



Air Pollution Control Board
Greg Cox District 1
Dianne Jacob District 2
Pam Slater District 3
Ron Roberts District 4
Bill Horn District 5

Air Pollution Control District
R. J. Sommerville Director

DATE: April 30, 1997
TO: Air Pollution Control Board
SUBJECT: Adoption of New Rule 60.2 (Limiting Potential to Emit—Synthetic Minor Sources)

SUMMARY:

New Rule 60.2 will allow certain sources to opt out of the federal Title V operating permit program by accepting local permit conditions limiting their potential to emit air contaminants. Opting out of the Title V program allows a source to avoid the expense of obtaining a Title V permit. The rule was requested by local industry to provide a flexible mechanism to apply for and receive such local permit conditions. Many sources have voluntarily reduced their emissions in order to make use of this option.

Rule 60.2 could be used by approximately 40 companies and military and government facilities in San Diego County.

A workshop for Rule 60.2 was held on January 29, 1997. The workshop report is attached.

Issue

Should the Board adopt Rule 60.2 to provide a flexible mechanism for sources to opt out of the federal Title V permit program?

Recommendation

AIR POLLUTION CONTROL OFFICER:

Adopt the resolution adding Rule 60.2 to the District Rules and Regulations and make appropriate findings:

- (i) of necessity, authority, clarity, consistency, non-duplication and reference as required by Section 40727 of the State Health and Safety Code;
- (ii) that adopting Rule 60.2 will alleviate a problem and will not interfere with attaining ambient air quality standards (Section 40001 of the State Health and Safety Code);
- (iii) that adopting Rule 60.2 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); and

SUBJECT: Adoption of New Rule 60.2 (Limiting Potential to Emit—Synthetic Minor Sources)

- (iv) that it is certain that there is no possibility that adopting Rule 60.2 may have a significant adverse effect on the environment and that Rule 60.2 is exempt from the provisions of the California Environmental Quality Act.

Alternative

Not to adopt Rule 60.2. A flexible mechanism for opting out of the Title V program will not be available to local industry. This will adversely affect local companies because some would have to accept less flexible permit conditions under current District rules to opt out of the Title V program, apply for a costly federal Title V operating permit, or risk EPA enforcement actions or citizen lawsuits. Therefore, this alternative is not recommended.

Advisory Statement

The Air Pollution Control District Advisory Committee recommended adopting Rule 60.2 at its March 26, 1997, meeting.

Fiscal Impact

Adopting Rule 60.2 will result in a net revenue loss of approximately \$109,000 as anticipated in the District's FY 1996-97 budget.

Additional Information

Attachment I contains additional background information, information on compliance with Board policy on adopting new rules, information on Socioeconomic Impact Assessment requirements, and information on compliance with the California Environmental Quality Act.

Attachment II contains the Resolution adding Rule 60.2 to Regulation IV of the San Diego Air Pollution Control District Rules and Regulations.

Attachment III contains the report for the workshop held on January 29, 1997.

Concurrence:

Respectfully submitted,

LAWRENCE B. PRIOR III
Chief Administrative Officer

BY: ROBERT R. COPPER
Deputy Chief Administrative Officer


R. J. SOMMERVILLE
Air Pollution Control Officer

SUBJECT: Adoption of New Rule 60.2 (Limiting Potential to Emit—Synthetic Minor Sources)

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

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

CONTRACT REVIEW PANEL: Approved _____ N/A

PREVIOUS RELEVANT BOARD ACTION: N/A

BOARD POLICIES APPLICABLE: N/A

CONCURRENCES: N/A

ORIGINATING DEPARTMENT: San Diego County Air Pollution Control District

CONTACT PERSON: Richard Smith, Deputy Director (S50)694-3303 MS: 0-176


R. J. SOMMERVILLE, APCO
DEPARTMENT AUTHORIZED REPRESENTATIVE

APRIL 30, 1997
MEETING DATE

ATTACHMENT I

ADOPTION OF NEW RULE 60.2 (LIMITING POTENTIAL TO EMIT— SYNTHETIC MINOR SOURCES)

Additional Background Information

The federal Clean Air Act requires that states or local air districts implement a program to issue federal operating permits, often referred to as Title V permits, to affected facilities. District Regulation XIV describes how the Title V permit program will be implemented locally.

Currently, Regulation XIV requires Title V permits for major stationary sources of air pollution, as defined by EPA. EPA considers a facility to be a major source if its potential to emit is above one or more major source thresholds. Potential to emit is defined as the maximum capacity of a facility to emit a pollutant based on its physical and operational design. Facilities having actual emissions below major source levels can be subject to the Title V permit requirements if they have a theoretical potential to emit above major source levels.

EPA allows certain facilities to opt out of Title V permit requirements by limiting potential emissions below major source thresholds. These sources are referred to as synthetic minor sources. EPA is currently developing a nationwide rule to establish requirements for sources wanting to become synthetic minor sources. However, this rule is not expected to be proposed before the middle of 1997 and may not become effective until 1998 or later. In the interim, EPA has published a transition policy, which applies through July, 1998, allowing facilities whose actual emissions are less than the major source thresholds to opt out of Title V requirements.

The EPA transition policy considers sources with actual emissions less than all major source thresholds, but with potential emissions greater than one or more major source threshold, to be in one of two groups. The first group are sources with actual emissions between 50% and 100% of one or more major source thresholds. The second group are sources with actual emissions below 50% of all major source threshold. To opt out of Title V permitting, EPA allows the first group to become synthetic minor sources by maintaining District permits with legally and practicably enforceable permit conditions limiting emissions to less than major source thresholds. Proposed Rule 60.2 is designed as a mechanism for this first group of sources to apply for and receive synthetic minor source status. These sources will need to decide whether or not to apply for synthetic minor source status after evaluating whether the risk of EPA enforcement or citizen suits over Title V permit requirements justifies the expense of applying for synthetic minor source status. A source can also opt out of the Title V permit requirements by accepting limiting conditions on current District permits without using the mechanism provided by Rule 60.2. The second group is not required to have limiting permit conditions but may need to keep some additional records. The District will provide guidance on necessary records to these smaller sources.

Rule 60.2 includes definitions of synthetic minor sources and legally and practicably enforceable permit limits. The rule specifies monitoring, recordkeeping, and reporting requirements necessary to support enforceable permit limits. It also specifies the submittal schedule and content of synthetic minor source applications, District procedures for processing applications, the content of permits, compliance standards, and required fees to recover District costs.

To provide flexibility to sources, Rule 60.2 allows synthetic minor source status to be approved on a pollutant-by-pollutant basis. The rule also provides less rigorous administrative standards for equipment having insignificant emissions. Finally, the rule provides eligible sources that submit an application for synthetic minor source status and meet specified requirements, temporary protection from enforcement of the requirement in Regulation XIV to submit an application for a Title V permit.

A federal court decision in June 1996 removed an EPA requirement that synthetic minor source permits be federally enforceable. Therefore, Rule 60.2 will not be submitted to EPA for approval nor will permits issued under Rule 60.2 need to be reviewed by EPA. However, to provide maximum protection to local sources from possible EPA future enforcement actions, the District solicited and has addressed EPA's comments in the proposed rule. The rule is expected to be acceptable to EPA.

Compliance with Board Policy on Adopting New Rules

On February 2, 1993, the Board directed that, with the exception of a regulation requested by business or a regulation for which a socioeconomic impact assessment is not required, no new or revised regulation shall be implemented unless specifically required by federal or state law. Proposed new Rule 60.2 is consistent with this Board directive because it was requested by business and because no socioeconomic impact assessment is required.

Socioeconomic Impact Assessment

Section 40728.5 of the State Health and Safety Code requires the District to perform a socioeconomic impact assessment for new and revised rules and regulations significantly affecting air quality or emission limitations. Proposed new Rule 60.2 imposes no mandatory emission limitations on sources but only provides a mechanism for facilities to accept emission limitations if they choose. No source would elect to accept emission limitations under Rule 60.2 unless they determined emission limitations are beneficial compared to the alternatives. Therefore, a socioeconomic impact assessment is not required.

California Environmental Quality Act

The California Environmental Quality Act requires an environmental review for certain actions. The only effect of Rule 60.2 will be new emission limitations that reduce the potential for air contaminant emissions. No significant adverse impacts on the environment have been suggested for adopting the proposed new rule. The District has determined it is certain that no significant impacts can result from adopting the proposed rule. Therefore, adoption of new Rule 60.2 is exempt from the provisions of the California Environmental Quality Act.

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

RESOLUTION NO. 97-130
WEDNESDAY, APRIL 30, 1997

**RESOLUTION ADDING NEW RULE 60.2
TO REGULATION IV
OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member Roberts, seconded by Member Cox
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 new Rule 60.2 is to read as follows:

RULE 60.2. LIMITING POTENTIAL TO EMIT—SYNTHETIC MINOR SOURCES

(a) APPLICABILITY

This rule applies to any new or existing stationary source for which the owner or operator applies for synthetic minor source status in accordance with this rule or to any stationary source which is issued synthetic minor source status for a regulated air pollutant, as defined herein, pursuant to this rule. This rule shall not apply to any source subject to Regulation XIV for any reason other than being a major source.

Notwithstanding any provision of this rule, any new or modified stationary source or any new, modified, relocated, or replaced emission unit must obtain an Authority to Construct and/or a Permit to Operate in accordance with Regulation II, including Rules 20.1, 20.2, 20.3, and 20.4, and Rule 1200, as applicable.

