



Air Pollution Control Board
Brian P. Bilbray District 1
Dianne Jacob District 2
Pamela Slater District 3
Leon L. Williams District 4
John MacDonald District 5

Air Pollution Control Officer
R. J. Sommerville

DATE: December 7, 1993
TO: Air Pollution Control Board
SUBJECT: Adoption of New Regulation XIV - Title V Operating Permits

SUMMARY:

New Regulation XIV will establish the District's regulatory authority to implement the federal operating permits program required by Title V of the federal Clean Air Act of 1990. Regulation XIV primarily affects sources having the potential to emit 25 or more tons per year of volatile organic compounds or oxides of nitrogen, 40 or more tons per year of oxides of sulfur, 100 or more tons per year of carbon monoxide or fine particulate matter (10 microns or less), or 0.6 or more tons per year of lead. It also affects sources having the potential to emit 10 or more tons per year of any federal hazardous air pollutant listed in the federal Clean Air Act or 25 or more tons per year of any combination of such hazardous air pollutants, and sources subject to any federal New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants. Regulation XIV is consistent with the Part 70 regulations of the United States Environmental Protection Agency which were adopted in 1992 to implement Title V. It is also consistent with the Board's direction of February 2, 1993 regarding new or revised regulations because it is required by federal law to implement the Title V permit program.

Regulation XIV has been developed to include the minimum requirements of the federal Clean Air Act and as few of the Environmental Protection Agency's additional regulatory requirements as possible. However, there are remaining areas of dispute that the California air districts and the Air Resources Board have been unable to resolve with EPA. These issues will likely be resolved in 1994 and, as a result, changes to Regulation XIV will be proposed at that time.

Issue

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

Recommendation

AIR POLLUTION CONTROL OFFICER

1. Set January 18, 1994 at 2:00 p.m., as the date and time for a public hearing to consider the resolution adding Regulation XIV to the Rules and Regulations of the San Diego County Air Pollution Control District.

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2. Direct the Clerk of the Board to notice the Hearing pursuant to Section 40725 of the State Health and Safety Code.
3. Following the hearing: (a) adopt the resolution adding Regulation XIV and (b) 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 the proposed regulation will not significantly affect air quality and emissions limitations, and an assessment of socioeconomic impacts is therefore not required (Section 40728.5 of the State Health and Safety Code);
 - (iii) that, notwithstanding that a socioeconomic impact analysis is not required, good faith efforts have been made to minimize the impacts of Regulation XIV on local businesses; and,
 - (iv) that the adoption of Regulation XIV is categorically exempt from the provisions of the California Environmental Quality Act pursuant to the California Code of Regulations, Title 14, Section 15300 and 15308, as an action taken to assure the maintenance or protection of the environment and where the regulatory process involves procedures for the protection of the environment.

Advisory Statement

At its October 27, 1993 meeting, the Air Pollution Control District Advisory Committee recommended adopting new Regulation XIV, with clarifying amendments and changes expanding the public notice requirements related to permit actions. The District agrees with the Advisory Committee's recommendations regarding clarifications and has included them. However, the recommendation for an expanded public notice regarding permit actions goes beyond requirements of federal law and represents a significant change that was not discussed at the workshop. Accordingly, amendments implementing this recommendation have not been included. Instead, the District is proposing to hold a public workshop on expanded public notification, and report back to the Board at a later date.

Fiscal Impact

Adopting proposed Regulation XIV will likely have a significant fiscal impact on the District. Additional staff, or a reallocation of existing staff resources, will be required in the future. Federal law requires that all costs related to this program be recovered through fees charged to affected facilities.

Alternatives

Not adopt Regulation XIV. This is not a viable alternative. The 1990 federal Clean Air Act requires local or state implementation of the federal permit program. The Air Resources Board (ARB) has stated that if a local air district fails to adopt such regulations, it will adopt regulations for that district. This may result in regulations that do not consider the needs of affected facilities in San Diego County. If both the local air district and ARB fail to adopt regulations in a timely manner, federal law provides that EPA must impose sanctions on new major stationary source construction and withhold transportation funds, as well as adopt and

implement the federal permit program. Local business would then have to deal with the District for permits under the local permitting program and with the federal EPA for permits under the federal program, instead of the coordinated permitting program reflected in proposed Regulation XIV. Local businesses support the approach proposed by the District.

BACKGROUND:

Regulation XIV was developed to meet the federal operating permit program requirements of Title V of the 1990 federal Clean Air Act. The federal permitting program applies to existing businesses already required by District rules to have local operating permits, as well as new and expanded businesses. The program will have no direct impact on emissions; however, all costs must be paid for by local businesses subject to the program. Similar regulations have already been adopted in 21 other air districts in California, including the Bay Area, South Coast, Monterey Bay, Ventura and Santa Barbara air districts. The 13 air districts still required to do so are proceeding to adopt similar regulations.

In developing Regulation XIV, the District participated in a task force sponsored by the California Air Pollution Control Officer's Association that included representatives from many local air districts in California, ARB and EPA. This task force was able to obtain resolution with EPA on some, but not all, of the key issues. While EPA is conducting its official review of proposed local programs, this task force will continue to seek statewide consistency and agreement with EPA on how the federal permit program can be structured to minimize disruption of affected businesses.

In addition, the District has worked closely with a group of representatives of local businesses and the military affected by the program. Indeed, proposed Regulation XIV represents a collaborative effort of the District and that working group. This group will continue to participate with the District in developing the policies and procedures necessary to implement the program and, when appropriate, join the District in meetings with EPA officials to reach agreement on outstanding issues.

Program Requirements

The new federal operating permit program will require permits of all existing and new major sources. However, EPA may require the program to be expanded at a later date to include smaller sources. For purposes of the federal permit program, a major source is one which emits 25 or more tons per year of either volatile organic compounds or oxides of nitrogen, 100 or more tons per year of carbon monoxide or fine particulates (PM₁₀), 40 or more tons per year of oxides of sulfur, 0.6 or more tons per year of lead, 10 or more tons per year of any single hazardous air pollutant (specified in the federal Clean Air Act) 25 or more tons per year of all hazardous air pollutants emitted at the source, or is subject to any federal New Source Performance Standard or National Emission Standard for Hazardous Air Pollutant. Approximately, 50 businesses (including federal facilities) will be subject to the major source phase of the program. If the San Diego Air Basin's nonattainment classification for the federal ambient air quality standard for ozone is changed from severe to serious, the major source emission thresholds for sources of oxides of nitrogen and volatile organic compound emissions will increase from 25 to 50 tons per year. If this happens, the number of facilities subject to the federal permit program will drop to approximately 25.

Major requirements for sources subject to the program include:

- Submitting new permit applications and fees, and District evaluation and issuance of new federal operating permits.

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- **Total facility permitting.** Permits can be issued for individual emission units or groups of units. However, all Title V permits at a facility will be issued concurrently. Current District permits will be reissued to meet both local and federal permit requirements.
- **Permitting of facilities that have been granted a variance by the Air Pollution Control District Hearing Board** because they are not in compliance with District requirements. Although EPA does not recognize variances issued by the Hearing Board, EPA does allow a federal permit to be issued to a non-compliant source provided it contains a schedule for bringing the source into compliance. Regulation XIV provides that the compliance schedule contained in a variance issued by the Hearing Board will be incorporated into the conditions of the federal permit. This approach has been agreed to by EPA for sources in California.
- **Five year permits.** Federal permits can be renewed annually but affected facilities must reapply for permits every five years. This will require permanent District staff for repermitting a portion of affected facilities each year.
- **Provisions for an affected source to make modifications that are not specifically allowed in the federal permit without having to first revise the permit.** In addition, flexibility will be incorporated into federal permits to allow operation under various foreseeable operating scenarios.
- **Provisions to restrict enforcement (a permit shield) of District, state and federal regulatory requirements that are identified in federal permits as not applying to a specific facility.** If there are any inconsistencies between District, state and federal regulatory requirements, federal permits will specify the requirements that are applicable to a facility as well as those that are not. Enforcement of District, state and federal regulatory requirements that are applicable to a facility is also restricted when the Air Pollution Control Officer determines that compliance with federal permit conditions is adequate to ensure compliance with such District, state and federal regulatory requirements that are identified in the federal permit.
- **Provisions requiring all applicable requirements of local rules, the State Implementation Plan and the federal Clean Air Act be identified in the permit; and specifically designating which permit terms and conditions are federally enforceable.**
- **Increased record keeping and emissions monitoring requirements for affected sources.**
- **EPA review and approval of operating permits within prescribed timelines.** EPA will now have the authority to disapprove federal permits for existing businesses currently operating under valid local permits.
- **Increased notice to the public of permit actions, including more opportunities for public comment and appeals of permitting actions.** This will apply to initial issuance of federal permits, significant permit modifications, and the 5-year reissuance (renewal).

Under federal law, the District was required to submit its federal permit program through the ARB to EPA by November 15, 1993. Thirteen California air districts have not yet adopted the necessary regulations. EPA will have one year to review the District's program and either approve it, grant interim approval, or request changes. If EPA requests changes, or grants interim approval, the District will have 18 months to develop the necessary changes, conduct a public workshop, bring any appropriate rule changes to the Board for adoption, and submit the revision to EPA for final approval.

Issues

In July, 1992, EPA published regulations implementing the federal permit requirements and providing guidance to state and local agencies that must develop approvable permit programs. These regulations impose requirements beyond those contained in the 1990 federal Clean Air Act. The District has worked to create a program that includes the minimum requirements of the federal Clean Air Act and as few of EPA's additional regulatory requirements as possible. However, there are remaining areas of dispute that the California air districts and ARB have been unable to resolve with EPA. They are:

- Limiting the potential emissions from facilities that are not major sources. EPA has taken the impractical position that many small emission sources such as gas stations, dry cleaners and auto body shops have theoretical potential emissions above the major source thresholds at which a federal permit is required. In order to avoid having to obtain federal permits, EPA would have such sources agreeing to federally enforceable permit conditions that would limit emissions. EPA has maintained this position despite historical records showing that such facilities have never exceeded the major source emission thresholds of the federal permit program. This would be a time consuming and costly administrative process with no air quality benefits. California air districts have strenuously objected to this position because it would require thousands of small sources throughout the state to undergo costly administrative changes to their existing local permits, including public notice and comment and EPA review and approval, in order to incorporate federally enforceable emission limits. In San Diego County, the District estimates that more than 1000 small facilities could be affected at additional permitting costs of \$500 to \$1000 each.
- The terms to be contained in federal permits. EPA's position has been that all applicable federal requirements must be specified in the federal permits, even if those requirements are less stringent than, or in conflict with, a local district requirement. The California air districts and ARB have objected to this position because it will lead to confusion for permit holders and difficulties in enforcement of permit requirements.
- The extent to which fugitive air contaminant emissions at a source are to be considered when determining whether a source is required to have a federal permit. Fugitive emissions are those that cannot be collected and sent through a stack. An example would be fugitive dust emissions from haul roads at a mineral processing plant or from agricultural operations. EPA's current position appears to be that fugitive emissions from all source categories are to be considered. California air districts and ARB object to this position because it will require that many small operations that create fugitive dust, and thousands of farming operations, would be subject to the federal permit program. This will result in a huge administrative burden for these businesses, with no corresponding air quality benefit.
- Fees. The Clean Air Act, and EPA's regulations, require that the costs of implementing and administering the federal operating permit program be recovered by fees charged to facilities required to have permits. EPA is requiring that a rigorous demonstration be made by air districts that the fees to be charged to facilities subject to federal permits are adequate to recover all costs. Because of the severe economic conditions in the state, California air districts are concerned that they may be unable to increase current fees to recover the costs of the federal permit program, and are asking EPA for flexibility in demonstrating fee adequacy.
- Permit application completeness. EPA has not yet provided criteria for what information is needed to ensure a complete federal permit application.

With the deadline having arrived for program adoption and submittal, air districts are having to make their best efforts at reasonable regulatory approaches to these issues and await EPA's formal review of the adopted regulations. Given these issues remain outstanding, it is very likely that the District will need to return to the Board in 1994 with proposed changes to reflect solutions that are acceptable to both EPA and the District.

