be a defense in an enforcement action.

(viii) A statement that the permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the source for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(ix) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege.

(x) A statement that the source shall furnish to the District, within a reasonable time:

(A) any information required to determine whether cause exists for modifying, revoking, reissuing, or terminating the permit;

(B) any information required to determine compliance with the permit conditions; or

(C) copies of any records required to be maintained pursuant to permit conditions.

(xi) A condition requiring the source pay fees due to the District consistent with all applicable fee schedules.

(xii) Applicable conditions for all reasonably anticipated operating scenarios identified by the source in its permit application. The source shall also record the operating change in a log, noting the scenario under which the source is operated. Such conditions shall meet all applicable requirements.

(xiii) Terms and conditions, if requested by the source for emissions trading within the source and approved by the Air Pollution Control Officer, to the extent that the permit provides for trading. Such terms and conditions:

(A) shall include standard permit and compliance requirements consistent with this section;

(B) may extend the permit shield to all terms and conditions that allow emissions trading; and

(C) shall meet all applicable requirements of this regulation.

(xiv) For any condition based on applicable requirements, references that specify the origin and authority for each condition, and identify any difference in form as compared to such applicable requirement.

(2) Each permit shall include the following compliance requirements:

(i) A statement that representatives of the District shall be allowed access to the source and all required records pursuant to State Health and Safety Code Section 41510.

(ii) A schedule of compliance if the source is not in compliance with any applicable requirement. In addition, a condition that requires submittal of a progress report not less frequently than every six months. Such progress reports shall contain the following:

(A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(iii) A requirement that the source submit a compliance certification consistent with Rule 1414 (f)(3)(ix) and also containing:

(A) the frequency of submittals of compliance certifications;

(B) a requirement for the compliance certification to include the following:

(1) the identification of each term or condition of the permit that is the basis of the certification;

(2) the compliance status;

(3) whether compliance was continuous or intermittent;

(4) the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with this section; and

(5) such other facts as the permitting authority may require to determine the compliance status of the source.

(C) a requirement that all compliance certifications be submitted to the federal EPA as well as the District.

(D) Such additional requirements as may be specified pursuant to Sections 114 (a)(3) and 504 (b) of the federal Clean Air Act.

(iv) A requirement that any document required by permit shall contain a certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the document is true, accurate, and complete.

(3) The Air Pollution Control Officer shall specifically designate as being federally enforceable under the federal Clean Air Act any terms and conditions of the permit that are required under the federal Clean Air Act or applicable requirement. All terms and conditions of the permit specifically designated as federally enforceable shall be enforceable by EPA and the public (through judicial review or petitions to the Administrator) under the federal Clean Air Act.

(c) STATE AND LOCAL ENFORCEMENT

Any person who fails to comply with any condition imposed shall be liable to penalty pursuant to Division 26, Part 4, Chapter 4, Article 3, of the State of California Health and Safety Code.

(d) FEDERAL ENFORCEABILITY

Any permit conditions imposed pursuant to this rule and identified by the Air Pollution Control Officer as federally enforceable shall be enforceable by the federal EPA and any of its authorized employees or agents, and by citizens to the extent provided in the federal Clean Air Act. (As with any permit condition, these permit conditions are also enforceable by state and local authorities.) Forbearance from enforcement of such provisions by the Air Pollution Control Officer shall not limit the enforcement authority of the federal EPA, or citizens.

The Air Pollution Control Officer may designate as federally enforceable only those permit conditions that identify, describe, or define applicable requirements that are federally enforceable by operation of law or that the applicant requests be made federally enforceable in order to create a voluntary emissions cap. Except as provided herein, the Air Pollution Control Officer may not use the process to attach federal enforcement authority to permit conditions that would not otherwise have been federally enforceable.

A requirement that is federally enforceable by operation of law apart from the permit process will continue to be federally enforceable despite the failure of the Air Pollution Control Officer to designate the requirement as federally enforceable.

The Air Pollution Control Officer shall act promptly to reopen a permit if the Air Pollution Control Officer determines that the permit does not designate any permit term, condition, or applicable requirement as federally enforceable that was federally enforceable prior to the granting of the permit or which became federally enforceable after the granting of the permit. In the latter case, the permit shall not be reopened if the remaining life of the permit is less than three years.

Where a permit condition is designated as federally enforceable, any enforcement undertaken by the federal EPA or a citizen shall have full force of any and all legal recourse and

penalties the federal EPA or a court of law are empowered to impose pursuant to authority granted in the federal Clean Air Act and the Code of Federal Regulations.

12. Rule 1422 is amended to read as follows:

RULE 1422. DENIAL OR CANCELLATION OF APPLICATIONS

Denial or cancellation of an application for a modification to a permit issued pursuant to this regulation shall leave existing permits to operate issued pursuant to Rule 1410 for the source intact, and the source must continue operations consistent with those permits. This provision shall not allow a source to operate out of compliance with permit terms and conditions except as provided for minor permit modifications pursuant to Rule 1410 (j).

In the event of cancellation or denial of a permit to operate, the Air Pollution Control Officer shall notify the applicant in writing of the reasons therefore. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served or declaration under oath of the person making the service.

Denial of an initial or renewal permit to operate, to a source required to have such a permit, shall also constitute suspension of the permits to operate for that source as of the date of service of denial or cancellation notice, or the date on which a permit to operate was required, whichever is later. Except as provided in the preceding paragraph, denial of a required permit to operate and the accompanying suspension of permits to operate is a final permit action.

Unless the applicant submits a responsive supplemental application within 90 days after notice of cancellation, a cancellation of an application for a required permit to operate shall become effective 90 days after notice to the applicant of the proposed cancellation. If a responsive supplemental application is submitted within this 90-day period, the application shall be restored to pending status until the Air Pollution Control Officer takes further action. As of the effective date of a cancellation, permits to operate for the affected emission units shall be suspended, and any permit application shield otherwise provided by Rule 1410(a) shall no longer be in effect. Any operation of equipment required to have permits after the effective date of a cancellation is prohibited, and subject to fines and penalties as provided in these Rules and Regulations, and state and federal law. Notwithstanding the denial and cancellation procedures prescribed in this rule, the Air Pollution Control Officer shall take final permit action on an application for initial permit or permit renewal no later than 18 months after the receipt of a completed application.

If the deficiencies in a permit application affect only certain emission units at a source, any cancellation of the application shall be limited in its effect to those emission units. If the circumstances requiring denial of a permit to operate apply only to certain emission units at a source, any denial of that permit shall be limited to those emission units.

Any denial by the Air Pollution Control Officer that is noticed to the applicant prior to submission of the permit action to the federal EPA may also be appealed to the Hearing Board if the stated grounds for the denial are within the jurisdiction of the Hearing Board.

A source whose permit to operate is canceled or denied in whole or in part may submit a supplemental permit application, addressing the permit issues or application deficiencies identified by the Air Pollution Control Officer in the notice of cancellation or denial. If a supplemental application is submitted within 90 days after notice to the applicant of the cancellation or denial, the Air Pollution Control Officer shall expedite processing of the

permit application, provided the applicant has addressed the problems specified by the Air Pollution Control Officer as reasons for cancellation or denial of the permit to operate.

RULE 1423. FURTHER INFORMATION

Before acting on an application for a permit to operate, the Air Pollution Control Officer may require the applicant to furnish further information, plans or specifications.

RULE 1424. APPLICATIONS DEEMED DENIED

An applicant for a permit to operate or modification pursuant to this regulation may at his or her option deem the application denied if the Air Pollution Control Officer fails to act on the application within the time frames specified in this regulation for the type of application submitted, provided the applicant notifies the Air Pollution Control Officer of his or her election in writing. A deemed denial pursuant to this rule shall be subject to appeal pursuant to Rule 1425.

13. Rule 1425 Section (c) is amended and Section (i) is added to read as follows:

RULE 1425. APPEALS AND JUDICIAL REVIEW

(a) PLACE FOR APPEALS

Any proposed decision by the Air Pollution Control Officer to deny or partially deny a permit or modification, and any proposed decision to approve a permit or modification may be appealed to the Hearing Board, provided the appeal is filed within 10 days after receipt of the notice of the proposed decision by the Air Pollution Control Officer and is within the jurisdiction of the Hearing Board and notice of the appeal is given to the Air Pollution Control Officer.

(b) APPEAL BY APPLICANT TO THE HEARING BOARD

Within 10 days after notice by the Air Pollution Control Officer of a proposed denial of a permit to operate or modification, or prior to submission of any other proposed determination to the federal EPA for review, the applicant may petition the Hearing Board, in writing, for a public hearing to appeal the proposed decision. Such petition shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury.

The Hearing Board, after notice and a public hearing held within 30 days after filing the petition, may sustain, reverse or modify the action of the Air Pollution Control Officer. Such order may be made subject to specified conditions. The Air Pollution Control Officer shall notify the federal EPA of any action taken by the Hearing Board on any permit required by this regulation.

(c) APPEALS BY OTHERS TO THE HEARING BOARD

Any proposed decision to issue a permit to operate or modification of a permit, or to renew a permit to operate with new or modified conditions, may be appealed to the Hearing

Board by persons other than the applicant under the following conditions. On matters where the Air Pollution Control Officer provided public notice and an opportunity for comment, only persons who appeared, submitted written testimony, or otherwise participated in the application or permit review process may appeal to the Hearing Board. If no such notice was provided, any aggrieved person may appeal. The appeal shall be in the form of a request to the Hearing Board to determine whether the decision or proposal to issue the permit, modification or renewal was proper. A request to the Hearing Board shall be made by filing a petition in accordance with the Rules and Regulations of the Hearing Board and payment of fees as provided in these Rules and Regulations. The request shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury. A copy of such request shall be served on the applicant for the permit to operate and the Air Pollution Control Officer no later than the day the request is filed with the Hearing Board. Within 30 days of the request, the Hearing Board shall hold a noticed public hearing and render a decision on whether the proposed decision to issue a permit to operate, modification or renewal was properly made in accordance with applicable District Rules and Regulations, and state and federal law.

(d) **REQUEST FOR STAY**

(1) An aggrieved person who has filed a petition pursuant to Section (c) of this rule may request the Hearing Board to stay the effect of any permit action that would otherwise be effective prior to the expiration of the time for the federal EPA review, pending a decision of the Hearing Board on the petition. Any such request shall be in writing, shall state with reasonable particularity the grounds in support of the request and shall be signed under penalty of perjury. A copy of the petition and request for stay shall be served personally on the applicant for the permit to operate and the Air Pollution Control Officer on or before the day the request for stay is filed with the Hearing Board. Service of the request on an applicant for a permit to operate, who does not maintain a fixed place of business within the County of San Diego, and upon the Administrator of the federal EPA may be accomplished by mail. Proof of service on the applicant for a permit to operate must accompany any request for a stay at the time such request is filed with the Hearing Board. The person requesting the stay shall include, with the notice of the request to the applicant, a notice of the time and place of the meeting of the Hearing Board at which the request for stay will be considered.

(2) A request for stay served and filed pursuant to Subsection (d)(1) above, shall be heard, notice requirements permitting, at the next meeting of the Hearing Board at which time the Hearing Board shall determine whether the permit to operate, modification or renewal should be stayed until the final decision of the Hearing Board on the propriety of the issuance of the permit, modification or renewal is rendered. If the notice requirements cannot be met for the next meeting of the Hearing Board, the stay request shall be heard at the following meeting of the Hearing Board. The person requesting the stay, the holder of the permit to operate and the Air Pollution Control Officer shall be given an opportunity to present evidence and arguments on the request for stay.

(3) Minor modifications that an applicant can implement prior to approval pursuant to this regulation may not be stayed by the Hearing Board. The Hearing Board shall stay the effect of other District determinations pending final decision by the Hearing Board only if the Hearing Board finds that denial of the stay would likely result in great or irreparable injury to an applicant, an aggrieved person or the public. The decision of the Hearing Board on the stay shall be served by the Clerk of the Hearing Board on all parties and the Air Pollution Control Officer.

(e) STAY AFFECTING MODIFICATION ONLY

With respect to a permit to operate for a modification of an existing permitted operation, any appeal or stay provided for in this rule shall apply only to the modification and not to the existing operation.

(f) DISPUTE RESOLUTION

Not later than three business days after receipt by the Air Pollution Control Officer of an appeal pursuant to Section (b) or (c) of this rule or a request for stay pursuant to Section (d) of this rule, the Air Pollution Control Officer or a designee shall attempt to schedule a meeting with the appellant and the applicant to resolve the issues identified in the appeal or request for stay. If there is a resolution of the issues by the parties, the matter before the Hearing Board shall be withdrawn or dismissed. If all the issues are not resolved at the meeting, the Air Pollution Control Officer shall file a report with the Hearing Board detailing the resolved and unresolved issues and the Air Pollution Control Officer's position on the unresolved issues.

(g) LIMITATIONS ON APPEALS TO THE HEARING BOARD

No appeals may be taken to the Hearing Board, and the Hearing Board shall not have jurisdiction, in the following circumstances:

(1) Renewal of a permit to operate or transfer of ownership, provided permit conditions are not modified or revised, unless new requirements that became applicable to the source after the prior permit was issued have not been reflected in the proposed renewal permit. In the event new requirements are applicable or permit conditions are modified or revised at the time of renewal, the provisions of this rule shall apply only to the new requirements and to the modification or revision, and related conditions.

(2) Approval of a permit to operate modification required solely because of a change in permit exemptions stated in Rule 1411, provided the affected emission unit was installed at the time the applicable revisions to Rule 1411 became effective and provided no modifications to the equipment are necessary to comply with these Rules and Regulations or applicable state and federal law. In the event a modification is not exempt under this section, the provisions of this rule shall apply only to the modification, and related conditions.

(h) PETITIONS TO THE ADMINISTRATOR OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)

If the Administrator of the federal EPA does not object in writing to the issuance of a permit to operate as proposed by the Air Pollution Control Officer during the period provided in this regulation for federal EPA review, any person may petition the Administrator within 60 days after the expiration of that review period to make such objection.

Petitions pursuant to this section may be filed while an appeal to the Hearing Board is being made by the petitioner or by another person.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the permitting authority shall not issue the permit until the federal EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the

end of the federal EPA review period and prior to a federal EPA objection. If the Air Pollution Control Officer has issued a permit prior to receipt of a federal EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and the Air Pollution Control Officer may thereafter issue only a revised permit that satisfies the federal EPA's objections.

Neither a petition under this section, nor a federal EPA decision to modify, terminate or revoke a permit pursuant to this section, shall render a source in violation of the requirement to have submitted a timely and complete application under this regulation.

(i) **FINAL PERMIT ACTION**

Notwithstanding the appeal and petition provisions of Sections (a) through (h) of this rule, the Air Pollution Control Officer shall take final permit action on an application to issue, amend, modify or renew a permit, or on a permit reopening, within the time limits specified in Rules 1410 and 1418.

(j) **JUDICIAL REVIEW**

Judicial review of a final permit action shall be available as provided by state and federal law.

14. Regulation XIV Appendix A is amended to read as follows:

APPENDIX A

INSIGNIFICANT UNITS

This listing is of equipment determined to be exempt from permit requirements under this regulation due to the relatively low potential to emit. An insignificant unit shall not include any unit subject to an applicable requirement other than District Rules 50 and 51.

(a) Any engines mounted on, within or incorporated into any vehicle, train, ship, boat or barge, that are used exclusively to provide propulsion, supply heat or electrical energy to that same vehicle, train, ship, boat, or barge, or that are used exclusively to load or unload cargo. Sand, rock, silt, soil or other materials which come from the bottom of a body of water shall not be considered cargo. This exemption is not intended to apply to equipment used for the dredging of waterways, to floating dry docks, or to equipment used in pile driving adjacent to or in waterways.

(b) Equipment utilized exclusively in connection with any structure, which is designed for and used exclusively as a dwelling for not more than four families.

(c) Air pollution control equipment associated with any article, machine, equipment, process or contrivance not required to have a permit to operate.

(d) The following equipment:

(1) Internal combustion engines which fall into one of the following categories:

(i) Motor vehicle engines, pile drivers (except for Diesel pile driving hammers), and construction cranes that are routinely dismantled and transported to non-contiguous locations for temporary use;

(ii) Stationary and portable internal combustion engines with a brake horsepower output rating of 50 or less;

(iii) Any stationary gas turbine with a power rating of less than 0.3 megawatt (MW); or

(iv) Any stationary gas turbine engine with a power rating of less than 1.0 megawatt (MW) which was installed and operating in San Diego County on or before September 27, 1994.

(2) Water cooling towers and water cooling ponds not used for evaporative cooling of process water or not used for evaporative cooling of water, contaminated water or industrial waste water from barometric jets or from barometric condensers.

(3) Portable aircraft engine test stands which were constructed before November 4, 1976.

(4) Fuel-burning equipment as described below:

(i) Fuel-burning equipment, except internal combustion engines, with a maximum gross heat input rate of less than one million British Thermal Units (Btu's) (0.252 x 106 Kcal) per hour when not part of a process, process line, line, equipment, article, machine or other contrivance for which a permit to operate is required by these Rules and Regulations.

(ii) Fuel burning equipment, except steam boilers and internal combustion engines, with a maximum gross heat input of less than 50 million Btu's per hour, and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.

(iii) Steam boilers with a maximum gross heat input of less than five million Btu's per hour.

(5) Extrusion equipment used exclusively for metals, minerals, or plastic except coking extrusion equipment or processes which manufacture products containing greater than one percent asbestos fiber by weight.

(6) Equipment used exclusively for forging, pressing, rolling or drawing of metals or for heating metals immediately prior to forging, pressing, rolling or drawing.

(7) All printing or graphic arts presses located at a stationary source which emits a total of less than 15 lbs of volatile organic compounds, subject to Rule 67.16, on each day of operation. It is the responsibility of any person claiming this exemption to maintain all usage records, including any mixing ratios, necessary to establish maximum daily emissions and to make this information available to the Air Pollution Control Officer upon request.

(8) Ovens, if only part of one or more processes which require a permit pursuant to these Rules and Regulations or which are exempt from a requirement for a permit to operate pursuant to this rule.

(9) Crucible-type or pot-type furnaces with a brimful capacity of less than 450 cubic inches of any molten metal.

(10) Crucible furnaces, pot furnaces or induction furnaces, with a capacity of 2500 cubic inches or less each, in which no sweating or distilling is conducted and from which only non-ferrous metals except yellow brass, are poured or non-ferrous metals are held in a molten state.

(11) Shell core and shell-mold manufacturing machines.

(12) Molds used for the casting of metals.

(13) Foundry sand mold forming equipment except those to which heat, sulfur dioxide or organic material is applied.

(14) Shot peening cabinets where only steel shot is employed and no scale, rust, or old paint is being removed.

(15) Die casting machines.

(16) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.

(17) Metalizing guns, except electric arc spray guns, where the metal being sprayed is in wire form.

(18) Brazing, welding equipment including arc welding equipment.

(19) Hand soldering equipment and solder-screen processes. Solder-screen means those processes which use a process similar to silk-screening to apply solder and which subsequently undergo a reflow process other than a vapor phase solder reflow process.

(20) Equipment used exclusively for the sintering of glass or metals.

(21) Atmosphere generators and vacuum producing devices used in connection with metal heat treating processes.

(22) Dry batch mixers of 0.5 cubic yards (0.38 cubic meters) rated working capacity or less. Dry batch means material is added in a dry form prior to the introduction of a subsequent liquid fraction or when no liquid fraction is added.

(23) Batch mixers (wet) of 1 cubic yard (0.765 cubic meter) capacity or less where no organic solvents, diluents or thinners are used.

(24) Equipment used exclusively for the packaging of lubricants or greases.

(25) Portable conveyors (belt or screw type) where there is no screening.

(26) Roofing kettles (used to heat asphalt) with a capacity of 85 gallons (322 liters) or less.

(27) Abrasive blasting equipment with a manufacturer's-rated sand capacity of less than 100 pounds (45.4 kg) or 1 cubic foot or less.

(28) Abrasive blast cabinets which vent through control devices and into the buildings in which such cabinets are located.

(29) Blast cleaning equipment using a suspension of abrasive in water.

(30) Equipment used for buffing (except automatic or semi-automatic tire buffers) or polishing, carving, cutting, drilling, machining, routing, shearing, sanding, sawing, surface grinding, or turning of ceramic artwork, ceramic precision parts, leather, metals, rubber, fiberboard, masonry, except fiber reinforced plastics unless the process involves the use of water as a means for cutting and is equipped with a control device that does not emit to the atmosphere.

(31) Handheld equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding or turning of fiber reinforced plastic, when not used at a designated workstation, booth or room.

(32) Equipment used for carving, cutting, drilling, surface grinding, planning, routing, sanding, sawing, shredding or turning of wood, or the pressing or storing of sawdust, wood chips or wood shavings.

(33) Paper shredders and paper disintegrators which have a capacity of 600 pounds per hour or less.

(34) Equipment used to liquefy or separate oxygen, nitrogen or the rare gases from the air.

(35) Equipment used exclusively to grind, blend or package tea, cocoa, spices or roasted coffee.

(36) Equipment, other than boilers, used for preparing food for human consumption and located at eating establishments, bakeries and confectioneries, except for bakery ovens used for the baking of yeast leavened products which are located at a stationary source where the combined rated heat input capacity of all bakery ovens is equal to or more than two million Btu's per hour.

(37) Equipment using exclusively aqueous solutions not containing volatile organic compounds in excess of 10 percent by weight for surface preparation, cleaning, anodizing, plating, polishing, stripping or etching except acid chemical milling, chrome plating, chromic acid anodizing or the stripping of chromium, or copper etching using ammonium hydroxide, ammonium chloride or concentrated solutions of nitric, hydrofluoric and/or hydrochloric acids exceeding 17 percent acid concentration by weight.

(38) Laboratory equipment used exclusively for chemical or physical analyses and bench scale laboratory equipment provided such bench scale equipment is not used for production purposes to directly produce a deliverable product or service, other than the first-article product or service, and provided the emissions of organic compounds from such bench scale equipment, do not exceed five (5) pounds per day and provided such bench scale equipment does not emit detectable levels of compounds listed as Acutely Hazardous by Section 25532 of the California Health and Safety Code.

For the purposes of this subsection, the following definitions shall apply:

"Bench Scale Laboratory Equipment" shall mean equipment which a) is under direct, immediate and exclusive control of a laboratory director; b) is sub-scale in

size; and c) is used for the sole purpose of conducting studies or tests to develop a new or improved product or service.

"First-Article Deliverable Product or Service" shall mean the first product or service which is produced using bench scale laboratory equipment and which is delivered to a potential intra-company or external customer for approval. First article deliverable product or service shall not exceed one (1) unit of product or service per customer.

(39) Titanium chemical milling at temperatures below 110°F (43°C).

(40) Orchard or citrus grove heaters.

(41) Non-immersion dry cleaning equipment.

(42) Alkaline chemical milling equipment for which construction or installation commenced prior to March 27, 1990, or alkaline chemical milling equipment used exclusively for the cleaning of internal combustion engine parts.

(43) Laundry dryers, extractors or tumblers used for fabrics cleaned only with solutions of bleach or detergents containing no organic solvents.

(44) Ovens having an internal volume of 27 cubic feet (0.765 cubic meter) or less in which organic solvents or materials containing organic solvents are charged.

(45) Equipment used for compression molding and injection molding of plastics.

(46) Cold solvent cleaning tanks, vapor degreasers, and paint stripping tanks

(i) with a liquid surface area of 1.0 square foot (0.09 square meter) or less, or

(ii) which have a maximum capacity of one gallon or less.

(47) Railway sweepers used for cleaning rail tracks.

(48) Equipment used for powder coating operations, except metalizing gun operations, where surface preparation or cleaning solvent usage is less than one-half gallon each day.

(e) Stationary storage tanks (excluding tanks subject to Rule 61.9) for the storage of organic compounds, as follows:

(1) With a capacity of 260 gallons (984 liters) or less.

(2) With a capacity greater than 260 gallons (984 liters) provided that such containers, reservoirs or tanks will be used exclusively to store organic compounds that are not volatile organic compounds as defined in Rule 61.0.

(3) Used exclusively for the storage of organic solvents which are liquids at standard conditions and which are to be used as dissolvers, viscosity reducers, reactants, extractants, cleaning agents or thinners and not used as fuels.

(4) For the storage of natural gas or propane when not mixed with other volatile organic compounds as defined in Rule 61.0.

(5) Used exclusively as a source of fuel for wind machines used for agricultural purposes.

(f) Mobile transport tanks or delivery tanks or cargo tanks on vehicles used for the delivery of volatile organic compounds, except asphalt tankers used to transport and transfer hot asphalt used for roofing applications.

(g) Application equipment for architectural surface coatings as defined in Rule 67.0.

(h) Liquid surface coating application operations:

(1) Conducted within an application station (portable or stationary) where not more than 20 gallons per year of material containing organic compounds are applied. It is the responsibility of any person claiming this exemption to maintain purchase and daily usage records, including any mixing ratios, necessary to substantiate the claim. Coatings applied by means of non-refillable aerosol cans shall not be included in the annual usage determination for purposes of determining the 20 gallon per year limit stated above;

(2) Using non-refillable aerosol spray cans for application of coatings;

(3) Conducted outside defined coating areas for the purpose of touch-up or maintenance of equipment;

(4) Using hand-held brushes for application of a primer coating from containers of eight (8) ounces (236.6 milliliters) or less in size to fasteners to be installed on aerospace component parts;

(5) Using air brushes with a coating capacity of two (2) ounces (59.1 milliliters) or less for the application of a stencil coating; or

(6) Conducted in primary or secondary schools for instruction.

(i) The following uncontrolled equipment or processes using materials containing volatile organic compounds when the emissions of organic compounds from the equipment or process do not exceed five pounds in any one day:

(1) Foam manufacturing or application.

(2) Reinforced plastic fabrication using resins such as epoxy and/or polyester.

(3) Plastics manufacturing or fabrication.

(4) Ink mixing tanks.

(5) Cold solvent degreasers used exclusively for educational purpose.

(6) Batch-type waste-solvent recovery stills with batch capacity of 7.5 gallons or less for onsite recovery of waste solvent, provided the still is equipped with a device which shuts off the heating system if the solvent vapor condenser is not operating properly.

(7) Peptide Synthesis.

(8) Equipment used for washing or drying articles fabricated from metal, cloth, fabric or glass, provided that no organic solvent is employed in the process and that no oil or solid fuel is burned and none of the products being cleaned has residues of organic solvent..

The exemptions in this section shall not apply to equipment required to obtain a permit for emissions of air contaminants other than organic compounds.

(j) Vacuum cleaning systems used exclusively for housekeeping purposes.

(k) Back-pack power blowers.

(l) Structural changes which cannot change the quality, nature or quantity of air contaminant emissions.

(m) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.

(n) Identical replacements in whole or part of any article, machine, equipment or other contrivance where a Permit to Operate had previously been granted for such equipment.

Identical replacement may also include replacement in whole or part of any article, machine, equipment or other contrivance where a Permit to Operate has previously been granted for such equipment which the Air Pollution Control Officer determines is identical in function, capacity, production rate and design. In addition, the actual air contaminant emissions must be the same in nature and will not be increased. Written notification of such replacement shall be made to the District at least thirty (30) days prior to the replacement and shall be accompanied by a fee of $75. Replacement of equipment pursuant to other requirements of these Rules and Regulations shall not be considered an identical replacement.

Identical replacement does not include replacements in whole or part that in sum would constitute reconstruction or modification under District Regulation X - Standards of Performance for New Stationary Sources, or would constitute a major source.

(o) Any article, machine, equipment, or contrivance other than an incinerator or boiler, the discharge from which contains airborne radioactive materials and which is emitted into the atmosphere in concentrations above the natural radioactive background concentration in air. "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, smoke, mists, liquids, vapors or gases. This exemption from the requirement to have a permit shall not include any emission unit subject to the provisions of Section 112 of the federal Clean Air Act or any implementing regulations promulgated by the federal EPA.

(p) The following equipment:

(1) Equipment used for hydraulic or hydrostatic testing.