(b) EXEMPTIONS (RESERVED)

(c) DEFINITIONS

All terms used in this rule shall retain the definitions provided under Regulation XIV, unless otherwise defined herein. For the purposes of this rule the following definitions shall apply:

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4/30/97 (APCB-2)

(1) **“Actual Emissions”** means the emissions of a regulated air pollutant from an emission unit, as approved by the Air Pollution Control Officer, including emissions during startup, shutdown, upset, and breakdown conditions and fugitive emissions, as applicable.

(2) **“Administratively Complete”** means a completed application form; a written certification signed by a responsible official that the contents of the application are true, accurate, and complete; a fee deposit sufficient to cover the estimated costs to the District to review, evaluate, and act on the application; and submittal of sufficient information as specified in Subsection (e)(1)(i) through (e)(1)(iv) to allow the District to begin processing the application.

(3) **“Aggregate Actual Emissions”** means the sum of actual emissions, including fugitive emissions, of a regulated air pollutant from a group of one or more emission units at a stationary source.

(4) **“Aggregate Allowed Emissions”** means the sum of the maximum emissions of a regulated air pollutant from a group of one or more emission units that are, or will be, allowed by legally and practicably enforceable permit limits.

(5) **“Air Pollution Control Device”** means any device that removes or destroys air contaminants prior to discharge to the ambient air and is not otherwise necessary for the proper functioning or operation of an emission unit or process. Air pollution control devices include, but are not limited to, electrostatic precipitators, filters, spray towers and scrubbers, thermal and catalytic oxidizers, flares, adsorbers, absorbers, steam or water injection, catalytic and noncatalytic reduction, chemical neutralization, and ozonation. For purposes of this rule, devices that are not air pollution control devices include, but are not limited to, modified furnace or burner designs; staged combustion; reduced combustion preheat; low excess air firing; low nitrogen or sulfur content fuel; air injection; ignition timing retardation; control of oxygen concentration in combustion air; process changes; lids, covers, or other solid enclosures; recovery of process gas; dust suppression by physical stabilization, traffic control, water spray, chemical stabilizers, or wetting agents; baffles; conservation vents; submerged or bottom filling; tank conversion to variable vapor space tank, floating roof tank, or pressurized tank or secondary seals for external floating roof tanks; underground tanks; white paint; low volatile organic compound (VOC), low hazardous air pollutant (HAP), powder, and waterborne coatings; low VOC or low HAP surface preparation or cleaning materials; and high transfer efficiency coating application methods.

(6) **“Compliance Timeframe”** means each clock hour, calendar day, calendar month, or a 12-month period.

(7) **“De Minimis Emissions”** means that emission rate of a regulated air pollutant that is 50% of the synthetic minor margin for that pollutant.

(8) **“Fugitive Emissions”** means those quantifiable nonvehicular emissions from a stationary source that could not reasonably pass through a stack, chimney, flue, vent, or other functionally equivalent opening; and

(i) Are volatile organic compounds (VOCs), oxides of nitrogen (NO_x), or hazardous air pollutants (HAPs); or

(ii) Are any other regulated air pollutant, but only if the stationary source belongs to one of the following source categories:

- (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 heat 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.

(9) **“Hazardous Air Pollutant (HAP)”** means any substance listed in Section 112(b)(1) or listed pursuant to Section 112(b)(2) of the federal Clean Air Act unless the substance has been subsequently delisted pursuant to Section 112(b)(3) of the federal Clean Air Act.

(10) **“Insignificant Emission Unit”** means any emission unit not required to have a Permit to Operate pursuant to Rule 11 or having a Certificate of Exemption or a Certificate of Registration.

(11) **“Legally and Practicably Enforceable Permit Limits”** means terms or conditions contained in any valid Authority to Construct, Temporary Permit to Operate, or Permit to Operate issued pursuant to these rules and regulations that:

(i) Contain any combination of operational, production, or verifiable emission limitations that limit the actual emissions of regulated air pollutant(s) during a specified compliance timeframe; and

(ii) Are not in violation of any applicable provisions of these rules and regulations or state law; and

(iii) Require sufficient recordkeeping, reporting, and monitoring to determine ongoing compliance with the emission limitations; and

(iv) Incorporate a legally enforceable obligation for the permit owner to adhere to the terms and conditions.

(12) **“Major Source Threshold”** means the following emission rates:

(i) 50 tons during any 12-month period of VOCs or NO_x; or

(ii) 10 tons during any 12-month period of any HAP; or

(iii) 25 tons during any 12-month period of any combination of HAPs; or

(iv) 100 tons during any 12-month period of any other regulated air pollutant.

(13) **“Modifications to Synthetic Minor Source Status”** means any physical or operational change at a source which necessitates a revision of any legally and practicably enforceable permit limits or associated reporting, monitoring, and recordkeeping permit conditions that were established pursuant to this rule, or by any other mechanism, and that establish synthetic minor source status for the source.

(14) **“Operational Limitation”** means a limit on a process’s operating inputs, including, but not limited to, hours of operation, raw materials used, or fuel combusted, for which a technically accurate correlation exists between actual emissions and the operating inputs that are limited; or an air pollution control device with specified key operating parameters that assure a specified control efficiency combined with operational, production, or verifiable emission limitations, that limit the device’s input emissions.

(15) **“Owner or Operator”** means any person who owns, operates, controls, or supervises a stationary source.

(16) **“Process Statement”** means a report from the owner or operator of a stationary source specifying process, product, material, operational, and other information the Air Pollution Control Officer determines is necessary to determine actual emissions. A process statement may include, but is not limited to, the identity, composition, and amount of each material used or consumed; the identity, composition and amount of each product produced; the hours of operation; continuous emission monitoring or continuous parametric emission monitoring data; and air pollution control device overall control efficiencies. A process statement shall include any additional information requested in writing by the Air Pollution Control Officer that are necessary to determine actual emissions from specified emission units for a specified time period.

(17) **“Production Limitation”** means a limit on a source’s production rate for which a technically accurate correlation exists between the production rate and actual emissions.

(18) **“Quantifiable”** means that a reliable basis, as determined by the Air Pollution Control Officer, can be established for calculating the amount, rate, nature, and characteristics of actual emissions.

(19) **“Regulated Air Pollutant”** means any of the following:

(i) NO_x and VOCs.

(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 new source performance standards 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 HAP subject to a standard or requirement promulgated pursuant to Section 112 of the federal Clean Air Act.

(20) **“Residual Actual Emissions”** means the aggregate actual emissions, determined without consideration of any emission reductions due to air pollution control devices, of any regulated air pollutant from all emission units that are not, or will not be, subject to legally and practicably enforceable permit limits that limit the actual emissions of that pollutant.

(21) **“Stationary Source’s Aggregate Actual Emissions”** means the sum of actual emissions, including fugitive emissions, of a regulated air pollutant from all the emission units at a stationary source.

(22) **“Synthetic Minor Margin”** means that emission rate of a regulated air pollutant that is equal to the applicable major source threshold less the aggregate allowed emissions for that pollutant.

(23) **“Synthetic Minor Source”** means a stationary source which is subject to legally and practicably enforceable permit limits that limit the emissions of a specified regulated air pollutant such that in any 12-month period, the residual actual emissions of the pollutant are less than or equal to de minimis emissions and the stationary source’s aggregate actual emissions and aggregate allowed emissions of the pollutant in any 12-month period are less than the applicable major source threshold.

(24) **“Technically Accurate”** means based on accepted scientific or engineering principles, reliable measurements, or information, policies, or procedures of the California Air Resources Board, U. S. Environmental Protection Agency, or the District as approved by the Air Pollution Control Officer.

(25) **“12-month period”** means 12 consecutive calendar months.

(26) **“Verifiable Emission Limitation”** means an emission limitation which is verifiable by a continuous emission monitoring system or parametric emission monitoring

system approved in advance by the Air Pollution Control Officer, an emission limitation on surface coating or solvent cleaning operations for which there is no emission control device and VOC and HAP emissions are calculated by assuming complete emission of all VOCs and HAPs present in any coatings and solvents used, or an emission limitation that is equal to an emission unit's potential to emit.

(d) STANDARDS

The following standards shall apply to the owner or operator of any stationary source who submits an application to the Air Pollution Control Officer for, or is granted, synthetic minor source status.

(1) Ongoing compliance with legally and practicably enforceable permit limits shall be determined as follows:

(i) The first compliance timeframe shall begin on:

(A) except as provided for in Subsection (d)(1)(i)(C), for clock hour or calendar day compliance timeframes, the date on which application for synthetic minor source status is made; and

(B) except as provided for in Subsection (d)(1)(i)(C) for calendar month or 12-month period compliance timeframes, the start of the calendar month in which application for synthetic minor source status is made; or

(C) on a date different from the date specified in Subsections (d)(1)(i)(A) or (d)(1)(i)(B), as applicable, provided that the owner or operator and the Air Pollution Control Officer agree on such a date and the date is no later than the first day of the calendar month following the calendar month in which a Permit to Operate containing the compliance timeframe is issued in accordance with this rule.

(ii) Ongoing compliance shall be determined on:

(A) An hourly basis for a clock hour compliance timeframe; and

(B) A daily basis for a calendar day compliance timeframe; and

(C) A calendar month basis for a calendar month or 12-month period compliance timeframes.

(2) For purposes of District Rules and Regulations, a stationary source shall not be considered a major source for a regulated air pollutant if, as determined by the Air Pollution Control Officer:

(i) The source is in ongoing compliance with legally and practicably enforceable permit limits that establish synthetic minor source status for that pollutant; and

(ii) The source's residual actual emissions in the 12-month period beginning with the start of the first compliance timeframe and each 12-month period thereafter are less than the de minimis emissions for the source; and

(iii) The aggregate actual emissions in the 12-month period beginning with the start of the first compliance timeframe and each 12-month period thereafter of

each regulated pollutant from all emission units at the stationary source do not exceed the applicable major source threshold; and

(iv) The aggregate allowed emissions in the 12-month period beginning with the start of the first compliance timeframe and each 12-month period thereafter of each regulated pollutant from all emission units at the stationary source that have legally and practicably enforceable permit limits do not exceed the applicable major source threshold; and

(v) The source has maintained sufficient records commencing with the first compliance timeframe and provided sufficient information to the Air Pollution Control Officer that the Air Pollution Control Officer deems adequate to allow a determination of compliance with Subsections (d)(2)(i) through (d)(2)(iv).