The District has proposed reasonable approaches to these issues in Regulation XIV. However, the uncertainty of whether these approaches will be acceptable to EPA has been exacerbated by EPA's failure to provide a detailed analysis of the acceptability of Regulation XIV. Only a one paragraph letter was received from EPA stating they were unable to spend the time necessary to provide a detailed review but that they believe Regulation XIV will be unapprovable in at least three areas:

- 1) Limiting the potential of non-major sources to become major sources and thus subject to federal permits. EPA has taken the position that many small emission sources have theoretical potential emissions above the major source thresholds at which a federal permit is required and to avoid having to obtain federal permits, such sources agreeing to federally enforceable permit conditions that would limit emissions. This would be a time consuming and costly administrative process with no air quality benefits. California air districts have strenuously objected to this position but have been unable to resolve this issue with EPA. Proposed Regulation XIV incorporates a more rational approach than what EPA requires. It requires only sources whose historic actual emissions exceed 75 percent of a threshold obtain either a federal permit or go through the administrative process of adding federally enforceable conditions to their existing local permits. This will limit the process of adding such conditions to a few dozen comparatively large facilities. This approach is supported by affected facilities but has not yet been accepted by EPA.
- 2) Exempting certain types of equipment from federal permits. The District has not yet received detailed comments from EPA on specifically what they are objecting to. Without those details, the District cannot determine whether EPA's objections are valid, or what corrections should be made. The District anticipates that EPA will provide a detailed analysis of the approvability of Regulation XIV after it has been adopted and submitted to EPA for program approval. As such, additional changes may be required and will be brought to the Board for approval in 1994. This period will provide an opportunity for further statewide discussions with EPA to resolve these issues.
- 3) Appeal and judicial review provisions. The District has not yet received detailed comments from EPA on specifically what they are objecting to. Without those details, the District cannot determine whether EPA's objections are valid, or what corrections should be made. Any necessary additional changes that may be required will be brought to the Board for approval in 1994.

Regarding the District Advisory Committee's recommendations for expanded public notice of federal permit actions, Regulation XIV reflects the public notice requirements of federal law. This includes publication of proposed permit actions in a newspaper of general circulation, notification to all persons who have requested to be placed on a mailing list to receive notice, availability of the draft permit action for public review, and holding a public hearing pursuant to a petition from the public and for reasonable cause. Regulation XIV requirements were discussed at a public workshop on October 12, 1993. No comments or objections regarding the public notice provisions were received. However, during the October 27, 1993 Advisory Committee meeting, comments were made that the public notice provisions should be expanded to include direct notice to all community planning groups and all sensitive receptors (e.g. schools, hospitals, nursing homes, day care centers, etc.) within a specified distance of a facility receiving a federal operating permit. The Advisory Committee recommended that the Board adopt Regulation XIV with clarifying language changes and expanding the public notice requirement.

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The District has made the recommended clarifying changes to Regulation XIV but, after discussions with workshop participants, has concluded that the Advisory Committee's recommendation for expanded public notice should be the subject of a second public workshop. This would take at least sixty days to accomplish. As the deadline for submittal of an approvable program has passed and the expanded public notice provisions go beyond federal requirements, the District recommends that Regulation XIV be adopted as currently proposed and the issue of expanded public notice be addressed at the public workshop held to discuss changes that result from formal EPA comments. In the unlikely event that EPA has no significant approvability issues regarding Regulation XIV, a public workshop will be held on the expanded public notice issue.

Federal Sanctions

The Air Resources Board has advised California air districts it will adopt regulations for a district if the district fails to adopt an approvable federal operating permit program. It will also implement a federal permit program if a district fails to do so. Failure of both the District or ARB to adopt a fully approvable program will result in EPA imposing at least one of two sanctions on the San Diego region within 18 months of the submittal due date (November 15, 1993) or if the program is not revised within 18 months of an EPA disapproval because of deficiencies. EPA may elect to impose one of the possible sanctions at any time after the submittal date or disapproval date. One sanction would restrict industrial expansion by requiring new or expanded sources to offset new emissions increases at a 2.0 to 1.0 ratio instead of the current 1.3 to 1.0 ratio. The other would cut federal highway funding to the region, currently about \$75 million annually in San Diego. EPA also has discretionary authority to cut federal grant moneys (currently about \$1.5 million) for the Air Pollution Control District if problems go uncorrected.

Sanctions must also be imposed if both the District or ARB fail to properly administer or enforce an approved program and fail to correct this problem within 18 months. EPA may elect to impose sanctions 90 days after notifying the District or ARB that the program is not being properly administered or enforced. In addition to sanctions, EPA can impose a federal permit program on local sources if full approval of the District program has not taken place by November 15, 1995. EPA can also take direct action against sources not in compliance with the Clean Air Act or with provisions of a federal permit.

Fiscal Impacts

There will be significant additional costs to the District and affected facilities for developing and implementing the federal permit program. Current District Title V program development costs are approximately \$75,000 per year. EPA will not provide any funding because federal law requires the District to recover such costs through additional fees charged to affected sources. The recovery of current costs would result in a permit fee increase of about \$1500 for each of the 50 affected facilities. The District is not yet proposing that fees be charged to recover these costs.

When the federal permit program is implemented, associated permit fees could increase an average of \$10,000 per affected facility. In addition, affected facilities will also bear the costs of researching and preparing permit applications, certifying compliance, and maintaining records required by EPA. If EPA requires the District to impose federally enforceable permit conditions on non-major sources to keep them below federal permit thresholds, and requires a public notification and comment period before taking such action, many small facilities could be affected at a cost of approximately \$500 to \$1000 per facility. The District will work to keep federal permit program requirements and costs as low as possible. This will be done in cooperation with affected local businesses.

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California Environmental Quality Act

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

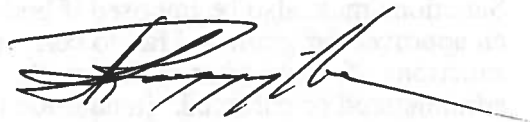
Socioeconomic Impact Assessment

State law requires that whenever a district proposes the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the district shall perform an assessment of the socioeconomic impacts of this action. Regulation XIV will have no effect on air quality or emissions limitations and, therefore, a socioeconomic impact assessment is not required. When this federal permit program is implemented, associated permit fees could increase an average of \$10,000 per affected facility. If EPA requires the District to impose federally enforceable permit conditions on non-major sources to keep them below federal permit thresholds many small facilities could be affected at a cost of about \$500 to \$1000 per facility.

Concurrence:

DAVID E. JANSSEN
Chief Administrative Officer

Respectfully submitted,



R. J. SOMMERVILLE
Air Pollution Control Officer

**AIR POLLUTION CONTROL BOARD
AGENDA ITEM
INFORMATION SHEET**

SUBJECT: Adoption of New Regulation XIV - Title V Operating Permits

SUPV DIST.: All

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

AUDITOR APPROVAL: N/A Yes **4 VOTES:** Yes No

FINANCIAL MANAGEMENT REVIEW: Yes No

CONTRACT REVIEW PANEL: Approved _____ N/A

CONTRACT NUMBER(S): N/A

PREVIOUS RELEVANT BOARD ACTION: APCB, Feb. 2, 1993 (M.O. No. 2)

BOARD POLICIES APPLICABLE: N/A

CITIZEN COMMITTEE STATEMENT: The Air Pollution Control District Advisory Committee recommended adoption of proposed Regulation XIV with recommended changes at their October 27, 1993 meeting.

CONCURRENCES: N/A

ORIGINATING DEPARTMENT: Air Pollution Control Board

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



R.J. SOMMERVILLE, APCO
DEPARTMENT AUTHORIZED REPRESENTATIVE

DECEMBER 7, 1993
MEETING DATE

FINDINGS OF THE SAN DIEGO COUNTY AIR POLLUTION
CONTROL BOARD IN RESPECT TO THE ADOPTION OF
NEW REGULATION XIV (TITLE V OPERATING PERMITS)

- A. Pursuant to section 40727 of the California Health and Safety Code, the Air Pollution Control Board of the San Diego County Air Pollution Control District makes the following findings:
1. (Necessity) The adoption of the proposed new District Regulation XIV is necessary to satisfy the requirements of Title V of the federal Clean Air Act, 42 United States Code sections 501 et seq.
 2. (Authority) The adoption of the proposed new rule is authorized by Health and Safety Code sections 40001 and 40702 and Statutes 1993, chapter 1166 (A.B. 2288).
 3. (Clarity) The proposed new rule is written so that its meaning can be easily understood by persons directly affected by the rule.
 4. (Consistency) The proposed new rule is in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and State law and Federal regulations.
 5. (Nonduplication) The proposed new rule does not impose the same requirements as an existing state or federal regulation.
 6. (Reference) The adoption of the proposed new rule is made in accordance with the federal Clean Air Act, 42 United States Code sections 501 et seq.
- B. The Air Pollution Control Board further finds that a socioeconomic impact assessment is not required by Health and Safety Code section 40728.5 because the proposed new rule will not significantly affect air quality or emissions limitations. The Air Pollution Control Board further finds that good faith efforts have been made to minimize socioeconomic impacts of the proposed new rule.
- C. The Air Pollution Control Board further finds that there is no possibility of a significant adverse effect on the environment as a result of the adoption of the proposed new rule, and the adoption of the new rule is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, title 14, sections 15300 and 15308, as an action taken to assure the protection of the environment which will not have a significant effect on the environment and where the regulatory process involves procedures for protection of the environment.
- D. The Air Pollution Control Board further finds in accordance with Health and Safety Code section 40001 that the adoption of the proposed new rule is necessary to satisfy federal law, and that the new rule will promote the attainment of state and federal ambient air quality standards.

APCB Meeting 1/18/94
Agenda Item #2

OFFICIAL RECORD

Clerk of the Board of Supervisors

Exhibit No. _____ Agenda No. 2

Meeting Date 1-18-94

Prepared by Co. Counsel

Document No. 758562

TERESA J. PASTUSZKA
Clerk of the Board of Supervisors

TUESDAY, JANUARY 18, 1994

NEW REGULATION

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

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

On motion of Member Bilbray, seconded by Member Williams 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 addition of Regulation XIV is to read as follows:

REGULATION XIV. TITLE V OPERATING PERMITS

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

RULE 1401. GENERAL PROVISIONS

(a) APPLICABILITY

This regulation shall apply to any stationary source that is:

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

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

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

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

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

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

(b) EXEMPTIONS

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

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

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

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

(4) Insignificant emission units as specified in Rule 1411. This exemption shall not exclude the emissions from such insignificant emission units in determining the applicability of any provisions of this regulation or of Title V of the federal Clean Air Act to any stationary source. All emission units proposed for exemption pursuant to Rule 1411 shall be listed in any application for a permit to operate pursuant to this regulation.

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

(6) A stationary source whose potential to emit has been limited pursuant to Rule 1401(b)(5) to levels below the threshold for application of this regulation shall not be subject to this regulation after revised permits to operate containing the new restrictions have been issued. Any such stationary source that subsequently proposes a modification that would make it subject to this regulation, or which becomes subject to this regulation again for any

other reason, shall be required to obtain a permit to operate in the same manner and in the same time frames as would apply to any other stationary source affected by a rule change or proposing or implementing a modification that would make it subject to this regulation.

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

(c) DEFINITIONS

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

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

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

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

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

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

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

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

(8) **"Appeared, Submitted Written Testimony, or Otherwise Participated"** means communicated specific substantive or procedural air pollution issues to the Air Pollution Control District (District) staff members who were responsible for permit to operate issuance, communicated with the Air Pollution Control Officer or his designee in the context of a formal public participation process, or testified before the Hearing Board in a

formal proceeding. The term does not include mere expression of general interest or concern, or oral communication outside of a formal public forum, whether by telephone or otherwise, with District staff members who were not directly responsible for issuance of the permit to operate. A party may show that it has otherwise participated in a matter by contemporaneous written documentation, or by declaration under oath.