(2) Equipment used exclusively for the dying or stripping (bleaching) of textiles where no organic solvents, diluents or thinners are used.

(3) Equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in a paste form and no organic solvents, diluents or thinners are used.

(4) Equipment used exclusively for the melting or applying of wax where no organic solvents, diluents or thinners are used.

(5) Equipment used for inspection of metal products except metal inspection tanks utilizing a suspension of magnetic or fluorescent dye particles in volatile organic solvent which have a liquid surface area greater than 5 ft^2 and are equipped with spray type flow or a means of solvent agitation.

(6) Equipment used exclusively for the manufacture of water emulsions of asphalt, greases, oils or waxes.

(7) Equipment used exclusively for conveying and storing plastic pellets.

(8) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.

(9) Curing or baking ovens in which no organic solvents or materials containing organic solvents are charged.

(10) Mixers for rubber or plastics where no material in powder form is added and no organic solvents, diluents or thinners are used.

(11) Each process line at a stationary source, as defined in Rule 20.1, for coating of pharmaceutical tablets provided maximum emissions of volatile organic compounds (defined in Rule 67.15), are below 15.0 pounds on each day for all operations subject to Rule 67.15. It will be the responsibility of any person claiming this exemption to maintain all records necessary to establish maximum daily emissions and to make this information available to the District upon request.

(12) Roll mills or calendars for rubber or plastics and no organic solvents, diluents or thinners are used.

(13) Vacuum-producing devices used in laboratory operations or in connection with other equipment which is exempt by Rule 11.

(14) Natural draft hoods, natural draft stacks or natural draft ventilators.

(15) Natural gas-fired or liquefied petroleum gas-fired or electrically heated furnaces for heat treating glass or metals, the use of which does not involve molten materials.

(16) Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants generated by or released from specific units of equipment.

(17) Refrigeration units except those used as, or in conjunction with, air pollution control equipment.

(18) Equipment used exclusively for space heating, other than boilers.

(19) Equipment used exclusively for bonding lining to brake shoes.

(20) Lint traps used exclusively in conjunction with dry cleaning tumblers.

(21) Equipment used exclusively to compress or hold dry natural gas.

(22) Kilns used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity or any combination thereof.

(23) Equipment used exclusively for the purposes of flash-over fire fighting training.

(24) Wastewater processing units associated with drycleaning operations using halogenated compounds provided the water being evaporated in the unit does not exceed 400 ppm (by weight) of halogenated compounds as determined by EPA Test Method 634.

(25) Atmospheric organic gas sterilizer cabinets where ampules are utilized exclusively to dispense ethylene oxide gas into a liner bag and where total ethylene oxide emissions are less than five pounds per year.

IT IS FURTHER RESOLVED AND ORDERED that the amendments to Regulation XIV shall take effect and be in force 30 days after approval by the U.S. Environmental Protection Agency, as published in the Federal Register.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 7th day of March, 1995 by the following votes:

AYES: Cox, Jacob, Slater, Roberts, Horn
NOES: None
ABSENT: None

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL
BY _____
DEPUTY

This is a true certified copy of the original document on file or of record in my office. It bears the seal of the County of San Diego and signature of the Clerk of the Board of Supervisors, imprinted in purple ink.

Thomas J. Pastuszka
Clerk of the Board, San Diego County, California
3/7/95 By Deputy: M Steele

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

CHANGE COPY

AMENDMENTS TO REGULATION XIV - TITLE V OPERATING PERMITS

RULES 1401, 1410, 1411, 1412, 1413-1415, 1417, 1418, 1420-1422, 1425 AND APPENDIX A

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PROPOSED AMENDMENTS TO REGULATION XIV - RULES 1401, 1410, 1411, 1412, 1413-1415, 1417, 1418, 1420-1422, 1425 AND APPENDIX A

REGULATION XIV. TITLE V OPERATING PERMITS

Regulation XIV shall take effect and be in force ~~upon final~~ 30 days after approval by the United States Environmental Protection Agency, as published in the Federal Register.

1. Rule 1401 Sections (b) and (c) are amended and Section (d) is added to read as follows:

RULE 1401. GENERAL PROVISIONS

(a) APPLICABILITY

Notwithstanding, the provisions of Rule 11, this regulation shall apply to any stationary source that is:

(1) A major stationary source as defined in this regulation, or

(2) Subject to a standard, limitation or other requirement under Section 111 of the federal Clean Air Act or Regulation X, Standards of Performance for New Stationary Sources (NSPS), except as provided in Subsection (b)(1) of this rule, or

(3) Subject to a standard, limitation or other requirement under section 112 of the federal Clean Air Act or Regulation XI, National Emission Standards for Hazardous Air Pollutants (NESHAPS), except as provided in Subsection (b)(1) of this rule, or

(4) Subject to the acid rain provisions of Title IV of the federal Clean Air Act, or

(5) A solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the federal Clean Air Act.

Terms and conditions of permits imposed pursuant to this regulation may be incorporated into permits to operate for emission units or for a group or groups of emission units at the stationary source. Terms and conditions imposed pursuant to this regulation that are applicable to more than one emission unit at the stationary source may, if appropriate, be incorporated into individual permits to operate by reference or through a common attachment.

Applicability of or exemption from this regulation does not constitute applicability of or exemption from any other provisions of these Rules and Regulations.

(b) EXEMPTIONS

The provisions of Regulation XIV shall not apply to any of the following:

(1) Emission units at stationary sources that are not major stationary sources, until ~~November 15, 2000 except that~~ the federal Environmental Protection Agency (federal EPA) ~~may provide by regulation~~ completes rulemaking that requires ~~that~~ any such source ~~is required~~ to have a permit under Title V of the federal Clean Air Act ~~on an earlier date~~.

(2) Stationary sources, source categories or emission units that would be required to obtain a permit solely because they are subject to 40 CFR Part 60 Subpart AAA, Residential Wood Heaters.

(3) Stationary sources, source categories, or emission units that would be required to obtain a permit solely because they are subject to 40 CFR Part 61 Subpart M, Asbestos Demolition and Renovation.

(4) Insignificant emission units as specified in Rule 1411 provided that such unit or units are not subject to any applicable requirement other than District Rules 50 and 51. This exemption shall not exclude the emissions from such insignificant emission units in determining the applicability of or fees associated with any provisions of this regulation or of Title V of the federal Clean Air Act to any stationary source. ~~All emission units proposed for exemption pursuant to Rule 1411 shall be listed in any application for a permit to operate pursuant to this regulation.~~

~~(5) Stationary sources or emission units that would otherwise be subject to this regulation at the time of permit application, based on their potential to emit, may propose federally enforceable permit terms and conditions that limit the stationary source's potential to emit. Such new terms and conditions shall be incorporated into existing permits to operate issued pursuant to Rule 10 for emission units at the stationary source. New limitations imposed pursuant to this regulation shall be federally enforceable, shall be identified as such in the affected permits to operate and shall be subject to public notice and comment and a 45 day federal EPA review period before revised permits may be issued.~~

~~(6) A stationary source whose potential to emit has been limited pursuant to Rule 1401(b)(5) to levels below the threshold for application of this regulation shall not be subject to this regulation after revised permits to operate containing the new restrictions have been issued. Any such stationary source that subsequently proposes a modification that would make it subject to this regulation, or which becomes subject to this regulation again for any other reason, shall be required to obtain a permit to operate in the same manner and in the same time frames as would apply to any other stationary source affected by a rule change or proposing or implementing a modification that would make it subject to this regulation.~~

~~(7) Any stationary source specified in Section (a) of this rule, if the maximum actual annual emissions from the stationary source, excluding fugitive emissions to the extent excluded under the definition of "major stationary source" in this rule, during the five years preceding an application for permit, are not more than 75 percent of each annual emission threshold for applicability under this regulation.~~

(c) DEFINITIONS

For purposes of Regulation XIV, the following definitions shall apply.

(1) **"Abrasive Blast Cabinet"** means an enclosure used to contain abrasive media and which can only be entered through ports for gloved arms and hands when abrasive blasting is conducted.

(2) **"Actual Annual Emissions"** means emissions from any stationary source established according to information gathered by means of annual emission inventory and confirmed accurate by the Air Pollution Control Officer.

(3) **"Administrative Permit Amendment"** means changes to the terms and conditions of a permit, which ~~has~~ have been ~~granted~~ approved pursuant to this regulation. ~~, not subject to the requirements for approval of minor or significant permit modifications~~. [See Rule 1410(i)]

(4) **"Affected Source (Acid Rain)"** means any emission unit that is subject to emission reduction requirements or limitations under Title IV of the federal Clean Air Act as amended in 1990.

(5) **"Aggrieved Person"** means any person, including a person or group representing the interest of the public in air quality, who alleges that the issuance of a Permit to Operate will infringe upon or deny such person's legal rights or the legal rights of the general public in respect to air quality.

(6) **"Air Contaminant(s)"** ~~has the same meaning as air pollutant(s) and~~ means any substance discharged, released, or otherwise propagated into the atmosphere and includes, but is not limited to, any combination of the following: volatile organic compounds, exempt compounds, oxides of nitrogen, particulate matter, gaseous sulfur compounds, carbon monoxide, smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, and federal hazardous air pollutant, including hazardous air pollutants identified in ~~the 1990~~ Section 112 of the federal Clean Air Act ~~Amendments, Title I, Section 112~~. Also included are Class I and Class II ozone depleting substances under Title VI of the federal Clean Air Act, any pollutant for which a national ambient air quality standard has been promulgated, and any substance subject to a standard promulgated under Sections 111 or 112 of the federal Clean Air Act ~~(Hazardous Air Pollutants)~~.

(7) **"Alternative Operating Scenario"** means each coordinated set of alternative operational parameters and permit conditions proposed by an operator in a permit application, and approved and implemented pursuant to this regulation.

(8) **"Appeared, Submitted Written Testimony, or Otherwise Participated"** means communicated specific substantive or procedural air pollution issues to the Air Pollution Control District (District) staff members who were responsible for permit to operate issuance, communicated with the Air Pollution Control Officer or his designee in the context of a formal public participation process, or testified before the Hearing Board in a formal proceeding. The term does not include mere expression of general interest or concern, or oral communication outside of a formal public forum, whether by telephone or otherwise, with District staff members who were not directly responsible for issuance of the permit to operate. A party may show that it has otherwise participated in a matter by contemporaneous written documentation, or by declaration under oath.

(9) **"Applicable Requirements"** means:

(i) all federally enforceable requirements applicable to a stationary source prior to issuance of a permit to operate; and

(ii) any new federally enforceable requirements ~~added to any permit to operate pursuant to this regulation~~ that become effective during the term of a permit.

~~(iii) any other requirements which are necessary to implement or enforce requirements identified in paragraphs (i) and (ii) above, provided such requirements~~

~~are explicitly identified as applicable requirements in a permit to operate issued or modified pursuant to this regulation.~~

(10) "**Application Shield**" means the protection from enforcement of the requirement to have a permit provided pursuant to Rule 1410(a).

~~(10)~~(11) "**Architectural Surface Coating**" means any coating applied to stationary structures and their appurtenances coated onsite or in close proximity to the intended installed location, to mobile homes, to pavement, or to curbs.

~~(11)~~(12) "**Complete Application**" means an application for which the applicant has provided all information required under Rule 1414(f), or an application deemed to be complete pursuant to Rule 1414(i)

~~(12)~~(13) "**Contiguous Property**" means two or more parcels of land with a common boundary or separated solely by a public or private roadway or other public or private right-of-way. Non-adjoining parcels of land separated solely by bodies of water designated "navigable" by the U. S. Coast Guard shall not be considered contiguous properties.

~~(13)~~(14) "**Emission Unit**" means any non-vehicular article, machine, equipment, contrivance, process or process line, which emit(s) or reduce(s) or may emit or reduce the emission of any air contaminant.

~~(14)~~(15) "**Exempt Compound**" means, with regard to the definition of volatile organic compounds, any of the following:

Chlorodifluoromethane (HCFC-22)

Dichlorotrifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

Pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

Tetrafluoroethane (HFC-134a)

Dichlorofluoroethane (HCFC-141b)

Chlorodifluoroethane (HCFC-142b)

1,1,1,-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

Cyclic, branched, or linear, completely fluorinated alkanes

Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

Methylene chloride

1,1,1-trichloroethane

Trifluoromethane (HFC-23)

Trichlorofluoromethane (CFC-11)

Dichlorodifluoromethane (CFC-12)

Trichlorotrifluoroethane (CFC-113)

Dichlorotetrafluoroethane (CFC-114)

Chloropentafluoroethane (CFC-115)

~~Tetrachloroethylene (perchloroethylene)~~

Any other compound(s) listed as negligibly reactive by the U.S. Environmental Protection Agency.

~~(15)~~(16) **"Federal Hazardous Air Pollutant"** means any air pollutant which is listed pursuant to Section 112 of the federal Clean Air Act.

~~(16)~~(17) **"Federal Non-Attainment Pollutant"** means any air pollutant for which San Diego County, or portion thereof, has been classified as exceeding a national ambient air quality standard (NAAQS) by the federal EPA.

~~(17)~~(18) **"Federally Enforceable Requirement"** for purposes of this regulation, means all of the following as they apply to emission units at a stationary source. Requirements that have been promulgated or approved by the federal EPA through rule making at the time a permit to operate is issued, but which have future effective compliance dates, are federally enforceable requirements if listed below:

(i) Any standard or other requirement provided for in the State Implementation Plan (SIP), including any revisions approved or promulgated by the federal EPA through rule making under Title I of the federal Clean Air Act.

(ii) Any term or condition of an Authority to Construct issued pursuant to these rules and regulations which term or condition is imposed pursuant to any federally mandated new source review (NSR) or prevention of significant deterioration (PSD) regulation.

(iii) Any standard or other requirement under Sections 111 or 112 of the federal Clean Air Act ~~Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS)~~.

(iv) Any standard or other requirement of the Acid Rain Program under Title IV of the federal Clean Air Act or the regulations promulgated thereunder.

(v) Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the federal Clean Air Act (enhanced monitoring and compliance certifications).

(vi) Any standard or other requirement governing solid waste incineration under Section 129 of the federal Clean Air Act.

(vii) Any standard or other requirement for consumer and commercial products under Section 183(e) of the federal Clean Air Act.

(viii) Any standard or other requirement for tank vessels under Section 183(f) of the federal Clean Air Act.

(ix) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the federal Clean Air Act.

(x) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under of the federal Clean Air Act unless the Administrator of the federal EPA has determined that such requirements need not be contained in a permit to operate.

(xi) Any national ambient air quality standard or air quality increment or visibility requirement under Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the federal Clean Air Act.

~~(18)~~(19) **"Federally Mandated New Source Review (NSR)"** means new source review that would be required using emission thresholds specified in federal law or in the approved State Implementation Plan (SIP), and does not include new source review that is required solely as a result of state law or these Rules and Regulations.

~~(19)~~(20) **"Final Permit Action"** means a decision by the Air Pollution Control Officer to grant, deny or cancel an application for a permit to operate, modification or renewal; solely for purposes of seeking judicial review, a failure by the Air Pollution Control Officer to take ~~final permit~~ action on an application within the time periods specified in this regulation; a decision by the Hearing Board altering a ~~final~~ permit action by the District; or a decision by the federal EPA to veto a permit, or to modify, terminate or revoke a permit or to issue a permit that differs from the permit proposed for issuance by the Air Pollution Control Officer.

~~(20)~~(21) **"Fugitive Emissions"** means those quantifiable non-vehicular emissions which could not reasonably pass through a stack, chimney, flue, vent or other functionally equivalent opening.

~~(21)~~(22) **"Hearing Board"** means the Hearing Board of the Air Pollution Control District of San Diego County as authorized by the California Health and Safety Code.

~~(22)~~(23) **"In-Scope Permit Actions"** means actions not inconsistent with applicable permit conditions, including alternative conditions under any approved alternative operating scenario during the period for which the operator has designated that scenario as applicable.

~~(23)~~(24) **"Insignificant Unit"** means any of the equipment as specified in Rule 1411 and listed in Appendix A of this regulation. An insignificant unit shall not include any unit subject to an applicable requirement other than District Rules 50 and 51.

~~(24)~~(25) **"Major Stationary Source"** means any stationary source which ~~has or will have after issuance of a permit to operate an aggregate~~ emits or has the potential to emit one or more air contaminants in amounts equal to or greater than any of the following emission rates:

(i) ~~25~~ 50 tons per year of volatile organic compounds or oxides of nitrogen~~, unless the San Diego Air Basin is classified by the federal EPA as a serious ozone~~

~~nonattainment area. In such case, the threshold shall be 50 tons per year of volatile organic compounds or oxides of nitrogen.~~

~~(ii) 100 tons per year of particulate matter (PM_{10}).~~

~~(iii) 100 tons per year of carbon monoxide.~~

~~(iv)~~ (ii) 10 tons per year of any federal hazardous air pollutant.

~~(v)~~ (iii) 25 tons per year of any combination of federal hazardous air pollutants.

~~(vi) 0.6 tons per year of lead.~~

~~(vii) 40 tons per year of oxides of sulfur.~~

~~(vii)~~(iv) 100 tons per year or more of any regulated air pollutant (including any fugitive emission of any such pollutant, as determined by rule by the Administrator of the federal EPA) ~~For purposes of determining whether a stationary source is a major stationary source, the~~ The fugitive emissions from the stationary source shall not be considered unless the stationary source belongs to one of the following categories of sources:

(A) coal cleaning plants (with thermal dryers);

(B) kraft pulp mills;

(C) portland cement plants;

(D) primary zinc smelters;

(E) iron and steel mills;

(F) primary aluminum ore reduction plants;

(G) primary copper smelters;

(H) municipal incinerators capable of charging more than 250 tons of refuse per day;

(I) hydrofluoric, sulfuric, or nitric acid plants;

(J) petroleum refineries;

(K) lime plants;

(L) phosphate rock processing plants;

(M) coke oven batteries;

(N) sulfur recovery plants;

(O) carbon black plants (furnace process);

(P) primary lead smelters;

(Q) fuel conversion plants;

(R) sintering plants;

(S) secondary metal production plants;

(T) chemical process plants;

(U) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units (Btu) per hour head input;

(V) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(W) taconite ore processing plants;

(X) glass fiber processing plants;

(Y) charcoal production plants;

(Z) fossil-fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input; or

(AA) all other stationary source categories regulated by a standard promulgated under Sections ~~111 or~~ 112 of the federal Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.

~~(25)~~(26) **"Minor Permit Modification"** means any modification to a permit issued pursuant to this regulation that would not trigger federally mandated new source review. A permit modification shall not qualify as minor if the permit modification:

(i) Causes a violation of any applicable requirement;

(ii) Involves significant relaxation to monitoring, recordkeeping, or reporting requirements;

(iii) Requires the establishment of, or requires a change in an existing federally mandated source-specific emission limitation or standard (e.g., a case-by-case determination of control requirements for federal hazardous air pollutants under Section 112 of the federal Clean Air Act), or a federally mandated source-specific determination for temporary sources of ambient impacts on air quality, or a visibility or air quality increment analysis~~)~~;

(iv) Changes permit terms and conditions (e.g., a voluntary emissions cap) for which there is no applicable requirement(s), but which terms and conditions the source accepted in order to qualify as exempt ~~under Section (b) of this rule~~ from an otherwise applicable requirement; ~~or~~

(v) Is a "modification" under any provision of Title I of the federal Clean Air Act, or results in an emissions increase that would trigger federally mandated new source review; or .

(vi) Is a change involving a federal hazardous air pollutant that is subject to review and required to install Maximum Achievable Control Technology (MACT) under Section 112(g) of the federal Clean Air Act.

~~(26)~~(27) **"Modification"** means any physical or operational change in any emission unit, or the addition of an emission unit at a stationary source, which would result in increased emissions of any air ~~pollutant~~ contaminant currently emitted, or emissions of air contaminants not previously emitted, except:

(i) Identical replacement in whole or in part of any emission unit at a stationary source, where a permit to operate has previously been granted for such emission unit, is not a modification.

(ii) The addition of an insignificant unit or units is not a modification.

(iii) The following changes shall not be considered modifications provided that such changes are not contrary to any permit conditions intended to limit emissions, to any emission limit established in the permit or implied by a permit condition, or to any applicable requirement of these Rules and Regulations:

(A) an increase in production rate and/or an increase in hours of operation;

(B) use of an alternate raw material;

(C) use of an alternate production method that reduces the generation of or allows for the reuse or recycling of wastes;

(D) actions pursuant to a temporary authorization issued under Subsection (b)(2) of Rule 1410 are not modifications for so long as the temporary authorization is effective, or

(E) relocation of equipment, designated as portable on the permit to operate, from one stationary source to another.

For purposes of this regulation, a modification does not have the same meaning as a permit amendment or permit modification. A modification may, but does not necessarily, require a permit amendment or permit modification and a permit amendment or permit modification may be required even if the change does not qualify as a modification.

~~(27)~~(28) **"National Ambient Air Quality Standards (NAAQS)"** means maximum allowable ambient air concentrations for specified air contaminants and monitoring periods as established by the federal EPA.

~~(28)~~(29) **"Non-Vehicular"** as used in this regulation means the same as "non-vehicular sources" as defined in Section 39043 of the California Health and Safety Code.

~~(29)~~(30) **"Organic Compound"** means the same as volatile organic compound.

~~(30)~~(31) **"Organic Solvent"** means organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, extractants, or cleaning agents, or are reactants or products in manufacturing processes except materials which exhibit an initial boiling point of 450 °F (232 °C) or higher at 760 mm Hg, unless these materials are exposed to temperatures exceeding 200 °F (93.3 °C).

~~(31)~~(32) **"Particulate Matter (PM_{10})"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 8, Title 17, of the California Code of Regulations Section 94100 et seq.

~~(32)~~(33) **"Permit to Operate"** means authorization to operate an emission unit or combination of emission units as specified and issued by the Air Pollution Control Officer on a form or forms prescribed by the Air Pollution Control Officer. Unless otherwise specified, the term permit to operate refers to permits issued pursuant to this regulation.

~~(33)~~(34) **"Permit"** means the same as permit to operate.

(35) **"Permit Shield"** means the protection from enforcement of certain applicable requirements in the manner and to the extent provided in Rule 1410(p).

~~(34)~~(36) **"Potential to Emit"** means the capacity of a stationary source to emit air pollutants, based on its physical and operational design, taking into consideration any federally enforceable requirements applicable to the source. Potential to emit includes fugitive emissions, except to the extent such emissions are excluded under the definition of "major stationary source" in this regulation.

~~(35)~~(37) **"Quantifiable"** means that a reliable basis for calculating the amount, rate, nature and characteristics of an emission reduction can be established~~, as determined by the Air Pollution Control Officer~~.

(38) **"Regulated Air Pollutant"** means any of the following:

(i) Oxides of nitrogen and volatile organic compounds.

(ii) Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the federal Clean Air Act.

(iii) Any pollutant subject to a new source performance standard promulgated pursuant to Section 111 of the federal Clean Air Act.

(iv) Any ozone-depleting compound specified as a Class I or Class II substance pursuant to Title VI of the federal Clean Air Act.

(v) Any federal hazardous air pollutant subject to a standard or requirement promulgated pursuant to Section 112 of the federal Clean Air Act.

~~(36)~~(39) **"Related Emission Units"** means emission units, where the operation of one emission unit is dependent upon, or affects the process or operation (which may include duration of operation) of another emission unit, as determined by the Air Pollution Control Officer.

~~(37)~~(40) **"Reopening of the Permit to Operate"** means reconsideration of a permit to operate or modification of a permit to operate as provided in Rule 1410(o).

~~(38)~~(41) **"Responsible Official"** means for each source required to have a permit, any one of the following:

(i) For a corporation:

(A) corporation president,

(B) corporation secretary,

(C) corporation treasurer,

(D) corporation vice-president,

(E) any other person who performs policy or decision-making functions for the corporation similar to (A), (B), (C) or (D), or

(F) a duly authorized designated representative of any of the above persons if the representative is responsible for the overall operation of one or

more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(1) the facility employs more than 250 persons or has gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(2) the delegation of authority to such representatives is approved in advance by the permitting authority.

(ii) For a partnership or sole proprietorship:

(A) a general partner, or

(B) the proprietor, respectively.

(iii) For a municipality, state, federal, or other public agency:

(A) the principal executive officer, or

(B) a ranking elected official.

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

(iv) For affected sources (Acid Rain):

(A) the designated representative for purposes of actions, standards, requirements, or prohibitions under Title IV of the federal Clean Air Act or regulations promulgated thereunder, as they exist on January 18, 1994; and

(B) the designated representative for any other purposes under these rules and regulations or 40 CFR Part 70 as it exists on January 18, 1994.

~~(39)~~(42) **"Section 502(b)(10) Change"** means a change, pursuant to Section 502(b)(10) of the federal Clean Air Act, that contravenes the express terms and conditions of a permit to operate, but which does not violate any applicable requirement or a federally enforceable permit term establishing monitoring, recordkeeping, reporting or compliance certification requirements.

~~(40)~~(43) **"Significant Permit Modification"** means any modification to a permit issued pursuant to this regulation that is not an administrative amendment or a minor modification, or any modification to such permit which:

(i) Causes a violation of any applicable requirement; or

(ii) Involves significant relaxation to monitoring, recordkeeping, or reporting requirements; or

(iii) Requires the establishment of, or requires a change in, an existing federally mandated source-specific emission limitation or standard (e.g., a case-by-case determination of control requirements for federal hazardous air pollutants under

Section 112 of the federal Clean Air Act), or a federally mandated source-specific determination for temporary sources of ambient impacts on air quality, or a visibility or air quality increment analysis; or

(iv) Changes permit terms and conditions (e.g., a voluntary emissions cap) for which there is no applicable requirement(s), but which terms and conditions the source accepted in order to qualify as exempt from an otherwise applicable requirement; or

(v) Is a "modification" under any provision of Title I of the federal Clean Air Act, or results in an emissions increase that would trigger federally mandated new source review; or

(vi) Is a change involving a federal hazardous air pollutant that is subject to review and required to install Maximum Available Control Technology (MACT) under Section 112(g) of the federal Clean Air Act.

Any relaxation of monitoring, reporting or recordkeeping requirements at a source required to have a permit to operate (e.g., a change from daily to monthly recordkeeping) shall be a significant modification. ~~, unless the change is based on a change in a rule or regulation that was made after notice to the federal EPA, and which is consistent with the federal Clean Air Act and regulations promulgated thereunder.~~

~~(41)~~(44) **"Source"** means any emission unit; any combination of emission units; any owner or operator of an emission unit, combination of emission units, or stationary source; or any applicant for a permit to operate for any emission unit, or combination of emission units.

~~(42)~~(45) **"Stationary Source"** means an emission unit, or aggregation of emission units, which ~~is~~ are located on the same or contiguous properties and which ~~is~~ units are under common ownership or entitlement to use. Stationary sources also include those emission units or aggregation of emission units located in the California Coastal Waters.

~~(43) "Synthetic Minor Source" means a source whose potential to emit has been limited by federally enforceable permit conditions pursuant to Rule 1401(b)(5) or (6).~~

~~(44)~~(46) **"Volatile Organic Compound (VOC)"** means any volatile compound containing at least one atom of carbon excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, and exempt compounds.

(d) REQUIREMENT FOR AUTHORITY TO CONSTRUCT

Nothing in this regulation shall provide relief from the requirement of Rule 10 of these Rules and Regulations to obtain an authority to construct.

RULE 1402 THROUGH 1409. RESERVED

2. Rule 1410 Sections (a), (b), (h)-(i), (n), (o)-(q) are amended to read as follows:

RULE 1410. PERMITS REQUIRED

(a) APPLICATION SHIELD

Any source that submits a timely and complete application for permit issuance or renewal under this regulation shall not be in violation of the requirement to have a permit to operate under this rule until the Air Pollution Control Officer takes final permit action on the permit application or the permit expires. If a timely and complete application is submitted and the Air Pollution Control Officer does not issue a permit renewal prior to the expiration of the term of the existing permit, then the permit shall not expire and the terms and conditions of the permit, including any permit shield, shall remain in effect until the permit renewal is issued or denied. ~~This~~ These protections shall cease to apply if, subsequent to the permit application being determined to be complete or being deemed complete, the applicant fails to submit by the deadline specified in writing by the Air Pollution Control Officer, pursuant to Rule 1414 (h), any additional information identified as being needed to process the application.