(3) An exceedance of any legally and practicably enforceable permit limit used to establish synthetic minor source status for that pollutant is deemed a violation of this rule.

(4) Within 30 calendar days, or a longer period of time if deemed necessary by the Air Pollution Control Officer, of a written request by the Air Pollution Control Officer, the owner or operator of a stationary source that is a synthetic minor source for a regulated air pollutant shall demonstrate that, for any 12-month period that begins on or after the start of the first compliance timeframe, residual actual emissions of that pollutant are less than de minimis emissions.

(5) If for any 12-month period that begins on or after the start of the first compliance timeframe, residual actual emissions of a regulated air pollutant for which synthetic minor source status has been established have exceeded de minimis emissions, or, as determined by the Air Pollution Control Officer, inadequate information has been provided by the source pursuant to Subsection (d)(4) to make such a determination, the source shall be deemed in violation of this rule.

(6) The owner or operator of a source that exceeds any emission limitations for a regulated air pollutant identified as legally and practicably enforceable shall report such exceedances to the Air Pollution Control Officer within 30 calendar days of the occurrence of such exceedance.

(7) Except as provided in Subsection (d)(8), a source requesting synthetic minor source status shall not be relieved of the responsibility of complying with the application or other requirements of Regulation XIV until the District takes final action to issue a Permit to Operate in accordance with Section (f).

(8) If an administratively complete application, including applicable fees, is submitted requesting synthetic minor source status and by the application submittal date the source begins maintaining records in accordance with Subsection (h) (except that records of total quantities since the start of the first compliance timeframe shall be deemed as meeting requirements of Subsections (h)(1)(iv) and (h)(3)(ii)(C)) from the date of the application submittal the source shall not be considered a major stationary source for purposes of these Rules and Regulations unless the Air Pollution Control Officer cancels or denies the source's application for synthetic minor source status.

(9) Modifications to synthetic minor source status for a regulated air pollutant shall comply with all applicable requirements of these rules and regulations.

(10) For purposes of this rule, when determining actual emissions, any air pollution control device shall be deemed to have an overall emission control efficiency of zero

percent unless it is part of an operational limitation that establishes a legally and practicably enforceable permit limit.

(11) Notwithstanding any permit terms or conditions established pursuant to this rule, all terms and conditions in any Permit to Operate, Authority to Construct, Temporary Authorization, Certificate of Exemption, Certificate of Registration, or Settlement Agreement otherwise established pursuant to these rules and regulations shall remain in force unless modified or removed in accordance with Regulation II, Regulation XIV, and Rule 1200.

(e) APPLICATION FOR SYNTHETIC MINOR SOURCE STATUS

A stationary source subject to this rule may apply for synthetic minor source status, or modification to such status, for any regulated air pollutant by submitting an application to modify some or all of the source's Permits to Operate or, with the approval of the Air Pollution Control Officer, an application for a new Permit to Operate in accordance with the following:

(1) Application Content

An application shall include:

(i) Specification of the regulated air pollutant(s) for which synthetic minor source status is requested; and

(ii) The identification and description of all existing emission units at the source emitting the specified pollutant(s), except for insignificant units unless deemed necessary by the Air Pollution Control Officer to determine the source's actual emissions; and

(iii) A demonstration to the satisfaction of the Air Pollution Control Officer that the stationary source's aggregate actual emissions of all regulated air pollutants will be less than the applicable major source thresholds for the 12-month period beginning with the month in which application for synthetic minor source status is made; and

(iv) Proposed legally and practicably enforceable permit limits which:

(A) identify the emission units or groups of emission units that such conditions shall be applied to; and

(B) limit the actual emissions of the specified regulated air pollutant(s) to a level such that the stationary source is a synthetic minor source for that pollutant(s); and

(v) A written certification signed by a responsible official that, based on information and belief formed after reasonable inquiry, the contents of the application are true, accurate, and complete; and

(vi) A fee deposit sufficient to cover the estimated costs to the District to review, evaluate, and act on the application; and

(vii) Any additional information requested by the Air Pollution Control Officer.

(2) Timely Application

An owner or operator of a stationary source who chooses to apply for synthetic minor source status shall make such a request within the following timeframes:

(i) For any stationary source that is not a synthetic minor source and is operating or is scheduled to commence operating on or before March 6, 1997, the owner or operator shall apply for synthetic minor source status no later than 60 calendar days before an application is required under Regulation XIV or March 6, 1997, whichever is later; or

(ii) For any stationary source that commences operating after March 6, 1997, the owner or operator shall apply for synthetic minor source status no later than 60 calendar days before an application is required under Regulation XIV; or

(iii) For any major stationary source that is operating in compliance with a Title V permit issued pursuant to Regulation XIV, the owner or operator shall request synthetic minor source status no later than eight calendar months prior to permit renewal; or

(iv) On a case-by-case basis, and with the agreement of the owner or operator of an affected stationary source, the Air Pollution Control Officer may establish an alternative date to the applicable dates in Subsections (e)(2)(i) through (e)(2)(iii) for submittal of an application for synthetic minor source status.

(f) DISTRICT PROCEDURES

(1) Action on Applications

The District shall take actions on applications for synthetic minor source status in accordance with Regulation II.

(2) Renewal of Synthetic Minor Source Status

Renewal of synthetic minor source status shall be made in accordance with permit renewals described in Rule 10 with renewal fees determined pursuant to Section (g) of this rule.

(3) Content of Synthetic Minor Source Permits

Permits to Operate issued or modified pursuant to this rule that establish synthetic minor source status shall:

(i) Include a statement that the source has synthetic minor source status for specified regulated air pollutants; and

(ii) Identify all permit conditions necessary to establish synthetic minor source status for a specified regulated air pollutant(s); and

(iii) Include legally and practicably enforceable permit limits that limit the actual emissions of individual emission units or groups of emission units such that the source meets the definition of a synthetic minor source for the specified regulated air pollutant(s); and

(iv) Include the initial start date of compliance timeframes; and

- (v) Include recordkeeping requirements in accordance with Section (h); and
- (vi) Include reporting requirements in accordance with Section (i); and
- (vii) Specify any new monitoring requirements including analysis procedures, test methods and frequency, and recordkeeping designed to serve as monitoring that are sufficient to allow a determination of compliance with the legally and practicably enforceable permit limits for the relevant compliance timeframes.

(4) Compliance with Regulation XIV

If the Air Pollution Control Officer cancels an application for synthetic minor source status or denies an application for synthetic minor source status, the applicant shall be deemed subject to the requirement to submit an application pursuant to Regulation XIV from the first day such an application was required under Regulation XIV.

(g) FEES

The owner or operator of a stationary source for which synthetic minor source status is applied for in accordance with this rule or a stationary source which is issued synthetic minor source status pursuant to this rule shall pay a fee sufficient to recover the actual costs incurred by the Air Pollution Control District to review, evaluate, and act upon applications for, or modifications to, such status and the actual costs associated with annual permit renewal and compliance determinations. The actual costs shall be the additional cost that the Air Pollution Control Officer determines are not otherwise recovered from other applicable fees prescribed in Rule 40. The actual costs shall be determined using the application related indirect cost multiplier and labor rates specified in Rule 40, Schedule 94, except that the costs associated with annual permit renewals and compliance determinations shall be determined using the permit related indirect cost multiplier.

(h) RECORDKEEPING

The recordkeeping requirements of this rule shall not supersede any recordkeeping requirements contained in any Authority to Construct, Temporary Permit to Operate, Permit to Operate, Certificate of Exemption, Certificate of Registration, or Settlement Agreement established pursuant to these rules and regulations; any District rules and regulations; or state law. The owner or operator of a stationary source that has applied for or received legally and practicably enforceable permit limits pursuant to this rule shall maintain records, as necessary to determine actual emissions, in accordance with the following:

(1) For each emission unit or group of emission units for which legally and practicably enforceable permit limits have established production limitations or operational limitations, not including air pollution control devices, the owner or operator shall maintain, as applicable, the following records:

(i) Information on the process and equipment including, but not limited to, the following: equipment type, description, make and model; maximum design process rate or throughput; type and description of any control device(s); and

(ii) Information on the identity and composition of each material used or consumed and product produced; and

(iii) Calendar month or daily records of operating hours, the identity and amount of each material used or consumed, and the identity and amount of each product produced; and

(iv) For emission units with limits having a 12-month period compliance timeframe, records of the total operating hours, the total amount of each material used or consumed, and the total amount of each product produced during each 12-month period; and

(v) Purchase orders, invoices, laboratory reports, material safety data sheets, and other documents necessary to support the information on material compositions and information in the monthly or daily records; and

(vi) Any additional information requested in writing by the Air Pollution Control Officer.

(2) For air pollution control devices that are used to establish legally and practicably enforceable permit limits, the owner or operator shall maintain the following records, as applicable:

(i) Information identifying all key system operating parameters such as temperatures, pressures, and flow rates that are necessary to determine the overall control efficiency of the device; and

(ii) Daily records of key system operating parameters sufficient to document the overall control efficiency of the device on an ongoing basis; and

(iii) A daily log of hours of operation including notation of any control unit breakdowns, upsets, repairs, maintenance, and any other deviations from equipment design and key operating parameters.