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

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

(ii) any new federally enforceable requirements added to any permit to operate pursuant to this regulation; and

(iii) any other requirements which are necessary to implement or enforce requirements identified in paragraphs (i) and (ii) above, provided such requirements are explicitly identified as applicable requirements in a permit to operate issued or modified pursuant to this regulation.

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

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

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

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

(14) **"Exempt Compound"** means any of the following:

Chlorodifluoromethane (HCFC-22)

Dichlorotrifluoroethane (HCFC-123)

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

Pentafluoroethane (HFC-125)

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

Tetrafluoroethane (HFC-134a)

Dichlorofluoroethane (HCFC-141b)

Chlorodifluoroethane (HCFC-142b)

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

1,1-difluoroethane (HFC-152a)

Cyclic, branched, or linear, completely fluorinated alkanes

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

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

Methylene chloride

1,1,1-trichloroethane

Trifluoromethane (HFC-23)

Trichlorofluoromethane (CFC-11)

Dichlorodifluoromethane (CFC-12)

Trichlorotrifluoroethane (CFC-113)

Dichlorotetrafluoroethane (CFC-114)

Chloropentafluoroethane (CFC-115)

Tetrachloroethylene (perchloroethylene)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) **"Insignificant Unit"** means any of the equipment as specified in Rule 1411 and listed in Appendix A of this regulation.

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

(i) 25 tons per year of volatile organic compounds or oxides of nitrogen, unless the San Diego Air Basin is classified by the federal EPA as a serious ozone nonattainment area. In such case, the threshold shall be 50 tons per year of volatile organic compounds or oxides of nitrogen.

(ii) 100 tons per year of particulate matter (PM₁₀).

(iii) 100 tons per year of carbon monoxide.

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

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

(vi) 0.6 tons per year of lead.

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

For purposes of determining whether a stationary source is a major stationary source, the fugitive emissions from the stationary source shall not be considered unless the stationary source belongs to one of the following categories of sources:

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

(B) kraft pulp mills;

(C) portland cement plants;

(D) primary zinc smelters;

(E) iron and steel mills;

(F) primary aluminum ore reduction plants;

(G) primary copper smelters;

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

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

(J) petroleum refineries;

(K) lime plants;

(L) phosphate rock processing plants;

(M) coke oven batteries;

(N) sulfur recovery plants;

(O) carbon black plants (furnace process);

(P) primary lead smelters;

(Q) fuel conversion plants;

(R) sintering plants;

(S) secondary metal production plants;

- (T) chemical process plants;
- (U) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units (Btu) per hour 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 Sections 111 or 112 of the federal Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.

(25) "Minor Modification" means any modification that would not trigger federally mandated new source review. A modification shall not qualify as minor if the modification:

- (i) Causes a violation of any applicable requirement;
- (ii) Involves significant relaxation to monitoring, record keeping, or reporting requirements;
- (iii) Requires the establishment of, or requires a change in an existing federally mandated source-specific emission limitation or standard (e.g., a case-by-case determination of control requirements for federal hazardous air pollutants under Section 112 of the federal Clean Air Act), or a federally mandated source-specific determination of ambient impacts on air quality, visibility or air quality increment);
- (iv) Changes permit terms and conditions (e.g., a voluntary emissions cap) for which there is no applicable requirement(s), but which terms and conditions the source accepted in order to qualify as exempt under Section (b) of this rule; or
- (v) Is a "modification" under any provision of Title I of the federal Clean Air Act, or results in an emissions increase that would trigger federally mandated new source review.

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

- (i) Identical replacement in whole or in part of any emission unit at a stationary source, where a permit to operate has previously been granted for such emission unit, is not a modification.
- (ii) The addition of an insignificant unit or units is not a modification.
- (iii) The following changes shall not be considered modifications provided that such changes are not contrary to any permit conditions intended to limit emissions, to any emission limit established in the permit or implied by a permit condition, or to any applicable requirement of these Rules and Regulations:

- (A) an increase in production rate and/or an increase in hours of operation;
- (B) use of an alternate raw material;
- (C) use of an alternate production method that reduces the generation of or allows for the reuse or recycling of wastes;
- (D) actions pursuant to a temporary authorization issued under Subsection (b)(2) of Rule 1410 are not modifications for so long as the temporary authorization is effective, or
- (E) relocation of equipment, designated as portable on the permit to operate, from one stationary source to another.

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

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

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

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

(31) **"Particulate Matter (PM₁₀)"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 8, Title 17, of the California Code of Regulations Section 94100 et seq.

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

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

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

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

(36) **"Related Emission Units"** means emission units, where the operation of one emission unit is dependent upon, or affects the process or operation (which may include

duration of operation) of another emission unit, as determined by the Air Pollution Control Officer.

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

(38) **"Responsible Official"** means any one of the following:

(i) For a corporation:

- (A) corporation president,
- (B) corporation secretary,
- (C) corporation treasurer,
- (D) corporation vice-president,
- (E) any other person who performs policy or decision-making functions for the corporation similar to (A), (B), (C) or (D), or
- (F) a duly authorized designated representative of any of the above persons if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

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

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

(ii) For a partnership or sole proprietorship:

- (A) a general partner, or
- (B) the proprietor, respectively.

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

- (A) the principal executive officer, or
- (B) a ranking elected official.

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

(iv) For affected sources (Acid Rain):

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

(B) the designated representative for any other purposes under these rules and regulations or 40 CFR Part 70 as it exists on *(date of adoption)*.

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

(40) "Significant Modification" means any modification that is not an administrative amendment or a minor modification. Any relaxation of monitoring, reporting or recordkeeping requirements at a source required to have a permit to operate (e.g., a change from daily to monthly recordkeeping) shall be a significant modification, unless the change is based on a change in a rule or regulation that was made after notice to the federal EPA, and which is consistent with the federal Clean Air Act and regulations promulgated thereunder.

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

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

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

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

RULE 1402 THROUGH 1409. RESERVED

RULE 1410. PERMITS REQUIRED

(a) APPLICATION SHIELD

Any source that submits a timely and complete application for permit issuance or renewal under this regulation shall not be in violation of the requirement to have a permit to operate under this rule until the Air Pollution Control Officer takes final permit action on the permit application or the permit expires. This protection shall cease to apply if, subsequent to the permit application being determined to be complete or being deemed complete, the applicant fails to submit by the deadline specified in writing by the Air Pollution Control Officer any additional information identified as being needed to process the application.

(b) PERMIT TO OPERATE

Except as provided in Section (a) above, no source subject to this regulation may operate after the time that it is required to submit a timely and complete application for a permit to operate until a permit to operate is issued.

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

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

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

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

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

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

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

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

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

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

An application for a permit to operate shall not be found to be incomplete solely because research and development, testing or evaluation pursuant to a temporary authorization is determined to be necessary before a permit can be issued, and any source whose application for a permit to operate or modification is otherwise timely and complete shall have the benefit of the application shield set forth in Section (a) of this rule. Such shield shall not extend beyond the date failure to comply with any applicable requirement is discovered.

For temporary operations as described in this rule, any temporary authorization shall be issued with a delayed effective date as specified in Rule 1418(f).

A temporary authorization issued pursuant to this regulation may be extended during the period in which an application for a permit to operate or modification is under review, provided that (1) the temporary actions taken have shown that the proposed permit terms and conditions could be met; (2) the source is operating in compliance with the terms and conditions of the proposed permit; (3) the Air Pollution Control Officer determines that it is likely that the proposed terms and conditions will be approved; and (4) the federal EPA has been notified of the temporary authorization and the proposed permit terms and conditions and has not objected.

(3) Availability and Effects of Appeals. An owner or operator may appeal any permit action proposed by the Air Pollution Control Officer in response to an application for a permit to operate or modification. Appeals shall be made to the Hearing Board in accordance with Rule 1425, before the proposed permit action is noticed for public review and comment or before it is forwarded to the federal EPA and affected states for consideration. During the appeal period, the terms and conditions of any existing permits to operate shall remain applicable, unless modified by a temporary authorization pursuant to this regulation, or by a variance. A proposed permit to operate shall not be noticed for public review or forwarded to the federal EPA and affected states for review while any permit action or proposed permit action is being appealed before the Hearing Board. No final permit to operate shall be issued during this period or during the time for public review and comment and the federal EPA review set forth in Rule 1415. A temporary authorization for testing and/or evaluation as provided herein may be issued despite filing of an appeal pursuant to Rule 1425(b).

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

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

(c) POSTING OF PERMIT TO OPERATE

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

(d) ALTERATION OF PERMIT

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

(e) RESERVED

(f) EXISTING REQUIREMENTS

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

(g) CONTROL EQUIPMENT

Nothing in this rule shall be construed to authorize the Air Pollution Control Officer to require the use of machinery, devices or equipment of a particular type or design, if the required emission standard may be met by machinery, device, equipment, product or process changes otherwise available unless a regulation promulgated by the federal EPA and required to be enforced through this regulation specifies the use of specific machinery, device, equipment, product or process change.

(h) RENEWAL OF PERMITS TO OPERATE

Permits to operate shall be renewable every five years on a staggered schedule to be determined by the Air Pollution Control Officer.

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

An application for renewal of a permit to operate issued must be submitted at least 12 months prior to permit expiration, on forms prescribed by the Air Pollution Control Officer. The application and any necessary certification of compliance must be submitted by a responsible official of the source.

Permits to operate may be renewed only upon:

- (1) Submission of a complete application for permit, including required statements and certifications, as set forth in Rule 1414.
- (2) Payment of appropriate renewal fees as prescribed in Rule 40.
- (3) Annual submittal of a supplemental statement certified by a responsible official setting out the status of the source with respect to past and current compliance with substantive requirements of the existing permit to operate, as evidenced by monitoring or other compliance reports (including progress reports if any are required under an applicable schedule of compliance). This requirement may be limited in scope or may be waived by the Air Pollution Control Officer.
- (4) Determination by the Air Pollution Control Officer that the source can be operated in compliance with the terms and conditions of the proposed renewed permit to operate, taking into account any compliance schedule that will be a part of that permit.
- (5) Completion of a 30-day public comment period and a 45-day review period for the federal EPA.

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

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

The condition prohibiting operation of the equipment shall be removed by the Air Pollution Control Officer, notwithstanding Rule 1421, upon receipt of an application and payment of the appropriate renewal fees pursuant to these Rules and Regulations. At the same time, the permit will be modified and conditions added, as appropriate, to reflect any new requirements that have become applicable to the emission unit as a result of changes in these Rules and Regulations during the period the unit was inactive. Operation of equipment on inactive status without prior authorization from the District shall constitute a violation of Rules 1410(b), and 1421.

(i) **ADMINISTRATIVE AMENDMENTS.**

Administrative amendments are changes that an owner or operator of a source for which a permit has been granted pursuant to this regulation may make without being subject to the requirements of Sections (j) and (k) of this rule. These shall include, but need not be limited to, the following:

- (1) Address changes that do not result in physical relocation of equipment.
- (2) Correction of typographical errors and updates to information such as phone numbers.
- (3) Incorporation of Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permits issued under federal EPA approved new source review and prevention of significant deterioration rules, provided that such permits issued after the effective date of this regulation have been issued under the procedures that provided for review by the federal EPA and affected states and, for significant modifications only, an opportunity for public review and comment.

In order to ensure that new source review and prevention of significant deterioration permit actions will qualify as administrative amendments, the operator of a source undergoing prevention of significant deterioration review or new source review may elect to provide for review by the federal EPA and affected states, and/or public review and comment, for any action that would otherwise be a modification under this regulation, even if such review or comment would not be required by any other provision of these Rules and Regulations.

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

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

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

(3) **Change of Location.** Any person who possesses a permit to operate any emission unit at a source that is subject to this regulation and desires to change the location of such emission unit shall first apply to the Air Pollution Control Officer for a significant modification to the permit to operate pursuant to this section. The provisions of this paragraph shall not apply to any change of location for any portable emission unit provided such change will not violate a term or condition of the permit or cause or exacerbate violation of any national ambient air quality standard, air quality increment, or visibility requirement. Any change of location within a contiguous parcel of land in the possession of, or owned by, or recorded as the property of, the same person shall not be considered a change of location.