(b) PERMIT TO OPERATE

Except as provided in Section (a) above and Subsection (b)(2) below, no source subject to this regulation may operate after the time that it is required to submit a timely and complete application for a permit to operate unless the source is operating in compliance with permit(s) issued pursuant to this regulation ~~until a permit to operate is issued~~.

(1) **Multiple Emission Unit Permits to Operate and Multiple Permits to Operate.** Nothing in these Rules and Regulations shall prohibit the Air Pollution Control Officer from issuing more than one permit to operate to a stationary source or from grouping more than one emission unit under a single permit to operate, which will supersede any permits to operate previously issued to the affected emission units, provided the Air Pollution Control Officer determines that:

(i) Such units or groupings of units comply with the applicable requirements of these Rules and Regulations,

(ii) The units or grouping of units included under a single permit to operate are adequately and clearly described,

(iii) The applicability of particular conditions within such a permit to operate to one or more units is clearly specified, for all alternative operating scenarios applicable to the source, ~~and~~

(iv) All conditions of such a permit to operate are reasonably enforceable., and

(v) All emission units, excluding insignificant units, are covered by a permit to operate or a timely application for a permit to operate.

The Air Pollution Control Officer shall group units into a single permit to operate if such a grouping is proposed by the applicant for a permit to operate, unless the Air Pollution Control Officer determines that such grouping will violate the conditions set forth above, or will not facilitate operational flexibility at the source, or will result in violation of any applicable requirement of these Rules and Regulations.

(2) **Temporary Authorizations, Duration.** The Air Pollution Control Officer may grant a temporary authorization to operate any new or modified emission unit for which a complete application for a Title V permit to operate must be submitted within 12 months after operation has been commenced pursuant to Rule 1414(c) provided all of the following have been met:

(i) Construction or modification has been completed in accordance with an Authority to Construct issued pursuant to Rule 10.

(ii) Construction or operation of the new or modified unit is not prohibited by any existing permit issued pursuant to this regulation.

(iii) The Air Pollution Control Officer finds that operation of the new or modified emission unit is expected to comply with all applicable requirements of these Rules and Regulations and all terms and conditions of the Authority to Construct.

A temporary authorization may be issued if the operator of a source subject to this regulation submits or proposes to submit ~~an~~ a complete application for a permit to operate that ~~will~~ includes permit terms and conditions ~~that differ from the terms and conditions of the then applicable permits to operate for that source,~~ and if the operator demonstrates to the satisfaction of the Air Pollution Control Officer that the proposed new terms and conditions create a need for research and development, or additional testing or evaluation, before the proposed terms and conditions can be approved. A temporary authorization may also be issued to a source that is subject to this regulation to allow development, advancement and field testing of technology to meet pending and anticipated regulations or best available control technology (BACT) standards.

~~In no event shall a temporary authorization be issued unless the Air Pollution Control Officer finds that operation of the emission unit can be reasonably expected to comply with all applicable requirements of these Rules and Regulations. Furthermore in no event shall a temporary authorization be issued for a proposed change that would constitute a significant modification unless an application for such is submitted and evaluated in accordance with this regulation.~~

~~A temporary authorization issued pursuant to this regulation allows operation of the source in a manner inconsistent with any existing permits to operate, for the sole purpose of determining the ability of the source to operate in compliance with the proposed permit terms and conditions, anticipated regulation, or other applicable requirements.~~

~~Actions consistent with a temporary authorization issued pursuant to this regulation shall not be modifications for purposes of this regulation.~~

An application for a permit to operate shall not be found to be incomplete solely because research and development, testing or evaluation ~~pursuant to a temporary authorization~~ is determined to be necessary before a permit can be issued, and any source whose application for a permit to operate ~~or modification~~ is otherwise timely and complete shall have the benefit of the application shield set forth in Section (a) of this rule. If the Air Pollution Control Officer determines that additional information is needed to take final permit action on an application that was determined or deemed to be complete, the Air Pollution Control Officer may request such information and require the applicant to furnish the information within a reasonable time. The ability of a source to operate under an application shield shall cease to be in effect if the source fails to provide the required

information within the specified time. ~~Such shield shall not extend beyond the date failure to comply with any applicable requirement is discovered.~~

~~For temporary operations as described in this rule, any temporary authorization shall be issued with a delayed effective date as specified in Rule 1418(f).~~

Issuance of a temporary authorization shall not relieve the owner or operator of a source from the obligation to file a timely and complete application for a permit to operate or a permit revision, nor from the obligation to comply with all federally enforceable requirements.

A temporary authorization issued pursuant to this regulation ~~may be extended during the period in which an~~ shall expire on the date that a timely and complete application for a permit to operate or modification is due ~~under review, provided that (1) the temporary actions taken have shown that the proposed permit terms and conditions could be met; (2) the source is operating in compliance with the terms and conditions of the proposed permit; and, (3) the Air Pollution Control Officer determines that it is likely that the proposed terms and conditions will be approved; and, (4) the federal EPA has been notified of the temporary authorization and the proposed permit terms and conditions and has not objected~~.

(3) **Availability and Effects of Appeals.** An owner or operator may appeal any permit action proposed by the Air Pollution Control Officer in response to an application for a permit to operate or modification. Appeals shall be made to the Hearing Board in accordance with Rule 1425, before the proposed permit action is noticed for public review and comment or before it is forwarded to the federal EPA and affected states for consideration. ~~During the appeal period, the terms and conditions of any existing permits to operate shall remain applicable, unless modified by a temporary authorization pursuant to this regulation, or by a variance~~. A proposed permit to operate shall not be noticed for public review or forwarded to the federal EPA and affected states for review while any permit action or proposed permit action is being appealed before the Hearing Board. No final permit to operate shall be issued during this period or during the time for public review and comment and the federal EPA review set forth in Rule 1415. An appeal to the Hearing Board shall be resolved in a timely manner and in no case shall an appeal delay final permit action on a permit beyond 45 days from receipt of a request for an administrative permit amendment, 60 days for a minor permit modification, or 18 months for a significant permit modification, initial permit, permit reopening or permit renewal. ~~A temporary authorization for testing and/or evaluation as provided herein may be issued despite filing of an appeal pursuant to Rule 1425(b).~~

In the case of an appeal of any permit action for equipment proposed to be installed in conjunction with existing equipment operating under a permit to operate to comply with new requirements of District Rules and Regulations or other applicable law, District enforcement of the new requirements shall be deferred until the appeal is resolved. This paragraph applies only to any permit action taken before the effective date of the new requirements.

In the case of an appeal of any permit terms and conditions proposed to be deleted from or added to permits to operate, such permit actions and ~~the~~ District enforcement thereof shall be deferred until the appeal is resolved.

(c) POSTING OF PERMIT TO OPERATE

A person who has been granted a valid permit to operate shall firmly affix such permit, a true copy of such permit, or other approved identification bearing the permit number upon the emission unit in such a manner as to be clearly visible and accessible. In the event that the emission unit is so constructed or operated that the permit to operate cannot be so placed, the permit shall be mounted so as to be clearly visible in an accessible place within 25 feet of the emission unit, or maintained readily available at all times on the operating premises.

(d) ALTERATION OF PERMIT

A person shall not willfully deface, alter, forge, counterfeit or falsify any permit issued under these Rules and Regulations.

(e) RESERVED

(f) EXISTING REQUIREMENTS

The terms and conditions of permits to operate shall be maintained in the permit, except as provided in Rule 1420(b).

(g) CONTROL EQUIPMENT

Nothing in this rule shall be construed to authorize the Air Pollution Control Officer to require the use of machinery, devices or equipment of a particular type or design, if the required emission standard may be met by machinery, device, equipment, product or process changes otherwise available unless a regulation promulgated by the federal EPA and required to be enforced through this regulation specifies the use of specific machinery, device, equipment, product or process change.

(h) RENEWAL OF PERMITS TO OPERATE

A permit to operate issued under this regulation shall have a life of five years from the date of issuance. Permits to operate shall be ~~renew~~ renewed upon approval of the Air Pollution Control Officer in accordance with the procedures in this rule every five years on a staggered schedule to be determined by the Air Pollution Control Officer.

In addition to this five year renewal the permit to operate will be subject to annual review in accordance with Rule 10(h) of these Rules and Regulations.

An application for renewal of a permit to operate issued must be submitted at least 12 months, but not more than 18 months, prior to permit expiration, on forms prescribed by the Air Pollution Control Officer. The application and any necessary certification of compliance must be submitted by a responsible official of the source.

Permits to operate may be renewed only upon:

(1) Submission of a complete application for permit, including required statements and certifications, as set forth in Rule 1414.

(2) Payment of appropriate renewal fees as prescribed in Rule 40.

(3) Annual submittal of a supplemental statement certified by a responsible official setting out the status of the source with respect to past and current compliance

with substantive requirements of the existing permit to operate, as evidenced by monitoring or other compliance reports (including progress reports if any are required under an applicable schedule of compliance). ~~This requirement may be limited in scope or may be waived by the Air Pollution Control Officer.~~

(4) Determination by the Air Pollution Control Officer that the source can be operated in compliance with the terms and conditions of the proposed renewed permit to operate, taking into account any compliance schedule that will be a part of that permit.

(5) Completion of a 30-day public comment period and a 45-day review period for affected states and the federal EPA.

(6) There being no objection to the renewal of the permit from the Administrator of the federal EPA. If the Administrator objects within the 45-day period, a permit shall not be renewed until the Administrator has withdrawn the objection.

(7) Inactive Status. Any person who holds a permit to operate as required by Rule 1410(b) and who desires to not operate or rent any emission unit for at least one-year after the expiration date of the permit ~~may~~, prior to the expiration date of the permit, may apply to the Air Pollution Control Officer for a ~~revised~~ permit indicating the equipment is to be maintained in an inactive status. A renewal permit in this case shall contain all of the terms and conditions of an active permit applicable under this regulation and shall also contain a condition prohibiting operation of the equipment and suspending the effect of other permit conditions. All such inactive status permits shall be renewable annually as well as every five years pursuant to this regulation.

The condition prohibiting operation of the equipment and suspending the effect of other permit conditions, shall be removed by the Air Pollution Control Officer, notwithstanding Rule 1421, upon receipt of an application and payment of the appropriate renewal fees pursuant to these Rules and Regulations. At the same time, the permit will be modified and conditions added, as appropriate, to reflect any new requirements that have become applicable to the emission unit as a result of changes in these Rules and Regulations during the period the unit was inactive. Operation of equipment on inactive status without prior authorization from the District shall constitute a violation of Rules 1410(b) and 1421. No changes shall be made to the emission unit without the source applying for and obtaining any necessary approval to change the unit pursuant to the permit modification procedures of this rule.

(i) **ADMINISTRATIVE PERMIT AMENDMENTS.**

Administrative permit amendments are changes that can be made to ~~an owner or operator of a source for which~~ a permit which has been granted pursuant to this regulation ~~may make~~ without being subject to the requirements of Sections (j) and (k) of this rule. These shall include~~, but need not be limited to,~~ the following:

(1) Address changes that do not result in physical relocation of equipment.

(2) Correction of typographical errors and updates to information such as phone numbers.

(3) Incorporation of Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permits issued through an Authority to Construct pursuant to ~~under~~ federal EPA approved new source review and prevention of significant deterioration

rules, provided that such ~~permits~~ Authority to Construct ~~issued after the effective date of this regulation~~ ha~~ves~~ been issued in accordance with the provisions of Section (q) of this rule ~~under the procedures that provided for review by the federal EPA and affected states and, for significant modifications only, an opportunity for public review and comment~~.

~~In order to ensure that new source review and prevention of significant deterioration permit actions will qualify as administrative amendments, the operator of a source undergoing prevention of significant deterioration review or new source review may elect to provide for review by the federal EPA and affected states, and/or public review and comment, for any action that would otherwise be a modification under this regulation, even if such review or comment would not be required by any other provision of these Rules and Regulations.~~

(4) Any emission unit that is the subject of a permit to operate and which is transferred from one person to another shall not be operated until application is made to the Air Pollution Control Officer for a revised permit and such permit is issued unless a temporary authorization pursuant to Rule 1410(b)(2) has been issued to the new owner or operator. Such revisions shall be administrative permit amendments. The revision shall specify a date for the transfer of permit responsibility, coverage and liability between the prior and the new permittee. If such transfer is accompanied by modification of the emission unit, which modification is not exempt under this regulation, an application for permit modification shall be required.

Any permit or written authorization issued hereunder shall not be transferable, by operation of law or otherwise, from one piece of equipment to another.

~~(5) Any change to a permit to operate attributable solely to insignificant units as defined in Rule 1411.~~

Administrative permit amendments will be recorded by the Air Pollution Control Officer upon request from the applicant for such amendment, are not subject to any notice requirements of this regulation unless otherwise specified in this Section, and may be implemented by the applicant upon filing of the application with the Air Pollution Control Officer. The Air Pollution Control Officer shall provide the federal EPA with a copy of each approved revised permit.

Administrative permit amendments shall be reflected in the next application to renew the affected permit to operate.

(j) MINOR PERMIT MODIFICATIONS.

The owner or operator of any emission unit that is the subject of a permit to operate may make changes in the operation and physical characteristics of the subject equipment if the changes qualify as a minor permit modification, and the following requirements are met:

(1) Minor permit modifications that do not also require new source review under these Rules and Regulations are subject to the following procedural requirements:

(i) The application may be approved with or without public notification, as requested by the applicant. Minor permit modifications ~~approved without public notification~~ shall not be eligible for the permit shield provided by Rule 1410(p)~~, even if a permit shield has been provided to the source~~. However, any permit shield specified in permit terms or conditions that are not affected by an application for minor permit modification shall remain intact.

(ii) An application for a minor permit modification shall include all information consistent with Rule 1414(f) for each emission unit being modified and for each emission unit affected by the modification. The application shall also include:

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

(B) the source's suggested draft permit;

(C) certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the proposed modification meets the criteria for use of minor permit modification and that the statements and information contained in the application in support of this determination are true, accurate, and complete, and a request that such procedure be used; and,

(D) completed forms for the District to use to notify the federal EPA and affected States.

~~(ii)~~(iii) The applicant may make the change as soon as a complete application is filed~~.~~. If the source makes a change prior to a permit action, and until the District takes final permit action on the change, the source must comply with both the applicable requirements governing the change and the terms and conditions proposed by the source. During this time period the source need not comply with existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions the source seeks to modify may be enforced against it.~~except for changes involving federal hazardous air pollutants that are potentially significant. A change involving federal hazardous air pollutants is potentially significant if it would result in an emissions increase of eight or more tons per year of a federal hazardous air pollutant, or 20 or more tons per year of a combination of such pollutants, or a lesser increase or a change in the manner of discharge of federal hazardous air pollutants which the Air Pollution Control Officer determines within 30 days of notification to be potentially significant. For changes involving federal hazardous air pollutants that are potentially significant, the change may not be made until 60 days after the application is filed. If the Air Pollution Control Officer determines within this 60-day period that the proposed modification requires regulation pursuant to Rule 51, the Air Pollution Control Officer may specify prior to the expiration of the 60-day period that the proposed modification may not be implemented until review of the proposed modification by the Air Pollution Control Officer is completed.~~

~~(iii)~~(iv) The Air Pollution Control Officer must notify affected states and the federal EPA within five days of receipt of a complete application.

~~(iv)~~(v) The preliminary decision by the Air Pollution Control Officer to approve a minor permit modification ~~application approval~~ shall be subject to a ~~15~~ 45-day period for comments or objection by the federal EPA.

~~(vi)~~(vi) The Air Pollution Control Officer must act on an application within 90 days of receipt, or within 15 days of the expiration of the federal EPA's ~~15~~ 45-day review period, whichever is later. An application for a minor modification shall

remain pending until action is taken on the application, or the application is canceled or withdrawn.

(2) A change that would otherwise be processed as a minor permit modification under this section but which has been approved in an Authority to Construct in accordance with the procedures prescribed in Section (q) of this rule, may be processed as an administrative permit amendment. ~~Minor modifications that will require new source review under these Rules and Regulations shall require notification of the federal EPA and affected states, if necessary. Only after such processing is completed shall the minor modification be incorporated into the permit to operate as an administrative amendment. The applicant may make changes that are minor modifications but which trigger new source review as soon as the Air Pollution Control Officer proposes approval of the change to the federal EPA but not sooner. An application for a minor modification of a permit to operate that requires consideration under the new source review rule shall remain pending during that period and until action is taken on the permit to operate application, or the permit to operate application is canceled or withdrawn.~~

(3) If a source implements a minor permit modification without waiting for final approval, and the permit modification is disapproved, the source shall be subject to enforcement action for operating outside the terms and conditions of its permits to operate while the proposed permit modification was under review~~, except for the period and to the extent that a variance was obtained and was applicable~~.

~~(4) An applicant seeking a minor modification under this regulation may simultaneously seek a temporary variance from the affected permit terms and conditions from the Hearing Board. If a variance is granted it shall become a part of the permit to operate for the source until final permit action is taken on the application for a minor modification. The variance shall expire by its terms and conditions, or when the application for a modification is approved or denied.~~

~~(5)~~(4) Nothing in this Section (j) shall provide immunity from enforcement of any applicable requirement (whether the requirement arises under an applicable permit, these Rules and Regulations, or state or federal law), for operations that are not the subject of an application for a minor permit modification, or if the application for a minor permit modification is denied. ~~Any variance issued for an action that was also the subject of an application for a minor modification shall be effective to prevent enforcement, to the extent and for so long as the variance is applicable.~~

(k) SIGNIFICANT PERMIT MODIFICATION

(1) **Procedures for Significant Permit Modifications.** A modification that would be a significant permit modification under this regulation that is also subject to new source review shall first be processed under the new source review rules. This process shall include an opportunity for public review and comment, and notice and review by the federal EPA and affected states, whether or not such procedures would otherwise be required under the new source review rules. ~~The procedures for review of applications that constitute significant modifications but that are not subject to new source review shall be consistent with procedural provisions of this Section (k).~~ Permit terms and conditions that otherwise would be significant permit modifications but have been approved through the ~~new source review process~~ enhanced procedures for Authorities to Construct specified in Section (q) of this rule shall be incorporated into the permit to operate as administrative permit amendments.

A person shall not make a modification to a source requiring a significant permit modification ~~as defined in these Rules and Regulations to any emission unit that is the subject of a permit to operate issued pursuant to this regulation~~ unless such modification is authorized by the Air Pollution Control Officer and such modification is made a part of the permit to operate ~~unless~~ or a temporary authorization has been issued pursuant to Rule 1410(b)(2).

Any significant permit modification that is not subject to enhanced procedures for Authorities to Construct shall be subject to all provisions of this regulation for initial permit to operate, including provisions for application, completion of form used by the Air Pollution Control Officer to notify the federal EPA and affected states, public notice and comment, review by affected states, and review by the federal EPA, as prescribed for initial permit issuance and five year permit renewal.

Applications for significant permit modifications shall remain pending until approved, canceled, or denied.

(2) **Action on Significant Permit Modifications.** The Air Pollution Control Officer shall make every effort to act on a complete application for a significant modification within ~~six~~ 12 months of receipt but in no case shall final permit action be taken more than ~~12~~ 18 months from the date a complete application is received or an application is deemed complete.

(3) **Change of Location.** Any person who possesses a permit to operate any emission unit at a source that is subject to this regulation and desires to change the location of such emission unit shall first apply to the Air Pollution Control Officer for a significant modification to the permit to operate pursuant to this section. The provisions of this paragraph shall not apply to any change of location for any portable emission unit provided such change will not violate a term or condition of the permit or cause or exacerbate violation of any national ambient air quality standard, air quality increment, or visibility requirement and the owner or operator has notified the Air Pollution Control Officer at least 10 days in advance of each change in location. Any change of location of a non-portable emission unit within a contiguous parcel of land in the possession of, or owned by, or recorded as the property of, the same person shall not be considered a change of location.

(l) OPERATIONAL FLEXIBILITY: SECTION 502(b)(10) CHANGES

The owner or operator of any emission unit that has a permit to operate may make changes in the operation and physical characteristics of the subject equipment, without seeking or receiving approval for a modification, provided such operational or physical changes:

(1) Are not "modifications" ~~within the meaning of Section 111,~~ under any provision of Title I of the federal Clean Air Act, and

(2) Do not cause a violation of any applicable requirements, and

(3) Do not contravene federally enforceable requirements that are monitoring, recordkeeping, reporting, or compliance certification requirements, including requirements related to test methods, and

(4) Do not result in exceedance of emissions allowed under the permit, whether expressed therein as a rate of emissions or in terms of total emissions, or implied by a specific permit term that has the effect of limiting emissions from one or more emission units at the source.

For each such change, notification shall be provided to the Air Pollution Control Officer at least 45 days prior to implementation of such operational or physical changes. This notice shall be in writing and must include a brief description of the change, the date on which the change will occur, any change in emissions, and a listing of any permit term or condition affected. The notice shall be attached to copies of affected permits to operate maintained by the source.

A source may make a change within 45 days after notice to the Air Pollution Control Officer provided such change meets the requirements of this section. If the Air Pollution Control Officer subsequently determines that the change does not qualify as a Section 502 (b)(10) change, enforcement action may be taken against the source for making the change without prior approval. If the operator requests an affirmative determination by the Air Pollution Control Officer that the proposed change qualifies as a Section 502(b)(10) change, and agrees not to implement that change until a determination is made, the Air Pollution Control Officer shall make a determination and notify the operator within 60 days of receipt of notice of the proposed change.

The permit shield if any provided pursuant to Section (p) of this rule, shall not be applicable to changes made pursuant to this Section (l). ~~However, no enforcement action may be taken against a source that implements a change pursuant to this section, for violations of the permit terms and conditions identified as affected by the change to the extent those terms and conditions are necessarily affected, provided the change meets the requirements of this section.~~

The Air Pollution Control Officer may determine that a planned or implemented Section 502(b)(10) change does not meet the requirements of this section at any time. Any such determination must be in writing setting out the specific reason or reasons that the change does not qualify as a Section 502(b)(10) change. Any determination by the Air Pollution Control Officer that a proposed change is not a Section 502(b)(10) change may be appealed to the Hearing Board. If notice of an adverse determination is received by the operator from the Air Pollution Control Officer before the 45-day notice period has expired, the operator may not implement the proposed change, unless an appeal is taken to the Hearing Board and resolved in favor of the operator. If notice is received by the operator after the 45-day period for notice has expired and after the change has been implemented, and if the operator appeals the Air Pollution Control Officer's determination to the Hearing Board within 30 days of notice by the Air Pollution Control Officer, the change may remain in place until the matter is decided upon by the Hearing Board. In no case shall an appeal to the Hearing Board or decision by the Hearing Board affect or abridge the authority of EPA to object to a change or to determine that a change does not qualify as a Section 502 (b)(10) change.

Nothing in this section shall prohibit an operator from ~~seeking~~ applying for a revision to a permit or the Air Pollution Control Officer from ~~issuing~~ revising a permit ~~amendment~~ to reflect the change made. Any such permit application shall be processed pursuant to the applicable permit processing provisions of this regulation. If ~~a permit amendment is approved~~ the permit is revised pursuant to the provisions of this regulation for a significant permit modification, reopening of the permit to operate, or renewal of the permit to operate, the permit shield, if any provided to a source pursuant to Section (p) of this rule, may thereafter apply to the revised permit.

(m) OPERATIONAL FLEXIBILITY: TRADING UNDER AN EMISSIONS CAP

An applicant that has sought and received permit terms and conditions to allow internal trading of emissions solely for the purpose of complying with a federally enforceable emissions cap established independent of otherwise applicable requirements, may make any trade that is

consistent with those permit terms and conditions upon seven days notice to the Air Pollution Control Officer.

This notice shall be in writing and must include a brief description of the trade, the date or dates on which the trade will occur, and information on any change in emissions.

The Air Pollution Control Officer may determine that a planned trade is not within the scope of the applicable permit at any time. Any such determination must be in writing setting out the specific reason or reasons that the proposed trade is not within the scope of the permit. Upon such a determination, the trade shall not proceed.

(n) **OPERATIONAL FLEXIBILITY: ALTERNATIVE OPERATING SCENARIOS**

Any applicant that identifies alternative operating scenarios in an application for permit pursuant to this regulation may exercise such alternative operating scenarios without prior notice to the Air Pollution Control Officer provided:

(1) The Air Pollution Control Officer determines during issuance of the permit to operate that such alternative operating scenarios do not violate any provisions or standards of these Rules and Regulation or of state, or federal law.

(2) Each alternative operating scenario is identified in all affected permits to operate.

(3) The applicant maintains current operating logs, in the manner and form prescribed by the Air Pollution Control Officer, identifying which alternative operating scenario the operation is under, and all information necessary to determine compliance as specified in the permit to operate.

(o) **REOPENING OF A PERMIT TO OPERATE**

Any permit to operate issued pursuant to this regulation ~~may~~ shall be reopened prior to expiration following written notice of intent by the Air Pollution Control Officer to the permit holder at least 30 days prior to reopening, if any of the following occur:

(1) Additional requirements promulgated under the federal Clean Air Act become applicable for a major stationary source with at least three years remaining on the permit term. Such reopening shall be completed within 18 months after promulgation of the applicable requirement.

(2) Additional requirements (including excess emissions requirements) become applicable under the federal Clean Air Act Acid Rain Program.

(3) The Air Pollution Control Officer or the Administrator of the federal EPA determines that the permit must be revised or revoked:

(i) to correct a material mistake, or because inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(ii) to assure compliance with all applicable requirements.

The procedures for reopening and revising or reissuing a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

Reopenings by the Administrator of the federal EPA shall be performed in accordance with Section 70.7 (g) of 40 CFR Part 70.

Any source whose permit is partially reopened may request that the entire permit be reopened and reissued for a new five-year term.

In-scope permit actions, Section 502(b)(10) changes, trades under an emissions cap, administrative permit amendments, and minor permit modifications shall not require the use of permit reopening procedures.

(p) **PERMIT SHIELD**

Any source seeking a permit pursuant to this regulation may request that a permit shield be provided, to preclude enforcement of specific enumerated requirements ~~that are determined not to be applicable to the source and which are specifically identified as such in the permit~~ where the Air Pollution Control Officer has determined in writing that such requirements are not applicable to the source and summarized the determination in the permit, or to limit enforcement to permit conditions for specified applicable requirements where the Air Pollution Control Officer has determined that compliance with such conditions may be deemed compliance with the underlying specified applicable requirements and the requirements are specifically identified as such in the permit.

No shield may apply to requirements promulgated after the permit to operate is issued; nor to permit modifications or Section 502(b)(10) changes implemented without public notice and comment and an opportunity for review by the federal EPA and affected states.

A permit shield shall exist only as stated in the permit to operate. A permit shield shall not be in effect if the source is not in compliance with the terms and conditions of the permit that provide the permit shield.

The Air Pollution Control Officer may grant or deny permit shields, or limit the scope of such shields. District determinations may be based on the applicant's circumstances, the level of effort that would be required to identify or verify all requirements applicable to a source, the state of the law in the area where the shield is proposed, and other relevant considerations.

~~The Air Pollution Control Officer shall grant at least a limited shield in all cases where the applicant identifies multiple inconsistent requirements that may be legally applicable to the source. If one of the potentially inconsistent requirements is a requirement that has been superseded in these Rules and Regulations by a subsequently promulgated requirement, the shield shall operate to prevent enforcement of the superseded requirement. The most recently promulgated requirement shall be enforceable.~~

~~A limited shield may also be granted against any State Implementation Plan (SIP) requirement not included in the permit to operate, and which the federal EPA failed to identify to the Air Pollution Control Officer before the permit to operate was approved. A shield stated to have been provided for this limited purpose shall not prevent enforcement of any requirement of these Rules and Regulations, or any term or condition contained in the permit to operate.~~

Nothing in this section shall alter or affect the following:

(1) The provisions of Section 303 of the federal Clean Air Act including the authority of the Administrator under that section.