(3) For verifiable emission limitations that are used to establish legally and practicably enforceable permit limits, the owner or operator shall maintain the following records, as applicable:

(i) Continuous emission monitoring or continuous parametric monitoring records as specified by the Air Pollution Control Officer; or

(ii) For all VOC and HAP containing materials:

(A) Information on the identity and VOC and HAP content of each material used; and

(B) Calendar month or daily records of the identity and amount of each material used; and

(C) For limits having a 12-month period compliance timeframe, records of the total amount of each material used during each 12-month period; and

(D) Purchase orders, invoices, laboratory reports, material safety data sheets, and other documents necessary to support the information on material compositions and information in the monthly or daily records; and

(E) Any additional information requested in writing by the Air Pollution Control Officer.

(4) For each emission unit or group of emission units that contributes to residual actual emissions the owner or operator shall maintain such records or upon request from the Air Pollution Control Officer provide other information necessary to demonstrate that residual actual emissions are less than de minimis emissions pursuant to Subsection (d)(4).

(5) All records shall be retained on site for at least three years and be made available to the District upon request.

(i) **REPORTING**

The owner or operator of any equipment or stationary source subject to the provisions of this rule shall submit by the submittal date of the Emissions Statement Form(s) required by Rule 19.3 for the year in which application for synthetic minor source status is requested, and each year thereafter, or on such other dates as specified by the Air Pollution Control Officer, a Process Statement for the preceding calendar year for all emission units with legally and practicably enforceable permit limits.

Documentation and calculations used to prepare the material presented in the Process Statement shall be maintained by the owner or operator for at least three years and shall be made available to the District upon request.

IT IS FURTHER RESOLVED AND ORDERED that the subject added new Rule 60.2 of Regulation IV shall take effect upon adoption.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 30th day of APRIL, 1997 by the following votes:

AYES: COX, JACOB, ROBERTS, HORN
NOES: NONE
ABSENT: SLATER

I hereby certify that the foregoing is a full, true and correct copy of the Original Resolution which is now on file in my office.

THOMAS J. PASTUSZKA
Clerk of the Air Pollution Control Board

By *m Steele*
Maritza C. Steele, Deputy

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY *S. Dutton*
DEPUTY

4/30/97 (APCB-2)

RESOLUTION NO. 97-130

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**RULE 60.2 - LIMITING POTENTIAL TO EMIT - SYNTHETIC MINOR
SOURCES**

WORKSHOP REPORT

A workshop notice was mailed to all businesses and government operations in San Diego County for which the District could determine that actual emissions of regulated air pollutants were less than all federal major source thresholds but which had emissions of at least one regulated air pollutant greater than 50% of a major source threshold. In addition, notices were mailed to all local Chambers of Commerce, all local Economic Development Corporations, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB), and other interested parties.

The workshop was held on January 29, 1997, and was attended by 52 people. Written comments were also received. The workshop comments and District responses are as follows:

1. WORKSHOP COMMENT

Does the District plan to submit proposed new Rule 60.2 to EPA for approval and inclusion in the State Implementation Plan (SIP)?

DISTRICT RESPONSE

The District does not plan to submit proposed new Rule 60.2 to EPA for approval and inclusion in the SIP since, in accordance with EPA's current policy on limiting potential to emit, the emission limits established pursuant to proposed new Rule 60.2 do not need to be federally enforceable. This will provide maximum protection for facilities which elect to limit their potential to emit under proposed new Rule 60.2 from possible EPA enforcement action of the requirement to apply for a Title V operating permit based on their potential to emit. However, EPA has provided comments on the rule and the District is addressing them.

2. WORKSHOP COMMENT

How is potential to emit defined?

DISTRICT RESPONSE

Potential to emit is defined as the maximum capacity of a facility to emit a pollutant based on its physical and operational design. Any operational limitations on the capacity of a facility, including air pollution control equipment, are treated as part of the facility design if the limitation or effect they would have on emissions is legally and practicably enforceable.

3. WORKSHOP COMMENT

Would an existing District permit that limits a facility's volatile organic compound (VOC) emissions to less than the major source threshold be adequate to create synthetic minor source status for that facility?

DISTRICT RESPONSE

Existing District permits that limit a facility's potential to emit may serve to create synthetic minor source status for a regulated pollutant if the limiting permit conditions meet the criteria of legally and practicably enforceable limits as defined in proposed new Rule 60.2. However, existing permit conditions that would create synthetic minor source status for one pollutant may not create synthetic minor source status for other regulated pollutants. For example, permit conditions that limit emissions to less than 100 pounds per day of VOCs may create synthetic minor source status for VOCs but not for hazardous air pollutants (HAPs). Facilities may elect not to create synthetic minor source status for some regulated pollutants for which they exceed 50% of the major source threshold, but they should balance the resulting cost savings with the risk of EPA enforcement actions or citizen suits.

4. WORKSHOP COMMENT

Where can the definition of HAPs be found?

DISTRICT RESPONSE

Federal HAPs are defined in Section 112(b) of the federal Clean Air Act. The District will provide a list of federal HAPs upon request.

5. WORKSHOP COMMENT

Is there any risk that facilities filing applications for synthetic minor source status will be considered major sources between the date most facilities must submit a application for a Title V operating permit, March 6, 1997, and the date the rule is adopted?

DISTRICT RESPONSE

The District plans to proceed with adopting proposed new Rule 60.2 as expeditiously as possible while addressing the concerns of all interested parties. Proposed new Rule 60.2 will be retroactive to March 6, 1997, and the District believes that existing facilities with potential to emit greater than a major source threshold which apply for synthetic minor source status on or before that date will face minimal risk of federal enforcement action for failing to submit an application for a Title V operating permit.

6. WORKSHOP COMMENT

Does synthetic minor source status pertain only to permitted units?

DISTRICT RESPONSE

No. All emission units must be addressed to establish synthetic minor source status. Emission units must either have their emissions limited by legally and practicably enforceable permit limits or have their emissions included in residual actual emissions.

7. WORKSHOP COMMENT

It is difficult for our facility to quantify emissions for the annual emission inventory because we have batch processes and liquid waste streams. The rule's recordkeeping requirements will be extremely burdensome for some facilities since they seem to require a facility to perform an emissions inventory every month.

DISTRICT RESPONSE

The recordkeeping in the rule is necessary to make any permit limitations practicably enforceable. The District will work with facilities to devise recordkeeping programs that are the least burdensome possible. However, the potential cost of recordkeeping associated with limiting potential to emit is one reason the District is making application for synthetic minor source status optional. Increased recordkeeping is one of the costs that facilities will have to consider when balancing the cost of synthetic minor source status against the potential risk of EPA enforcement actions or citizen lawsuits.

8. WORKSHOP COMMENT

Is acetone considered a VOC or a HAP?

DISTRICT RESPONSE

No. Acetone is not a VOC since it is defined as an exempt compound by the District and EPA. Acetone is also not listed by EPA as a HAP.

9. WORKSHOP COMMENT

Could a facility with potential to emit greater than a major source threshold opt out of the Title V program by voluntarily limiting emissions below major source thresholds without modifying its existing permits or accepting new legally and practicably enforceable permit limits?

DISTRICT RESPONSE

For facilities with actual emissions between 50% and 100% of a major source threshold, EPA will only accept legally and practicably enforceable permit limits as a valid method for limiting a facilities potential to emit. Any facility with actual emissions between 50% and 100% of a major source threshold could be at some risk of EPA enforcement action or citizen lawsuits for failure to apply for a Title V operating Permit if its potential to emit exceeded major source thresholds.

If a facility voluntarily limits its actual emissions to less than 50% of a major source threshold, EPA would only require sufficient recordkeeping on permitted emission units to allow the facility to opt out of the Title V program. The District will issue guidance on the amount and type of recordkeeping necessary for these sources.

10. WORKSHOP COMMENT

What sources of information should a facility use to estimate actual emissions when applying for synthetic minor source status?

DISTRICT RESPONSE

A synthetic minor source status applicant should use the best available emission factors. Methodologies used by the District to calculate emission inventories, including site specific emission factors, will generally be considered the default methodology to calculate actual emissions. An applicant can propose alternative methodologies. However, the applicant has the burden of demonstrating to the District that any alternative methodology is more accurate than the current District methodology. Facilities should contact the District's emissions inventory staff if they have questions concerning how to calculate their actual emissions.

11. WORKSHOP COMMENT

What options does a facility have if actual emissions are less than major source thresholds but its potential to emit is greater than a major source threshold?

DISTRICT RESPONSE

If a facility's actual emissions are between 50% and 100% of a major source threshold for a regulated pollutant but its potential to emit is greater than the major source threshold, a facility has four options. The facility can: (1) elect to apply for a Title V permit (based on potential emissions); or (2) elect to apply for synthetic minor source status under proposed new Rule 60.2; or (3) elect to apply for local permit conditions that limit total facility emissions without using proposed new Rule 60.2; or (4) continue to operate under its current District permits during EPA's transition period (through July, 1998). A facility can elect the last option after deciding the risk of EPA or citizen enforcement of Title V permit requirements does not warrant the expense of the first three options.

If a facility's actual emissions are less than 50% of a major source threshold (but with potential to emit greater than the threshold), a facility has the additional option of only keeping records sufficient to demonstrate that its actual emissions are less than 50% of the major source threshold. The amount of recordkeeping required will depend on the level of actual emissions. The District will issue guidance on the amount and type of recordkeeping necessary.

12. WORKSHOP COMMENT

How can a facility know its actual emissions for determining applicability of proposed new Rule 60.2? In many cases, a facility's last approved emission inventory statement was for the 1993 calendar year.