(1) **OPERATIONAL FLEXIBILITY: SECTION 502(b)(10) CHANGES**

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

(1) Are not "modifications" within the meaning of Section 111, Title I of the federal Clean Air Act, and

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

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

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

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

If the operator requests an affirmative determination by the Air Pollution Control Officer that the proposed change qualifies as a Section 502(b)(10) change, and agrees not to implement that change until a determination is made, the Air Pollution Control Officer shall make a determination and notify the operator within 60 days of receipt of notice of the proposed change.

The permit shield if any provided pursuant to Section (p) of this rule, shall not be applicable to changes made pursuant to this Section (1). However, no enforcement action may be taken against a source that implements a change pursuant to this section, for violations of the permit terms and conditions identified as affected by the change to the extent those terms and conditions are necessarily affected, provided the change meets the requirements of this section.

The Air Pollution Control Officer may determine that a planned or implemented Section 502(b)(10) change does not meet the requirements of this section at any time. Any such determination must be in writing setting out the specific reason or reasons that the change does not qualify as a Section 502(b)(10) change. Any determination by the Air Pollution Control Officer that a proposed change is not a Section 502(b)(10) change may be appealed to the Hearing Board. If notice of an adverse determination is received by the operator from the Air Pollution Control Officer before the 45-day notice period has expired, the operator may not implement the proposed change, unless an appeal is taken to the Hearing Board and resolved in favor of the operator. If notice is received by the operator after the 45-day period for notice has expired and after the change has been implemented, and if the operator appeals the Air Pollution Control Officer's determination to the Hearing Board within 30 days of notice by the Air Pollution Control Officer, the change may remain in place until the matter is decided upon by the Hearing Board.

Nothing in this section shall prohibit an operator from seeking or the Air Pollution Control Officer from issuing a permit amendment to reflect the change made. Any such permit application shall be processed pursuant to this regulation. If a permit amendment is approved, the permit shield, if any provided to a source pursuant to Section (p) of this rule, may thereafter apply to the revised permit.

(m) OPERATIONAL FLEXIBILITY: TRADING UNDER AN EMISSIONS CAP

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

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

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

(n) OPERATIONAL FLEXIBILITY: ALTERNATIVE OPERATING SCENARIOS

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

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

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

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

(o) REOPENING OF A PERMIT TO OPERATE

Any permit to operate issued pursuant to this regulation may be reopened prior to expiration if any of the following occur:

(1) Additional requirements promulgated under the federal Clean Air Act become applicable for a major stationary source with at least three years remaining on the permit term.

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

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

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

(ii) to assure compliance with all applicable requirements.

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

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

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

(p) PERMIT SHIELD

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

No shield may apply to requirements promulgated after the permit to operate is issued; to permit modifications or Section 502(b)(10) changes implemented without public notice and comment and an opportunity for review by the federal EPA and affected states.

A permit shield shall exist only as stated in the permit to operate.

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

The Air Pollution Control Officer shall grant at least a limited shield in all cases where the applicant identifies multiple inconsistent requirements that may be legally applicable to the source. If one of the potentially inconsistent requirements is a requirement that has been superseded in these Rules and Regulations by a subsequently promulgated requirement, the shield shall operate to

prevent enforcement of the superseded requirement. The most recently promulgated requirement shall be enforceable.

A limited shield may also be granted against any State Implementation Plan (SIP) requirement not included in the permit to operate, and which the federal EPA failed to identify to the Air Pollution Control Officer before the permit to operate was approved. A shield stated to have been provided for this limited purpose shall not prevent enforcement of any requirement of these Rules and Regulations, or any term or condition contained in the permit to operate.

RULE 1411. EXEMPTION FROM PERMIT TO OPERATE FOR INSIGNIFICANT UNITS

A permit to operate shall not be required for any insignificant unit (see Appendix A). However, all such non-vehicular equipment shall be described in the initial application for permit to operate, and each application for renewal of a permit to operate, required by this regulation and emissions from such non-vehicular equipment shall be included to determine the applicability of this regulation.

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

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

RULE 1412. RESERVED

RULE 1413. EARLY REDUCTION OF HAZARDOUS AIR POLLUTANTS

(a) GENERAL

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

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

(b) FEDERAL EARLY REDUCTION PROGRAM

Any source proposing to implement alternative emissions limitations for hazardous air pollutants under Section 112(i)(5) of the federal Clean Air Act shall include proposed permit terms and conditions in its permit application. Those terms and conditions shall provide for at least a 95% reduction in particulate federal hazardous air pollutants, and at least a 90% reduction in all other federal hazardous air pollutants that would be subject to regulation under Section 112 of the federal Clean Air Act, in comparison to the baseline specified in Section 112(i)(5) of the federal

Clean Air Act. The proposed early reductions must occur before applicable federal standards are promulgated, and all other requirements of Section 112(i)(5) must also be met. If the requirements of the federal Clean Air Act are met, the source shall receive a six-year delay in the effective date of requirements that would be otherwise applicable under Section 112 of the federal Clean Air Act, or under state and local programs implementing that Act.

(c) STATE AND LOCAL REQUIREMENTS

Any source proposing to accelerate control of federal hazardous air pollutants that are subject to regulation under state or local programs shall include proposed permit terms and conditions in its permit application. To qualify for a limitation on the imposition of additional state and local requirements, the source must demonstrate and the Air Pollution Control Officer must find that the early reduction program proposed by the source will provide reductions in emissions of federal hazardous air pollutants over the life of the permit that are at least equivalent in their anticipated effects on human health to the reductions that could be reasonably anticipated over the same period under state and local toxics programs in existence at the time the permit was approved. Notwithstanding an equivalence showing of this kind, the Air Pollution Control Officer may reject any proposed permit terms and conditions that are not adequately protective of human health.

If permit terms and conditions for early reduction of hazardous or federal hazardous air pollutants are included in the permit to operate, no additional state and local toxic air contaminant control requirements may be imposed during the term of the permit to operate (including any extension of that permit prior to its renewal).

(d) PROTECTION OF PUBLIC HEALTH

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

RULE 1414. APPLICATIONS

(a) GENERAL

Every application for a permit required under Rule 1410 shall be filed in the manner and form prescribed by the Air Pollution Control Officer and Section (f) of this rule. Each application must include the appropriate District supplemental standard forms for the equipment covered by the permit, or must reference applicable forms previously provided to the District. Upon request by the Air Pollution Control Officer an applicant shall give all the information necessary to enable the Air Pollution Control Officer to make the determinations required by Rules 1420 and 1421 of this regulation.

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

(b) INITIAL PERMIT TO OPERATE FOR EXISTING SOURCES

The first application for a permit to operate for a source that is in operation pursuant to an existing District permit issued pursuant to Rule 10 at the time this regulation becomes effective, and

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

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

The first application for a permit to operate for a source constructed or modified after the effective date of this regulation must be submitted not later than 12 months after the source has completed construction, pursuant to a valid authority to construct issued pursuant to Rule 10. However, permits to operate are required under Rule 10 prior to operation or modification.

(d) INITIAL PERMIT TO OPERATE FOR NEWLY REGULATED SOURCES

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

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

(e) PHASE II ACID RAIN PERMITS

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

(f) COMPLETE APPLICATION

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

(1) Information sufficient to determine all applicable requirements and to evaluate the subject source for compliance with all applicable requirements.

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

(3) Information as described below for each emission unit:

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

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

(iii) The following emissions-related information:

(A) all emissions of pollutants for which the source is a major stationary source, and all emissions of federally regulated air pollutants. A permit application shall describe all emissions of federally regulated air pollutants emitted from any emission unit, including insignificant units as specified in Rule 1411. The applicant is required to submit additional information related to the emissions of air pollutants sufficient to allow the Air Pollution Control Officer to verify which requirements are applicable to the source, and other information necessary to determine any fees pursuant to Rule 40;

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

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

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

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

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

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

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

(iv) The following air pollution control information:

(A) citation and description of all applicable requirements, all other terms and conditions of existing permits to operate proposed to be carried over in the permit to operate, and any additional terms and conditions proposed for that permit. Where a proposed new term or condition is intended to substitute for an existing term or condition that the applicant proposes not be carried over, the relationship between old and new terms and conditions shall be set forth;

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

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

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

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

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

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

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

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

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

(D) for requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements, together with a copy of any variance order issued by the Hearing Board, granting temporary relief from such requirement;

(E) a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any Hearing Board order, judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

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

(G) the compliance plan content requirements specified in this subsection shall apply and be included in the acid rain portion of a compliance plan for an

affected source (Acid Rain), except as specifically superseded by regulations promulgated under Title IV of the federal Clean Air Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(ix) A compliance certification, including the following:

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

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

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

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

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

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

(g) OPTIONAL INFORMATION ON FEDERAL HAZARDOUS AIR POLLUTANTS

Any source may use the permit application process as an occasion for resolving issues related to the control of federal hazardous air pollutants at the source over the life of the permit. Any source seeking permit terms and conditions that will define applicable requirements over the life of the permit shall provide the information set forth in Subsection (f)(3) of this rule for any toxic air contaminant that is likely to be regulated at that source under federal or state law or local regulations over the life of the permit.

(h) ADDITIONAL INFORMATION

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

RULE 1415. PERMIT PROCESS-PUBLIC NOTIFICATION

(a) PUBLIC NOTICE

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

- (1) Publication in a newspaper of general circulation of a notice of intent to issue a permit to operate.
- (2) Notification to all persons requesting to be included in a mailing list for purposes of notification of all permit actions.
- (3) Availability of a copy of the draft permit for public review at the Air Pollution Control District offices.

(b) PUBLIC HEARINGS

Pursuant to any petition from the public as a result of public notice, the Air Pollution Control Officer shall, with reasonable cause, hold a public hearing to receive comments regarding initial issuance, modification, or renewal of a permit to operate. All public hearings shall be preceded by issuance of a public notice containing all information specified in Section (d) of this rule at least 30 days prior to the public hearing.

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

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

(d) CONTENTS OF PUBLIC NOTICE.

Notice to the public shall:

- (1) Identify the affected facility by name and address;
- (2) Provide the name and address of the District processing the permit;
- (3) Identify the activity or activities involved in the proposed permit action;
- (4) Identify the emissions change involved in any modification;
- (5) Identify the name and address of the person who can provide additional information including:
 - (i) a copy of the permit draft;

- (ii) the permit application;
 - (iii) all relevant supporting materials available to the Air Pollution Control Officer; and
 - (iv) time and place of any hearing.
- (6) Describe procedures for providing comments;
 - (7) Describe procedures for petitioning for a hearing; and
 - (8) Identify the scope of the permit review and identify areas that are appropriate for public comment.

(e) COORDINATED PROCESSING OF RELATED PERMITS

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

(f) EXCEPTIONS

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

(g) NEW APPLICATION LISTS

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

(h) CONSIDERATION OF COMMENTS

All comments received from the public notification process shall be considered and responded to by the District in the review of an application for permit.

(i) COPIES OF PERMIT ACTION

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

(j) PUBLIC INSPECTION

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

(k) TRADE SECRETS

Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public or the federal EPA any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX.

RULE 1416. RESERVED.

RULE 1417. PENDENCY AND CANCELLATION OF APPLICATIONS

(a) PENDENCY AND APPLICATION SHIELD

Notwithstanding the time periods for the Air Pollution Control Officer action on permit applications set forth in Rule 1418, an application for a permit to operate filed pursuant to this regulation shall remain pending until it is approved, denied or canceled by the Air Pollution Control Officer, or withdrawn by the applicant. Except as otherwise specified in Rule 1410(a), the application shield provided by Rule 1410(a) shall remain in effect from the time an application is determined to be or is deemed to be complete until an application is approved, denied, canceled or withdrawn.