(2) The liability of a source for any violation of applicable requirements prior to or at the time of permit issuance.

(3) The applicable requirements of the acid rain program consistent with Section 408 (a) of the federal Clean Air Act, and

(4) The ability of EPA to obtain information from a source pursuant to Section 114 of the federal Clean Air Act.

(q) ENHANCED PROCEDURES FOR AUTHORITIES TO CONSTRUCT

At the request of an applicant, the Air Pollution Control Officer shall process applications for permit modifications that would otherwise be considered minor permit modifications or significant permit modifications to a permit to operate, issued pursuant to this regulation, using the Administrative Permit Amendment procedures prescribed in Rule 1410(i) provided that the change for which the permit modification is sought has been previously approved by the Air Pollution Control Officer by issuance of an Authority to Construct as required by Rule 10 and provided that:

(1) The application for Authority to Construct includes:

(i) A compliance plan containing the elements specified in Rule 1414(f)(3)(viii) for any new or modified emission units.

(ii) A description of the methods the applicant proposes to use to determine compliance of the new or modified units with any applicable requirements, including descriptions of monitoring, recordkeeping and reporting requirements and test methods. Such compliance determination methods shall not be less stringent than the minimum standards contained in any applicable requirements.

(iii) A schedule for submission of initial compliance certifications for each new or modified unit. Such compliance certifications shall be submitted not later than one year after construction or modification of a unit is completed or sooner if specified by an applicable requirement or by the Air Pollution Control Officer.

(iv) Any other information deemed necessary by the Air Pollution Control Officer to determine compliance with all applicable requirements.

(2) The Authority to Construct includes:

(i) For each new or modified unit not in compliance with an applicable requirement or for which an applicable requirement becomes effective before issuance of a modified permit, a compliance schedule specifying the increments of progress under which the new or modified units will be brought into compliance and containing the elements specified in Rule 1421(b)(2)(ii). The compliance schedule shall also require periodic compliance progress reports to the Air Pollution Control Officer, to be submitted not less frequently than semi-annually.

(ii) A requirement for submission of initial compliance certifications for each new or modified unit consistent with the elements specified in Rule 1421 (b)(2)(iii). Such compliance certifications shall be submitted not later than one year after construction or modification of a unit is completed or sooner if specified by an applicable requirement or by the Air Pollution Control Officer. Each compliance certification shall contain a description of the monitoring methods, data, records, reports and test methods used to determine compliance.

(iii) A requirement that the new or modified unit not be operated until a modified permit is granted unless such operation can be allowed under the provisions of Sections (b), (i) or (j) of this rule.

(iv) A requirement that representatives of the District shall be allowed access to the source and all required records pursuant to State Health and Safety Code Section 41510.

(v) Requirements for monitoring, recordkeeping, testing and reporting as specified by applicable requirements or by these Rules and Regulations, or as determined necessary by the Air Pollution Control Officer to ensure compliance with all applicable requirements, and consistent with the elements specified in Rule 1421 (b)(1)(iii).

(3) Prior to issuance of the Authority to Construct, the Air Pollution Control Officer has done all of the following:

(i) Publicly noticed the proposed issuance of an Authority to Construct and made available a draft of the proposed Authority to Construct for public review and comment for 45 days, following the procedures specified in Sections (a), (d), (e), (j) and (k) of Rule 1415 as if the Authority to Construct were a permit to operate.

(ii) Conducted a public hearing when, as a result of a petition from the public, the Air Pollution Control Officer has determined that there is reasonable cause to hold such a hearing. All public hearings shall be publicly noticed at least thirty days prior to the hearing. The public notice shall contain all of the information specified in Rule 1415(d) as if the Authority to Construct were a permit to operate.

(iii) Submitted a draft of the proposed Authority to Construct to any affected states and to the federal EPA Region IX, for a period of 45 days for review and comment. In the event the proposed Authority to Construct is substantively changed after submittal to EPA, such changes shall be resubmitted to EPA for a new 45-day review and comment period.

(4) All comments received from the public, affected states and federal EPA notification procedures described above have been considered and responded to by the Air Pollution Control Officer.

(5) The Administrator of the federal EPA has not objected to the issuance of the proposed Authority to Construct within the review periods prescribed in Subsection (3)(iii) above.

(6) The provisions of Rule 1425 with regard to appeals to the Hearing Board, petitions to the Administrator of the federal EPA and judicial review shall also apply to the granting of such Authority to Construct.

3. Rule 1411 is amended to read as follows

RULE 1411. EXEMPTION FROM PERMIT TO OPERATE FOR INSIGNIFICANT UNITS

A permit to operate shall not be required for any insignificant unit (see Appendix A). However, all such non-vehicular equipment shall be described in the initial application for permit to operate, and each application for renewal of a permit to operate, to the extent required by Rule 1414(f) of this regulation, ~~and emissions~~ Emissions from such non-vehicular equipment shall be included if deemed necessary by the Air Pollution Control Officer to determine the applicability of this regulation, any applicable requirement or applicable fees.

Nothing in the permit exemption provided in this rule shall preclude the equipment or processes described from meeting all other applicable requirements of these Rules and Regulations.

It is the responsibility of a person claiming an exemption under this rule to maintain and provide all data and/or records necessary to demonstrate the exemption is applicable. This information shall be made available to the Air Pollution Control Officer upon request.

4. Rule 1412 is added to read as follows:

RULE 1412. ~~RESERVED~~ FEDERAL ACID RAIN PROGRAM REQUIREMENTS

The provisions of 40 CFR Part 72 in effect on (date of adoption) are hereby adopted by reference and made part of these Rules and Regulations for the purposes of implementing an acid rain program that meets the requirements of Title IV of the federal Clean Air Act. For the purposes of this rule, the term "permitting authority", as that term is used in 40 CFR Part 72, shall mean the San Diego County Air Pollution Control District, and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

For those facilities which are subject to this rule, if the provisions or requirements of 40 CFR Part 72 are determined to conflict with Regulation XIV, the provisions and requirements of 40 CFR Part 72 shall apply and take precedence.

5. Rule 1413 Sections (b) and (c) are amended to read as follows:

RULE 1413. EARLY REDUCTION OF HAZARDOUS AIR POLLUTANTS

(a) **GENERAL**

Any source seeking a permit under this regulation, that expects to be subject to requirements to reduce emissions of federal hazardous air pollutants during the term of the proposed permit, may propose to make reductions in emissions of such pollutants or contaminants in advance of new requirements becoming applicable.

If the requirements of this rule are met, early reduction requirements shall be incorporated into the permit to operate and the source shall, to the extent permitted by law, be protected from the imposition of additional requirements for the reduction of federal hazardous air pollutants, as provided in Sections (b) and (c) of this rule.

(b) FEDERAL EARLY REDUCTION PROGRAM

Any source proposing to implement alternative emissions limitations for hazardous air pollutants under Section 112(i)(5) of the federal Clean Air Act and implementing regulations promulgated by the federal EPA at 40 CFR Part 63, shall include proposed permit terms and conditions in its permit application. Those terms and conditions shall provide for at least a 95% reduction in particulate federal hazardous air pollutants, and at least a 90% reduction in all other federal hazardous air pollutants that would be subject to regulation under Section 112 of the federal Clean Air Act, in comparison to the baseline specified in Section 112(i)(5) of the federal Clean Air Act and implementing regulations promulgated by the federal EPA at 40 CFR Part 63. The proposed early reductions must occur before applicable federal standards are promulgated, and all other requirements of Section 112(i)(5) and implementing regulations promulgated by the federal EPA at 40 CFR Part 63, must also be met. If the requirements of the federal Clean Air Act and implementing regulations promulgated by the federal EPA at 40 CFR Part 63 are met, the source shall receive a six-year delay in the effective date of requirements that would be otherwise applicable under Section 112 of the federal Clean Air Act, or under state and local programs implementing that Act.

~~(c) STATE AND LOCAL REQUIREMENTS~~

~~Any source proposing to accelerate control of federal hazardous air pollutants that are subject to regulation under state or local programs shall include proposed permit terms and conditions in its permit application. To qualify for a limitation on the imposition of additional state and local requirements, the source must demonstrate and the Air Pollution Control Officer must find that the early reduction program proposed by the source will provide reductions in emissions of federal hazardous air pollutants over the life of the permit that are at least equivalent in their anticipated effects on human health to the reductions that could be reasonably anticipated over the same period under state and local toxics programs in existence at the time the permit was approved. Notwithstanding an equivalence showing of this kind, the Air Pollution Control Officer may reject any proposed permit terms and conditions that are not adequately protective of human health.~~

~~If permit terms and conditions for early reduction of hazardous or federal hazardous air pollutants are included in the permit to operate, no additional state and local toxic air contaminant control requirements may be imposed during the term of the permit to operate (including any extension of that permit prior to its renewal).~~

~~(d)~~(c) PROTECTION OF PUBLIC HEALTH

Nothing in this rule shall prevent the Air Pollution Control Officer from imposing additional requirements for the control of federal hazardous air pollutants on a source whose permit to operate includes early reduction terms and conditions and associated protections, if risks from emissions from that source are later determined to pose a significant threat to human health.

6. Rule 1414 Sections (a)-(d), (f), (g) and (h) are amended to read as follows:

RULE 1414. APPLICATIONS

(a) GENERAL

Every application for a permit required under Rule 1410 shall be filed in the manner and form prescribed by the Air Pollution Control Officer and Section (f) of this rule. Each application must include the appropriate District supplemental standard forms for the equipment covered by the permit, or must reference applicable forms previously provided to the District. Upon request by the Air Pollution Control Officer an applicant shall give all the information necessary to enable the Air Pollution Control Officer to make the determinations required by Rules 1420 and 1421 of this regulation. Submittal of a complete application does not relieve the source from obtaining an authority to construct pursuant to Rule 10 of these Rules and Regulations.

Every application for a permit required under Rule 1410 shall be accompanied by permit fees as specified by Rule 40 of these Rules and Regulations. Upon request by the applicant, the Air Pollution Control Officer will consider alternative payment arrangements in connection with applications for initial permit to operate, where processing of such applications is expected to be significantly delayed.

(b) INITIAL PERMIT TO OPERATE FOR EXISTING SOURCES

The first application for a permit to operate for a source that is in operation ~~pursuant to an existing District permit issued pursuant to Rule 10~~ at the time this regulation becomes effective, and which source is subject to this regulation, shall be submitted no later than 12 months after the effective date of this regulation. Within 30 days of the effective date of this regulation, the Air Pollution Control Officer may direct up to one third of the sources expected to be required to apply for initial permits to submit their applications no later than six months after the effective date of this regulation. The Air Pollution Control Officer shall endeavor to limit this call for accelerated application submissions to sources that are expected to submit relatively simple permit applications, and that are expected to receive permits to operate that carry over existing permit to operate terms and conditions with little change (other than the addition of new terms and conditions that are mandatory for all permits to operate). In selecting sources for accelerated application submission, the Air Pollution Control Officer shall take into account any information provided by a potential applicant that indicates that applicant's permit application will not be relatively simple.

(c) INITIAL PERMIT TO OPERATE FOR NEW AND MODIFIED SOURCES

~~The first~~ A complete application for a permit to operate for a source constructed or modified after the effective date of this regulation and required to comply with Section 112 (g) of the federal Clean Air Act or to have an Authority to Construct under a program approved into the State Implementation Plan pursuant to Parts C or D, Title I of the federal Clean Air Act must be submitted not later than 12 months after the source has ~~completed construction~~, commenced operation. ~~pursuant to a valid authority to construct issued pursuant to Rule 10. However, permits to operate are required under Rule 10 prior to operation or modification.~~ Where an existing permit to operate would prohibit such construction or modification, the owner or operator of such source must obtain a permit revision before commencing operation.

(d) INITIAL PERMIT TO OPERATE FOR NEWLY REGULATED SOURCES

The owner or operator of any source that will become subject to the applicability of this regulation as a result of equipment modification or a change to equipment operation, shall apply for a permit to operate within 12 months after the source becomes subject to this regulation.

Where an authority to construct is not required for an existing emission unit, the owner or operator of a stationary source that becomes subject to this regulation due to an increase in emissions at the stationary source, a change in the applicability of this regulation made by the Administrator of the federal EPA, or for any other reason, shall apply for a permit under this regulation not later than 12 months after ~~written notice by the Air Pollution Control Officer that a permit to operate is or will be required~~ becoming subject to this regulation.

(e) PHASE II ACID RAIN PERMITS

Applications for approval of initial Phase II acid rain permits, required pursuant to Section 408, Title IV of the federal Clean Air Act, as a part of the permit to operate issued pursuant to this regulation shall be submitted to the Air Pollution Control Officer by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.

(f) COMPLETE APPLICATION

A complete application for a permit to operate shall contain all of the following:

(1) Information sufficient to determine all applicable requirements and to evaluate the subject source for compliance with all applicable requirements. This information shall include emissions of insignificant units if determined necessary by the Air Pollution Control Officer for determining the applicability of this regulation or any applicable requirement to a source.

(2) A certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete.

(3) Information as described below for each ~~emission unit~~ source, except for insignificant units, covered by the application:

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

(ii) A description of the source's processes and products including any associated with each alternative ~~operative~~ operating scenario identified by the source;

(iii) The following emissions-related information:

(A) all emissions of pollutants for which the source is a major stationary source, and all emissions of ~~federally~~ regulated air pollutants. A permit application shall describe all emissions of federally regulated air pollutants emitted from any emission unit~~, including insignificant units as specified in Rule 1411~~. The applicant is required to submit additional information related to the emissions of air pollutants sufficient to allow the Air Pollution Control Officer to

verify which requirements are applicable to the source, and other information necessary to determine any fees pursuant to Rule 40;

(B) identification and description of all points of emissions described in paragraph (A) above in sufficient detail to establish the basis for fees and applicability of requirements of these Rules and Regulations, state and federal law;

(C) emissions rate in tons per year (tpy) and in such terms and conditions as are necessary to establish compliance consistent with the applicable standard reference test method;

(D) the following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules;

(E) identification and description of air pollution control equipment and compliance monitoring devices or activities;

(F) limitations on source operation affecting emissions or any work practice standards, where applicable, for all federally regulated air pollutants at the source;

(G) other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the federal Clean Air Act); and

(H) calculations on which the information in paragraphs (A) through (G) above is based.

(iv) The following air pollution control information:

(A) citation and description of all applicable requirements, all other terms and conditions of existing permits to operate proposed to be carried over in the permit to operate, and any additional terms and conditions proposed for that permit. Where a proposed new term or condition is intended to substitute for an existing term or condition that the applicant proposes not be carried over, the relationship between old and new terms and conditions shall be set forth;

(B) the applicant may, but need not, submit a statement of the permit applicant's understanding or proposal as to which proposed terms and conditions of the permit to operate are or should become federally enforceable; and

(C) description of or reference to any applicable test method for determining compliance with each applicable requirement.

(v) Other specific information that may be necessary to implement and enforce other applicable requirements of these Rules and Regulations or state and federal law or to determine the applicability of such requirements.

(vi) An explanation of any proposed exemptions from otherwise applicable requirements.

(vii) Additional information as determined to be necessary by the Air Pollution Control Officer to define alternative operating scenarios identified by the source or to define permit terms and conditions for emissions trading.

(viii) A compliance plan ~~for all applicable sources~~ that contains all of the following:

(A) a description of the compliance status of the source with respect to all applicable requirements;

(B) for applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(C) for applicable requirements that will become effective during the permit term (five years), a statement that the source will meet such requirements on a timely basis and a proposed schedule of increments of progress towards compliance;

(D) for requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements, together with a copy of any applicable variance order issued by the Hearing Board~~,~~. A variance order issued by the Hearing Board may be used as information for consideration in developing a compliance plan or schedule but does not constitute a compliance plan or schedule under this rule ~~granting temporary relief from such requirement~~;

(E) a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. For applicable requirements with which the source is in compliance, the schedule of compliance shall include a statement that the source will continue to comply with such requirements. For applicable requirements that will become effective during the permit term, the schedule of compliance shall include a statement that the source will meet such requirements on a timely basis. This compliance schedule shall resemble and be at least as stringent as that contained in any Hearing Board order, judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

(F) a schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation; and

(G) the compliance plan content requirements specified in this subsection shall apply and be included in the acid rain portion of a compliance plan for an affected source (Acid Rain), except as specifically superseded by regulations promulgated under Title IV of the federal Clean Air Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(ix) A compliance certification, including the following:

(A) a certification of compliance with all applicable requirements signed by a responsible official consistent with Subsection (f)(2) of this rule and Section 114(a)(3) of the Act;

(B) a statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) a schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the applicable requirement or by the Air Pollution Control Officer; and

(D) a statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the federal Clean Air Act.

(x) Nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated by the federal EPA under Title IV of the federal Clean Air Act.

(xi) For any source seeking to trade emissions under a federally enforceable emissions cap for which the existence or federal enforceability was established in the permit independent of otherwise applicable requirements, the source must specify replicable procedures that ensure that trades are enforceable, accountable, and quantifiable. (See Rule 1420 for a discussion of the standards the Air Pollution Control Officer will apply to determine whether this requirement has been met.)

(4) A list of insignificant units which are exempt from the requirement to have a permit based on size or production rate.

(g) **OPTIONAL INFORMATION ON FEDERAL HAZARDOUS AIR POLLUTANTS**

Any source may use the permit application process as an occasion for identifying and resolving issues related to the control of federal hazardous air pollutants at the source over the life of the permit. Any source seeking permit terms and conditions that will define applicable requirements over the life of the permit shall provide the information set forth in Subsection (f)(3) of this rule for any federal hazardous air pollutant or toxic air contaminant that is likely to be regulated at that source under federal or state law or local regulations over the life of the permit.

Nothing in this section shall be construed to limit the applicability and effect of requirements that become applicable to a source during the life of the permit.

(h) **ADDITIONAL INFORMATION**

Additional information necessary for determining compliance with any applicable requirements may be requested by the Air Pollution Control Officer after an application has been determined to be or deemed to be complete. The applicant must provide such information within a reasonable time as specified by the Air Pollution Control Officer, but in no case later than six months from the date requested.

Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

7. Rule 1415 Sections (a), (c), (d), (h), (k) and (l) are amended and Section (m) is added to read as follows:

RULE 1415. PERMIT PROCESS-PUBLIC NOTIFICATION

(a) **PUBLIC NOTICE**

At least 45 days prior to issuance of a five year initial permit to operate subject to this regulation, a revised permit resulting from an application for significant modification or renewal of such a permit, the Air Pollution Control Officer shall publicly notice and make available a draft of the proposed permit for public review and comment as follows:

(1) Publication in a newspaper of general circulation of a notice of intent to issue a permit to operate.

(2) Notification to all persons requesting to be included in a mailing list for purposes of notification of all permit actions.

(3) By other means if determined necessary by the Air Pollution Control Officer to assure adequate notice to the affected public.

~~(3)~~(4) Availability of a copy of the draft permit for public review at the Air Pollution Control District offices.

(b) **PUBLIC HEARINGS**

Pursuant to any petition from the public as a result of public notice, the Air Pollution Control Officer shall, with reasonable cause, hold a public hearing to receive comments regarding initial issuance, modification, or renewal of a permit to operate. All public hearings shall be preceded by issuance of a public notice containing all information specified in Section (d) of this rule at least 30 days prior to the public hearing.

(c) **NOTICE TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)**

At least 45 days prior to issuance of a five year initial permit to operate subject to this regulation, or significant modification or renewal of such a permit, a draft of the proposed permit shall be made available to the federal EPA, Region IX for the purpose of comment on the proposed permit. In the event a proposed permit to operate issuance or renewal is substantively changed after submittal to federal EPA, such changes shall be resubmitted to federal EPA. ~~If federal EPA deems it necessary, an~~ An additional 45 days shall be provided for federal EPA review and comment regarding the changes. The federal EPA shall be

provided with a copy of the final permit with supporting analysis used as a basis for permit issuance.

The Air Pollution Control Officer shall not issue a permit to operate required by this regulation if the Administrator of the federal EPA objects, within the specified review period, to such issuance. In such case, a permit to operate shall not be issued by the Air Pollution Control Officer except in a form consistent with the objection, or after the Administrator withdraws the objection.

(d) **CONTENTS OF PUBLIC NOTICE.**

Notice to the public shall:

(1) Identify the affected facility by name and address;

(2) Provide the name and address of the District processing the permit;

(3) Identify the activity or activities involved in the proposed permit action;

(4) Identify the emissions change involved in any modification;

(5) Identify the name, telephone number and address of the person who can provide additional information including:

(i) ~~A~~ a copy of the permit draft;

(ii) ~~A~~ the permit application; and

(iii) all relevant supporting materials available to the Air Pollution Control Officer~~; and~~.

~~(iv) time and place of any hearing.~~

(6) Describe procedures for providing comments;

(7) ~~Describe~~ Include the time and place of any hearing, if already scheduled, or the procedures for petitioning for a hearing; and

(8) Identify the scope of the permit review and identify areas that are appropriate for public comment.

(e) **COORDINATED PROCESSING OF RELATED PERMITS**

The District shall endeavor to issue a single public notice, to hold a single public hearing (if a hearing is necessary), and to coordinate notice to the federal EPA for any group of permits for similar sources that raises similar issues.

(f) **EXCEPTIONS**

The public notice requirements of this rule shall not apply to minor modifications and administrative amendments.

(g) NEW APPLICATION LISTS

Lists of new permit applications received will be posted in the District office on a weekly basis. These lists will be available for public review during normal business hours. A copy of the list will be provided to any person or interested group who has requested a copy in writing.

(h) CONSIDERATION OF COMMENTS

All comments received from the public notification process shall be retained by the Air Pollution Control Officer. Comments that are relevant to the permit review and areas appropriate for public comment identified pursuant to Subsection (d)(8) of this rule shall be considered and responded to by the District in the review of an application for permit.

(i) COPIES OF PERMIT ACTION

Upon issuance of an Authority to Construct, Temporary Authorization, Permit to Operate, or a revised Permit to Operate, the Air Pollution Control Officer shall mail a copy of such action to any person or interested group who has requested a copy in writing.

(j) PUBLIC INSPECTION

The permit file will be open to public inspection to the extent required by District Rules and Regulations, and state and federal law.

(k) TRADE SECRETS

Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public or the federal EPA any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX and 40 CFR Section 70.4 (b)(3)(viii). However, the Air Pollution Control Officer will provide the federal EPA with notice of which specific trade secret information has been withheld.

(l) ACTION ON APPLICATIONS

Notwithstanding the requirements of Sections (a) through (k) of this rule, the Air Pollution Control Officer shall take final permit action on an application for an initial permit, a revised permit, or a reopening of a permit within the time limits specified in Rule 1410.

(m) TRANSMITTAL OF PERMIT DOCUMENTS TO THE FEDERAL EPA

The Air Pollution Control Officer shall provide to the Administrator of the federal EPA a copy of each application (or summary thereof) for initial permit, permit renewal, administrative permit amendment and permit modification, each proposed permit, and each final initial, revised or renewed permit.

RULE 1416. RESERVED.

8. Rule 1417 Section (a) is amended to read as follows:

RULE 1417. PENDENCY AND CANCELLATION OF APPLICATIONS

(a) PENDENCY AND APPLICATION SHIELD

~~Notwithstanding the time periods for the Air Pollution Control Officer action on permit applications set forth in Rule 1418, a~~An application for a permit to operate filed pursuant to this regulation shall remain pending until it is approved, denied or canceled by the Air Pollution Control Officer, or withdrawn by the applicant pursuant to the time limits required by Rule 1410~~8~~. Except as otherwise specified in Rule 1410(a), the application shield (for permit issuance and renewal) provided by Rule 1410(a) shall remain in effect from the time an application is determined to be or is deemed to be complete until an application is approved, denied, canceled or withdrawn pursuant to the time limits specified in Rule 1410~~8~~.

(b) EFFECT OF DENIAL OR CANCELLATION OF REQUIRED PERMIT TO OPERATE

Denial or cancellation of an application filed pursuant to this regulation is a final permit action, which may affect existing permits to operate.

(c) FAILURE TO PROVIDE ADDITIONAL INFORMATION

An application for an initial, modified or renewed permit to operate may be canceled if the Air Pollution Control Officer requests additional information necessary to complete evaluation of the application and the applicant fails to furnish the information within six months after the request.

(d) DELIVERY OF NOTICE OF CANCELLATION

Notice of any cancellation action taken pursuant to this regulation shall be deemed to have been given when written notification has been delivered to the applicant or a designated representative.

9. Rule 1418 is amended to read as follows:

RULE 1418. ACTION ON APPLICATIONS

Action on applications submitted pursuant to this regulation shall be in accordance with this rule notwithstanding other provisions of these Rules and Regulations.

(a) COMPLETENESS DETERMINATION

The Air Pollution Control Officer shall, within 60 days of receipt of an application for an initial permit to operate, for significant modification of a permit to operate or for renewal of such a permit, determine whether the application is complete or incomplete and so notify the applicant; if incomplete, the notice shall specify the additional information needed from the applicant to complete the application. An application for a permit to operate shall be determined to be complete when all required information and fees specified in Rule 1414 are submitted, even if the applicant or the Air Pollution Control Officer determines that testing will be required, ~~pursuant to a temporary authorization under Rule 1410(b)(2),~~ before a decision can be made to approve or disapprove the permit application. ~~If a permit application is associated~~

~~with an application for an authority to construct, the~~ The completeness determination for ~~the~~ a permit application shall not be delayed ~~to await satisfaction of any unrelated conditions of the authority to construct~~ pending compliance with any authority to construct conditions that are unrelated to the completeness determination. When all the additional information is received and the application is deemed complete, the applicant will be so notified. Unless the Air Pollution Control Officer determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed complete.

(b) **ACTION TIME**

The Air Pollution Control Officer shall act on at least one third of initial permit applications for existing sources in each of the three years following the effective date of this regulation.

For all other applications, the Air Pollution Control Officer shall approve~~, conditionally approve~~ or deny each complete application within ~~six months of receipt if possible, or within a maximum of 12 months of receipt,~~ the following time limits ~~provided however that no time shall be counted from the time the Air Pollution Control Officer requests more information from a source and the time the source provides that information;~~

(1) For administrative permit amendments, no more than 60 days from receipt of a request by the applicant;

(2) For minor permit modification, no more than 90 days from receipt of a complete application or 15 days after the end of the Administrator's 45-day review period, whichever is later;

(3) For a significant permit modification, not more than 18 months from the receipt of a complete application; or

(4) For an initial permit or renewal, not more than 18 months from the receipt of a complete application except as provided above in this section.

~~The 12-month period may be extended an additional six months with the concurrence of the applicant.~~

(c) **DELAY IN SUBMISSION TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)**

~~Notwithstanding the periods for action specified in this rule, the~~ The Air Pollution Control Officer shall delay the submission of decisions on permits to operate and appeals to the federal EPA, in order to allow time for an appeal to the Hearing Board, in the following circumstances:

(1) Submission shall be delayed for 10 days after notice has been provided to the applicant if the Air Pollution Control Officer has reason to expect an appeal to be filed; or if the Air Pollution Control Officer has been notified by the applicant or by any person entitled to appeal, that an appeal will be taken; or if the permit ~~or authorization~~ would substantially ~~modifies~~ modify the terms and conditions proposed by the applicant in a manner adverse to the applicant; or if the proposed action has not been subject to prior public notice and comment, and the approval allows the permit holder to conduct operations for more than 40 days that will result in increased emissions or in the release of different pollutants regulated under Section 44300 (et seq.) of the Health and Safety Code, as compared to emissions from operations conducted by the permit holder prior to issuance of the permit.

(2) Submission shall be further delayed until any appeal to the Hearing Board is resolved or until 30 days after the appeal is filed (whichever occurs first), if an appeal raising issues within Hearing Board jurisdiction is filed within 10 days after notice to the applicant by a person entitled to appeal, or if any person entitled to appeal notifies the Clerk of the Hearing Board and the Air Pollution Control Officer in writing, within 10 days after notice to the applicant, that an appeal will be filed.