DISTRICT RESPONSE

The District's emissions inventory group is nearing completion on most 1994 and 1995 emission inventories. Facilities can contact the District's emissions inventory group for this information. However, facilities should base their actual emission estimates on the best available current information for their operations. The actual emission estimates should reflect actual emissions expected in the 12-month period following a facility's application for synthetic minor source status. Facilities should update current District emission estimates to account for addition of new emission units, modifications or removal of existing emission units, and operational changes. The District's emissions inventory group can supply information on the current methodologies used to calculate emissions to aid facilities in making this estimate (see also Comment #47).

13. WORKSHOP COMMENT

If a facility elects to modify its existing permits without using proposed new Rule 60.2, when should such applications be submitted?

DISTRICT RESPONSE

To have maximum protection from EPA enforcement actions or citizen suits, an application to modify existing permits should be submitted on or before the date a facility is required to submit an application for a Title V operating permit. For existing facilities with the potential to emit more than the major source threshold, this date is March 6, 1997.

14. WORKSHOP COMMENT

Explain the definition of de minimis emissions in the rule.

DISTRICT RESPONSE

De minimis emissions are defined as 50% of the synthetic minor margin for a regulated pollutant (see response to Comment #15). The synthetic minor margin for a regulated pollutant is equal to the major source threshold, minus the sum of emissions allowed by all legally and practicably enforceable emission limits in a District permit for that regulated pollutant. For example, if the major source threshold for a regulated pollutant is 50 tons per year and the facility has accepted permit limits on some or all of its emission units that allow a total of 40 tons per year of emissions for that regulated pollutant, the synthetic minor margin for that pollutant would be equal to 10 tons per year and de minimis emissions would be 5 tons per year.

15. WORKSHOP COMMENT

De minimis emissions should be raised to 50% of the synthetic minor margin. Setting the de minimis emissions at 25% of the synthetic minor margin is too restrictive and results in too many trivial emission units having to accept legally and practicably enforceable emission limits with associated recordkeeping requirements. The extensive recordkeeping required does not provide any benefit because the actual emissions from these units is small and unlikely to increase significantly.

DISTRICT RESPONSE

The District agrees. Setting de minimis emissions at 50% of the synthetic minor margin still provides an adequate margin of safety between residual actual emissions and the major source threshold. The definition of de minimis emissions has been revised to 50% of the synthetic minor margin.

16. WORKSHOP COMMENT

How does the District determine what emissions can reasonably pass through a stack when determining a facility's fugitive emissions?

DISTRICT RESPONSE

Fugitive emissions are determined on a case-by-case basis. An example of fugitive emissions are particulate emissions from haul roads where it would clearly be unreasonable to attempt to capture the emissions and vent them through a stack.

17. WORKSHOP COMMENT

The rule's definition of legally and practicably enforceable permit limits does not explicitly require that they comply with federal law, but does require compliance with state law. Is the SIP considered a state law?

DISTRICT RESPONSE

No. See response to Comment # 51.

18. WORKSHOP COMMENT

Would EPA recognize a variance from the District Hearing Board that allowed a facility to temporarily exceed an emission limitation used to establish synthetic minor source status? Since the District's variance rule is in the SIP, EPA should recognize any variance granted by the District Hearing Board.

DISTRICT RESPONSE

No. EPA does not currently recognize any local variances from federal requirements. Although proposed new Rule 60.2 will not be submitted to EPA for approval at the present time and will not be a federal requirement, District Regulation XIV, which implements the Title V Operating Permit program, is a federal requirement. EPA could enforce the requirement that a facility apply for a Title V operating permit based on its potential to emit.

Although District variance rules are currently approved by EPA and included in the SIP, EPA has proposed removing these rules from the SIP because EPA has no legal basis under the federal Clean Air Act for recognizing variances. EPA has not taken action on this proposal, but may do so in the near future.

19. WORKSHOP COMMENT

Subsection (d)(1) of the rule requires that compliance be determined on an hourly, daily, or monthly basis. How will the applicable compliance time frame be chosen?

DISTRICT RESPONSE

A compliance time frame would correspond to the relevant time period used for legally and practicably enforceable permit limits. For example, permit conditions that limit daily emissions would have a daily compliance time frame while those that limit monthly emissions or emissions in any 12-month period would have a monthly compliance time frame.

For convenience, an applicant may elect to propose daily emission limits and a daily compliance time frame if its existing Permits to Operate already contain daily emission limits and require daily recordkeeping.

20. WORKSHOP COMMENT

Subsection (d)(6) requires that facilities notify the District within 30 days of an exceedance of any emission limitation. What is the effective date of an emission exceedance?

DISTRICT RESPONSE

A facility must report any exceedance of an emission limitation 30 days from the end of the applicable compliance time frame. For emission limitations with calendar month compliance time frames, an exceedance must be reported within 30 days from the end of the calendar month for which the facility determined there was an exceedance. For emission limitations with hourly or daily compliance time frames, emission exceedances must be reported within 30 days of the date of the exceedance.

21. WORKSHOP COMMENT

The District should increase the time allowed for facilities to report exceedances of any emission limitations to 45 days, to allow a facility time to calculate emissions for the compliance time frame and to decide whether to modify its permits or apply for a Title V operating permit.

DISTRICT RESPONSE

The District disagrees. The District believes 30 days is adequate time to calculate emissions for any compliance time frame. It is only required that the facility report emissions exceedances to the District within 30 days of determining an exceedance. The rule does not require that facilities propose any remedial actions within 30 days of determining an exceedance has occurred.

22. WORKSHOP COMMENT

Is notifying the District of an exceedance of an emission limitation, as required by proposed new Rule 60.2, separate from notifying the District of breakdown conditions under Rule 98?

DISTRICT RESPONSE

Yes. These are separate situations and the District should be notified separately in each case. A breakdown condition does not necessarily mean a facility has exceeded an emission limitation and exceeding an emission limitation does not necessarily mean a breakdown condition exists.

23. WORKSHOP COMMENT

Can a facility submit an application for a Title V operating permit and subsequently withdraw the application if it decides to request synthetic minor source status?

DISTRICT RESPONSE

Yes. A facility can submit an application for synthetic minor source status at any time. Also, a facility can withdraw an application for a Title V operating permit if it can demonstrate it is no

longer subject to the requirement for a Title V operating permit. The facility would be charged an appropriate fee for any District costs incurred in processing the application up to the withdrawal date.

24. WORKSHOP COMMENT

Could a facility get synthetic minor source status based on limiting a regulated pollutant's concentration in an exhaust stream without installing a continuous emission monitor (CEM)?

DISTRICT RESPONSE

Yes. A CEM or parametric emission monitor (PEM) would only be required if a facility was applying for a verifiable emission limitation (a limit expressed only as a limit on the amount of emissions). A concentration limit combined with an exhaust flow limit and appropriate monitoring, recordkeeping, and reporting requirements would constitute practicably and legally enforceable permit limits. For example, a limit on the exhaust concentration of NO_x from a cogeneration facility that was supported by periodic source testing could be combined with a limit on total exhaust or fuel flow. However, any proposed concentration limits or flow limits could not supersede any limits in existing permits without modification of the existing permits in accordance with District Regulation II, including the District's New Source Review (NSR) rules.

25. WORKSHOP COMMENT

Could a facility with several different engines use a fuel usage limitation for the whole facility to limit its potential to emit NO_x?

DISTRICT RESPONSE

Yes. Legally and practicably enforceable permit limits could be constructed from the facility's total fuel usage if a common NO_x emission factor was used that equaled or exceeded the individual emission factor of each engine. This common emission factor would be used to calculate the maximum allowed facility fuel usage under the limit.

26. WORKSHOP COMMENT

Would monthly source testing be required for an emission limit based in part on an exhaust concentration limit?

DISTRICT RESPONSE

The District would evaluate source testing requirements on a case-by-case basis, considering applicable District experience or rules and regulations that identify necessary source test frequency to ensure ongoing compliance. Usually, source tests are required, at most, semi-annually.

27. WORKSHOP COMMENT

Can a facility with many existing Permits to Operate submit an application for a single new permit that would provide synthetic minor source status for the entire facility without applying to modify any existing permits?

DISTRICT RESPONSE

In most cases, yes. However, the District reserves the right to require an applicant to submit applications modifying existing permits if the application for synthetic minor source status affects those existing permits in ways that require their modification to ensure compliance with District Rules and Regulations and state or federal law.

28. WORKSHOP COMMENT

What is the amount of the application fee deposit for synthetic minor source status applications?

DISTRICT RESPONSE

See response to Comment #44.

29. WORKSHOP COMMENT

Will permit renewal fees for a facility be the same after receiving synthetic minor source status if no new permits are issued?

DISTRICT RESPONSE

No. It is likely there will be an increase in District compliance costs, and therefore renewal fees associated with synthetic minor source status. In many cases, a facility will have added new emission limits where none existed previously or emission limits that are based on different time frames than existing emission limits. In addition, there may be new monitoring, recordkeeping, and reporting requirements for the facility. District compliance staff will likely have to spend additional time verifying compliance with new or changed emission limits and examining supporting records. Also, some additional District staff time may be spent reviewing any new reports submitted by facilities with synthetic minor source status.

30. WORKSHOP COMMENT

Is there a separate application form for synthetic minor source status?

DISTRICT RESPONSE

No. Facilities should use the standard District application form when applying for synthetic minor source status and attach supplemental information as described in Section (e) of proposed new Rule 60.2, and any other relevant information. (See also response to Comment #76.)

31. WORKSHOP COMMENT

How often will synthetic minor source status permits be renewed? Other Districts are renewing them every five years like Title V permits.