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

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

(c) FAILURE TO PROVIDE ADDITIONAL INFORMATION

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

(d) DELIVERY OF NOTICE OF CANCELLATION

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

RULE 1418. ACTION ON APPLICATIONS

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

(a) COMPLETENESS DETERMINATION

The Air Pollution Control Officer shall, within 60 days of receipt of an application for an initial permit to operate, for significant modification of a permit to operate or for renewal of such a permit, determine whether the application is complete or incomplete and so notify the applicant; if incomplete, the notice shall specify the additional information needed from the applicant to complete the application. An application for a permit to operate shall be determined to be complete when all required information and fees specified in Rule 1414 are submitted, even if the applicant or the Air Pollution Control Officer determines that testing will be required, pursuant to a temporary authorization under Rule 1410(b)(2), before a decision can be made to approve or disapprove the permit application. If a permit application is associated with an application for an authority to construct, the completeness determination for the application shall not be delayed to await satisfaction of any unrelated conditions of the authority to construct. When all the additional information is received and the application is deemed complete, the applicant will be so notified.

Unless the Air Pollution Control Officer determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed complete.

(b) ACTION TIME

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

For all other applications, the Air Pollution Control Officer shall approve, conditionally approve or deny each complete application within six months of receipt if possible, or within a maximum of 12 months of receipt, provided however that no time shall be counted from the time the Air Pollution Control Officer requests more information from a source and the time the source provides that information. The 12-month period may be extended an additional six months with the concurrence of the applicant.

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

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

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

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

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

(4) In no event shall submission of a proposed permit action to the federal EPA be delayed more than 90 days from the date on which action on the application was required by this regulation, except at the request of the applicant.

(d) DELIVERY OF NOTICE OF ACTION

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

(e) EFFECTIVE DATE OF PERMIT ACTION

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

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

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

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

RULE 1419.2. RESERVED

RULE 1420. STANDARDS FOR GRANTING PERMITS

(a) COMPLIANCE

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

(b) NEW TERMS AND CONDITIONS

The Air Pollution Control Officer shall not impose any new or additional terms or conditions on any emission unit presently under permit that were not previously required in the currently valid permit to operate for that unit (or, if the unit is new, in permits to operate for similar units at other sources), unless:

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

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

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

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

(c) PROVISIONS FOR SAMPLING AND TESTING

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

(d) INCORRECT INFORMATION IN AN APPLICATION

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

(e) APPLICATIONS PROPOSING TRADING UNDER AN EMISSIONS CAP

If an applicant proposes internal trading under a federally enforceable emissions cap to be established in the permit to operate, the Air Pollution Control Officer shall approve the proposed trading provisions only if the applicant demonstrates, or the Air Pollution Control Officer otherwise determines, that the permit will specify replicable procedures that ensure that trades are enforceable, accountable and quantifiable.

For trades to be enforceable, the requirements applicable to emission units involved in a trade must be clear and unambiguous, and it must be practicable to determine compliance with those requirements. For trades to be accountable, it must be clear how trades will affect emissions from the source. For trades to be quantifiable, the permit must specify measuring techniques, including test methods, monitoring, recordkeeping and reporting requirements, as appropriate, which will be used to measure emissions.

The permit may specify an averaging period within which emissions decreases must at least balance emissions increases. The permit may specify, based on emissions characteristics or other factors affecting the equivalence of specific emissions, that some specific emissions increases or decreases will be traded at ratios that differ from 1-to-1 with other specific emissions increases or decreases; however, the effects of any such ratios must be reversed if a given trade is reversed. (For example, if the permit provides that point A must be decreased by 10 tons when point B is increased by 8 tons, then a subsequent decrease of 8 tons returning B to its prior emissions level must allow A to be increased by 10 tons, returning A to its prior emissions level).

The permit may, but need not, specify that net emissions decreases within an averaging period may be carried forward and traded against emissions increases in a subsequent averaging period. If the permit allows such carry-overs, the permit may include terms and conditions

requiring that such carry-overs be discounted before being used in trade against emissions decreases. In any permit that allows such carry-overs, procedures must also be specified for verifying carry-over emissions decreases, and for tracking the use of such carry-overs.

(f) SPECIFIC COMPLIANCE REQUIREMENTS

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

- (1) All applicable requirements of these Rules and Regulations including new source review.
- (2) All applicable requirements of the California Health and Safety Code.
- (3) All applicable requirements of Subparagraphs (d), (f), (g), (h), and (j) of Section 112 of the federal Clean Air Act as amended in 1990.
- (4) All applicable requirement of the federal Acid Rain Program contained in Title IV of the federal Clean Air Act as amended in 1990.
- (5) Any requirements established in the permit to operate that were not already contained in permits to operate for the source.

(g) COMPLIANCE SCHEDULES

In acting upon a permit or modification application, if the Air Pollution Control Officer finds that the source is in compliance with all applicable requirements except those for which the Hearing Board has issued a variance, the Air Pollution Control Officer may approve the application provided the compliance schedule contained in the variance is included as a condition of the permit to operate pursuant to Rule 1421.

(h) NOTIFICATION REQUIREMENTS MANDATORY

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

(i) FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA) OBJECTIONS

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

RULE 1421. PERMIT CONDITIONS

(a) CONDITIONS AND COMPLIANCE SCHEDULES AUTHORIZED

A permit to operate shall include any temporary or permanent conditions that are necessary to ensure compliance with these Rules and Regulations and applicable state and federal laws and

regulations. Subject to the limitations set forth in Rule 1420(b), new conditions may be imposed when a permit to operate is issued. New conditions shall be imposed to require that the permittee shall submit reports at least once every six months which summarize the results of all monitoring and recordkeeping required.

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

Commencing or continuing operation under a permit to operate shall be deemed acceptance of all the conditions specified in the permit, to the extent those conditions are consistent with these Rules and Regulations.

(b) REQUIREMENT FOR NEW SOURCE REVIEW (NSR) IN SOME CIRCUMSTANCES

The Air Pollution Control Officer shall issue a permit to operate with revised conditions upon evaluation of a new application, if the applicant demonstrates that the emission units at a source can operate in compliance with the provisions of these Rules and Regulations and applicable state and federal laws and regulations under the revised conditions. Where the proposed revision of permit to operate conditions, including proposed revision of conditions relating to the method of operations, will result in an increased aggregate potential to emit for the source, the Air Pollution Control Officer shall evaluate the proposed revision in accordance with the provisions of the District's new source review rules and shall determine compliance with the District's new source review rules as if an application for an authority to construct had been received containing the proposed revised conditions. In said situations, the permit to operate with revised conditions shall not be granted in cases where such an authority to construct would not have been granted.

This rule does not authorize the Air Pollution Control Officer to change conditions to a permit to operate in effect without prior notice to the permittee.

(c) STATE AND LOCAL ENFORCEMENT

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

(d) FEDERAL ENFORCEABILITY

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

The Air Pollution Control Officer may designate as federally enforceable only those permit conditions (1) that would have been federally enforceable but for the permit process, or (2) that the applicant requests be made federally enforceable in order to render the source a synthetic minor source, or (3) that the applicant requests be made federally enforceable in order to create a voluntary emissions cap under which trading may occur. Except as provided herein, the Air Pollution Control Officer may not use the process to attach federal enforcement authority to permit conditions that would not otherwise have been federally enforceable. Any permit condition that

was not federally enforceable prior to the permitting process or which was not affirmatively designated as federally enforceable in the permit to operate pursuant to and consistent with this rule, shall not be federally enforceable, unless such permit is modified pursuant to this regulation.

A requirement that is federally enforceable by operation of law apart from the permit process will continue to be federally enforceable despite the failure of the Air Pollution Control Officer to designate the requirement as federally enforceable. Any requirement explicitly designated as not federally enforceable by the Air Pollution Control Officer in a permit that was subject to public notice and to review by the federal EPA shall not be federally enforceable.

Where a permit condition is designated as federally enforceable, any enforcement undertaken by the federal EPA or a citizen shall have full force of any and all legal recourse and penalties the federal EPA or a court of law are empowered to impose pursuant to authority granted in the federal Clean Air Act and the Code of Federal Regulations.

RULE 1422. DENIAL OR CANCELLATION OF APPLICATIONS

Denial or cancellation of an application for a modification shall leave existing permits to operate issued pursuant to Rule 10 for the source intact, and the source may continue operations consistent with those permits.

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

Denial of an initial or renewal permit to operate, to a source required to have such a permit, shall also constitute suspension of the permits to operate for that source as of a date 90 days after the date of denial or cancellation, or the date on which a permit to operate was required, whichever is later. Except as provided in the preceding paragraph, denial of a required permit to operate and the accompanying suspension of permits to operate is a final permit action.

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

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

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

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

RULE 1423. FURTHER INFORMATION

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

RULE 1424. APPLICATIONS DEEMED DENIED

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

RULE 1425. APPEALS AND JUDICIAL REVIEW

(a) PLACE FOR APPEALS

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

(b) APPEAL BY APPLICANT TO THE HEARING BOARD

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

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

(c) APPEALS BY OTHERS TO THE HEARING BOARD

Any proposed decision to issue a permit to operate or modification of a permit, or to renew a permit to operate with new or modified conditions, may be appealed to the Hearing Board by persons other than the applicant under the following conditions. On matters where the Air

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

(d) REQUEST FOR STAY

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

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

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

(e) STAY AFFECTING MODIFICATION ONLY

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

(f) DISPUTE RESOLUTION

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

(g) LIMITATIONS ON APPEALS TO THE HEARING BOARD

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

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

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

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

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

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

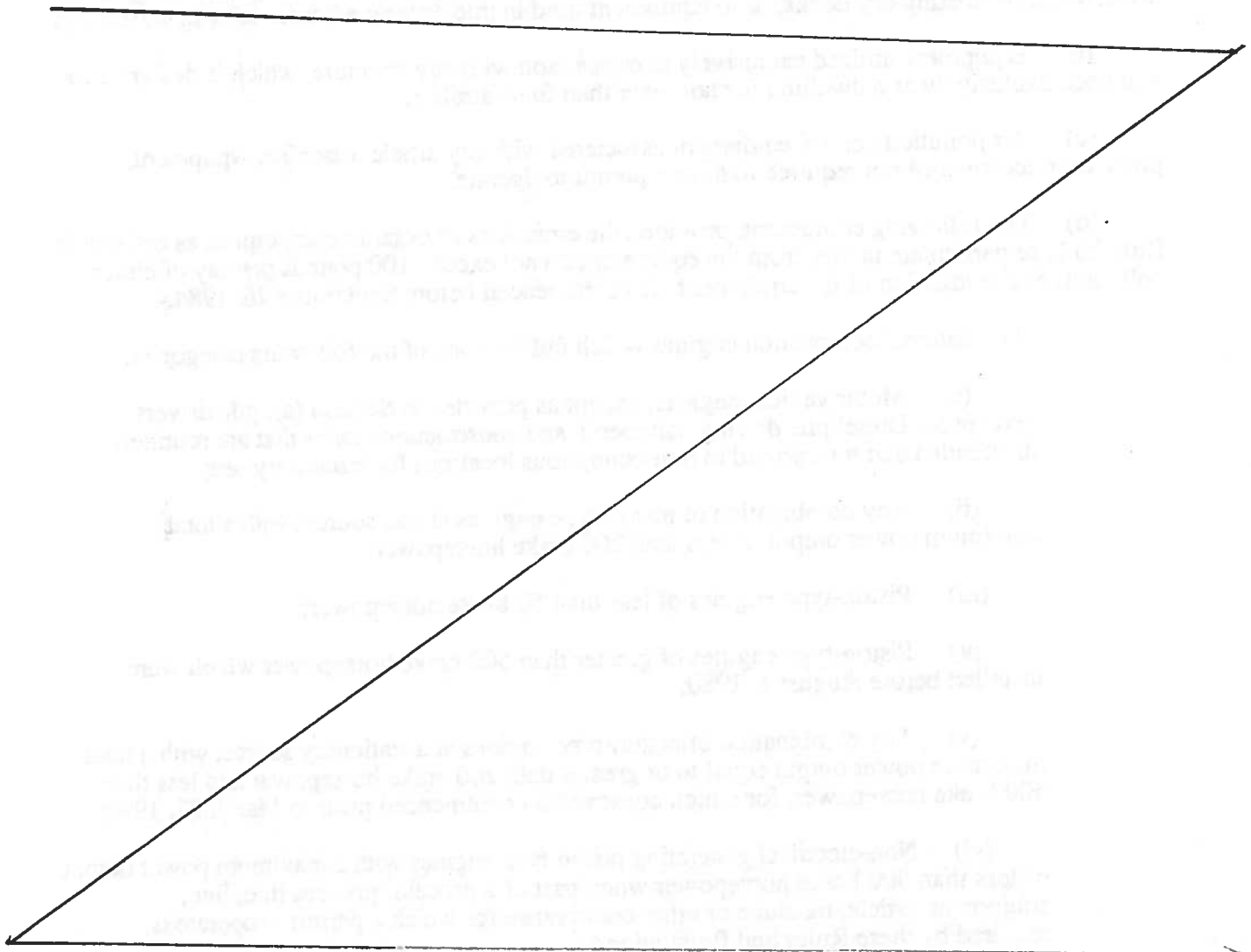
Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless grounds for such objection arose after such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

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

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

(i) JUDICIAL REVIEW

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



REGULATION XIV - APPENDIX A

INSIGNIFICANT UNITS

This listing is of equipment determined to be exempt from permit requirements under this Regulation due to the relatively low potential to emit or because the equipment is not under the jurisdiction of the Air Pollution Control District.