(3) Notwithstanding the above, there shall be no delay in submission of a proposed action on a permit or modification beyond 30 days after notice to the applicant unless an appeal raising issues within the Hearing Board's jurisdiction is actually filed by a person entitled to make such appeal within such 30 days.

~~(4) In no event shall submission of a proposed permit action to the federal EPA be delayed more than 90 days from the date on which action on the application was required by this regulation, except at the request of the applicant.~~

(d) **DELIVERY OF NOTICE OF ACTION**

Notice of any action taken shall be deemed to have been given when written notification has been delivered to the applicant or the applicant's representative.

(e) **EFFECTIVE DATE OF PERMIT ACTION**

Administrative amendments shall be effective on the date they are approved by the Air Pollution Control Officer. For issuance and renewals of permits, and approval of modifications that are subject to review by the federal EPA, the Air Pollution Control Officer shall make the effective date of the permit action the first day following the last day for federal EPA review, ~~unless the applicant has requested a delayed effective date~~ or unless the federal EPA has objected to the permit action.

RULE 1419. PROVISION OF SAMPLING AND TESTING FACILITIES AND EMISSION INFORMATION

The Air Pollution Control Officer may require that additional sampling and testing facilities be provided by a source seeking a permit to operate if the same requirement is also being imposed on similar emission units that are not subject to this regulation, or if the terms and conditions of the permit to operate create a need for increased sampling and testing to ensure compliance with new permit terms and conditions (e.g., in connection with alternative operating scenarios or trading under an emissions cap). A person owning or operating any emission unit for which additional sampling or testing is determined to be necessary pursuant to this rule shall provide and maintain such sampling and testing facilities as are specified in the permit to operate.

Nothing in this rule shall preclude the Air Pollution Control Officer from imposing requirements for the provision of sampling and testing facilities by rule.

RULE 1419.2. RESERVED

10. Rule 1420 Sections (e), (f), (g) and (i) are amended to read as follows:

RULE 1420. STANDARDS FOR GRANTING PERMITS

(a) COMPLIANCE

The Air Pollution Control Officer shall deny a permit to operate, except as provided in Rule 1421, unless the requirements of this rule are met.

(b) NEW TERMS AND CONDITIONS

The Air Pollution Control Officer shall not impose any new or additional terms or conditions on any emission unit presently under permit that were not previously required in the currently valid permit to operate for that unit (or, if the unit is new, in permits to operate for similar units at other sources), unless:

(1) The new or additional term or condition is required by the federal Clean Air Act, or is required to implement an applicable requirement;

(2) The new or additional term or condition updates the permit to operate to conform to, or clarify, the requirements of these Rules and Regulations;

(3) The new or additional term or condition is a part of an alternative operating scenario proposed by the applicant, or is necessary to regulate trading under an emissions cap proposed by the applicant; or

(4) Terms or conditions substantially the same as the new or existing terms or conditions in the permit to operate are being imposed at the same time and in the same manner on similar emission units that are not subject to this regulation. If an affected emission unit is unique due to physical or operational characteristics, the emissions controls in place, or the permit conditions imposed previously, those requirements for equal treatment of "similar" emission units shall not be applicable.

(c) PROVISIONS FOR SAMPLING AND TESTING

Before a permit to operate is granted, the Air Pollution Control Officer may require the applicant to provide and maintain such additional facilities for sampling and testing purposes as may be necessary to monitor compliance with any terms and conditions of the permit to operate that were not already contained in the existing permits to operate for the source. In the event of such a requirement, the Air Pollution Control Officer shall notify the applicant in writing of the required size, number and location of sampling holes; the size and location of the sampling platform, the access to the sampling platform; and the utilities for operating the sampling and testing equipment. The platform and access shall be constructed in accordance with the General Industrial Safety Orders of the State of California.

(d) INCORRECT INFORMATION IN AN APPLICATION

In acting upon a permit application, if the Air Pollution Control Officer finds that an emission unit does not correspond to the information in the permit application, he shall request clarifying or supplemental information. If satisfactory information is not received within 90 days of this request, or any longer period specified in the request, the Air Pollution Control Officer may cancel the application.

(e) APPLICATIONS PROPOSING TRADING UNDER AN EMISSIONS CAP

If an applicant proposes internal trading under a federally enforceable emissions cap to be established in the permit to operate independent of otherwise applicable requirements, the Air Pollution Control Officer shall approve the proposed trading provisions only if the applicant demonstrates, or the Air Pollution Control Officer otherwise determines, that the permit will specify replicable procedures that ensure that trades are enforceable, accountable and quantifiable. The terms and conditions of the permit allowing such emissions trading must ensure compliance with all applicable requirements.

For trades to be enforceable, the requirements applicable to emission units involved in a trade must be clear and unambiguous, and it must be practicable to determine compliance with those requirements. For trades to be accountable, it must be clear how trades will affect emissions from the source. For trades to be quantifiable, the permit must specify measuring techniques, including test methods, monitoring, recordkeeping and reporting requirements, as appropriate, which will be used to measure emissions.

~~The permit may specify an averaging period within which emissions decreases must at least balance emissions increases. The permit may specify, based on emissions characteristics or other factors affecting the equivalence of specific emissions, that some specific emissions increases or decreases will be traded at ratios that differ from 1-to-1 with other specific emissions increases or decreases; however, the effects of any such ratios must be reversed if a given trade is reversed. (For example, if the permit provides that point A must be decreased by 10 tons when point B is increased by 8 tons, then a subsequent decrease of 8 tons returning B to its prior emissions level must allow A to be increased by 10 tons, returning A to its prior emissions level).~~

~~The permit may, but need not, specify that net emissions decreases within an averaging period may be carried forward and traded against emissions increases in a subsequent averaging period. If the permit allows such carry-overs, the permit may include terms and conditions requiring that such carry-overs be discounted before being used in trade against emissions decreases. In any permit that allows such carry-overs, procedures must also be specified for verifying carry-over emissions decreases, and for tracking the use of such carry-overs.~~

(f) SPECIFIC COMPLIANCE REQUIREMENTS

The Air Pollution Control Officer shall deny a permit to operate or revised permit to operate, except as provided in Rule 1421, if the applicant does not show in its permit application that every emission unit at the source can be operated in compliance with:

(1) All ~~applicable~~ relevant requirements of these Rules and Regulations including new source review. Where the proposed revision of permit to operate conditions, including the proposed revision of conditions relating to the method of operations, will result in an increased aggregate potential to emit for the source, the Air Pollution Control Officer shall evaluate the proposed revision in accordance with the provisions of the District's new source review rules and shall determine compliance with the District's new source review rules as if an application for an authority to construct had been received containing the proposed revised conditions. In said situations, the permit to operate with revised conditions shall not be granted in cases where such an authority to construct would not have been granted.

(2) All ~~applicable~~ relevant requirements of Division 26 of the California Health and Safety Code.

(3) All applicable requirements of ~~Subparagraphs (d), (f), (g), (h), and (j) of~~ Section 112 of the federal Clean Air Act as amended in 1990.

(4) All applicable requirements of the federal Acid Rain Program contained in Title IV of the federal Clean Air Act as amended in 1990.

(5) Any requirements established in the permit to operate that were not already contained in permits to operate for the source.

(g) COMPLIANCE SCHEDULES

In acting upon a permit or modification application, if the Air Pollution Control Officer finds that the source is in compliance with all applicable requirements except those for which the Hearing Board has issued a variance, the Air Pollution Control Officer may approve the application provided ~~the compliance schedule contained in the variance~~ a compliance plan is included with the application which meets the requirements of Rule 1414 (f)(3)(viii) and a compliance schedule and a requirement for submission of certified progress reports no less frequently than every six months are included as a conditions of the permit to operate pursuant to Rule 1421.

(h) NOTIFICATION REQUIREMENTS MANDATORY

The Air Pollution Control Officer shall not issue a permit to operate unless all applicable provisions of Rule 1415, Permit Process-Public Notification, have been met.

(i) FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA) OBJECTIONS

The Air Pollution Control Officer shall not issue a permit to operate required by this regulation if the Administrator of the federal EPA objects, within the ~~specified~~ review periods specified in Rule 1410, to such issuance. In such case, a permit to operate shall not be issued by the Air Pollution Control Officer except in a form consistent with the objection, or after the Administrator withdraws the objection.

11. Rule 1421 Sections (a), (b), and (d) amendments are to read as follows:

RULE 1421. PERMIT CONDITIONS

(a) CONDITIONS AND COMPLIANCE SCHEDULES AUTHORIZED

A permit to operate shall include any ~~temporary or permanent~~ conditions that are necessary to ensure compliance with these Rules and Regulations and applicable state and federal laws and regulations. Subject to the limitations set forth in Rule 1420(b), new conditions may be imposed when a permit to operate is issued. New conditions shall be imposed to require that the permittee shall submit reports at least once every six months which summarize the results of all monitoring and recordkeeping required.

Any conditions or increments of progress associated with any ~~variance~~ compliance schedule that is made a part of ~~the~~ a permit to operate shall be in writing, shall become part of the permit to operate, and shall be complied with at all times. The permit shall require progress

reports describing the status of compliance with increments of progress ~~of a variance~~ prescribed in the compliance schedule to be submitted not less frequently than semi-annually.

Commencing or continuing operation under a permit to operate shall be deemed acceptance of all the conditions specified in the permit, ~~to the extent those conditions are consistent with these Rules and Regulations~~. This does not limit the right of the applicant to seek judicial review or seek federal EPA review of a permit term or condition.

(b) ~~REQUIREMENT FOR NEW SOURCE REVIEW (NSR) IN SOME CIRCUMSTANCES~~ PERMIT CONTENT

~~The Air Pollution Control Officer shall issue a permit to operate with revised conditions upon evaluation of a new application, if the applicant demonstrates that the emission units at a source can operate in compliance with the provisions of these Rules and Regulations and applicable state and federal laws and regulations under the revised conditions. Where the proposed revision of permit to operate conditions, including proposed revision of conditions relating to the method of operations, will result in an increased aggregate potential to emit for the source, the Air Pollution Control Officer shall evaluate the proposed revision in accordance with the provisions of the District's new source review rules and shall determine compliance with the District's new source review rules as if an application for an authority to construct had been received containing the proposed revised conditions. In said situations, the permit to operate with revised conditions shall not be granted in cases where such an authority to construct would not have been granted.~~

~~This rule does not authorize the Air Pollution Control Officer to change conditions to a permit to operate in effect without prior notice to the permittee.~~

(1) Each permit shall include the following elements:

(i) Conditions that establish emission limitations and standards for all applicable requirements and will assure compliance with all applicable requirements through compliance certification, testing, monitoring, reporting and recordkeeping.

(ii) The term of the permit.

(iii) Conditions establishing applicable emissions monitoring and emissions testing or continuous monitoring requirements and related recordkeeping and reporting requirements. Where an applicable requirement does not require periodic testing or monitoring, conditions establishing periodic monitoring sufficient to yield reliable data from the relevant time period and to ensure compliance with the applicable requirement.

Conditions requiring that all applicable records and support information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit be maintained for a period of at least five years. All records of required monitoring must include:

(A) the date, the location as defined in the permit, and the time of sampling or measurement;

(B) the date(s) analyses were performed;

(C) the company or entity that performed the analyses;

(D) the analytical techniques or methods used;

(E) the results of such analyses; and

(F) the operating conditions as existing at the time of sampling and measurement.

All required reports shall be submitted to the District at least every six months and shall be certified by a responsible official. Such reports shall identify any deviations from federally enforceable permit conditions. In addition, prompt reporting to the District of any deviations from federally enforceable permit conditions shall be required. The report must include the probable cause of such deviations and any corrective actions or preventive measures taken.

(iv) If applicable a federally enforceable permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the federal Clean Air Act or rules promulgated under Title IV.

(v) A severability clause to ensure the continued validity of the various federally enforceable permit requirements in the event of a challenge to any portions of the permit.

(vi) A statement that the source must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(vii) A statement that the need for a source to halt or reduce activity in order to maintain compliance shall not be a defense in an enforcement action.

(viii) A statement that the permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the source for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(ix) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege.

(x) A statement that the source shall furnish to the District, within a reasonable time:

(A) any information required to determine whether cause exists for modifying, revoking, reissuing, or terminating the permit;

(B) any information required to determine compliance with the permit conditions; or

(C) copies of any records required to be maintained pursuant to permit conditions.

(xi) A condition requiring the source pay fees due to the District consistent with all applicable fee schedules.

(xii) Applicable conditions for all reasonably anticipated operating scenarios identified by the source in its permit application. The source shall also record the operating change in a log, noting the scenario under which the source is operated. Such conditions shall meet all applicable requirements.

(xiii) Terms and conditions, if requested by the source for emissions trading within the source and approved by the Air Pollution Control Officer, to the extent that the permit provides for trading. Such terms and conditions:

(A) shall include standard permit and compliance requirements consistent with this section;

(B) may extend the permit shield to all terms and conditions that allow emissions trading; and

(C) shall meet all applicable requirements of this regulation.

(xiv) For any condition based on applicable requirements, references that specify the origin and authority for each condition, and identify any difference in form as compared to such applicable requirement.

(2) Each permit shall include the following compliance requirements:

(i) A statement that representatives of the District shall be allowed access to the source and all required records pursuant to State Health and Safety Code Section 41510.

(ii) A schedule of compliance if the source is not in compliance with any applicable requirement. In addition, a condition that requires submittal of a progress report not less frequently than every six months. Such progress reports shall contain the following:

(A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(iii) A requirement that the source submit a compliance certification consistent with Rule 1414 (f)(3)(ix) and also containing:

(A) the frequency of submittals of compliance certifications;

(B) a requirement for the compliance certification to include the following:

(1) the identification of each term or condition of the permit that is the basis of the certification;

(2) the compliance status;

(3) whether compliance was continuous or intermittent;

(4) the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with this section; and

(5) such other facts as the permitting authority may require to determine the compliance status of the source.

(C) a requirement that all compliance certifications be submitted to the federal EPA as well as the District.

(D) Such additional requirements as may be specified pursuant to Sections 114 (a)(3) and 504 (b) of the federal Clean Air Act.

(iv) A requirement that any document required by permit shall contain a certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the document is true, accurate, and complete.

(3) The Air Pollution Control Officer shall specifically designate as being federally enforceable under the federal Clean Air Act any terms and conditions of the permit that are required under the federal Clean Air Act or applicable requirement. All terms and conditions of the permit specifically designated as federally enforceable shall be enforceable by EPA and the public (through judicial review or petitions to the Administrator) under the federal Clean Air Act.

(c) STATE AND LOCAL ENFORCEMENT

Any person who fails to comply with any condition imposed shall be liable to penalty pursuant to Division 26, Part 4, Chapter 4, Article 3, of the State of California Health and Safety Code.

(d) FEDERAL ENFORCEABILITY

Any permit conditions imposed pursuant to this rule and identified by the Air Pollution Control Officer as federally enforceable shall be enforceable by the federal EPA and any of its authorized employees or agents, and by citizens to the extent provided in the federal Clean Air Act. (As with any permit condition, these permit conditions are also enforceable by state and local authorities.) Forbearance from enforcement of such provisions by the Air Pollution Control Officer shall not limit the enforcement authority of the federal EPA, or citizens.

The Air Pollution Control Officer may designate as federally enforceable only those permit conditions ~~(1) that would have been federally enforceable but for the permit process, or (2) that the applicant requests be made federally enforceable in order to render the source a synthetic minor source,~~ that identify, describe, or define applicable requirements that are federally enforceable by operation of law or ~~(3)~~ that the applicant requests be made federally enforceable in order to create a voluntary emissions cap ~~under which trading may occur~~. Except as provided herein, the Air Pollution Control Officer may not use the process to attach federal enforcement authority to permit conditions that would not otherwise have been federally enforceable. ~~Any permit condition that was not federally enforceable prior to the permitting process or which was not affirmatively designated as federally enforceable in the permit to operate pursuant to and consistent with this rule, shall not be federally enforceable, unless such permit is modified pursuant to this regulation.~~

A requirement that is federally enforceable by operation of law apart from the permit process will continue to be federally enforceable despite the failure of the Air Pollution Control Officer to designate the requirement as federally enforceable. ~~Any requirement explicitly designated as not federally enforceable by the Air Pollution Control Officer in a permit that was subject to public notice and to review by the federal EPA shall not be federally enforceable.~~

The Air Pollution Control Officer shall act promptly to reopen a permit if the Air Pollution Control Officer determines that the permit does not designate any permit term, condition, or applicable requirement as federally enforceable that was federally enforceable prior to the granting of the permit or which became federally enforceable after the granting of the permit. In the latter case, the permit shall not be reopened if the remaining life of the permit is less than three years.

Where a permit condition is designated as federally enforceable, any enforcement undertaken by the federal EPA or a citizen shall have full force of any and all legal recourse and penalties the federal EPA or a court of law are empowered to impose pursuant to authority granted in the federal Clean Air Act and the Code of Federal Regulations.

12. Rule 1422 is amended to read as follows:

RULE 1422. DENIAL OR CANCELLATION OF APPLICATIONS

Denial or cancellation of an application for a modification to a permit issued pursuant to this regulation shall leave existing permits to operate issued pursuant to Rule 1410 for the source intact, and the source ~~may~~ must continue operations consistent with those permits. This provision shall not allow a source to operate out of compliance with permit terms and conditions except as provided for minor permit modifications pursuant to Rule 1410 (j).

In the event of cancellation or denial of a permit to operate, the Air Pollution Control Officer shall notify the applicant in writing of the reasons therefore. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served or ~~affidavit~~ declaration under oath of the person making the service.

Denial of an initial or renewal permit to operate, to a source required to have such a permit, shall also constitute suspension of the permits to operate for that source as of ~~a date 90 days after~~ the date of service of denial or cancellation notice, or the date on which a permit to operate was required, whichever is later. Except as provided in the preceding paragraph, denial of a required permit to operate and the accompanying suspension of permits to operate is a final permit action.

Unless the applicant submits a responsive supplemental application within 90 days after notice of cancellation, a cancellation of an application for a required permit to operate shall become effective 90 days after notice to the applicant of the proposed cancellation. If a responsive supplemental application is submitted within this 90-day period, the application shall be restored to pending status until the Air Pollution Control Officer takes further action. As of the effective date of a cancellation, permits to operate for the affected emission units shall be suspended, and any permit application shield otherwise provided by Rule 1410(a) shall no longer be in effect. Any operation of equipment required to have permits after the effective date of a cancellation is prohibited, and subject to fines and penalties as provided in these

Rules and Regulations, and state and federal law. Notwithstanding the denial and cancellation procedures prescribed in this rule, the Air Pollution Control Officer shall take final permit action on an application for initial permit or permit renewal no later than 18 months after the receipt of a completed application.

If the deficiencies in a permit application affect only certain emission units at a source, any cancellation of the application shall be limited in its effect to those emission units. If the circumstances requiring denial of a permit to operate apply only to certain emission units at a source, any denial of that permit shall be limited to those emission units.

Any denial by the Air Pollution Control Officer that is noticed to the applicant prior to submission of the permit action to the federal EPA may also be appealed to the Hearing Board if the stated grounds for the denial are within the jurisdiction of the Hearing Board.

A source whose permit to operate is canceled or denied in whole or in part may submit a supplemental permit application, addressing the permit issues or application deficiencies identified by the Air Pollution Control Officer in the notice of cancellation or denial. If a supplemental application is submitted within 90 days after notice to the applicant of the cancellation or denial, the Air Pollution Control Officer shall expedite processing of the permit application, provided the applicant has addressed the problems specified by the Air Pollution Control Officer as reasons for cancellation or denial of the permit to operate.

RULE 1423. FURTHER INFORMATION

Before acting on an application for a permit to operate, the Air Pollution Control Officer may require the applicant to furnish further information, plans or specifications.

RULE 1424. APPLICATIONS DEEMED DENIED

An applicant for a permit to operate or modification pursuant to this regulation may at his or her option deem the application denied if the Air Pollution Control Officer fails to act on the application within the time frames specified in this regulation for the type of application submitted, provided the applicant notifies the Air Pollution Control Officer of his or her election in writing. A deemed denial pursuant to this rule shall be subject to appeal pursuant to Rule 1425.

13. Rule 1425 Section (c) is amended and Section (i) is added to read as follows:

RULE 1425. APPEALS AND JUDICIAL REVIEW

(a) PLACE FOR APPEALS

Any proposed decision by the Air Pollution Control Officer to deny or partially deny a permit or modification, and any proposed decision to approve a permit or modification may be appealed to the Hearing Board, provided the appeal is filed within 10 days after receipt of the notice of the proposed decision by the Air Pollution Control Officer and is within the jurisdiction of the Hearing Board and notice of the appeal is given to the Air Pollution Control Officer.

(b) APPEAL BY APPLICANT TO THE HEARING BOARD

Within 10 days after notice by the Air Pollution Control Officer of a proposed denial of a permit to operate or modification, or prior to submission of any other proposed determination to the federal EPA for review, the applicant may petition the Hearing Board, in writing, for a public hearing to appeal the proposed decision. Such petition shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury.

The Hearing Board, after notice and a public hearing held within 30 days after filing the petition, may sustain, reverse or modify the action of the Air Pollution Control Officer. Such order may be made subject to specified conditions. The Air Pollution Control Officer shall notify the federal EPA of any action taken by the Hearing Board on any permit required by this regulation.

(c) APPEALS BY OTHERS TO THE HEARING BOARD

Any proposed decision to issue a permit to operate or modification of a permit, or to renew a permit to operate with new or modified conditions, may be appealed to the Hearing Board by persons other than the applicant under the following conditions. On matters where the Air Pollution Control Officer provided public notice and an opportunity for comment, only persons who appeared, submitted written testimony, or otherwise participated in the application or permit review process may appeal to the Hearing Board. If no such notice was provided, any aggrieved person may appeal. The appeal shall be in the form of a request to the Hearing Board to determine whether the decision or proposal to issue the permit, modification or renewal was proper. A request to the Hearing Board shall be made by filing a petition in accordance with the Rules and Regulations of the Hearing Board and payment of fees as provided in these Rules and Regulations. The request shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury. A copy of such request shall be served on the applicant for the permit to operate and the Air Pollution Control Officer no later than the day the request is filed with the Hearing Board. Within 30 days of the request, the Hearing Board shall hold a noticed public hearing and render a decision on whether the <u>proposed decision to issue a</u> permit to operate, modification or renewal was properly ~~issued~~ <u>made</u> in accordance with applicable District Rules and Regulations, and state and federal law.

(d) REQUEST FOR STAY

(1) An aggrieved person who has filed a petition pursuant to Section (c) of this rule may request the Hearing Board to stay the effect of any permit action that would otherwise be effective prior to the expiration of the time for the federal EPA review, pending a decision of the Hearing Board on the petition. Any such request shall be in writing, shall state with reasonable particularity the grounds in support of the request and

shall be signed under penalty of perjury. A copy of the petition and request for stay shall be served personally on the applicant for the permit to operate and the Air Pollution Control Officer on or before the day the request for stay is filed with the Hearing Board. Service of the request on an applicant for a permit to operate, who does not maintain a fixed place of business within the County of San Diego, and upon the Administrator of the federal EPA may be accomplished by mail. Proof of service on the applicant for a permit to operate must accompany any request for a stay at the time such request is filed with the Hearing Board. The person requesting the stay shall include, with the notice of the request to the applicant, a notice of the time and place of the meeting of the Hearing Board at which the request for stay will be considered.

(2) A request for stay served and filed pursuant to Subsection (d)(1) above, shall be heard, notice requirements permitting, at the next meeting of the Hearing Board at which time the Hearing Board shall determine whether the permit to operate, modification or renewal should be stayed until the final decision of the Hearing Board on the propriety of the issuance of the permit, modification or renewal is rendered. If the notice requirements cannot be met for the next meeting of the Hearing Board, the stay request shall be heard at the following meeting of the Hearing Board. The person requesting the stay, the holder of the permit to operate and the Air Pollution Control Officer shall be given an opportunity to present evidence and arguments on the request for stay.

(3) Minor modifications that an applicant can implement prior to approval pursuant to this regulation may not be stayed by the Hearing Board. The Hearing Board shall stay the effect of other District determinations pending final decision by the Hearing Board only if the Hearing Board finds that denial of the stay would likely result in great or irreparable injury to an applicant, an aggrieved person or the public. The decision of the Hearing Board on the stay shall be served by the Clerk of the Hearing Board on all parties and the Air Pollution Control Officer.

(e) STAY AFFECTING MODIFICATION ONLY

With respect to a permit to operate for a modification of an existing permitted operation, any appeal or stay provided for in this rule shall apply only to the modification and not to the existing operation.

(f) DISPUTE RESOLUTION

Not later than three business days after receipt by the Air Pollution Control Officer of an appeal pursuant to Section (b) or (c) of this rule or a request for stay pursuant to Section (d) of this rule, the Air Pollution Control Officer or a designee shall attempt to schedule a meeting with the appellant and the applicant to resolve the issues identified in the appeal or request for stay. If there is a resolution of the issues by the parties, the matter before the Hearing Board shall be withdrawn or dismissed. If all the issues are not resolved at the meeting, the Air Pollution Control Officer shall file a report with the Hearing Board detailing the resolved and unresolved issues and the Air Pollution Control Officer's position on the unresolved issues.

(g) LIMITATIONS ON APPEALS TO THE HEARING BOARD

No appeals may be taken to the Hearing Board, and the Hearing Board shall not have jurisdiction, in the following circumstances:

(1) Renewal of a permit to operate or transfer of ownership, provided permit conditions are not modified or revised, unless new requirements that became applicable to the source after the prior permit was issued have not been reflected in the proposed

renewal permit. In the event new requirements are applicable or permit conditions are modified or revised at the time of renewal, the provisions of this rule shall apply only to the new requirements and to the modification or revision, and related conditions.

(2) Approval of a permit to operate modification required solely because of a change in permit exemptions stated in Rule 1411, provided the affected emission unit was installed at the time the applicable revisions to Rule 1411 became effective and provided no modifications to the equipment are necessary to comply with these Rules and Regulations or applicable state and federal law. In the event a modification is not exempt under this section, the provisions of this rule shall apply only to the modification, and related conditions.

(h) **PETITIONS TO THE ADMINISTRATOR OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)**

If the Administrator of the federal EPA does not object in writing to the issuance of a permit to operate as proposed by the Air Pollution Control Officer during the period provided in this regulation for federal EPA review, any person may petition the Administrator within 60 days after the expiration of that review period to make such objection.

Petitions pursuant to this section may be filed while an appeal to the Hearing Board is being made by the petitioner or by another person.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the permitting authority shall not issue the permit until the federal EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the federal EPA review period and prior to a federal EPA objection. If the Air Pollution Control Officer has issued a permit prior to receipt of a federal EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and the Air Pollution Control Officer may thereafter issue only a revised permit that satisfies the federal EPA's objections.

Neither a petition under this section, nor a federal EPA decision to modify, terminate or revoke a permit pursuant to this section, shall render a source in violation of the requirement to have submitted a timely and complete application under this regulation.

(i) **FINAL PERMIT ACTION**

Notwithstanding the appeal and petition provisions of Sections (a) through (h) of this rule, the Air Pollution Control Officer shall take final permit action on an application to issue, amend, modify or renew a permit, or on a permit reopening, within the time limits specified in Rules 1410 and 1418.

~~(i)~~(j) **JUDICIAL REVIEW**

Judicial review of a final permit action shall be available as provided by state and federal law.

14. Regulation XIV Appendix A is amended to read as follows:

APPENDIX A

INSIGNIFICANT UNITS

This listing is of equipment determined to be exempt from permit requirements under this regulation due to the relatively low potential to emit. An insignificant unit shall not include any unit subject to an applicable requirement other than District Rules 50 and 51.

(a) Any engines mounted on, within or incorporated into any vehicle, train, ship, boat or barge, that are used exclusively to provide propulsion, supply heat or electrical energy to that same vehicle, train, ship, boat, or barge, or that are used exclusively to load or unload cargo. Sand, rock, silt, soil or other materials which come from the bottom of a body of water shall not be considered cargo. This exemption is not intended to apply to equipment used for the dredging of waterways, to floating dry docks, or to equipment used in pile driving adjacent to or in waterways.