DISTRICT RESPONSE

Synthetic minor source status permits will be renewed annually like other District Permits to Operate. The District's permit system is set up to recover renewal costs on an annual basis. Without annual renewal of permits and the associated renewal fees it would be difficult for the District to recover these annual costs.

32. WORKSHOP COMMENT

If a facility has actual emissions over a major source threshold for one regulated pollutant and must apply for a Title V permit, could proposed new Rule 60.2 be used to apply for synthetic minor source status for another regulated pollutant within the Title V operating permit?

DISTRICT RESPONSE

At this time, the District does not believe that using proposed new Rule 60.2 to limit potential to emit within a Title V operating permit is feasible or desirable. Proposed new Rule 60.2 was developed in the context of the EPA transition policy for limiting potential to emit for facilities with potential to emit over the major source threshold but actual emissions less than all major source thresholds. An acceptable method of limiting potential to emit for facilities required to have a Title V operating permit is to have federally enforceable permit limits established in the Title V operating permit.

33. WORKSHOP COMMENT

The rule contains an application shield for those facilities submitting an administratively complete application for synthetic minor source status or before the submittal date for a Title V operating permit application if the facility, immediately upon application, begins complying with the rule's recordkeeping requirements. Does this shield the facility from EPA enforcement actions during the application evaluation period?

DISTRICT RESPONSE

Although the District can not speak for EPA on this issue, EPA has not objected to this provision in its written comments on proposed new Rule 60.2. EPA also recognizes the time constraints that both the District and facilities are under to implement the Title V program and that successful implementation of proposed new Rule 60.2 will likely result in actual emission reductions in San Diego County.

34. WORKSHOP COMMENT

For an emission limitation based on a 12-month time period, how will actual emissions be calculated for the month an application is submitted?

DISTRICT RESPONSE

If a facility wishes to use the application shield provisions of Subsection (d)(8), the start of the first compliance time frame is the first day of the calendar month in which an application is submitted. Otherwise, the start of the first compliance time frame will be the first day of the calendar month following the calendar month in which the Synthetic Minor Source Permit(s) to Operate is issued.

The rule has been revised to state how compliance will be determined in the period following the application submittal or permit issuance.

35. WORKSHOP COMMENT

If a facility had a synthetic minor source status permit limiting emissions in any 12-month period, would exceeding an emission limitation in another permit be a violation of the synthetic minor source status permit?

DISTRICT RESPONSE

Not necessarily. Emission limitations in synthetic minor source status permits and other permits are separate requirements on a facility and compliance with these requirements are determined separately. An emission exceedance causing an exceedance of a emission limitation in another permit would not be considered an exceedance of the synthetic minor source status permit limit unless the emission exceedance also caused an exceedance of the synthetic minor source status permit limit.

36. WORKSHOP COMMENT

Could a facility limit its emissions under the rule and then modify its operations to reduce actual emissions even more while complying with the rule?

DISTRICT RESPONSE

Yes. The District would certainly encourage any facility to reduce its actual emissions as much as possible.

37. WORKSHOP COMMENT

How long will it take to issue a synthetic minor source status permit after an application is received?

DISTRICT RESPONSE

In most instances, applications for synthetic minor source status will be processed like other standard District applications. In accordance with Rule 18, the District will make a completeness determination within 30 days. However, the District will attempt to determine whether applications are administratively complete for purposes of an application shield pursuant to proposed new Rule 60.2 in less than 30 days. The exact amount of time required to process any individual application will depend on the completeness and complexity of that application.

38. WORKSHOP COMMENT

Should a facility include modifications requiring NSR as part of an application for synthetic minor source status?

DISTRICT RESPONSE

No. Applications for modifications possibly requiring NSR should be submitted separately. Synthetic minor source status permits issued pursuant to proposed new Rule 60.2 are solely for the purpose of limiting a facility's potential to emit and are thereby exempt from the District's NSR rules. A modification requiring NSR in such an application would greatly complicate the permit evaluation and possibly delay issuing a synthetic minor source permit. However, the effects of any proposed modification will need to be taken into account when evaluating the facility's expected actual emissions.

39. WORKSHOP COMMENT

Would separate fees be assessed for applications for synthetic minor source status for two separate facilities owned by the same company?

DISTRICT RESPONSE

Yes. However, the fee for two similar facilities would not necessarily be twice the fee for a single facility since evaluation of similar applications would include similar elements.

40. WORKSHOP COMMENT

Subsection (h)(1) requires that information on the identity of each material used and product produced be included in records when only the one of these elements may be relevant to the emission limitation. Subsection (h)(1) should only require that records be kept on the material used or products manufactured, not both.

DISTRICT RESPONSE

Only applicable records are required by Subsection (h). The District interprets Subsection (h)(1) to only require recordkeeping for both materials used and products produced when such recordkeeping is applicable to legally and practicably enforceable permit limits (see also the response to Comment #54).

41. WORKSHOP COMMENT

This rule addresses facilities with actual emissions between 50% and 100% of the major source threshold. What procedures should facilities with actual emissions less than the major source threshold follow to limit their potential to emit?

DISTRICT RESPONSE

Facilities with potential to emit over a major source threshold but actual emissions less than 50% of the applicable major source threshold do not have to consider the option of accepting legally and practicably enforceable permit limits to limit their potential to emit. However, such facilities should consider some additional recordkeeping. The District will issue guidance on the amount and type of recordkeeping necessary for such sources.

42. WORKSHOP COMMENT

What emission units must be considered in determining actual emissions for purposes of proposed new Rule 60.2 or for determining if a facility's actual emissions are less than 50% of a major source threshold?

DISTRICT RESPONSE

The same emission units must be considered in either case. See response to Comment #47.

43. WORKSHOP COMMENT

What would be necessary for a facility with synthetic minor source status to become a major source, and what would be the NSR implications of becoming a major source?

DISTRICT RESPONSE

A facility that wished to become a major source would have to apply to the District for a temporary authorization to operate under Regulation XIV. If the District granted a temporary authorization to operate, the facility could apply to retire or modify its synthetic minor source status permit or permits. Because retiring or modifying a synthetic minor source permit could increase the facility's potential to emit either criteria pollutants or HAPs, the act of retiring or modifying the synthetic minor source status permit could be considered a permit modification and a project subject to District review in accordance with NSR, District Rules 20.1, 20.2, 20.3 and 20.4, and Toxic New Source Review, District Rule 1200.

If a synthetic minor source status permit contained emission limits applicable only to an aggregation of emission units and not specifically applicable to single emission units, removing or increasing such emission limits would not be considered as modifying the individual emission units. In this case, applying to retire or modify the synthetic minor source status permit and remove or increase the emission limits would not be considered a modification of the individual emission units. However, if as part of the project, any individual emission unit otherwise underwent a modification as defined in Rule 20.1 or Rule 1200 then that unit would be evaluated for application of BACT, LAER, and/or TBACT in accordance with NSR and Toxic New Source Review rules.

Removal or increases of emission limits applicable to an aggregation of emission units would be reviewed regarding possible applicability of emission offset requirements of NSR Rules 20.2, 20.3, and 20.4 because removal or increases in these limits would be considered a stationary source modification. EPA has stated to the District that an existing non-major source must increase its aggregate potential to emit by an amount equal to the new major source threshold before offsets would be required under federal NSR. Offsets would be required under the current requirements of state NSR if the facility's aggregate potential to emit was increased by removing or increasing of the synthetic minor source permit limits.

44. WRITTEN COMMENT

Does the District plan to develop a systematic way of determining the application fee deposit and total fees that will be assessed for evaluating applications for synthetic minor source status and issuing the Permits to Operate?

DISTRICT RESPONSE

The District has developed a preliminary method for estimating the application fee deposit for applications for synthetic minor source status. This method includes a base fee and additional fees based on the number of processes located at a facility and number and type of pollutants for which synthetic minor source status is being sought. Facilities wishing to limit CO or NO_x would generally have an application fee deposit of \$2,000–\$2,500, while facilities seeking to limit VOCs or HAPs would have an application fee deposit between \$2,000–\$7,500, depending on the number of processes at the facility. The maximum application fee deposit has initially been capped at \$7,500.

However, actual fees for evaluating applications for synthetic minor source status may be higher or lower than the application fee deposit, depending on the actual labor hours and other costs expended by the District evaluating the application and issuing the Permit(s) to Operate. The actual time spent by the District in evaluating each application will depend on the complexity of the application. In addition, the District will assess a fee for the first year renewal of such permits to cover anticipated compliance determination costs that are not otherwise recovered by the District from other facility permit renewal fees. These additional costs are not included in the application fee deposit estimate because of the District's limited experience with these types of permits.

45. WRITTEN COMMENT

Can a facility get a new facility-wide permit for synthetic minor source status?

DISTRICT RESPONSE

See response to Comment #27.

46. WRITTEN COMMENT

The definition of actual emissions and aggregate actual emissions are redundant, and the definition of actual emissions should be eliminated.

DISTRICT RESPONSE

The District disagrees. Aggregate actual emissions refers to the sum of actual emissions from all emission units at a facility. Actual emissions refers to the quantity of emissions released to the atmosphere from a single emission unit or group of emission units. This is not necessarily the same as the sum of actual emissions from all the emission units at a facility. The definition of aggregate actual emissions has been clarified to indicate it can indicate the sum of actual emissions from any group of emission units.

47. WRITTEN COMMENT

Can the District clarify which insignificant emission units must be included in any calculation of actual emissions?

DISTRICT RESPONSE

Any calculation of actual emissions should include all emission units, including insignificant emission units, that have been included in any District emissions inventory statement for any year since 1992, including toxic emission inventories conducted for the AB2588 Toxic "Hot Spots" Program. Also, any new or modified emission unit that would have been included in any of these emissions inventories had it been in existence or in its current modified state at the time of these emissions inventories and emissions from contractor or portable operations, should also be included in the calculation of actual emissions.