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

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

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

(d) The following equipment, provided the emissions of organic compounds, as defined in Rule 20.1, or particulate matter from the equipment do not exceed 100 pounds per day of either pollutant, or construction of the equipment was commenced before September 26, 1984.

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

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

(ii) Any combination of piston-type engines at one source, with a total maximum power output of less than 200 brake horsepower;

(iii) Piston-type engines of less than 50 brake horsepower;

(iv) Piston-type engines of greater than 500 brake horsepower which were installed before August 1, 1980;

(v) Any combination of piston-type engines at a stationary source, with a total maximum power output equal to or greater than 200 brake horsepower and less than 500 brake horsepower, for which construction commenced prior to March 27, 1990;

(vi) Non-electrical generating piston type engines with a maximum power output of less than 500 brake horsepower when part of a process, process line, line, equipment, article, machine or other contrivance for which a permit to operate is required by these Rules and Regulations;

(vii) Any combination of piston-type engines for which construction commenced before April 5, 1983 provided all engines in the combination are less than 500 brake horsepower;

(viii) Gas turbines with a maximum heat input at ISO Standard Day Conditions of less than 5 million British Thermal Units (Btu) per hour fired exclusively with natural gas and/or liquified petroleum gas;

- (ix) Gas turbines with a maximum heat input of less than 10 million British Thermal Units per hour fired exclusively with natural gas and/or liquified petroleum gas for which construction commenced before March 27, 1990; or
- (x) Gas turbines with a maximum heat input of less than 50 million British Thermal Units per hour fired exclusively with natural gas and/or liquified petroleum gas installed before October 2, 1977.
- (2) Water cooling towers and water cooling ponds not used for evaporative cooling of process water or not used for evaporative cooling of water, contaminated water or industrial waste water from barometric jets or from barometric condensers.
- (3) Portable aircraft engine test stands which were constructed before November 4, 1976.
- (4) Fuel-burning equipment as described below:
- (i) Fuel-burning equipment, except internal combustion engines, with a maximum gross heat input rate of less than one million British Thermal Units (0.252 x 106 Kcal) per hour when not part of a process, process line, line, equipment, article, machine or other contrivance for which a permit to operate is required by these Rules and Regulations.
- (ii) Fuel burning equipment, except steam boilers and internal combustion engines, with a maximum gross heat input of less than 50 million British Thermal Units (12.6 x 106 Kcal) per hour, and fired exclusively with natural gas; liquified petroleum gas or a combination of natural gas and liquified petroleum gas.
- (iii) Steam boilers with a maximum gross heat input of less than 50 million British Thermal Units (12.6 x 106 Kcal) per hour, if construction commenced prior to March 27, 1990, and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.
- (iv) Any combination of steam boiler equipment at one stationary source with a total maximum gross heat input rate of less than 20 million British Thermal Units (7.6 x 106 Kcal) per hour, if construction commenced on or after March 27, 1990 and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.
- (5) Extrusion equipment used exclusively for metals, minerals, or plastic except coking extrusion equipment or processes which manufacture products containing greater than one percent asbestos fiber by weight.
- (6) Equipment used exclusively for forging, pressing, rolling or drawing of metals or for heating metals immediately prior to forging, pressing, rolling or drawing.
- (7) All printing or graphic arts presses located at a stationary source which emits a total of less than 15 lbs of volatile organic compounds, subject to Rule 67.16, on each day of operation. It is the responsibility of any person claiming this exemption to maintain all usage records, including any mixing ratios, necessary to establish maximum daily emissions and to make this information available to the Air Pollution Control Officer upon request.
- (8) Ovens, if only part of one or more processes which require a permit pursuant to these Rules and Regulations or which are exempt from a requirement for a permit to operate pursuant to this rule.

- (9) Crucible-type or pot-type furnaces with a brimful capacity of less than 450 cubic inches of any molten metal.
- (10) Crucible furnaces, pot furnaces or induction furnaces, with a capacity of 2500 cubic inches or less each, in which no sweating or distilling is conducted and from which only non-ferrous metals except yellow brass, are poured or non-ferrous metals are held in a molten state.
- (11) Shell core and shell-mold manufacturing machines.
- (12) Molds used for the casting of metals.
- (13) Foundry sand mold forming equipment except those to which heat, sulfur dioxide or organic material is applied.
- (14) Shot peening cabinets where only steel shot is employed and no scale, rust, or old paint is being removed.
- (15) Die casting machines.
- (16) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.
- (17) Metalizing guns, except electric arc spray guns, where the metal being sprayed is in wire form.
- (18) Brazing, welding equipment including arc welding equipment.
- (19) Hand soldering equipment and solder-screen processes. Solder-screen means those processes which use a process similar to silk-screening to apply solder and which subsequently undergo a reflow process other than a vapor phase solder reflow process.
- (20) Equipment used exclusively for the sintering of glass or metals.
- (21) Atmosphere generators and vacuum producing devices used in connection with metal heat treating processes.
- (22) Dry batch mixers of 0.5 cubic yards (0.38 cubic meters) rated working capacity or less. Dry batch means material is added in a dry form prior to the introduction of a subsequent liquid fraction or when no liquid fraction is added.
- (23) Batch mixers (wet) of 1 cubic yard (0.765 cubic meter) capacity or less where no organic solvents, diluents or thinners are used.
- (24) Equipment used exclusively for the packaging of lubricants or greases.
- (25) Portable conveyors (belt or screw type) where there is no screening.
- (26) Roofing kettles (used to heat asphalt) with a capacity of 85 gallons (322 liters) or less.
- (27) Abrasive blasting equipment with a manufacturer's-rated sand capacity of less than 100 pounds (45.4 kg) or 1 cubic foot or less.

- (28) Abrasive blast cabinets which vent through control devices and into the buildings in which such cabinets are located.
- (29) Blast cleaning equipment using a suspension of abrasive in water.
- (30) Equipment used for buffing (except automatic or semi-automatic tire buffers) or polishing, carving, cutting, drilling, machining, routing, shearing, sanding, sawing, surface grinding, or turning of ceramic artwork, ceramic precision parts, leather, metals, rubber, fiberboard, masonry, except fiber reinforced plastics unless the process involves the use of water as a means for cutting and is equipped with a control device that does not emit to the atmosphere.
- (31) Handheld equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding or turning of fiber reinforced plastic, when not used at a designated workstation, booth or room.
- (32) Equipment used for carving, cutting, drilling, surface grinding, planing, routing, sanding, sawing, shredding or turning of wood, or the pressing or storing of sawdust, wood chips or wood shavings.
- (33) Paper shredders and paper disintegrators which have a capacity of 600 pounds per hour or less.
- (34) Equipment used to liquefy or separate oxygen, nitrogen or the rare gases from the air.
- (35) Equipment used exclusively to grind, blend or package tea, cocoa, spices or roasted coffee.
- (36) Equipment, other than boilers, used for preparing food for human consumption and located at eating establishments, bakeries and confectioneries.
- (37) Equipment using exclusively aqueous solutions not containing volatile organic compounds in excess of 10 percent by weight for surface preparation, cleaning, anodizing, plating, polishing, stripping or etching except acid chemical milling, chrome plating, chromic acid anodizing or the stripping of chromium, or copper etching using ammonium hydroxide, ammonium chloride or concentrated solutions of nitric, hydrofluoric and/or hydrochloric acids exceeding 17 percent acid concentration by weight.
- (38) Laboratory equipment used exclusively for chemical or physical analyses and bench scale laboratory equipment provided such bench scale equipment is not used for production purposes to directly produce a deliverable product or service, other than the first-article product or service, and provided the emissions of organic compounds from such bench scale equipment, do not exceed five (5) pounds per day and provided such bench scale equipment does not emit detectable levels of compounds listed as Acutely Hazardous by Section 25532 of the California Health and Safety Code.

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

"Bench Scale Laboratory Equipment" shall mean equipment which a) is under direct, immediate and exclusive control of a laboratory director; b) is sub-scale in size; and c) is used for the sole purpose of conducting studies or tests to develop a new or improved product or service.

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

- (39) Titanium chemical milling at temperatures below 110°F (43°C).
 - (40) Orchard or citrus grove heaters.
 - (41) Non-immersion dry cleaning equipment.
 - (42) Alkaline chemical milling equipment for which construction or installation commenced prior to March 27, 1990, or alkaline chemical milling equipment used exclusively for the cleaning of internal combustion engine parts.
 - (43) Laundry dryers, extractors or tumblers used for fabrics cleaned only with solutions of bleach or detergents containing no organic solvents.
 - (44) Ovens having an internal volume of 27 cubic feet (0.765 cubic meter) or less in which organic solvents or materials containing organic solvents are charged.
 - (45) Equipment used for compression molding and injection molding of plastics.
 - (46) Cold solvent cleaning and paint stripping tanks with a liquid surface area of 1.0 square foot (0.09 square meter) or less used for the employment or application of organic solvents or materials containing organic solvents.
 - (47) Railway sweepers used for cleaning rail tracks.
 - (48) Equipment used for powder coating operations, except metalizing gun operations, where emissions of volatile organic compounds are less than one pound per day. The person claiming this exemption must keep daily usage records, and all data necessary to establish maximum daily emission level. This information must be made available immediately upon request.
- (e) Stationary storage tanks (excluding tanks subject to Rule 61.9) for the storage of organic compounds, as follows:
- (1) With a capacity of 260 gallons (984 liters) or less.
 - (2) With a capacity greater than 260 gallons (984 liters) provided that such containers, reservoirs or tanks will be used exclusively to store organic compounds that are not volatile organic compounds as defined in Rule 61.0.
 - (3) Used exclusively for the storage of organic solvents which are liquids at standard conditions and which are to be used as dissolvers, viscosity reducers, reactants, extractants, cleaning agents or thinners and not used as fuels.
 - (4) For the storage of natural gas or propane when not mixed with other volatile organic compounds as defined in Rule 61.0.
 - (5) Used exclusively as a source of fuel for wind machines used for agricultural purposes.

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

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

(h) Liquid surface coating application operations:

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

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

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

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

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

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

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

(1) Foam manufacturing or application.

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

(3) Plastics manufacturing or fabrication.

(4) Ink mixing tanks.

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

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

(7) Peptide Synthesis.

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

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

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

(k) Back-pack power blowers.

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

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

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

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

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

(o) Any article, machine, equipment, or contrivance other than an incinerator or boiler, the discharge from which contains airborne radioactive materials and which is emitted into the atmosphere in concentrations above the natural radioactive background concentration in air. "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, smoke, mists, liquids, vapors or gases.