(b) Equipment utilized exclusively in connection with any structure, which is designed for and used exclusively as a dwelling for not more than four families.

(c) Air pollution control equipment associated with any article, machine, equipment, process or contrivance not required to have a permit to operate.

(d) The following equipment; ~~, provided the emissions of organic compounds, as defined in Rule 20.1, or particulate matter from the equipment do not exceed 100 pounds per day of either pollutant, or construction of the equipment was commenced before September 26, 1984.~~

(1) Internal combustion engines which fall into one of the following categories:

(i) Motor vehicle engines, ~~except as provided in Section (a),~~ pile drivers (except for Diesel pile driving hammers), and construction cranes that are routinely dismantled and transported to non-contiguous locations for temporary use;

~~(ii) Any combination of piston-type engines at one source, with a total maximum power output of less than 200 brake horsepower;~~

~~(iii)~~(ii) ~~Piston-type~~ Stationary and portable internal combustion engines ~~of less than 50~~ with a brake horsepower output rating of 50 or less;

~~(iv) Piston-type engines of greater than 500 brake horsepower which were installed before August 1, 1980;~~

~~(v) Any combination of piston-type engines at a stationary source, with a total maximum power output equal to or greater than 200 brake horsepower and less than 500 brake horsepower, for which construction commenced prior to March 27, 1990;~~

~~(vi) Non-electrical generating piston type engines with a maximum power output of less than 500 brake horsepower when part of a process, process line, line, equipment, article, machine or other contrivance for which a permit to operate is required by these Rules and Regulations;~~

~~(vii) Any combination of piston-type engines for which construction commenced before April 5, 1983 provided all engines in the combination are less than 500 brake horsepower;~~

~~(viii)~~(iii) ~~Gas turbines~~ Any stationary gas turbine with a power rating ~~maximum heat input at ISO Standard Day Conditions~~ of less than 0.3 megawatt (MW); or ~~5 million British Thermal Units (Btu) per hour fired exclusively with natural gas and/or liquified petroleum gas;~~

~~(ix)~~(iv) ~~Gas turbines~~ Any stationary gas turbine engine with a power rating ~~maximum heat input~~ of less than 1.0 megawatt (MW) ~~10 million British Thermal Units per hour fired exclusively with natural gas and/or liquified petroleum gas for~~ which was installed and operating in San Diego County on or before September 27, 1994. ~~construction commenced before March 27, 1990; or~~

~~(x) Gas turbines with a maximum heat input of less than 50 million British Thermal Units per hour fired exclusively with natural gas and/or liquified petroleum gas installed before October 2, 1977.~~

(2) Water cooling towers and water cooling ponds not used for evaporative cooling of process water or not used for evaporative cooling of water, contaminated water or industrial waste water from barometric jets or from barometric condensers.

(3) Portable aircraft engine test stands which were constructed before November 4, 1976.

(4) Fuel-burning equipment as described below:

(i) Fuel-burning equipment, except internal combustion engines, with a maximum gross heat input rate of less than one million British Thermal Units (Btu's) (0.252 x 106 Kcal) per hour when not part of a process, process line, line, equipment, article, machine or other contrivance for which a permit to operate is required by these Rules and Regulations.

(ii) Fuel burning equipment, except steam boilers and internal combustion engines, with a maximum gross heat input of less than 50 million Btu's ~~British Thermal Units (12.6 x 106 Kcal)~~ per hour, and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.

(iii) Steam boilers with a maximum gross heat input of less than ~~50~~ five million ~~British Thermal Units (12.6 x 106 Kcal)~~ Btu's per hour, ~~, if construction commenced prior to March 27, 1990, and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.~~

~~(iv) Any combination of steam boiler equipment at one stationary source with a total maximum gross heat input rate of less than 20 million British Thermal Units.(7.6 x 106 Kcal) per hour, if construction commenced on or after March 27, 1990 and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.~~

(5) Extrusion equipment used exclusively for metals, minerals, or plastic except coking extrusion equipment or processes which manufacture products containing greater than one percent asbestos fiber by weight.

(6) Equipment used exclusively for forging, pressing, rolling or drawing of metals or for heating metals immediately prior to forging, pressing, rolling or drawing.

(7) All printing or graphic arts presses located at a stationary source which emits a total of less than 15 lbs of volatile organic compounds, subject to Rule 67.16, on each day of operation. It is the responsibility of any person claiming this exemption to maintain all usage records, including any mixing ratios, necessary to establish maximum daily emissions and to make this information available to the Air Pollution Control Officer upon request.

(8) Ovens, if only part of one or more processes which require a permit pursuant to these Rules and Regulations or which are exempt from a requirement for a permit to operate pursuant to this rule.

(9) Crucible-type or pot-type furnaces with a brimful capacity of less than 450 cubic inches of any molten metal.

(10) Crucible furnaces, pot furnaces or induction furnaces, with a capacity of 2500 cubic inches or less each, in which no sweating or distilling is conducted and from which only non-ferrous metals except yellow brass, are poured or non-ferrous metals are held in a molten state.

(11) Shell core and shell-mold manufacturing machines.

(12) Molds used for the casting of metals.

(13) Foundry sand mold forming equipment except those to which heat, sulfur dioxide or organic material is applied.

(14) Shot peening cabinets where only steel shot is employed and no scale, rust, or old paint is being removed.

(15) Die casting machines.

(16) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.

(17) Metalizing guns, except electric arc spray guns, where the metal being sprayed is in wire form.

(18) Brazing, welding equipment including arc welding equipment.

(19) Hand soldering equipment and solder-screen processes. Solder-screen means those processes which use a process similar to silk-screening to apply solder and which subsequently undergo a reflow process other than a vapor phase solder reflow process.

(20) Equipment used exclusively for the sintering of glass or metals.

(21) Atmosphere generators and vacuum producing devices used in connection with metal heat treating processes.

(22) Dry batch mixers of 0.5 cubic yards (0.38 cubic meters) rated working capacity or less. Dry batch means material is added in a dry form prior to the introduction of a subsequent liquid fraction or when no liquid fraction is added.

(23) Batch mixers (wet) of 1 cubic yard (0.765 cubic meter) capacity or less where no organic solvents, diluents or thinners are used.

(24) Equipment used exclusively for the packaging of lubricants or greases.

(25) Portable conveyors (belt or screw type) where there is no screening.

(26) Roofing kettles (used to heat asphalt) with a capacity of 85 gallons (322 liters) or less.

(27) Abrasive blasting equipment with a manufacturer's-rated sand capacity of less than 100 pounds (45.4 kg) or 1 cubic foot or less.

(28) Abrasive blast cabinets which vent through control devices and into the buildings in which such cabinets are located.

(29) Blast cleaning equipment using a suspension of abrasive in water.

(30) Equipment used for buffing (except automatic or semi-automatic tire buffers) or polishing, carving, cutting, drilling, machining, routing, shearing, sanding, sawing, surface grinding, or turning of ceramic artwork, ceramic precision parts, leather, metals, rubber, fiberboard, masonry, except fiber reinforced plastics unless the process involves the use of water as a means for cutting and is equipped with a control device that does not emit to the atmosphere.

(31) Handheld equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding or turning of fiber reinforced plastic, when not used at a designated workstation, booth or room.

(32) Equipment used for carving, cutting, drilling, surface grinding, planning, routing, sanding, sawing, shredding or turning of wood, or the pressing or storing of sawdust, wood chips or wood shavings.

(33) Paper shredders and paper disintegrators which have a capacity of 600 pounds per hour or less.

(34) Equipment used to liquefy or separate oxygen, nitrogen or the rare gases from the air.

(35) Equipment used exclusively to grind, blend or package tea, cocoa, spices or roasted coffee.

(36) Equipment, other than boilers, used for preparing food for human consumption and located at eating establishments, bakeries and confectioneries, except for bakery ovens used for the baking of yeast leavened products which are located at a stationary source where the combined rated heat input capacity of all bakery ovens is equal to or more than two million Btu's per hour.

(37) Equipment using exclusively aqueous solutions not containing volatile organic compounds in excess of 10 percent by weight for surface preparation, cleaning, anodizing, plating, polishing, stripping or etching except acid chemical milling, chrome plating, chromic acid anodizing or the stripping of chromium, or copper etching using ammonium hydroxide, ammonium chloride or concentrated solutions of nitric, hydrofluoric and/or hydrochloric acids exceeding 17 percent acid concentration by weight.

(38) Laboratory equipment used exclusively for chemical or physical analyses and bench scale laboratory equipment provided such bench scale equipment is not used for production purposes to directly produce a deliverable product or service, other than the first-article product or service, and provided the emissions of organic compounds from such bench scale equipment, do not exceed five (5) pounds per day and provided such bench scale equipment does not emit detectable levels of compounds listed as Acutely Hazardous by Section 25532 of the California Health and Safety Code.

For the purposes of this subsection, the following definitions shall apply:

"Bench Scale Laboratory Equipment" shall mean equipment which a) is under direct, immediate and exclusive control of a laboratory director; b) is sub-scale in size; and c) is used for the sole purpose of conducting studies or tests to develop a new or improved product or service.

"First-Article Deliverable Product or Service" shall mean the first product or service which is produced using bench scale laboratory equipment and which is delivered to a potential intra-company or external customer for approval. First article deliverable product or service shall not exceed one (1) unit of product or service per customer.

(39) Titanium chemical milling at temperatures below 110°F (43°C).

(40) Orchard or citrus grove heaters.

(41) Non-immersion dry cleaning equipment.

(42) Alkaline chemical milling equipment for which construction or installation commenced prior to March 27, 1990, or alkaline chemical milling equipment used exclusively for the cleaning of internal combustion engine parts.

(43) Laundry dryers, extractors or tumblers used for fabrics cleaned only with solutions of bleach or detergents containing no organic solvents.

(44) Ovens having an internal volume of 27 cubic feet (0.765 cubic meter) or less in which organic solvents or materials containing organic solvents are charged.

(45) Equipment used for compression molding and injection molding of plastics.

(46) Cold solvent cleaning <u>tanks, vapor degreasers,</u> and paint stripping tanks

<u>(i)</u> with a liquid surface area of 1.0 square foot (0.09 square meter) or less, <u>or</u>

<u>(ii) which have a maximum capacity of one gallon or less.</u>

~~used for the employment or application of organic solvents or materials containing organic solvents.~~

(47) Railway sweepers used for cleaning rail tracks.

(48) Equipment used for powder coating operations, except metalizing gun operations, where surface preparation or cleaning solvent usage is less than one-half gallon each day. ~~emissions of volatile organic compounds are less than one pound per day. The person claiming this exemption must keep daily usage records, and all data necessary to establish maximum daily emission level. This information must be made available immediately upon request.~~

(e) Stationary storage tanks (excluding tanks subject to Rule 61.9) for the storage of organic compounds, as follows:

(1) With a capacity of 260 gallons (984 liters) or less.

(2) With a capacity greater than 260 gallons (984 liters) provided that such containers, reservoirs or tanks will be used exclusively to store organic compounds that are not volatile organic compounds as defined in Rule 61.0.

(3) Used exclusively for the storage of organic solvents which are liquids at standard conditions and which are to be used as dissolvers, viscosity reducers, reactants, extractants, cleaning agents or thinners and not used as fuels.

(4) For the storage of natural gas or propane when not mixed with other volatile organic compounds as defined in Rule 61.0.

(5) Used exclusively as a source of fuel for wind machines used for agricultural purposes.

(f) Mobile transport tanks or delivery tanks or cargo tanks on vehicles used for the delivery of volatile organic compounds, except asphalt tankers used to transport and transfer hot asphalt used for roofing applications.

(g) Application equipment for architectural surface coatings as defined in Rule 67.0.

(h) Liquid surface coating application operations:

(1) Conducted within an application station (portable or stationary) where not more than 20 gallons per year of material containing organic compounds are applied. It is the responsibility of any person claiming this exemption to maintain purchase and daily usage records, including any mixing ratios, necessary to substantiate the claim. Coatings applied by means of non-refillable aerosol cans shall not be included in the annual usage determination for purposes of determining the 20 gallon per year limit stated above;

(2) Using non-refillable aerosol spray cans for application of coatings;

(3) Conducted outside defined coating areas for the purpose of touch-up or maintenance of equipment;

(4) Using hand-held brushes for application of a primer coating from containers of eight (8) ounces (236.6 milliliters) or less in size to fasteners to be installed on aerospace component parts;

(5) Using air brushes with a coating capacity of two (2) ounces (59.1 milliliters) or less for the application of a stencil coating; or

(6) Conducted in primary or secondary schools for instruction.

(i) The following uncontrolled equipment or processes using materials containing volatile organic compounds when the emissions of organic compounds from the equipment or process do not exceed five pounds in any one day:

(1) Foam manufacturing or application.

(2) Reinforced plastic fabrication using resins such as epoxy and/or polyester.

(3) Plastics manufacturing or fabrication.

(4) Ink mixing tanks.

(5) Cold solvent degreasers used exclusively for educational purpose.

(6) Batch-type waste-solvent recovery stills with batch capacity of 7.5 gallons or less for onsite recovery of waste solvent, provided the still is equipped with a device which shuts off the heating system if the solvent vapor condenser is not operating properly.

(7) Peptide Synthesis.

(8) Equipment used for washing or drying articles fabricated from metal, cloth, fabric or glass, provided that no organic solvent is employed in the process and that no oil or solid fuel is burned and none of the products being cleaned has residues of organic solvent..

The exemptions in this section shall not apply to equipment required to obtain a permit for emissions of air contaminants other than organic compounds.

(j) Vacuum cleaning systems used exclusively for housekeeping purposes.

(k) Back-pack power blowers.

(l) Structural changes which cannot change the quality, nature or quantity of air contaminant emissions.

(m) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.

(n) Identical replacements in whole or part of any article, machine, equipment or other contrivance where a Permit to Operate had previously been granted for such equipment.

Identical replacement may also include replacement in whole or part of any article, machine, equipment or other contrivance where a Permit to Operate has previously been granted for such equipment which the Air Pollution Control Officer determines is identical in function,

capacity, production rate and design. In addition, the actual air contaminant emissions must be the same in nature and will not be increased. Written notification of such replacement shall be made to the District at least thirty (30) days prior to the replacement and shall be accompanied by a fee of $75. Replacement of equipment pursuant to other requirements of these Rules and Regulations shall not be considered an identical replacement.

Identical replacement does not include replacements in whole or part that in sum would constitute reconstruction or modification under District Regulation X - Standards of Performance for New Stationary Sources, or would constitute a major source.

(o) Any article, machine, equipment, or contrivance other than an incinerator or boiler, the discharge from which contains airborne radioactive materials and which is emitted into the atmosphere in concentrations above the natural radioactive background concentration in air. "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, smoke, mists, liquids, vapors or gases. This exemption from the requirement to have a permit shall not include any emission unit subject to the provisions of Section 112 of the federal Clean Air Act or any implementing regulations promulgated by the federal EPA.

~~Atomic energy development and radiation protection are controlled by the State of California to the extent it has jurisdiction thereof, in accordance with the advice and recommendations made to the Governor by the Advisory Council on atomic energy development and radiation protection. Such development and protection are fully regulated by the Nuclear Regulatory Commission.~~

(p) The following equipment:

(1) Equipment used for hydraulic or hydrostatic testing.

(2) Equipment used exclusively for the dying or stripping (bleaching) of textiles where no organic solvents, diluents or thinners are used.

(3) Equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in a paste form and no organic solvents, diluents or thinners are used.

(4) Equipment used exclusively for the melting or applying of wax where no organic solvents, diluents or thinners are used.

(5) Equipment used for inspection of metal products except metal inspection tanks utilizing a suspension of magnetic or fluorescent dye particles in volatile organic solvent which have a liquid surface area greater than 5 ft^2 and are equipped with spray type flow or a means of solvent agitation.

(6) Equipment used exclusively for the manufacture of water emulsions of asphalt, greases, oils or waxes.

(7) Equipment used exclusively for conveying and storing plastic pellets.

(8) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.

(9) Curing or baking ovens in which no organic solvents or materials containing organic solvents are charged.

(10) Mixers for rubber or plastics where no material in powder form is added and no organic solvents, diluents or thinners are used.

(11) Each process line at a stationary source, as defined in Rule 20.1, for coating of pharmaceutical tablets provided maximum emissions of volatile organic compounds (defined in Rule 67.15), are below 15.0 pounds on each day for all operations subject to Rule 67.15. It will be the responsibility of any person claiming this exemption to maintain all records necessary to establish maximum daily emissions and to make this information available to the District upon request.

(12) Roll mills or calendars for rubber or plastics and no organic solvents, diluents or thinners are used.

(13) Vacuum-producing devices used in laboratory operations or in connection with other equipment which is exempt by Rule 11.

(14) Natural draft hoods, natural draft stacks or natural draft ventilators.

(15) Natural gas-fired or liquefied petroleum gas-fired or electrically heated furnaces for heat treating glass or metals, the use of which does not involve molten materials.

(16) Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants generated by or released from specific units or equipment.

(17) Refrigeration units except those used as, or in conjunction with, air pollution control equipment.

(18) Equipment used exclusively for space heating, other than boilers.

(19) Equipment used exclusively for bonding lining to brake shoes.

(20) Lint traps used exclusively in conjunction with dry cleaning tumblers.

(21) Equipment used exclusively to compress or hold dry natural gas.

(22) Kilns used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity or any combination thereof.

(23) Equipment used exclusively for the purposes of flash-over fire fighting training.

(24) Wastewater processing units associated with drycleaning operations using halogenated compounds provided the water being evaporated in the unit does not exceed 400 ppm (by weight) of halogenated compounds as determined by EPA Test Method 634.

(25) Atmospheric organic gas sterilizer cabinets where ampules are utilized exclusively to dispense ethylene oxide gas into a liner bag and where total ethylene oxide emissions are less than five pounds per year.

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

REGULATION XIV - TITLE V OPERATING PERMITS

WORKSHOP REPORT

A workshop notice was mailed to each facility that might be required to have a Title V permit. Notices were also mailed to the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB) and other interested parties.

The workshop was held on December 19, 1994 and was attended by 77 people including two representatives from the Environmental Protection Agency (EPA). Written comments were also received. The following are all comments received and District responses.

1. **WORKSHOP COMMENT**

According to Subsection (b)(1) of Rule 1401, emission units at stationary sources which are not major are not subject to Regulation XIV until November 15, 2000. The District should check whether this is a required date by EPA.

DISTRICT RESPONSE

The District found no specific date in EPA's Part 70 regulation or Title V of the federal Clean Air Act by which non-major sources will become subject to this regulation and has revised Subsection (b)(1) to defer non-major sources until and unless such sources are specifically required by EPA to obtain Title V permits. Subsection (b)(1) will read as follows:

> "Emission units at stationary sources that are not major stationary sources until the federal EPA completes rulemaking which requires such source to have a permit under Title V of the federal Clean Air Act."

2. **WORKSHOP COMMENT**

If you have a facility that is small enough not to be in Title V but you have one piece of equipment within the facility that is subject to one of the MACT standards, would the whole facility need a Title V permit or just that one piece of equipment?

DISTRICT RESPONSE

The District's understanding from EPA is that the whole facility would then be under the Title V program - not just that one piece or type of equipment - unless EPA specifies otherwise in its rulemaking for that type of equipment.

3. **WORKSHOP COMMENT**

What are the timelines for developing a prohibitory rule and a synthetic minor rule in conjunction with submitting an application for Title V?

DISTRICT RESPONSE

The general prohibitory rule has gone through several months of negotiations with EPA. EPA has now accepted the California version of that rule. The District expects to have a workshop on the local version of that rule this spring and have a rule adopted by summer. It will probably be a year before sources are required to apply for Title V permit. The synthetic minor source rule has not progressed as far and may take somewhat longer. The District is hopeful that a workshop can take place by this summer and a rule can be in place by this fall. Both rules should be in place well ahead of when sources would otherwise need to submit a Title V permit application.

4. **WORKSHOP COMMENT**

Does Rule 1401(c)(25)(viii)(V), part of the definition of major stationary source, apply to storage of JP5 and diesel?

DISTRICT RESPONSE

These are source categories that were included in EPA's Part 70 regulations and would apply to storage of JP5 and diesel.

5. **WORKSHOP COMMENT**

Is the definition in Rule 1401(c)(6), air contaminants, intended to apply to all noxious gases? The way the definition is written all gases would be included.

DISTRICT RESPONSE

This definition was written to parallel the definition in District Rule 2 and would include all gases. The wording of the definition has been revised to not refer to the term "regulated air pollutant". The definition of regulated air pollutant has been revised to conform to the definition in EPA's Part 70 regulations. Under that definition, gases that are not regulated by the federal Clean Air Act or EPA regulations will not be regulated air pollutants.

6. **WORKSHOP COMMENT**

The District should allow flexibility to apply for and obtain multiple Title V permits at a major source.

DISTRICT RESPONSE

The District agrees that there should be flexibility for multiple permits at a stationary source and has revised the definition of "Responsible Official" in Rule 1401(c)(41) and Subsection (b)(1) of Rule 1410, "Multiple Emission Unit Permits to Operate and Multiple Permits to Operate" to allow for this.

7. **WORKSHOP COMMENT**

How might contractors working on a Navy base be folded into the sources that are included on that base?

DISTRICT RESPONSE

The emissions associated with a contractor's operation need to be included in the facility emissions for determining Title V applicability. This includes stationary, transportable and portable emission units. However, portable emission units that are not themselves major sources, not subject to an applicable requirement, as defined by Rule 1401, and not prohibited by the stationary source's Title V permit need not be included in, nor cause a revision to, the Title V permit.

8. **WORKSHOP COMMENT**

Assuming that the bases are major stationary sources, would each of those contractors then be responsible for a Title V permit for their portion of the operation?

DISTRICT RESPONSE

It might be appropriate to obtain separate Title V permits, especially where the contractor is operating under contract terms, but generally has control over the operation of the equipment. As noted in the response to Workshop Comment No. 7, not all portable equipment will be required to have, or be included in, a Title V permit.

9. WORKSHOP COMMENT

What if those operations operated by contractors qualify as a synthetic minor? What about a contractor who is there all of the time? Part of the time?

DISTRICT RESPONSE

Once a Title V permit is required for a stationary source, it's required for all the operations at the facility. If a contractor operates stationary or transportable equipment which might otherwise qualify as a synthetic minor they would need to be covered by a Title V permit while operating at that facility. As noted in the response to Workshop Comment No. 7, portable emission units that are not themselves major sources, not subject to an applicable requirement, and not prohibited by the stationary source's Title V permit need not be included in, nor cause a revision to, the Title V permit.

10. WORKSHOP COMMENT

What about portable units such as lawn mowers operated by a contractor at a major stationary source?

DISTRICT RESPONSE

Engines under 50 Hp would qualify as insignificant units and need not be covered in the Title V permit. The facility may have to identify in the Title V permit application that there is portable equipment that qualifies as insignificant units and list that type of equipment. Those emission units that require permits under the current District permit program will generally be required to be covered by Title V permits. However, see the response to Workshop Comment No. 7 regarding the exclusion of portable equipment that requires local District permits.

11. WORKSHOP COMMENT

We would like the District to accommodate the statewide portable equipment registration program in this regulation.

DISTRICT RESPONSE

The District is reviewing how the registration program may be accommodated in the future. As noted in the response to Workshop Comment No. 7, portable equipment, whether under a local District permit or under the statewide registration program, does not need to be included in a facility's Title V permit unless the portable emission unit is itself a major source, or is subject to an applicable requirement or its operation is prohibited by or would cause a contravening of the Title V permit. Where portable equipment does need to be included, it may be eligible for off-permit changes or included under alternative operating scenarios.

12. WORKSHOP COMMENT

Within the definition of stationary source, if you have one unit which emits 80 tons per year of PM_{10} and another unit which emits 20 tons, would that fall under the Title V requirements?

DISTRICT RESPONSE

The aggregate emissions from all sources at the stationary source are used to determine applicability. In the example given, total emissions would equal or exceed 100 tons per year of PM_{10} and a Title V permit would be required.

13. WORKSHOP COMMENT

Does any gas, including air and CO_2, have to be counted to determine whether the source is a major stationary source, i.e., a source of 100 tons per year of any regulated air pollutant? This

appears to be true because air contaminant and regulated air pollutant are interchangeable by definition.

DISTRICT RESPONSE

The District has revised the definition of air contaminant to no longer have the same meaning as regulated air pollutant. The definition of regulated air pollutant has been revised to conform to that in EPA's Part 70 regulations. Air and CO_2 would not be considered regulated air pollutants and will not be used to determine applicability of Title V.

14. **WORKSHOP COMMENT**

Please clarify the intent of Subsection (iv) under the definition minor permit modification.

DISTRICT RESPONSE

That language should have been deleted when the District removed the provisions in Rule 1401(b) for obtaining an exemption based on a source's actual emissions. The subsection has been revised to refer to conditions which provide an exemption from an otherwise applicable requirement.

15. **WORKSHOP COMMENT**

The proposed Regulation XIV revision deletes references to exemptions for synthetic minors and sources with actual emissions below a threshold. You should add a reference in this regulation to the prohibitory rule and the synthetic minor rule.

DISTRICT RESPONSE

The planned general prohibitory rule and synthetic minor source rule will limit potentials to emit. They will reference Regulation XIV as well as other District rules. They cannot yet be referenced in Regulation XIV because they have not yet been adopted or approved by EPA. If they were referenced in Regulation XIV without having been approved by EPA, it would make Regulation XIV unapprovable.

16. **WORKSHOP COMMENT**

With reference to the application shield, once you've submitted an application we'd like to have wording in there that we have reasonable time to resubmit any changes? I don't see that language in this paragraph.

DISTRICT RESPONSE

Rule 1410(a) regarding the application shield has been revised to include a reference to Rule 1414(h). Rule 1414(h) allows the applicant to provide additional information in a reasonable time after a request from the District, but not to exceed six months.

17. **WORKSHOP COMMENT**

What is the meaning of a permit application being determined to be complete as opposed to an application being deemed complete?

DISTRICT RESPONSE

If the District does not make a determination whether an application is complete or incomplete within 60 days, and does not request additional information as described in Rule 1414(f) for a complete application, the application would be deemed complete. Determined complete would be an affirmative finding by the District that, after application review, an application is complete.

18. WORKSHOP COMMENT

If you're going to move equipment from one part of a site to another part, you can't do that administratively?

DISTRICT RESPONSE

"Address change" was inadvertently revised to "Change". "Address change" has been restored under administrative permit amendments (Rule 1410(i)) to allow address changes that do not result in physical relocation of equipment. In addition, equipment not specifically prohibited by permit conditions from relocation within a facility can be moved within the facility. This would not be a change subject to any provisions of this regulation. If there are permit conditions that prohibit or limit relocation, such as might result from netting of risks from toxic air contaminants, a permitted facility would have to follow the procedures for permit modification set out in Regulation XIV.

19. WORKSHOP COMMENT

We want to ensure that we have permit shields and applications shields that will cover permits that are signed by particular commanding officers.

DISTRICT RESPONSE

The permit shield only exists as it is specifically described in the permit. Whomever is responsible for that permit, that permit shield applies to them. Both application and permit shields apply to a source. Since a source can be one or more emission units, or an applicant for permit, the shields are separable to the same extent that sources (i.e., emission units) are separately grouped for applications and permits.

20. WORKSHOP COMMENT

Would moving permit units between multiple permits at a stationary source be a significant permit modification.

DISTRICT RESPONSE

Such a change would be a change of ownership and is eligible for processing as an administrative permit amendment, provided that no other permit changes are necessary.

21. WORKSHOP COMMENT

With a relocation on site, when relocation results in a change in the risk produced, would there then be any problem making that relocation, without having to make any changes on a permit or only in the case when the risk is increased?