In addition to the emission units discussed above, other emission units should be included if they would contribute significantly to a facility's aggregate actual emissions or residual actual emissions. It is the facility's responsibility to determine if any other emission units not normally included in emission inventories, such as architectural coatings, should be included in the calculation of actual emissions. Because residual actual emissions allow a certain amount of flexibility, omission of small sources of emissions would not necessarily prevent compliance with the rule.

The District does not, at this time, believe it is necessary to include the following emission units in any calculation of actual emissions:

- (a) Personal use by employees or other persons of foods, drugs, cosmetics, tobacco products, and other personal items, including supplies of such products within the facility in an on-site cafeteria, store, or infirmary.
- (b) Office administrative use of products including ink, marking pens, ink pads, correction fluid, correction fluid thinner, and glue.
- (c) Except for architectural coatings and surface preparation and cleaning solvents, use of products for routine janitorial or facility grounds maintenance; for structural maintenance and repair, including lubricants and sealant; and minor maintenance and repair of process equipment including lubricants and sealants.
- (d) Architectural coatings supplied in containers having a capacity of one liter or less.
- (e) Coatings applied from hand-held non-refillable aerosol spray containers.
- (f) Use of process water or non-contact cooling water which is drawn from municipal water supplies or from other local ground or surface water sources but is not drawn from activities at the facility.
- (g) Any non-road engines meeting the definition of 40 CFR Part 89.2.
- (h) Emissions from automobiles, trucks, airplanes, or other mobile sources.

48. WRITTEN COMMENT

The definition of de minimis emissions as 25% of the synthetic minor margin is overly stringent. The definition of de minimis emissions should be revised to be 10% of the major source threshold.

DISTRICT RESPONSE

The District disagrees. Fixing de minimis emissions at 10% of the major source threshold would allow facilities to theoretically have actual emissions greater than a major source threshold and still comply with the rule. The definition of de minimis emissions has been revised to 50% of the synthetic minor margin (see response to Comment #15).

49. WRITTEN COMMENT

The term “modification” used in the rule should be changed to “physical or operational change” to prevent confusion with the definition of modification in NSR rules and Regulation XIV.

DISTRICT RESPONSE

The District disagrees. In many cases, definitions for terms change between rules. The District does not believe there will be a problem using the term “modification” in this rule and the same term as used in other rules since this term is clearly defined in this rule.

50. WRITTEN COMMENT

The definition of “quantifiable” in Regulation XIV refers to calculation of emission reductions. Because “quantifiable” is used in the definition of legally and practicably enforceable permit limits in proposed new Rule 60.2, a separate definition should be provided.

DISTRICT RESPONSE

The District agrees. A definition for ‘quantifiable’ has been added to proposed new Rule 60.2.

51. WRITTEN COMMENT

As defined in the rule, legally and practicably enforceable permit limits cannot be in violation of state law. Does state law include the SIP and, if so, how will facilities deal with outdated SIP requirements?

DISTRICT RESPONSE

The SIP is not a state law in the opinion of the District’s legal counsel. Legally and practicably enforceable permit limits would not have to conform to outdated SIP requirements.

52. WRITTEN COMMENT

The type of emission limitations subject to recordkeeping, reporting, and monitoring to ensure compliance should be clarified in the definition of legally and practicably enforceable permit limits.

DISTRICT RESPONSE

The District agrees. The definition has been clarified to state that the emission limitations to which the definition applies are operational, production, or verifiable emission limitations.

53. WRITTEN COMMENT

A definition of a 12-month period should be added to the rule.

DISTRICT RESPONSE

The District agrees. A definition of a 12-month period has been added to Section (c).

54. WRITTEN COMMENT

The recordkeeping requirements are too stringent. Several provisions require monthly or daily records which could be interpreted as requiring daily records. In addition, some provisions require unnecessary recordkeeping. For example, Subsection (h)(1)(iii) requires records of "operating hours, the identity and amount of each material used or consumed, and the identity and amount of each product produced". In many cases, only one quantity (operating hours, material used or consumed, or product produced) will be relevant to a given emission limitation, not all three.

DISTRICT RESPONSE

As stated in the initial part of Section (h), records need only be maintained as necessary to determine compliance. In addition, the initial wording in Subsections (h)(1) and (h)(3) makes it clear that only records that are applicable to ensuring compliance with a given emission limitation are to be maintained. The District will not require more frequent recordkeeping or recordkeeping for any material, production rate, or operating parameter that is obviously not applicable to ensuring compliance with a given permit condition. Subsection (h)(2) as been revised to make clear that only applicable recordkeeping is necessary for air pollution control equipment.

55. WRITTEN COMMENT

The requirement that legally and practicably enforceable permit limits be a legally enforceable obligation is burdensome and should be removed.

DISTRICT RESPONSE

The District disagrees. The District does not believe that requiring legally and practicably enforceable permit limits be legally enforceable is burdensome. Moreover, such a statement in the rule is necessary to satisfy EPA requirements.

56. WRITTEN COMMENT

The definition of verifiable emission limitations is too restrictive. For example, the definition does not allow the inclusion of VOC emissions from coatings or materials undergoing chemical reactions such as those that occur during polyester resin manufacturing. Other emission calculation methods for verifiable emission limitations should be allowed if approved by the District.

DISTRICT RESPONSE

The District disagrees. The definition of verifiable emission limitations is restrictive because of the difficulty in determining compliance with emission limits expressed in terms of the quantity of

emissions. Operational (except for air pollution control devices) or production limitations are less restrictive because the emission limit is expressed in quantities that are more easily measured. The rule allows facilities to use any combination of verifiable emission, operational, or production limitations to limit emissions. A facility using both coatings and polyester resin could combine a verifiable emission limitation for its coating use with a production limit for polyester resin to limit its actual emissions. The emission factors used by the District for polyester resin do reflect the chemical reactions during film-forming.

57. WRITTEN COMMENT

Verifiable emission limitations should allow the use of continuous parametric monitoring (PEM) that can reliably be used to determine emissions.

DISTRICT RESPONSE

The District agrees. The definition of verifiable emission limitation has been revised to allow the use of PEMs in addition to CEMs.

58. WRITTEN COMMENT

The definition of verifiable emission limitations implies that CEMs will be required for equipment limiting emissions by operational limits on hours of operation or material usage.

DISTRICT RESPONSE

Operational limits do not require CEMs or PEMs. CEMs or PEMs would only be necessary in cases where the emission limitations are expressed in terms of emissions, 50 tons per year of VOCs, for example, if the CEMs or PEMs are necessary to determining emissions. Emission limitations expressed in terms of emissions for surface coating or solvent cleaning operations meeting the conditions of Subsection (c)(21) also do not require CEMs or PEMs.

59. WRITTEN COMMENT

It is not fair to require that facilities comply with the rule until their application is deemed administratively complete.

DISTRICT RESPONSE

Facilities complying with the applicable rule standards immediately upon application for synthetic minor source status are granted an application shield from the applicable requirements of Regulation XIV, pursuant to Subsection (d)(8) of proposed new Rule 60.2. Facilities may elect not to immediately begin complying with the rule standards. However, in this case they will not receive an application shield to the requirements of Regulation XIV.

60. WRITTEN COMMENT

The requirement that facilities be in on-going compliance with all requirements of the rule, including recordkeeping and reporting, to not be considered a major source is overly stringent. Compliance with legally and practicably enforceable permit limits should be enough to not be

considered a major source. A source could become a major source for submitting a report late while not violating any emission limitations or other rule requirements.

DISTRICT RESPONSE

The District agrees. Subsection (d)(2) has been revised regarding recordkeeping to state that, in order not to be considered a major source, a facility must only maintain and provide sufficient records and information to determine compliance with emission limits. Minor recordkeeping violations will not trigger major source status. However, a facility would still be in violation of the rule and subject to possible enforcement action if it does not comply with other rule requirements.

61. WRITTEN COMMENT

Subsection (d)(5) is redundant since Subsection (d)(4) already requires facilities to provide information to the District to determine residual actual emissions.

DISTRICT RESPONSE

The District disagrees. Subsection (d)(5) allows the Air Pollution Control Officer to deem a facility in violation of the rule for failure to provide adequate information to the District for determining residual actual emissions.

62. WRITTEN COMMENT

The time frame for reporting exceedances to the District should be extended from 30 days to 60 days. For a facility subject to a calendar month or 12-month period emission limit and keeping calendar monthly records, an emission exceedance that occurred at the start of a month would not be detected until the end of the month and would leave little time for the facility to report the exceedance.

DISTRICT RESPONSE

The District disagrees. Rule 60.2 (d)(6) specifies a 30 day period for reporting an exceedance. If an exceedance is of a calendar month or 12-month period limit, the exceedance will not actually occur until the end of the calendar month, not at the beginning of the month. Therefore, the 30-day period begins on the first day after the month during which the exceedance occurs. The facility would have until the end of the following calendar month (that is, 30 days) to detect the emission exceedance from the previous month's records and report that emission exceedance. The District believes this provides adequate time for a facility to detect and report any such exceedance.

63. WRITTEN COMMENT

The rule should clarify that an applicant can apply for a new Permit to Operate that limits the emissions from groups of emission units for the purposes of obtaining synthetic minor source status. In addition, the approval of the Air Pollution Control Officer should not be required for any such new Permit to Operate.

DISTRICT RESPONSE

Proposed new Rule 60.2 allows issuance of a new permit to limit the emissions from groups of emission units. Please see proposed new Rule 60.2 definitions (c)(3) and (c)(4) and the first paragraph of Rule 60.2, Section (e). Air Pollution Control Officer approval of such a new permit is needed to ensure that the permit can be legally and practically enforceable, and that the permit will not conflict with existing emission unit-specific permit terms and conditions. See also the response to Comment #27.