Atomic energy development and radiation protection are controlled by the State of California to the extent it has jurisdiction thereof, in accordance with the advice and recommendations made to the Governor by the Advisory Council on atomic energy development and radiation protection. Such development and protection are fully regulated by the Nuclear Regulatory Commission.

(p) The following equipment:

(1) Equipment used for hydraulic or hydrostatic testing.

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

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

- (4) Equipment used exclusively for the melting or applying of wax where no organic solvents, diluents or thinners are used.
- (5) Equipment used for inspection of metal products except metal inspection tanks utilizing a suspension of magnetic or fluorescent dye particles in volatile organic solvent which have a liquid surface area greater than 5 ft² and are equipped with spray type flow or a means of solvent agitation.
- (6) Equipment used exclusively for the manufacture of water emulsions of asphalt, greases, oils or waxes.
- (7) Equipment used exclusively for conveying and storing plastic pellets.
- (8) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.
- (9) Curing or baking ovens in which no organic solvents or materials containing organic solvents are charged.
- (10) Mixers for rubber or plastics where no material in powder form is added and no organic solvents, diluents or thinners are used.
- (11) Each process line at a stationary source, as defined in Rule 20.1, for coating of pharmaceutical tablets provided maximum emissions of volatile organic compounds (defined in Rule 67.15), are below 15.0 pounds on each day for all operations subject to Rule 67.15. It will be the responsibility of any person claiming this exemption to maintain all records necessary to establish maximum daily emissions and to make this information available to the District upon request.
- (12) Roll mills or calendars for rubber or plastics and no organic solvents, diluents or thinners are used.
- (13) Vacuum-producing devices used in laboratory operations or in connection with other equipment which is exempt by Rule 11.
- (14) Natural draft hoods, natural draft stacks or natural draft ventilators.
- (15) Natural gas-fired or liquefied petroleum gas-fired or electrically heated furnaces for heat treating glass or metals, the use of which does not involve molten materials.
- (16) Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants generated by or from specific units or equipment.
- (17) Refrigeration units except those used in conjunction with, air pollution control equipment.
- (18) Equipment used exclusively for space heating, other than boilers.
- (19) Equipment used exclusively for bonding lining to brake shoes.
- (20) Lint traps used exclusively in conjunction with dry cleaning tumblers.
- (21) Equipment used exclusively to compress or hold dry natural gas.

- (22) Kilns used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity or any combination thereof.
- (23) Equipment used exclusively for the purposes of flash-over fire fighting training.
- (24) Wastewater processing units associated with drycleaning operations using halogenated compounds provided the water being evaporated in the unit does not exceed 400 ppm (by weight) of halogenated compounds as determined by EPA Test Method 634.
- (25) Atmospheric organic gas sterilizer cabinets where ampules are utilized exclusively to dispense ethylene oxide gas into a liner bag and where total ethylene oxide emissions are less than five pounds per year.

IT IS FURTHER RESOLVED AND ORDERED that the addition of Regulation XIV shall take effect and be in force upon final approval by the United States Environmental Protection Agency as published in the Federal Register.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 18th day of January, 1994 by the following votes:

AYES: Bilbray, Jacob, Slater, Williams, MacDonald
NOES: None
ABSENT: None

APPROVED AS TO FORM AND LEGALITY
 COUNTY COUNSEL

BY H. Utter
 DEPUTY

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



Thomas J. Prothman
 Clerk of the Board, San Diego County
 2/3/94 L. Monteleone

NEW REGULATION

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

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

On motion of Member _____, seconded by Member _____
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 addition of Regulation XIV is to read as follows:

REGULATION XIV. TITLE V OPERATING PERMITS

~~Effective Date: This regulation becomes effective on the date it is approved by the federal Environmental Protection Agency (federal EPA). The effective date is (to be determined).~~ Regulation XIV shall take effect and be in force upon final approval by the United States Environmental Protection Agency, as published in the Federal Register.

RULE 1401. GENERAL PROVISIONS

(a) APPLICABILITY

This regulation shall apply to any stationary source that is:

- (1) A major stationary source as defined in this regulation, or
- (2) Subject to a standard, limitation or other requirement under Section 111 of the federal Clean Air Act or Regulation X, Standards of Performance for New Stationary Sources (NSPS), except as provided in Subsection (b)(1) of this rule, or
- (3) Subject to a standard, limitation or other requirement under section 112 of the federal Clean Air Act or Regulation XI, National Emission Standards for Hazardous Air Pollutants (NESHAPS), except as provided in Subsection (b)(1) of this rule, or
- (4) Subject to the acid rain provisions of Title IV of the federal Clean Air Act, or
- (5) A solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the federal Clean Air Act, or

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

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

(b) EXEMPTIONS

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

- (1) Emission units at stationary sources that are not major stationary sources, until November 15, 2000, ~~unless except that~~ the federal Environmental Protection Agency (federal EPA) may provides by regulation that any such source is required to have a permit under Title V of the federal Clean Air Act on an earlier date.
- (2) Stationary sources, source categories or emission units that would be required to obtain a permit solely because they are subject to 40 CFR Part 60 Subpart AAA, Residential Wood Heaters.
- (3) Stationary sources, source categories, or emission units that would be required to obtain a permit solely because they are subject to 40 CFR Part 61 Subpart M, Asbestos Demolition and Renovation.
- (4) Insignificant emission units as specified in Rule 1411. This exemption shall not exclude the emissions from such insignificant emission units in determining the applicability of any provisions of this regulation or of Title V of the federal Clean Air

Act to any stationary source. All emission units proposed for exemption pursuant to Rule 1411 shall be listed in any application for a permit to operate pursuant to this regulation.

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

(6) A stationary source whose potential to emit has been limited pursuant to Rule ~~1421~~ 1401 (b)(5) to levels below the threshold for application of this regulation shall not be subject to this regulation after revised permits to operate containing the new restrictions have been issued. Any such stationary source that subsequently proposes a modification that would make it subject to this regulation, or which becomes subject to this regulation again for any other reason, shall be required to obtain a permit to operate in the same manner and in the same time frames as would apply to any other stationary source affected by a rule change or proposing or implementing a modification that would make it subject to this regulation.

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

(c) **DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

(ii) any new federally enforceable requirements added to any permit to operate pursuant to this regulation; and

(iii) any other requirements which are necessary to implement or enforce requirements identified in paragraphs (i) and (ii) above, provided such requirements are explicitly identified as applicable requirements in a permit to operate issued or modified pursuant to this regulation.

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

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

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

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

(14) **"Exempt Compound"** means any of the following:

Chlorodifluoromethane (HCFC-22)

Dichlorotrifluoroethane (HCFC-123)

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

Pentafluoroethane (HFC-125)

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

Tetrafluoroethane (HFC-134a)

Dichlorofluoroethane (HCFC-141b)

Chlorodifluoroethane (HCFC-142b)

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

1,1-difluoroethane (HFC-152a)

Cyclic, branched, or linear, completely fluorinated alkanes

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

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

Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds

only

to carbon and fluorine

Methylene chloride

1,1,1-trichloroethane

Trifluoromethane (HFC-23)

Trichlorofluoromethane (CFC-11)

Dichlorodifluoromethane (CFC-12)

Trichlorotrifluoroethane (CFC-113)

Dichlorotetrafluoroethane (CFC-114)

Chloropentafluoroethane (CFC-115)

Tetrachloroethylene (perchloroethylene)

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

(15) **"Federal Hazardous Air Pollutant"** means any air pollutant which is listed pursuant to Section 112 of the federal Clean Air Act ~~at the time a permit application is issued or denied.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) **"Insignificant Unit"** means any of the equipment as specified in Rule 1411 and listed in Appendix A of this regulation.

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

- (i) 25 tons per year of volatile organic compounds or oxides of nitrogen, unless the San Diego Air Basin is classified by the federal EPA as a serious ozone nonattainment area. In such case, the threshold shall be 50 tons per year of volatile organic compounds or oxides of nitrogen.
- (ii) 100 tons per year of particulate matter (PM₁₀).
- (iii) 100 tons per year of carbon monoxide.
- (iv) 10 tons per year of any federal hazardous air pollutant.
- (v) 25 tons per year of any combination of federal hazardous air pollutants, ~~or a lesser quantity if the federal EPA Administrator so specifies pursuant to Section 112 of the federal Clean Air Act.~~
- (vi) 0.6 tons per year of lead.
- (vii) 40 tons per year of oxides of sulfur.

For purposes of determining whether a stationary source is a major stationary source, the fugitive emissions from the stationary source shall not be considered unless the stationary source belongs to one of the following categories of sources:

- (A) coal cleaning plants (with thermal dryers);
- (B) kraft pulp mills;
- (C) portland cement plants;
- (D) primary zinc smelters;
- (E) iron and steel mills;
- (F) primary aluminum ore reduction plants;
- (G) primary copper smelters;
- (H) municipal incinerators capable of charging more than 250 tons of refuse per day;
- (I) hydrofluoric, sulfuric, or nitric acid plants;
- (J) petroleum refineries;
- (K) lime plants;
- (L) phosphate rock processing plants;

- (M) coke oven batteries;
- (N) sulfur recovery plants;
- (O) carbon black plants (furnace process);
- (P) primary lead smelters;
- (Q) fuel conversion plants;
- (R) sintering plants;
- (S) secondary metal production plants;
- (T) chemical process plants;
- (U) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units (Btu) per hour head input;
- (V) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (W) taconite ore processing plants;
- (X) glass fiber processing plants;
- (Y) charcoal production plants;
- (Z) fossil-fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input; or
- (AA) all other stationary source categories regulated by a standard promulgated under Sections 111 or 112 of the federal Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.

(25) "**Minor Modification**" means any modification that would not trigger federally mandated new source review. A modification shall not qualify as minor if the modification:

- (i) Causes a violation of any applicable requirement;
- (ii) Involves significant relaxation to monitoring, record keeping, or reporting requirements;
- (iii) Requires the establishment of, or requires a change in an existing federally mandated source-specific emission limitation or standard (e.g., a case-by-case determination of control requirements for federal hazardous air pollutants under Section 112 of the federal Clean Air Act), or a federally mandated source-specific determination of ambient impacts on air quality, visibility or air quality increment);
- (iv) Changes permit terms and conditions (e.g., a voluntary emissions cap) for which there is no applicable requirement(s), but which terms and conditions the source accepted in order to qualify as exempt under Section (b) of this rule; or

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

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

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

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

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

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

(B) use of an alternate raw material;

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

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

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

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

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

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

(30) **"Organic Solvent"** means organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, extractants, or cleaning agents, or are reactants or products in manufacturing processes except materials which

exhibit an initial boiling point of 450 °F (232 °C) or higher at 760 mm Hg, unless these materials are exposed to temperatures exceeding 200 °F (93.3 °C).

(31) **"Particulate Matter (PM₁₀)"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 6 §, Title 17, of the California Code of Regulations Section 94100 et seq.

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

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

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

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

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

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

(38) **"Responsible Official"** means any one of the following:

(i) For a corporation:

- (A) corporation president,
- (B) corporation secretary,
- (C) corporation treasurer,
- (D) corporation vice-president,
- (E) any other person who performs ~~similar~~ policy or decision-making functions for the corporation similar to (A), (B), (C) or (D), or
- (F) a duly authorized designated representative of any of the above

persons if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and is either:

- (1) ~~a~~ the facility ~~that~~ employs more than 250 persons or has gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (2) the delegation of authority to such representatives is approved in advance by the permitting authority.
- (ii) For a partnership or sole proprietorship:
 - (A) a general partner, or
 - (B) the proprietor, respectively.
 - (iii) For a municipality, state, federal, or other public agency:
 - (A) the principal executive officer, or
 - (B) a ranking elected official.

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

- (iv) For affected sources (Acid Rain):
 - (A) the designated representative ~~in so far as~~ for purposes of actions, standards, requirements, or prohibitions under Title IV of the federal Clean Air Act or regulations promulgated thereunder, as they exist on (*date of adoption*); and
 - (B) the designated representative for any other purposes under these rules and regulations or 40 CFR Part 70 as it exists on (*date of adoption*).