DISTRICT RESPONSE

At this time, the District would not require a re-evaluation of the equipment nor a revision of the permit unless the movement of the equipment is prohibited by conditions in the permit or the permit requires prior notification to the District. If the permit itself does not limit where that equipment can be located within a stationary source or require prior notice to the District, it can be moved within the stationary source without District approval. The District will review the public health impacts of the change in the next AB2588 program review of the facility. If there is a potentially significant change in the risk, that should be captured in the AB2588 program. If such movement does require a change in the permit and the effect of the relocation is to increase risk, it may result in further requirements to ensure that the risks are not significant.

22. WORKSHOP COMMENT

What happens if that risk goes over some threshold when equipment located in the middle of the base is moved to the boundary of the base. Is that by itself subject to Title III?

DISTRICT RESPONSE

This would not be subject to Title III. However, if it is a significant increase which would trigger a new threshold under the AB2588 or the SB1731 program, it may be prudent to either consult with the District and file an application for the relocation or make some provisions that will mitigate that risk. However, if those mitigating provisions are adding on control equipment or modifying processes or operations, that may require an application be submitted to the District.

23. WORKSHOP COMMENT

There's probably not going to be a need to do any kind of identification of that potential under operational flexibility under Title V.

DISTRICT RESPONSE

That is correct. However an applicant could make this an operational flexibility scenario, but in doing that, it would be reviewed in the initial permit.

24. WORKSHOP COMMENT

Is it expected that what ultimately happens to Rule 11 would then feed back with changes in the Appendix for insignificant units again.

DISTRICT RESPONSE

Yes.

25. WORKSHOP COMMENT

Referring to Rule 1413, industry is still hopeful, at some point, in finding a way to get the state to pass legislation for an early reductions program for toxic air contaminants. We may want to ask for changes in Rule 1413 within a year and a half.

DISTRICT RESPONSE

The District is open to future changes in this rule.

26. WORKSHOP COMMENT

Does a source need to provide detailed information as specified in Section (f) of Rule 1414 for insignificant units?

DISTRICT RESPONSE

Emissions from insignificant units may need to be quantified or considered to determine the applicability of Regulation XIV, fees or other applicable requirements to a source. The detailed information required in Rule 1414(f)(3) is not required for insignificant units. Rule 1414(f)(3) has been revised to reflect this. In addition, Rule 1414(f)(4) has been added to require only a list of insignificant units that are exempt based on size or production rate. Other insignificant units are not required to be included or listed in permit applications.

27. **WORKSHOP COMMENT**
Rule 1414 (f) may need revision for multiple permits at a single stationary source.

DISTRICT RESPONSE
Rule 1414(f)(3) has been revised to refer to an application required for a "source". Since the term "source" allows considerable flexibility, this change in conjunction with other changes described in the response to Workshop Comment No. 6 should allow for multiple applicants and permit holders at a stationary source.

28. **WORKSHOP COMMENT**
Which sources may be required to submit permit applications within six months of the effective date of the regulation?

DISTRICT RESPONSE
With an advisory to sources about the rule changes in the spring of 1995, the District will also include additional information regarding implementation of the program, including which sources will be required to apply within six months of the effective date. As far as the first phase of applications, it may include the two SDG&E power plants, a few large industrial facilities and perhaps one military facility. SDG&E and one large VOC source have expressed interest in having pilot programs for early application submittal.

29. **WORKSHOP COMMENT**
What insignificant units have to be included in the application? It is presently not clear from the regulation or the appendix which insignificant units should be included.

EPA RESPONSE
EPA has commented that insignificant activities don't have to be on applications except to the extent that they are exempt because of size or production rate. If the insignificant activity is not exempt based on size or production rate it doesn't have to be included in the application. If the insignificant activity is needed to determine applicability it must also be in the application. EPA has made that Workshop Comment to San Diego APCD.

DISTRICT RESPONSE
The District has clarified in the regulation which insignificant units need to be included in the application along with what information should be supplied about the insignificant units. (See the response to Workshop Comment No. 26. (See also changes to Rule 1401(b)(4) and Rule 1414 (f)(4)).

30. **WORKSHOP COMMENT**
How detailed does that information on the insignificant unit need to be?

DISTRICT RESPONSE
All that is required is an informational list showing which insignificant units were not included in the application. Only insignificant units that are exempt based on size or production rate needed to be listed. A statement that a source has, for example, 10 I/C engines below 50 Hp is sufficient. Make, model and serial number are not required.

31. **WORKSHOP COMMENT**
So we don't have to quantify emissions of an insignificant unit if our facility is already in because of another source of emissions?

EPA RESPONSE
Yes, if you don't need it for other applicable requirements, you know you're already subject to the regulation. There's nothing in EPA's Part 70 regulations requiring sources to quantify the emissions.

32. WORKSHOP COMMENT
I would presume that the only thing that would be necessary for an insignificant unit would be information sufficient to determine the applicable requirement, i. e., that it is an exempt unit.

DISTRICT RESPONSE
You may need to provide information to the District to show that it qualifies as an insignificant unit but nothing beyond that in terms of detailed information.

EPA WORKSHOP COMMENT
If you need to know the emissions to determine fees, then the emissions of insignificant units would have to be covered in the application.

33. WORKSHOP COMMENT
If you have 50 I/C engines of less than 50 Hp and you add two more for one purpose or another, whether portable or not, would there be any requirement to amend the permit to indicate that we now have 52?

DISTRICT RESPONSE
No. The list of insignificant units would be updated only on renewal of the permit.

34. WORKSHOP COMMENT
Is it still true that the District will only need to provide justification for the list of insignificant activities before EPA reviews the regulation for final approval?

DISTRICT RESPONSE
EPA is not looking as critically at the list of insignificant units during the interim approval phase. Regulation XIV, as proposed for revision, only includes as insignificant units categories of sources that have historically had insignificant emissions.

35. WORKSHOP COMMENT
You've deleted equipment from the list of insignificant units that is still exempt under Rule 11, e. g., an IC engine that was installed before 1983 between 50 and 500 horsepower. These would need to be included in your application for Title V? Are these still exempt from the requirement for District permits?

DISTRICT RESPONSE
The District will shortly be proposing similar changes to Rule 11 - Exemptions From Permit Requirements. The changes in Regulation XIV are those that will apply to major sources.

36. WORKSHOP COMMENT
What about the requirements for new source review (NSR) for those equipment that are no longer exempt under Rule 11?

DISTRICT RESPONSE

If such emission units are already in existence and they are only being required to get a permit because of a change in Rule 11 they are specifically exempt from NSR.

37. WORKSHOP COMMENT

Is the concern for notification of schools, daycare centers, hospitals and convalescent facilities proposed in Rule 1415(a)(3) and (a)(4) driven by federal requirements or by local concerns? Industry would have no objection to the District providing enhanced public notice, but not in the rule.

DISTRICT RESPONSE

This is strictly a local concern expressed by a local environmental group. However, Subsections (a)(3) and (a)(4) of Rule 1415 have been replaced with more general language to address both this Workshop Comment and a Written Comment from EPA, as follows:

(a)(3) "By other means if determined necessary by the Air Pollution Control Officer to assure adequate notice to the affected public."

38. WORKSHOP COMMENT

Rule 1415(h) states that you would consider responding to all public comments. But I understand that the District's past experience is that a lot of the public comments you get really won't be pertinent to what's the issue in the permit action. In Rule 1415(d)(8) you say your notice would identify issues that are appropriate for public comment. You might want to limit your District Response in Rule 1415(h) to public comments that are relevant. This position is supported by a recent court case.

DISTRICT RESPONSE

The District agrees. Rule 1415(h) has been revised as follows:

"All comments received from the public notification process shall be retained by the Air Pollution Control Officer. Comments that are relevant to the permit review and areas appropriate for public comment identified pursuant to Subsection (d)(8) of this rule shall be considered and responded to by the District in the review of an application for permit."

39. WORKSHOP COMMENT

Is there a federal requirement for a three-year implementation for Title V permits? Is there a way to stretch that out.? We prefer to see a five-year implementation which some states have adopted.

EPA RESPONSE

Yes. If the agency can identify source categories that for certain reasons cannot be permitted sooner sources in these categories can be deferred for a year or two into a five-year implementation schedule. The reasons for the deferral would need to be provided and a demonstration that 60% of the Title V sources would be included in the first three years. The reasons justifying the deferral are based on the burden placed on the permitting authority. Because San Diego is going to be late already, you may not even have time to qualify for that five-year schedule.

40. WORKSHOP COMMENT

What is your current schedule for implementation of Title V, especially with respect to interim approval?

DISTRICT RESPONSE

The regulation and program don't become effective until 30 days after EPA publishes interim approval in the Federal Register. The District will be resubmitting the program to EPA through ARB shortly after the March 7, 1995 Board hearing for adoption of the Regulation XIV amendments. EPA's review and approval process will take some time. The District does not expect interim program approval from EPA until this fall. The District must have program approval from EPA by November 15, 1995, otherwise EPA is obligated to promulgate and implement a program.

Following EPA approval, all Title V permit applications will be due within 13 months.

INDUSTRY WRITTEN COMMENTS

41. WRITTEN COMMENT

We request the regulation include a statement that allows the flexibility of obtaining multiple Title V Operating Permits at a major source at the discretion of the Air Pollution Control Officer.

DISTRICT RESPONSE

The District agrees that there should be flexibility for multiple permits at a stationary source and has revised the definition of responsible official in Rule 1401(c)(41) and Subsection (b)(1) of Rule 1410 to allow for multiple permits. See also the response to Workshop Comment No. 6.

42. WRITTEN COMMENT

How will the Synthetic Minor Source Rule being developed affect facilities that are borderline for Title V applicability which will be required to obtain a Title V permit under this amended regulation? What is the timeline on the development of the Synthetic Minor Source Rule?

DISTRICT RESPONSE

The synthetic minor source rule is being developed to provide a mechanism for a facility to limit its potential to emit through a federally enforceable condition and remain below the emission threshold for which Title V permits are required. Once the facility has obtained such a potential to emit limiting condition that is federally enforceable, the facility will not be required to obtain a Title V permit. The District is hopeful that a workshop for this rule can take place by this summer, and a rule can be in place by this fall.

43. WRITTEN COMMENT

Rule 1401(c)(25)(viii)(V) refers to petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels. Does the definition include Navy fuel farms if such facilities have capacities exceeding 300,000 barrels of JP-5 and diesel fuel?

DISTRICT RESPONSE

Yes, the definition would include such facilities as noted in the response to Workshop Comment No. 4.

44. WRITTEN COMMENT

Language should be included in Rule 1410(a) to ensure that an applicant is provided "reasonable" time to submit additional information.

DISTRICT RESPONSE

Rule 1410(a) regarding the application shield has been revised to include a reference to Rule 1414(h) which provides timelines for submittal of additional information, as noted in the response to Workshop Comment No. 16.

45. WRITTEN COMMENT

The first sentence of Rule 1414(f)(3) should read

"Information as described below for each emission unit except for insignificant emission units".

DISTRICT RESPONSE

The District has revised Rule 1414(f)(3) as suggested.

46. WRITTEN COMMENT

Will the District consider a five year versus a three year implementation of Regulation XIV?

DISTRICT RESPONSE

Part 70 provides that the District can identify source categories that for specific reasons cannot be permitted within a three-year period. If approved by EPA, sources in these categories can be deferred for a year or two into a five-year implementation schedule, as noted in the response to Workshop Comment No. 39. The District, however, has specified a three-year implementation schedule because EPA has indicated there is not now time to qualify for a five-year schedule.

47. WRITTEN COMMENT

What is the definition of "noxious" in respect to regulated air pollutant which is defined as any air contaminant? What authority does the District have for regulating these?

DISTRICT RESPONSE

The District has revised the definition of air contaminant to not refer to regulated air pollutant, as noted in the response to Workshop Comment No. 5. The definition of regulated air pollutant has been revised to conform to the definition in EPA's Part 70 regulations to clarify which compounds or materials are subject to this regulation.

48. WRITTEN COMMENT

Is the emissions rate for major source or federal permit applicability based on maximum emissions rate, uncontrolled, with 24 hour per day maximum operation?

DISTRICT RESPONSE

The potential to emit for an emission unit is based on its maximum emission rate determined for the unit operating at maximum design capacity 24 hours per day. The potential to emit of a controlled emission unit would be determined with controls. However, potential to emit can be limited by permit conditions agreed to by the source. If these conditions are federally enforceable, or established under another mechanism approved by EPA, the limited potential to emit can be used to determine Title V applicability.

49. WRITTEN COMMENT

We request you delete tetrachloroethylene from the list of exempt compounds because it is not considered exempt by the EPA.

DISTRICT RESPONSE

The District has deleted this compound from the exempt compound list.

50. WRITTEN COMMENT

We suggest the District insert a general reference to the potential to emit provisions of the prohibitory rule and the synthetic minor rule in Regulation XIV.

DISTRICT RESPONSE

The District has not incorporated a reference to potential to emit provisions of these rules because EPA has indicated these references may become disapproval issues. The District has addressed this decision in greater detail in the response to Workshop Comment No. 15.

51. WRITTEN COMMENT

Many sources have switched from hazardous air pollutant (HAP) use, reducing actual HAP emissions. If the District believes an explicit permit restriction is required to prevent a source's use of a HAP previously used from affecting potential to emit determinations in some circumstances, those circumstances should be identified in the synthetic minor source rule.

DISTRICT RESPONSE

When developing the synthetic minor source rule, the District will address those circumstances where an explicit permit restriction may be required to prevent a source's previous use of a HAP from affecting potential to emit determinations.

52. WRITTEN COMMENT

We suggest deletion of Rule 1415(a)(3) and (a)(4) regarding public notice as they go beyond federal requirements, and recommend replacement with the language recommended in EPA's written comments.

DISTRICT RESPONSE

Subsections (a)(3) and (a)(4) of Rule 1415 have been replaced with more general language to address both Workshop Comment No. 37 and EPA's Written Comment.

53. WRITTEN COMMENT

The District may want to amend Section (h) of Rule 1415, Consideration of Comments, to clarify that comments that are outside the scope of the permit review issues identified by the District need not receive a substantive response.

DISTRICT RESPONSE

Rule 1415(h) has been revised to clarify that only comments relevant to the permit review and areas identified pursuant to Subsection (d)(8) of Rule 1415 will be considered. The changes are set forth in the response to Workshop Comment No. 38.

54. WRITTEN COMMENT

To accommodate multiple Title V permits at a single facility or stationary source, we suggest the following changes:

1. amend the definition of responsible official, Rule 1401(c)(41) if necessary,

2. clarify in Section (a), Application Shield, of Rule 1410 whether a separate application shield applied to an application for a Part 70 permit would encompass less than an entire stationary source,

3. amend Rule 1410(b)(1) to clarify that split permits can be issued and to ensure all units at a stationary source that is issued split permits are included in some permit, and

4. amend Rule 1414(f) to add a cross check to ensure all units at a stationary source with split permits are included in some permit.

DISTRICT RESPONSE

The District agrees that there should be flexibility for multiple permits at a stationary source and has revised the definition of responsible official in Rule 1401(c)(41) and Rule 1410(b)(1) to allow for multiple permits. The changes are also discussed in the response to Workshop Comment No. 6.

55. WRITTEN COMMENT

We suggest the District implement the procedures for getting confidential business information to EPA that were proposed at the workshop. We prefer to provide the information directly to EPA and would prefer that the District notify EPA that some information had been withheld and EPA could ask the source for the information if EPA determined it was needed.

DISTRICT RESPONSE

Rule 1415(k) has been revised to allow for this procedure. The changes are discussed in detail in the response to EPA Written Comment No. 76.

56. WRITTEN COMMENT

We request the District not make the revisions requested by EPA to Rule 1401(c)(18), the definition of federally mandated new source review and, moreover, delete the reference to the SIP in the workshop draft of this definition.

DISTRICT RESPONSE

The District has indicated to EPA that no revision would be made to the definition of federally mandated new source review at this time, as noted in the response to EPA Written Comment No. 82. The District, however, has not deleted the reference to the SIP because EPA may consider deleting this reference as a new disapproval issue.

57. WRITTEN COMMENT

We request the District not make the revisions requested by EPA to Rule 1401(c)(24)(viii), the definition of major stationary source, with respect to fugitive HAP emissions as this is likely to be an issue in comments on EPA's proposed Part 70 revisions.

DISTRICT RESPONSE

The District has discussed the issue of whether fugitives must be included in determining applicability of the regulation to a source with EPA and believes the definition of major stationary

source which includes fugitive emissions is consistent with Part 70 and EPA policy. The District has, moreover, modified Rule 1401(c)(24)(viii), part of the definition of major stationary source, to clarify that, for sources of any specified regulated air pollutant, fugitive emissions shall not be considered unless the stationary source belongs to source categories listed in Subsection (viii) of the definition.

58. WRITTEN COMMENT

We recommend the District only make EPA's recommended changes in Rule 1401(c)(40)(ii) to monitoring, recordkeeping or reporting which are to be treated as significant permit modifications only to the extent EPA requires such changes as a disapproval issue.

DISTRICT RESPONSE

The District agrees and has indicated to EPA this change will be deferred as noted in the response to EPA Written Comment No. 90.

60. WRITTEN COMMENT

We recommend the District not eliminate the second and third paragraphs of Subsection (b)(3) of Rule 1410 in response to EPA's recommendation.

DISTRICT RESPONSE

The District agrees and has indicated to EPA this change will not be made as noted in the response to EPA Written Comment No. 93.

61. WRITTEN COMMENT

If reactivation of an inactive status permit is treated as a Section 502 (b)(10) change, the 45-day notice period for such changes that is specified in the current rule should be changed to the seven-day minimum.

DISTRICT RESPONSE

The District has not made this change because EPA's Part 70 regulation revisions will likely revise how these types of changes will be handled.

62. WRITTEN COMMENT

District response to EPA's comments on Subsection (k)(3) of Rule 1410, portable equipment, should be deferred to a later date when the District enacts and implements the "state" portable equipment rule.

DISTRICT RESPONSE

The District has added language requiring prior notification to the District when moving portable sources to Subsection (k)(3) of Rule 1410. Only portable equipment which is by itself a major source or is subject to an applicable requirement, or would contravene a facility's permit, requires this notification.

63. WRITTEN COMMENT

District response to EPA's comments on Section (m) of Rule 1410, Trading Under an Emissions Cap, should be deferred to a later date because Part 70 revisions may change or clarify the rules in this area.

DISTRICT RESPONSE
The District agrees and has indicated to EPA this change will be deferred as noted in the response to EPA Written Comment No. 105.

64. WRITTEN COMMENT
Terms specifying time periods for reporting deviations should be set in permits, not in this regulation. The District should study reporting periods in other jurisdictions before defining prompt in this regulation.

DISTRICT RESPONSE
The District agrees and has indicated to EPA this change will not be made as noted in the response to EPA Written Comment No. 132.

A. EPA PRIORITY DISAPPROVAL ISSUES

65. EPA WRITTEN COMMENT
The District's regulation allows any change that does not qualify as a minor or significant permit modification to be processed as an administrative permit amendment. We suggest changing Rule 1401(c)(3), definition of Administrative Permit Amendment to read:

"Administrative Permit Amendment means changes to the terms and conditions of a permit, which have been approved pursuant to this regulation."

DISTRICT RESPONSE
The District agrees and has revised the definition as suggested.

66. EPA WRITTEN COMMENT
The District's regulation allows an unlimited number of unspecified changes including substantive changes, to qualify as administrative permit amendments. We suggest changing Rule 1410(i)(1), Administrative Permit Amendment, to read:

"Address changes that do not result in the physical relocation of equipment."

DISTRICT RESPONSE
"Address changes" was inadvertently modified and has been restored.

67. EPA WRITTEN COMMENT
The District's regulation states in Rule 1401(c)(40), the definition of significant permit modification, that if a relaxation of monitoring, reporting or recordkeeping is based on a change in a rule (District rule) that was noticed to the EPA, then a change to permit conditions would not require a significant permit modification. This is contrary to Part 70 requiring any significant change to monitoring, reporting, or recordkeeping requirement in the permit and any relaxation of reporting and recordkeeping permit terms to be processed as significant permit modifications. We suggest the language be revised to read:

"Any relaxation of monitoring, reporting or recordkeeping requirements at a source required to have a permit to operate . . . . . shall be a significant modification."

DISTRICT RESPONSE

The District has modified the definition of significant permit modification. However, the District strongly believes there should be flexibility in the treatment of such relaxations for which there has been public notice and comment and EPA review during the rule revision process. EPA should allow for this flexibility in its Part 70 regulations.

68. EPA WRITTEN COMMENT

The District's Rule 1401(c)(25), definition of minor permit modification, references Rule 1401(c)(40), the definition of significant permit modification, which is not approvable as stated above. We suggest Subsection (ii) of the definition, Rule 1401(c)(25), be revised as follows:

> "Involves significant relaxation to monitoring, recordkeeping, or reporting requirements;"

DISTRICT RESPONSE

The District has revised Subsection (ii) of the definition of minor permit modification but raises the same concerns with respect to flexibility of treatment of these relaxations as noted in the response to the previous EPA comment.

69. EPA WRITTEN COMMENT

The District's definition of modification, Rule 1401(c)(26), is too narrow and the regulation therefore limits the changes subject to minor and significant permit modifications beyond what is allowed by Part 70. We suggest the following revisions:

1. Delete this definition (Rule 1401(c)(26)).

2. List the changes currently described in Subsections (i) through (iii) in Rule 1410 along with the appropriate off-permit, operational flexibility, and alternative operating scenario provisions.

DISTRICT RESPONSE

The District has revised the definition of modification to clarify that permit modifications are not limited by the definition of modification. The following language has been added to the definition to emphasize the distinction between a (source) modification and a permit modification:

> "For purposes of this regulation, a modification does not have the same meaning as a permit amendment or permit modification. A modification may, but does not necessarily, require a permit amendment or permit modification and a permit amendment or permit modification may be required even if the change does not qualify as a modification."

70. EPA WRITTEN COMMENT

Application provisions do not assure that all Title V sources are required to apply for Title V operating permits. Specifically, the District's Rule 1414(c) does not adequately meet the Part 70 requirement for allowing operation of a new or modified unit for 12 months until a permit application is required only if the source has received a preconstruction permit under Section 112(g) of the Act or under a preconstruction review program approved into the applicable SIP under Parts C or D of the Act. Rule 1414(c) refers to District Rule 10 rather than its SIP-approved new source review rule. Rule 1414(c) does not include the exception when permits must be revised before the source can initiate the change. Also, the rule must use commencing operation rather than completion of construction as the start of the 12-month grace period.

DISTRICT RESPONSE

The District has revised Rule 1414(c) to parallel Section 70.5(a)(1)(ii) of EPA's Part 70 regulations. The District would note that this change leaves somewhat vague the ability to operate sources that are not subject to the referenced preconstruction reviews and which are not prohibited by an existing permit. The District presumes that any relevant procedures in the permit modification procedures in Regulation XIV will then apply.

71. EPA WRITTEN COMMENT

The reference to temporary authorizations in Rule 1414(c) is not approvable because it is not clear from Rule 1410(b)(2), Temporary Authorizations, that such temporary authorization does not relieve the facility of the requirement to file a timely and complete application for a permit to operate or permit revision. We suggest adding the following to Rule 1410(b)(2):

> "Issuance of a temporary authorization shall in no way relieve the facility of the requirement to file a timely and complete application for a permit to operate or permit revision."

DISTRICT RESPONSE

The District has added the suggested language to Rule 1410(b)(2).

72. EPA WRITTEN COMMENT

The District's Rule 1414(d) requires a newly subject source to submit an application 12 months after written notice by the APCO. If the APCO fails to provide written notice, the source is never obligated to apply for a Title V permit. The District's application deadline is inconsistent with the Act and Part 70. We suggest that Rule 1414(d) be revised to read:

> ". . . Administrator of the federal EPA, or for any other reason, shall apply for a permit under this regulation not later than 12 months after becoming subject to this rule."

DISTRICT RESPONSE

The District has made the suggested revision to Rule 1414(d).

73. EPA WRITTEN COMMENT

The temporary authorization mechanism could potentially allow sources to operate out of compliance with federal requirements. In order to approve the temporary authorizations provisions as part of your Title V program, they must be consistent with the Act. We recommend the following revisions:

Rule 1410 (b)(2), Temporary Authorizations

1. Add a statement that the temporary authorization expires on the deadline for submitting a Title V permit application.

2. Add a statement that the temporary authorization cannot relieve the facility of the obligation to comply with any federal requirements.

3. Delete the sentence stating that "Actions consistent with a temporary authorization issued pursuant to this regulation shall not be modifications for purposes of this

regulation" as this language suggests that a temporary authorization could supersede Part 70 and NSR modification requirements.

Alternatively, the District may elect to remove Rule 1410(b) and all references in the regulation to temporary authorizations.

DISTRICT RESPONSE

The District has made the following changes in response to EPA's suggested revisions to Rule 1410(b)(2):

1. The expiration date of a temporary authorization is specified as follows:

   "A temporary authorization issued pursuant to this regulation shall expire on the date that a timely and complete application for a permit to operate or permit modification is due."

2. The cautionary statement regarding the facility's obligation with respect to compliance is added:

   "Issuance of a temporary authorization shall not relieve the owner or operator of a source from the obligation to file a timely and complete application for a permit to operate or a permit revision, nor from the obligation to comply with all federally enforceable requirements."

3. The sentence noted by EPA as suggesting that a temporary authorization could supersede Part 70 and NSR modification requirements has been deleted.

74. EPA WRITTEN COMMENT

Permits with limited permit shields do not assure compliance with all applicable requirements. All applicable requirements must be included in the Part 70 permit, and the District must assure compliance with those requirements. The District's regulation, on the other hand, allows certain requirements to supersede the applicable requirements. The limited permit shield then prohibits District enforcement of any applicable requirements that have been superseded. As a result, neither the District nor the permit can assure compliance with all applicable requirements.

Deleting the fifth paragraph of Rule 1410(p), Permit Shield, would resolve this disapproval issue.

DISTRICT RESPONSE

The District has deleted the paragraph noted. However, the District has concerns that multiple inconsistent requirements will be a frequent occurrence with RACT rule revisions and new MACT standards and that there needs to be a mechanism to address these inconsistencies without creating an unnecessary burden on local agencies and affected sources. This is especially true in the case where EPA takes far too long to review and approve revised rules submitted to EPA as SIP revisions.

75. EPA WRITTEN COMMENT

The regulation allows a source to operate without either a Title V operating permit or an application shield. Rule 1418(e) and Rule 1422, third paragraph, both allow a source to continue operating after final permit action without an effective operating permit.

We suggest the following revision to Rule 1418(e), Effective Date of Permit Action:

". . . . the Air Pollution Control Officer shall make the effective date of the permit action the first day following the last day for federal EPA review~~, unless the applicant has requested a delayed effective date or~~ unless the federal EPA has objected to the permit action."

and the following revision to the third paragraph of Rule 1422, Denial or Cancellation of Applications:

"Denial of an initial or renewal permit to operate, to a source required to have such a permit, shall also constitute suspension of the permits to operate for that source as of ~~a date 90 days after~~ the date of denial or cancellation, or the date on which a permit to operate was required, whichever is later."

DISTRICT RESPONSE
The District has revised Rule 1418(e) and Rule 1422, third paragraph, as suggested.

76. EPA WRITTEN COMMENT
Rule 1415(k), Trade Secrets, allows the District to withhold trade secret permit application information from EPA which restricts EPA's ability to adequately review the proposed permit action. We suggest either of the following two alternatives to correct this situation:

1. Revise Rule 1415(k) to read

"Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public ~~or the federal EPA~~ any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX and 40 CFR part 70.4 (b)(3)(viii)."

or

2. Require the source to submit a copy of information claimed to be "trade secret" directly to EPA pursuant to Part 70.5 (a)(3).

DISTRICT RESPONSE
The District has revised Rule 1415(k) to require the District to notify EPA of any trade secret information withheld, as follows:

"Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public or the federal EPA any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX and 40 CFR Section 70.4 (b)(3)(viii). However, the Air Pollution Control Officer will provide the federal EPA with notice of which specific information has been withheld."