64. WRITTEN COMMENT

Facilities should not have to demonstrate that their aggregate actual emissions are less than the applicable major source threshold. Annual emission inventory statements submitted to the District should be adequate to determine whether a facility's aggregate actual emissions exceed a major source threshold.

DISTRICT RESPONSE

The District cannot grant permits without a reasonable belief that a facility can comply with applicable Rules and Regulations. A demonstration that a facility's aggregate actual emissions are, or will be, less than major source thresholds after the date of the application is necessary to determine whether proposed new Rule 60.2 is applicable to the facility and whether the facility can comply with the standards therein. This demonstration must include changes in operations and additions, deletions, or modifications to the equipment or processes at the facility since the last approved emission inventory statement and anticipated changes in the 12-month period following the application submittal for synthetic minor source status. Although emissions inventories are usually not approved in time to provide the basis of such a demonstration, a facility may use the methods used in the most recent District emissions inventories to reduce the effort in preparing a demonstration. Facilities should contact the District's emissions inventory staff for information on preparing emission estimates for the facility.

The elements required for a demonstration will vary depending on the current emission levels and anticipated changes in operations. For example, for facilities that have had actual emissions below the major source threshold in the 12-month period immediately preceding their application and anticipate no change in operations, a demonstration based on current operations would probably be sufficient. However, a facility that has had actual emissions consistently above the major source threshold would need to provide more detailed information on what changes were being made at the facility to demonstrate that emissions in the 12-month period following submittal of the application would be below major source thresholds.

65. ARB COMMENT

According to recent EPA guidance on fugitive emissions for ozone nonattainment areas, VOCs and NO_x fugitive emissions do not have to be accounted for when determining a facility's aggregate emissions for purposes of Title V unless the facility belongs to one of 27 specific source categories.

DISTRICT RESPONSE

The District has requested clarification from EPA when fugitive VOC and NO_x emissions must be accounted for in determining major source status for purposes of Title V. The District has not yet received that clarification from EPA. Currently, District Regulation XIV requires that a facility's

fugitive VOC and NOx emissions be accounted for in determining the applicability of the Title V program. This will need to be reconciled with EPA's new guidance if EPA concurs with ARB's interpretation of that guidance.

66. ARB COMMENT

The definition of HAP allows for delisting of compounds by petition to the EPA Administrator but not for addition of compounds to the federal HAP list. The District should allow for addition of substances to the HAP list by EPA.

DISTRICT RESPONSE

The District agrees. The definition of HAP has been revised to include substances listed as HAPs pursuant to Section 112(b)(2) of the federal Clean Air Act.

67. EPA COMMENT

Rule applicability should be clarified to clearly state that new or existing facilities may not use this rule to circumvent NSR requirements.

DISTRICT RESPONSE

The District agrees. The applicability section has been clarified by stating that new facilities or modified existing facilities must comply with the applicable requirements of the District's NSR rules.

68. EPA COMMENT

The District should allow this rule to be applicable to facilities which have actual emissions greater than a major source threshold but which can demonstrate to the satisfaction of the Air Pollution Control Officer that, in the future, emissions will be less than the major source threshold.

DISTRICT RESPONSE

The District agrees. The rule has been clarified to indicate that the rule is applicable to facilities that can demonstrate to the Air Pollution Control Officer that their actual emissions will be less than applicable major source thresholds for the 12-month period following submittal of an application for synthetic minor source status.

69. EPA COMMENT

The definition of legally and practicably enforceable permit limits should be changed to indicate that they cannot be less stringent than existing emission limits resulting from NSR or federal law.

DISTRICT RESPONSE

The definition of legally and practicably enforceable permit limits already requires that they not be in violation of any applicable provisions of District Rules and Regulations, which include the District's NSR rules. District Rules and Regulations also include many federal National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards

(NSPS) since the District is currently adopting these by reference when affected source categories exist in San Diego County. In addition, added Subsection (d)(11) (see response to Comment #70) provides that existing permit terms and conditions in any Permit to Operate, Authority to Construct, Temporary Authorization, Certificate of Exemption, Certificate of Registration, or Settlement Agreement remain in force.

The District generally agrees that emission limits established pursuant to this rule should not conflict with federally enforceable requirements. However, it is not possible to include a prohibition against conflict with all federal requirements in the definition of legally and practicably enforceable limits because of existing outdated SIP rules. Outdated SIP rules may have requirements that conflict with parts of more recently adopted District rules that have not yet been approved by EPA. Having such a prohibition might put synthetic minor sources in the impossible position of having to comply with conflicting requirements in current District rules and outdated SIP rules. Compliance with synthetic minor source permit terms and conditions provides no explicit or implied shield from enforcement by the District or EPA of other applicable requirements.

70. EPA COMMENT

The standards section of the rule should be revised to indicate that the facility must comply with all existing emission limits.

DISTRICT RESPONSE

The District agrees. Subsection (d)(11) has been added to make clear that a facility must comply with all existing emission limits, in addition to emission limits established pursuant to this rule, unless the existing emission limits are changed in accordance with District Regulation II which includes the District's NSR rules, and District Rule 1200 - Toxic New Source Review.

71. EPA COMMENT

A definition for insignificant activities should be included in the rule rather than referencing the definition of Regulation XIV.

DISTRICT RESPONSE

The District agrees. A definition of insignificant activities has been included in Section (c).

72. EPA COMMENT

A statement that aggregate actual emissions cannot exceed aggregate allowable emissions should be included in the rule.

DISTRICT RESPONSE

The District disagrees. This suggestion would require permit emission limits include all emission sources, even insignificant emission units. The recordkeeping required to ensure compliance with such limits would be very burdensome for facilities and likely unnecessary. Proposed new Rule 60.2 allows aggregate actual emissions to exceed aggregate allowable emissions in order to make the rule a reasonable option for facilities willing to reduce or limit their actual emissions to comply with the rule. Aggregate actual emissions includes emissions from all emission units, including residual actual emissions as defined in the rule. Only those emission units with legally and

practicably enforceable permit limits must, by definition, have emissions less than aggregate allowable emissions. The rule provides that residual actual emissions must be small enough to ensure a margin of safety between the sum of aggregate allowable emissions and residual actual emissions and the major source threshold.

73. EPA COMMENT

A statement saying aggregate actual emissions and aggregate allowable emissions shall not exceed the applicable major source threshold should be added to the rule.

DISTRICT RESPONSE

The District agrees. Although the rule's definition of a synthetic minor source implies that neither aggregate actual emissions nor aggregate allowable emissions can exceed the applicable major source threshold, provisions have been added to Section (d) to clarify that actual emissions must be below major source thresholds for a facility to not be considered a major source.

74. EPA COMMENT

The definition of compliance time frames should be revised to indicate that they should be as short as possible and not exceed one month unless determined necessary by the Air Pollution Control Officer.

DISTRICT RESPONSE

The District disagrees. EPA's major source thresholds are based on annual emissions. Synthetic minor source status for a facility will typically be based on emissions over a rolling 12-month period. For emission limitations based on a rolling 12-month period, determining ongoing compliance monthly is adequate to ensure enforceability of the emission limitation. The rule allows shorter compliance time frames as an option.

75. EPA COMMENT

Because of the possibility of a large increase in actual emissions, all emission units with air pollution control devices should be required to have legally and practicably enforceable permit limits.

DISTRICT RESPONSE

The District agrees. There is a possibility for emission units equipped with air pollution control devices to have a large emission increase if the air pollution control device should fail. Such an emission increase may not be discovered in a timely manner if the emission unit was not subject to the monitoring, recordkeeping, and reporting required for legally and practicably enforceable permit limits. Therefore, the rule has been revised to require that emission units equipped with air pollution control devices either have legally and practicably enforceable permit limits or that their actual emissions must be calculated without considering the air pollution device pollutant removal or destruction efficiency when determining the facility's residual actual emissions.

76. EPA COMMENT

In order to identify potential conflicts with existing permit limits when applying for synthetic minor source status, Subsection (e)(1)(ii) should be revised to require facilities to identify existing emission limitations on emission units that would be subject to legally and practicably enforceable permit limits.

DISTRICT RESPONSE

Since the rule has been revised (see response to Comment #70) to specifically state that a facility must comply with all existing emission limits as well as emission limits established pursuant to this rule, the District does not believe it is necessary to modify the rule to require that the applicant provide this information. However, to increase applicant awareness of possible conflicts between permit limits establishing synthetic minor source status and existing permit limits, the District will encourage applicants to perform a review of their existing emission limits for their application. In addition, as part of the standard application evaluation for synthetic minor source status, the District will review the application for accuracy and may perform its own review of existing permit limits.

77. EPA COMMENT

The last paragraph of the recordkeeping section should be moved to the beginning to clarify that recordkeeping requirements of this rule shall not replace existing recordkeeping requirements.

DISTRICT RESPONSE

The District agrees. The recordkeeping section has been revised as suggested.

78. EPA COMMENT

Subsection (f)(3) on permit content should include explicit requirements for inclusion of recordkeeping, monitoring, and reporting requirements in a synthetic minor source permit.

DISTRICT RESPONSE

The District agrees. Subsection (f)(3) has been revised to require the inclusion of permit conditions requiring recordkeeping requirements in accordance with Section (h); additional monitoring requirements, if necessary, to ensure compliance with permit limits; and reports submitted in accordance with new added Section (i). New added Section (i) requires that synthetic minor sources submit, at a minimum, annual reports of their compliance status with respect to emission limitations.