77. EPA WRITTEN COMMENT
The District's Rule 1418(c) allows time frames for final permit actions required by Part 70 to be exceeded. We suggest the following changes to Rule 1418(c):

1. Change the first paragraph of Rule 1418(c), Delay in Submission to Federal EPA, to read:

"~~Notwithstanding the periods for action specified in this rule,~~ The Air Pollution Control Officer shall delay the submission of decisions on permits to operate and appeals to the federal EPA, in order to allow time for an appeal to the Hearing Board, in the following circumstances:"

and

2. Delete Rule 1418(c)(4) because the reference to "the date on which action on the application was required" suggests that final permit action can be delayed, upon request of the applicant, beyond the allowable time frames.

DISTRICT RESPONSE

The District has made the suggested changes.

B. OTHER EPA DISAPPROVAL ISSUES

78. EPA WRITTEN COMMENT

The term "regulated air pollutant" is never defined, but it is critical to do so since the term is used to define major source. The changes made in the workshop draft of the regulation adequately resolve this issue.

DISTRICT RESPONSE

The District has revised the definition of "regulated air pollutant" to:

"Regulated Air Pollutant" means any of the following:

(i) Oxides of nitrogen and volatile organic compounds.

(ii) Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the federal Clean Air Act.

(iii) Any pollutant subject to a new source performance standard promulgated pursuant to Section 111 of the federal Clean Air Act.

(iv) Any ozone-depleting compound specified as a Class I or Class II substance pursuant to Title VI of the federal Clean Air Act.

(v) Any federal hazardous air pollutant subject to a standard or requirement promulgated pursuant to Section 112 of the federal Clean Air Act."

79. EPA WRITTEN COMMENT

We suggest Rule 1401(b)(4), exemptions for insignificant activities, be revised as follows:

". . . determining the applicability of or fees associated with any provisions of this regulation . . ."

DISTRICT RESPONSE

The District has added the suggested reference to fees to Rule 1401(b)(4).

80. EPA WRITTEN COMMENT

Under Part 70, requirements become applicable upon promulgation and not upon incorporation into the permit. We suggest the following revision to Rule 1401 (c)(9)(ii):

> "any new federally enforceable requirement ~~added to any permit to operate pursuant to this regulation~~ that becomes effective during the term of the permit."

DISTRICT RESPONSE

The District has revised Rule 1401(c)(9)(ii) to incorporate EPA's suggested language.

81. EPA WRITTEN COMMENT

The substances regulated under Titles III and VI of the Act are regulated air pollutants and cannot be exempt from Title V as previously suggested by Rule 1401(c)(14), the definition of exempt compound. The clarification made in the workshop draft of the regulation adequately address this issue.

DISTRICT RESPONSE

The comment has been addressed in proposed revisions to Regulation XIV.

82. EPA WRITTEN COMMENT

Clarify in Rule 1401(c)(18), the definition of federally mandated new source review, that this review would included any regulations approved or promulgated under Title I, Parts C and D of the Act.

DISTRICT RESPONSE

The District intends to defer making the suggested changes because current proposed revisions to EPA's Part 70 regulations will likely further clarify how changes involving minor new source review and federally mandated new source review are treated under Title V.

83. EPA WRITTEN COMMENT

If District Rules 50 and 51 have been approved into the District's SIP then they are applicable requirements and must be removed from Rule 1401(c)(23), the definition of insignificant unit. If not, this reference is unnecessary and misleading.

DISTRICT RESPONSE

District Rules 50, Visible Emissions, and Rule 51, Nuisance, have been approved by EPA into the SIP. However, these rules have commonly been applied to all insignificant activities including those exempt from local permit requirements. To include them would negate the effect of having any insignificant units exempt from permits. Rules 50 and 51 must be excepted in order to exempt insignificant activities from Title V requirements.

84. EPA WRITTEN COMMENT

According to EPA policy set forth in the March 8, 1994 guidance entitled "Consideration of Fugitive Emissions in Major Source Determinations", fugitives must be counted for all hazardous air pollutants (HAPs). This policy stems from the fact that Part 70 defines "major source" in three ways and only limits the counting of fugitives in the Section 302(j) definition. Because the District's regulation contains only one definition of major stationary source, Rule 1401(c)(24),

Subsection (viii) of this definition effectively limits the counting of fugitives with respect to HAPs to only the listed source categories.

DISTRICT RESPONSE
The District believes the proposed definition of major stationary source in Rule 1401(c) is consistent with Part 70 and EPA policy. The District has also revised the definition of major stationary source to clarify that, for sources of certain other regulated air pollutants, fugitive emissions shall not be considered unless the stationary source belongs to source categories listed in Subsection (viii).

85. EPA WRITTEN COMMENT
We suggest modifying Subsection (iii) of Rule 1401(c)(25) [now (c)(26)] to read:

". . . or a federally mandated source-specific determination for temporary sources of ambient impacts on air quality, or a visibility or air quality increment analysis."

DISTRICT RESPONSE
The District has revised Subsection (iii) of Rule 1401(c)(26) as suggested by EPA.

86. EPA WRITTEN COMMENT
Delete Subsection (iv) of Rule 1401(c)(25) [now (c)(26)], the definition of minor permit modification, which seems to indicate a source can put permit terms and conditions into its Title V permit in order to be exempt from Title V.

DISTRICT RESPONSE
The District agrees the reference to exemptions in Rule 1401(b) is misleading and has replaced the reference to Rule 1401(b) with language to instead refer to permit terms or conditions a source accepted in order to qualify as exempt from an otherwise applicable requirement. Changes to such terms and conditions will be processed as significant permit modifications.

87. EPA WRITTEN COMMENT
Delete Subsection (vi) of Rule 1401(c)(26), the definition of minor permit modification, because the provision is redundant as modifications subject to Section 112 (g) are Title I modifications. (FYI)

DISTRICT RESPONSE
The District intends to maintain the provision for clarity and emphasis.

88. EPA WRITTEN COMMENT
Delete APCO discretion from Rule 1401(c)(35) [now (c)(37)], the definition of quantifiable or add EPA discretion to the definition.

DISTRICT RESPONSE
The District has deleted the reference to APCO discretion from the definition of quantifiable.

89. EPA WRITTEN COMMENT
The designated representative for Part 72 may be the responsible official as defined in Part 70.

DISTRICT RESPONSE
This comment was intended to be informational and no change to the definition of 'responsible official' in Rule 1401 is needed.

90. EPA WRITTEN COMMENT
Revise Subsection (ii) of the definition of significant permit modification to

"Involves a significant change or relaxation to monitoring, recordkeeping, or reporting requirements."

DISTRICT RESPONSE
The District intends to defer making the suggested change because current proposed revisions to EPA's Part 70 regulations will likely revise or clarify what changes will be considered significant permit modifications.

91. EPA WRITTEN COMMENT
We suggest the following revision to Rule 1401(c)(42) [now (c)(45)], the definition of stationary source:

". . . which is under common ownership or control or entitlement to use."

DISTRICT RESPONSE
The District believes the term "entitlement to use" includes control and therefore has not made this revision.

92. EPA WRITTEN COMMENT
The first paragraph of Rule 1410(b)(3), Availability and Effects of Appeals, suggests that a temporary authorization can "modify" a permit to operate. That is not, and cannot be, the case. If a permit must be modified to make a change, the source must comply with the permit modification procedures in this rule. We also suggest modifying the first paragraph as follows:

". . . or 18 months for initial permits, reopenings, or significant permit modification . . ."

DISTRICT RESPONSE
The District has removed this reference by deleting "During the appeal period . . . unless modified by a temporary authorization". The District has also added "permit reopening" to the list of procedures for which final permit action must be taken within 18 months.

93. EPA WRITTEN COMMENT
The enforcement deferrals in the second and third paragraphs encourage bad faith appeals and must be eliminated. Furthermore, the purpose of the third paragraph is unclear because a new standard would not be enforced until after its effective date.

DISTRICT RESPONSE
The District does not agree. The appeal process has served well in resolving such issues and has not encouraged bad faith appeals as suggested. The referenced paragraphs only defer District enforcement of specific issues under appeal. They do not preclude EPA enforcement.

94. EPA WRITTEN COMMENT

We recommend having some flexibility in the initial permit duration in Rule 1410(h), Renewal of Permits to Operate, to accommodate the time frames for the acid rain portion of the permit.

DISTRICT RESPONSE

This comment was intended to be informational and no response was requested. However, the District believes the language of Rule 1410(h) already provides the flexibility suggested.

95. EPA WRITTEN COMMENT

The District's Rule 1410(h), Renewal of Permits to Operate, must state that renewal applications may not be submitted more than 18 months prior to permit expiration.

DISTRICT RESPONSE

The District has made the following revision to Rule 1410(h):

"An application for renewal of a permit to operate issued must be submitted at least 12 months, but not more than 18 months, prior to permit expiration . . ."

96. EPA WRITTEN COMMENT

Add notice to affected states in Rule 1410 (h)(5), Renewal of Permits to Operate.

DISTRICT RESPONSE

The District has added a requirement to notice affected states in Rule 1410 (h)(5).

97. EPA WRITTEN COMMENT

Because moving from inactive to active status is essentially contravening the permit term that prohibits operation of the equipment, the change could be viewed as a section 502 (b)(10) change. For this type of change, the source would have to provide the permitting authority with a written notice 7 days prior to the proposed change in status. In addition, the public comment that occurs at the time of renewal must include a clear statement that the source is being permitted to operate at full capacity and is authorized to change its active/inactive status without further notice to the public.

DISTRICT RESPONSE

This comment was intended to be informational only and no response was requested.

98. EPA WRITTEN COMMENT

We suggest a revision to Rule 1410(h)(7), Inactive Status, as follows:

"No changes shall be made to the emission unit without the source applying for and obtaining approval pursuant to the modification procedures set out in Sections (j) or (k) of this rule ~~to change the unit~~."

DISTRICT RESPONSE

The District has revised Rule 1410(h)(7) as follows:

"No changes shall be made to the emission unit without the source applying for and obtaining any necessary approval to change the unit pursuant to the permit modification procedures of this rule."

99. EPA WRITTEN COMMENT

Does your regulation require that a copy of the revised permit be sent to EPA? If not, this requirement needs to be added.

DISTRICT RESPONSE

The requirement has been added to Section (i) of Rule 1410 as follows:

"The Air Pollution Control Officer shall provide the federal EPA with a copy of each approved revised permit."

100. EPA WRITTEN COMMENT

In Rule 1410(k)(1), Significant Permit Modification, the second paragraph does not make sense as written since "a person" makes changes to a facility and not to a permit. We recommend the following revision:

"A person shall not make any change at a facility that is subject to a significant permit modification ~~a significant permit modification as defined in these Rules and Regulations to any emission unit that is the subject of a permit to operate issued pursuant to this regulation~~ unless such modification is authorized by . . ."

DISTRICT RESPONSE

The District has revised the second paragraph of Rule 1410(k)(l) replacing "change" with "modification to a source" to clarify the change was not intended to refer to a permit change.

101. EPA WRITTEN COMMENT

In Rule 1410(k)(3), Change of Location, as you correctly note, permit revisions are not required when portable sources change location. However, permits for portable sources must include conditions that will assure compliance with all applicable requirements at all authorized locations and a requirement that the owner/operator notify the permitting authority at least 10 days in advance of each change in location.

DISTRICT RESPONSE

The District has added this prior notification requirement for portable sources to Rule 1410(k)(3). (See also response to Workshop Comments Nos. 10 and 62).

102. EPA WRITTEN COMMENT

Please clarify that Section 502 (b)(10) changes in Rule 1410 (l), Operational Flexibility, are changes that contravene an express permit term.

DISTRICT RESPONSE

The definition of "Section 502 (b)(10) Change" in Rule 1401 clearly states that these are changes that contravene the express terms and conditions of a permit to operate. Therefore Rule 1410(l) needs no revision for further clarification.

103. EPA WRITTEN COMMENT

Your rule is more stringent than Part 70, as it requires a 45-day notice prior to a change rather than a 7-day advance notice.

DISTRICT RESPONSE

The District does not propose to revise this requirement.

104. EPA WRITTEN COMMENT

The fifth paragraph in Rule 1410(l):

"The Air Pollution Control Officer may . . . a change does not qualify as a Section 502 (b)(10) change,"

may be eliminated because the purpose of these types of changes is to give the source operational flexibility without having to undergo a review, approval, and appeals process.

DISTRICT RESPONSE

This comment was intended to be informational and no response was requested. The District will retain this paragraph to clarify the procedures that will apply if the District determines that a change does not qualify as a Section 502(b)(10) change.

105. EPA WRITTEN COMMENT

In Rule 1410 (m), Operational Flexibility: Trading Under an Emissions Cap, add that trades are prohibited if they qualify as modifications under any provision of title I or they exceed emissions allowable under the permit. The requirement that the permit applicant propose replicable procedures must also be added. In addition, add a requirement that the permit terms must ensure that the trades are quantifiable and enforceable and that they assure compliance with all applicable requirements.

DISTRICT RESPONSE

The District will defer addressing this comment while Part 70 is being revised. We understand the provisions for trading under an emissions cap are under review as part of this revision.

106. EPA WRITTEN COMMENT

In Rule 1410(n), Operational Flexibility: Alternative Operating Scenarios, the District should make the following revision:

"The applicant maintains contemporaneous operating logs . . ."

DISTRICT RESPONSE

The District has revised Rule 1410(n)(3) to require "current" operating logs. The term "contemporaneous" may be confusing.

107. EPA WRITTEN COMMENT

In Rule 1410 (o), Reopening of a Permit to Operate, the District should make the following revision:

"Any permit to operate issued pursuant to this regulation ~~may~~ shall be reopened prior to expiration . . ."

DISTRICT RESPONSE

The District has revised Rule 1410(o) as recommended.

108. EPA WRITTEN COMMENT

In Rule 1410(o), Reopening of a Permit to Operate, the District should add the following:

1. a provision that reopenings must be completed within 18 months after promulgation of the applicable requirement,

2. a statement that reopenings will follow the same procedures as initial permit issuance but affect only those parts of a permit for which cause to reopen exists, and

3. a statement that the permitting authority will provide a notice of intent to reopen at least 30 days prior to reopening the permit.

DISTRICT RESPONSE
The District has made the following changes to Rule 1410(o) in response to this comment:

1. added "Such reopening shall be completed within 18 months after promulgation of the applicable requirement." to Subsection (o)(1),

2. added "The procedures for reopening and revising or reissuing a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists." to Section (o), and

3. added a statement to indicate the District will provide the source with prior 30 day written notice of its intent to reopen a permit.

109. EPA WRITTEN COMMENT
In Rule 1410(q), Enhanced Procedures for Authorities to Construct, cross references must be added for compliance certifications, and monitoring, recordkeeping, testing, and reporting requirements.

DISTRICT RESPONSE
The District has made the following changes to Rule 1410(q):

1. added a reference to the compliance certification requirements of Rule 1421 (b)(2)(ii) to Subsection (q)(2)(ii) of Rule 1410.

2. added a reference to the monitoring, recordkeeping, testing and reporting requirements of Rule 1421(b)(1)(iii) to Subsection (q)(2)(v) of Rule 1410.

110. EPA WRITTEN COMMENT
Recommend the following revision for Subsection (2)(v) of Rule 1410(q):

". . . as determined necessary by the Air Pollution Control Officer to ensure compliance with all applicable requirements."

DISTRICT RESPONSE
The District has made the recommended revision to Rule 1410(q)(2)(v).

111. EPA WRITTEN COMMENT
Recommend the following revision for Rule 1410(q)(3)(i):

". . . specified in Sections (a), (d), (e), (j) and (k) of Rule 1415 as if the Authority to Construct were a permit to operate."

DISTRICT RESPONSE
The District has made the recommended revision to Rule 1410(q)(3)(i).

112. EPA WRITTEN COMMENT

If you plan to keep Rule 1411, Exemption from Permit to Operate for Insignificant Units, you must clarify that units subject to an applicable requirement, or necessary to determine applicability or fees, may not qualify as insignificant.

DISTRICT RESPONSE

The District disagrees. The emissions from insignificant units must be considered in determining applicability of Regulation XIV and any emission based fees. However, this does not then disqualify those units as insignificant. Rule 1411 has been revised to clarify this.

113. EPA WRITTEN COMMENT

Recommend the following revision for Section (a) of Rule 1413, Early Reduction of Hazardous Air Pollutants:

"If the requirements of ~~this rule~~ Part 63 subpart D are met, early reduction requirements shall, to the extent permitted . . ."

DISTRICT RESPONSE

The District does not agree. Rule 1413 includes sufficient references to Part 63 to provide clarity of reference.

114. EPA WRITTEN COMMENT

The second paragraph of Rule 1413(c), State and Local Requirements may violate state and local law.

DISTRICT RESPONSE

Existing Rule 1413(c) is proposed to be deleted. Further consideration of such provisions will be given if authorized through changes in state law.

115. EPA WRITTEN COMMENT

Subsection (f) of Rule 1414, Applications, might be revised to note that applications for permit revisions need only include information related to the proposed change.

DISTRICT RESPONSE

This comment was intended to be informational and the District intends to defer action on this suggestion as there may be future changes to EPA's Part 70 regulation regarding permit revision procedures.

116. EPA WRITTEN COMMENT

Recommend the following revision for Subsection (f)(3) of Rule 1414 to clarify that only a single application is required for a source:

"Information as described below for each ~~emission unit~~ source."

DISTRICT RESPONSE

The District has made this recommended revision.

117. EPA WRITTEN COMMENT

The District should define the term "federally regulated air pollutant" used in Rule 1414(f)(3)(iii)(A).

DISTRICT RESPONSE

This reference was intended to be to regulated air pollutants which has been defined. Therefore, the District has deleted "federally".

118. EPA WRITTEN COMMENT

Recommend the following revision for Subsection (f)(3)(vii) of Rule 1414:

". . . to define alternative operating scenarios identified by the source or to define permit terms and conditions for emissions trading."

DISTRICT RESPONSE

The District has made the recommended revision.

119. EPA WRITTEN COMMENT

The meaning of the term "applicable sources" used in Subsection (f)(3)(viii) of Rule 1414 is unclear both in the use of the word "applicable" and in the use of the plural "sources". Might there be multiple compliance plans included in a single application?

DISTRICT RESPONSE

The District agrees the term "for all applicable sources" is unclear and has deleted it from Rule 1414(f)(3)(viii) .

120. EPA WRITTEN COMMENT

Please add the requirement of Part 70.5 (b) for supplementary facts or corrected information to Subsection (h) of Rule 1414.

DISTRICT RESPONSE

The District has added the following to Subsection (h) of Rule 1414.

"Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit."

121. EPA WRITTEN COMMENT

Notice must be provided in Section (a) of Rule 1415, Permit Process - Public Notification, "by other means if necessary to assure adequate notice to the affected public."

DISTRICT RESPONSE

The District has replaced the proposed noticing provisions of Subsections (a)(3) and (a)(4) of Rule 1415 with wording similar to the recommended revision.

122. EPA WRITTEN COMMENT

Add a requirement in Section (a) of Rule 1415 that the permitting authority shall keep a record of the commentors and issues raised during the public participation process.

DISTRICT RESPONSE

The District has added this requirement in Rule 1415(h), Consideration of Comments.

123. EPA WRITTEN COMMENT

Rule 1415 must provide for a copy of each permit application (or summary thereof) to be sent to EPA.

DISTRICT RESPONSE

The District has added new Section (m), Transmittal of Documents to the Federal EPA, to Rule 1415 as follows:

> "The Air Pollution Control Officer shall provide to the Administrator of the federal EPA a copy of each application (or summary thereof) for initial permit, permit renewal, administrative permit amendment and permit modification, each proposed permit, and each final initial, revised, and renewed permit."

124. EPA WRITTEN COMMENT

The telephone number of a District contact person must be included in the public notice [Rule 1415 (d)(5), Contents of Public Notice].

DISTRICT RESPONSE

The District has added "telephone number" to Rule 1415(d)(5).

125. EPA WRITTEN COMMENT

If the public hearing has been set, the time and place should be included in the public notice, not just a means for obtaining that information [Rule 1415(d)(5)(iv)].

DISTRICT RESPONSE

The District has deleted "time and place" from Rule 1415(d)(5) and added "time and place of the hearing if already scheduled" to Rule 1415(d)(7) .

126. EPA WRITTEN COMMENT

The Rule 1417(a) reference to Rule 1410 for permit action time limits should be changed to Rule 1418(b) because Rule 1410 does not clearly set out the time frames for permit action.

DISTRICT RESPONSE

The District has revised the references as requested.

127. EPA WRITTEN COMMENT

Recommend the following revision to Subsection (b)(4) of Rule 1418, Action on Applications:

> "for initial permit or renewal, not more than 18 months . . ."

DISTRICT RESPONSE
The District has made the recommended revision.

128. EPA WRITTEN COMMENT
The purpose of Rule 1420(b), New Terms and Conditions, is unclear and it seems to create inconsistencies with other parts of the regulation. For instance, this section states that new terms or conditions stemming from state law are to be excluded from operating permits; yet, Section (f) of Rule 1420 says that a permit will be denied unless the source operates in compliance with all requirements of the California Health and Safety Code.

DISTRICT RESPONSE
The comment was intended to be informational and no response was requested. However, this section is intended to apply new or revised state and local requirements to sources subject to Title V permits and those not subject to Title V in an equitable manner.

129. EPA WRITTEN COMMENT
It is unclear what "except as provided in Rule 1421" means and what it is trying to accomplish in Subsection (f), Specific Compliance Requirements, of Rule 1420.

DISTRICT RESPONSE
Rule 1420 requires the District to deny a permit unless the source is in compliance with all requirements. Rule 1421 allows a source to operate with a compliance schedule although the source may not be in compliance with all requirements. In addition, Rule 1421 allows the District to establish permit terms and conditions necessary to ensure compliance even if not demonstrated specifically in a permit application as required by Rule 1420.

130. EPA WRITTEN COMMENT
The regulation defines "applicable requirement" as federally enforceable requirements; yet the term used in Rule 1420, Subsections (f)(1) and (f)(2) includes state and local requirements.

DISTRICT RESPONSE
The District has replaced "applicable requirements" with "relevant requirements" in Rule 1420, Subsections (f)(1) and (f)(2) to include relevant District requirements.

131. EPA WRITTEN COMMENT
Recommend the following revision for Subsection (i) of Rule 1420:

". . . if the Administrator of the federal EPA objects ~~within the specified review periods specified in Rule 1410~~, to such issuance within the 45-day review period. In such case . . ."

DISTRICT RESPONSE
The District does not agree to this revision and believes the existing regulation already effectively sets out the duration of the EPA review period. The District will not make this revision.

132. EPA WRITTEN COMMENT
Section 70.6 (a)(3)(iii)(B) requires the permitting authority to define "prompt" as used in Rule 1421 Subsection (b)(1), Permit Content, in relation to the degree and type of deviation likely to occur and the applicable requirements.

DISTRICT RESPONSE

The District disagrees. The term "prompt" will vary with the specific category of source being permitted and is better addressed during permit review and issuance to fit the specific requirements of each permit.

133. EPA WRITTEN COMMENT

If your SIP provides for alternative emission limits and you intend to include those limits in a Part 70 permit, the permit must contain provisions that the alternative emission limits are quantifiable, accountable, enforceable, and based on replicable procedures. Rule 1421(b)(1) must specify this.

DISTRICT RESPONSE

The District disagrees. Subsections (b)(1)(i) and (b)(1)(iii) of Rule 1421 already provide sufficient authority to ensure these elements are included in permits.

134. EPA WRITTEN COMMENT

In Subsection (b)(2)(iii)(B) of Rule 1421, compliance certifications must also include any requirements specified pursuant to Section 114 (a)(3) and 504 (b) of the Act.

DISTRICT RESPONSE

The District has added these requirements in a new Subsection (b)(2)(iii)(D) of Rule 1421 as follows:

> "Such additional requirements as may be specified pursuant to Sections 114 (a)(3) and 504 (b) of the federal Clean Air Act."

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135. EPA WRITTEN COMMENT

Part 70 requires designation of state-only requirements so that the failure to designate a requirement clearly defaults to federal enforceability. The District's designation process proposed in Rule 1421(d) is inconsistent with Part 70 and Rule 1421(b)(3). This section should be revised to reflect Rule 1421(b)(3) by designating conditions that are not federally enforceable rather than those that are federally enforceable. In addition, the final paragraph of this section is unnecessary and could mislead the source to think that only designated provisions have "full force" federal enforceability.

DISTRICT RESPONSE

The District disagrees. An agreement between CAPCOA and EPA regarding designation of conditions as federal or state-only requirements allowed for designation of federal-only conditions during the interim period of Title V approval. The proposed language of Rule 1421(b)(3) and (d) reflect that agreement.

136. EPA WRITTEN COMMENT

The meaning of the term "compliance schedule" in Section (g) of Rule 1421 is not entirely clear in this rule and in Rule 1420. The compliance schedule defined in Rule 1414(f)(3)(viii) seems to refer to something different than the compliance schedule in Rules 1420 and 1421.

DISTRICT RESPONSE

The reference to Section (g) of Rule 1421 is incorrect. Nevertheless, the term "compliance schedule" in Regulation XIV has the common meaning - a schedule of events and actions that would bring a source into compliance.

137. **EPA WRITTEN COMMENT**

Because an appeal hearing before the Hearing Board is held before permit issuance, there has not yet been an opportunity to appear or give testimony. Therefore we suggest you delete the requirements of Section (c) of Rule 1425, Appeals and Judicial Review. Also the last sentence assumes that permit action has already been taken, which is incorrect according to Regulation XIV.

DISTRICT RESPONSE

The District agrees that an appeal would be of a "proposed" permit action and has revised Rule 1425(c) accordingly.

138. **EPA WRITTEN COMMENT**

We would like clarification on what types of permit actions (e.g., "permit actions that would otherwise be effective prior to the expiration of the time for EPA review") would be subject to the provisions of Subsection (d)(1) of Rule 1425.

DISTRICT RESPONSE

The types of permit actions subject to these provisions would be permit revisions and temporary authorizations for projects of a short duration and for which operation can commence prior to or without EPA review.

139. **EPA WRITTEN COMMENT**

Recommend the following revision for section (e) of Rule 1425:

"~~With respect to a permit to operate for~~ An appeal or stay from a modification to an existing permit~~ted operation, any appeal or stay provided for in this rule~~ shall apply only to the modification and not to the existing operation."

DISTRICT RESPONSE

The District disagrees. The rule is already effectively the same as the recommended revision.

140. **EPA WRITTEN COMMENT**

While the rule correctly states that a unit subject to an applicable requirement may not be "insignificant", the rule must also state that units necessary to determine applicability or fees may not be "insignificant".

DISTRICT RESPONSE

While the District agrees that emissions of insignificant units must be included in determining applicability of the regulation or fees, the insignificant units included in making the applicability or fee determinations are still insignificant. Therefore no revision to the rule will be made.

141. EPA WRITTEN COMMENT

The insignificant activity listed in Section (c) violates Part 70.5 (c)(3)(v).

DISTRICT RESPONSE

The District disagrees. This section lists air pollution control equipment which is associated with an emission unit not requiring a permit because the unit is an insignificant activity. Since the emission unit without control would not be required to have a permit to operate, it is reasonable to not require a permit for a controlled insignificant activity. Including the air pollution control equipment associated with these insignificant activities does not violate Part 70.5 (c)(3)(v) which only requires information about air pollution control equipment if it is controlling emission units that are not insignificant as provided for in Part 70.5 (c).

142. EPA WRITTEN COMMENT

EPA does not believe that emissions of 100 lbs/day as allowed in Section (d) of Appendix A can be justified as "insignificant".

DISTRICT RESPONSE

The District has deleted the reference to the 100 lbs/day emission threshold in Section (d) of Appendix A.

143. EPA WRITTEN COMMENT

The type of equipment identified in Subsection (d)(7) of Appendix A is likely to be subject to the printing and publishing MACT standard, and hence, could not qualify as an insignificant activity.

DISTRICT RESPONSE

The District defers determining whether to change the emission threshold of Subsection (d)(7) of Appendix A to a later date. The District will review the printing and publishing MACT standard when promulgated by EPA and determine whether the emission threshold should be revised.

MRL:SR:jo
02/07/95