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

(40) "**Significant Modification**" means any modification that is not an administrative amendment or a minor modification. Any relaxation of monitoring, reporting or recordkeeping requirements at a source required to have a permit to operate

(e.g., a change from daily to monthly recordkeeping) shall be a significant modification, unless the change is based on a change in a rule or regulation that was made after notice to the federal EPA, and which is consistent with the federal Clean Air Act and regulations promulgated thereunder.

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

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

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

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

RULE 1402 THROUGH 1409. RESERVED

RULE 1410. PERMITS REQUIRED

(a) APPLICATION SHIELD

Any source that submits a timely and complete application for permit issuance or renewal under this regulation shall not be in violation of the requirement to have a permit to operate under this rule until the Air Pollution Control Officer takes final permit action on the permit application or the permit expires. This protection shall cease to apply if, subsequent to the permit application being determined to be complete or being deemed complete, the applicant fails to submit by the deadline specified in writing by the Air Pollution Control Officer any additional information identified as being needed to process the application.

(b) PERMIT TO OPERATE

Except as provided in Section (a) above, no source subject to this regulation may operate after the time that it is required to submit a timely and complete application for a permit to operate until a permit to operate is issued.

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

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

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

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

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

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

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

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

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

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

An application for a permit to operate shall not be found to be incomplete solely because research and development, testing or evaluation pursuant to a temporary authorization is determined to be necessary before a permit can be issued, and any source whose application for a permit to operate or modification is otherwise timely and complete shall have the benefit of the application shield set forth in Section (a) of this rule. Such shield shall not extend beyond the date failure to comply with any applicable requirement is discovered.

For temporary operations as described in this rule, any temporary authorization shall be issued with a delayed effective date as specified in Rule 1418(f).

A temporary authorization issued pursuant to this regulation may be extended during the period in which an application for a permit to operate or modification is under review, provided that (1) the temporary actions taken have shown that the proposed permit terms and conditions could be met; (2) the source is operating in compliance with the terms and conditions of the proposed permit; (3) the Air Pollution Control Officer determines that it is likely that the proposed terms and conditions will be approved; and (4) the federal EPA has been notified of the temporary authorization and the proposed permit terms and conditions and has not objected.

(3) **Availability and Effects of Appeals.** An owner or operator may appeal any permit action proposed by the Air Pollution Control Officer in response to an application for a permit to operate or modification. Appeals shall be made to the Hearing Board in accordance with Rule 1425, before the proposed permit action is noticed for public review and comment or before it is forwarded to the federal EPA and affected states for consideration. During the appeal period, the terms and conditions of any existing permits to operate shall remain applicable, unless modified by a temporary authorization pursuant to this regulation, or by a variance. A proposed permit to operate shall not be noticed for public review or forwarded to the federal EPA and affected states for review while any permit action or proposed permit action is being appealed before the Hearing Board. No final permit to operate shall be issued during this period or during the time for public review and comment and the federal EPA review set forth in Rule 1415. A temporary authorization for testing and/or evaluation as provided herein may be issued despite filing of an appeal pursuant to Rule 1425(b).

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

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

(c) POSTING OF PERMIT TO OPERATE

A person who has been granted a valid permit to operate ~~any emission unit described in Rule 1410(b) above~~, shall firmly affix such permit, a true copy of such permit, or other approved identification bearing the permit number upon the emission unit in such a manner as to be clearly visible and accessible. In the event that the emission unit is so constructed or operated that the permit to operate cannot be so placed, the permit shall be mounted so as to be clearly visible in an accessible place within 25 feet of the emission unit, or maintained readily available at all times on the operating premises.

(d) ALTERATION OF PERMIT

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

(e) RESERVED

(f) EXISTING REQUIREMENTS

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

(g) CONTROL EQUIPMENT

Nothing in this rule shall be construed to authorize the Air Pollution Control Officer to require the use of machinery, devices or equipment of a particular type or design, if the required emission standard may be met by machinery, device, equipment, product or process changes otherwise available unless a regulation promulgated by the federal EPA and required to be enforced through this regulation specifies the use of specific machinery, device, equipment, product or process change.

(h) RENEWAL OF PERMITS TO OPERATE

Permits to operate shall be renewable every five years on a staggered schedule to be determined by the Air Pollution Control Officer.

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

An application for renewal of a permit to operate issued must be submitted at least 12 months prior to permit expiration, on forms prescribed by the Air Pollution Control Officer. The application and any necessary certification of compliance must be submitted by a responsible official of the source.

Permits to operate may be renewed only upon:

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

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

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

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

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

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

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

The condition prohibiting operation of the equipment shall be removed by the Air Pollution Control Officer, notwithstanding Rule 1421, upon receipt of an application and payment of the appropriate renewal fees pursuant to these Rules and Regulations. At the same time, the permit will be modified and conditions added, as appropriate, to reflect any new requirements that have become applicable to the emission unit as a result of changes in these Rules and Regulations during the period the unit was inactive. Operation of equipment on inactive status without prior authorization from the District shall constitute a violation of Rules 1410(b), and 1421.

(i) **ADMINISTRATIVE AMENDMENTS.**

Administrative amendments are changes that an owner or operator of a source for which a permit has been granted pursuant to this regulation may make without being subject to the

requirements of Sections (j) and (k) of this rule. These shall include, but need not be limited to, the following:

- (1) Address changes that do not result in physical relocation of equipment.
- (2) Correction of typographical errors and updates to information such as phone numbers.
- (3) Incorporation of Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permits issued under federal EPA approved new source review and prevention of significant deterioration rules, provided that such permits issued after the effective date of this regulation have been issued under the procedures that provided for review by the federal EPA and affected states and, ~~in addition~~ for significant modifications only, ~~that an opportunity for public review and comment must have been provided.~~

In order to ensure that new source review and prevention of significant deterioration permit actions will qualify as administrative amendments, the operator of a source undergoing prevention of significant deterioration review or new source review may elect to provide for review by the federal EPA and affected states, and/or public review and comment, for any action that would otherwise be a modification under this regulation, even if such review or comment would not be required by any other provision of these Rules and Regulations.

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

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

(5) Any change to a permit to operate attributable solely to insignificant units as defined in Rule 1411.

Administrative amendments will be recorded by the Air Pollution Control Officer upon request from the applicant for such amendment, are not subject to any notice requirements of ~~these Rules and~~ this Regulations unless otherwise specified in this Section, and may be implemented by the applicant upon filing of the application with the Air Pollution Control Officer.

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

(j) **MINOR MODIFICATIONS.**

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

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

(i) The application may be approved with or without public notification, as requested by the applicant. Minor modifications approved without public notification shall not be eligible for the permit shield provided by Rule 1410(p), even if a permit shield has been provided to the source.

(ii) The applicant may make the change as soon as a complete application is filed, except for changes involving federal hazardous air pollutants that are potentially significant. A change involving federal hazardous air pollutants is potentially significant if it would result in an emissions increase of eight or more tons per year of a federal hazardous air pollutant, or 20 or more tons per year of a combination of such pollutants, or a lesser increase or a change in the manner of discharge of federal hazardous air pollutants which the Air Pollution Control Officer determines within 30 days of notification to be potentially significant. For changes involving federal hazardous air pollutants that are potentially significant, the change may not be made until 60 days after the application is filed. If the Air Pollution Control Officer determines within this 60-day period that the proposed modification requires regulation pursuant to Rule 51, the Air Pollution Control Officer may specify prior to the expiration of the 60-day period that the proposed modification may not be implemented until review of the proposed modification by the Air Pollution Control Officer is completed.

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

(iv) The application approval ~~is~~ shall be subject to a 15-day period for comments or objection by the federal EPA.

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

(2) Minor modifications that will require new source review under these Rules and Regulations shall require notification of the federal EPA and affected states, if necessary. Only after such processing is completed shall the minor modification be incorporated into the permit to operate as an administrative amendments. The applicant may make changes that are minor modifications but which trigger new source review as

soon as the Air Pollution Control Officer proposes approval of the change to the federal EPA but not sooner. An application for a minor modification of a permit to operate that requires consideration under the new source review rule shall remain pending during that period and until action is taken on the permit to operate application, or the permit to operate application is canceled or withdrawn.

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

(4) An applicant seeking a minor modification under this regulation may simultaneously seek a temporary variance from the affected permit terms and conditions from the Hearing Board. If a variance is granted it shall become a part of the permit to operate for the source until final permit action is taken on the application for a minor modification. The variance shall expire by its terms and conditions, or when the application for a modification is approved or denied.

(5) Nothing in this Section (j) shall provide immunity from enforcement of any applicable requirement (whether the requirement arises under an applicable permit, these Rules and Regulations, or state or federal law), for operations that are not the subject of an application for a minor modification, or if the application for a minor modification is denied. Any variance issued for an action that was also the subject of an application for a minor modification shall be effective to prevent enforcement, to the extent and for so long as the variance is applicable.

(k) SIGNIFICANT MODIFICATION

(1) **Procedures for Significant Modifications.** A modification that would be a significant modification under this regulation that is also subject to new source review shall first be processed under the new source review rules. This process shall include an opportunity for public review and comment, and notice and review by the federal EPA and affected states, whether or not such procedures would otherwise be required under the new source review rules. The procedures for review of applications that constitute significant modifications but that are not subject to new source review shall be consistent with procedural provisions of this Section (k). Permit terms and conditions approved through the new source review process shall be incorporated into the permit to operate as administrative amendments.

A person shall not make a significant modification as defined in these Rules and Regulations to any emission unit that is the subject of a permit to operate issued pursuant to this regulation unless such modification is authorized by the Air Pollution Control Officer and such modification is made a part of the permit to operate.

Any significant modification that is not subject to new source review shall be subject to all provisions of this regulation for initial permit to operate, including

provisions for application, public notice and comment, review by affected states, and review by the federal EPA, as prescribed for initial permit issuance and five year permit renewal.

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

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

(3) **Change of Location.** Any person who possesses a permit to operate any emission unit at a source that is subject to this regulation and desires to change the location of such emission unit shall first apply to the Air Pollution Control Officer for a significant modification to the permit to operate pursuant to this section. The provisions of this paragraph shall not apply to any change of location for any portable emission unit provided such change will not violate a term or condition of the permit or cause or exacerbate violation of any national ambient air quality standard, air quality increment, or visibility requirement. Any change of location within a contiguous parcel of land in the possession of, or owned by, or recorded as the property of, the same person shall not be considered a change of location.

(1) **OPERATIONAL FLEXIBILITY: SECTION 502(b)(10) CHANGES**

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

(1) Are not "modifications" within the meaning of Section 111, Title I of the federal Clean Air Act, and

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

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

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

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

affected. The notice shall be attached to copies of affected permits to operate maintained by the source.

If the operator requests an affirmative determination by the Air Pollution Control Officer that the proposed change qualifies as a Section 502(b)(10) change, and agrees not to implement that change until a determination is made, the Air Pollution Control Officer shall make a determination and notify the operator within 60 days of receipt of notice of the proposed change.

The permit shield if any provided pursuant to Section (p) of this rule, shall not be applicable to changes made pursuant to this Section (l). However, no enforcement action may be taken against a source that implements a change pursuant to this section, for violations of the permit terms and conditions identified as affected by the change to the extent those terms and conditions are necessarily affected, provided the change meets the requirements of this section.

The Air Pollution Control Officer may determine that a planned or implemented Section 502(b)(10) change does not meet the requirements of this section at any time. Any such determination must be in writing setting out the specific reason or reasons that the change does not qualify as a Section 502(b)(10) change. Any determination by the Air Pollution Control Officer that a proposed change is not a Section 502(b)(10) change may be appealed to the Hearing Board. If notice of an adverse determination is received by the operator from the Air Pollution Control Officer before the 45-day notice period has expired, the operator may not implement the proposed change, unless an appeal is taken to the Hearing Board and resolved in favor of the operator. If notice is received by the operator after the 45-day period for notice has expired and after the change has been implemented, and if the operator appeals the Air Pollution Control Officer's determination to the Hearing Board within 30 days of notice by the Air Pollution Control Officer, the change may remain in place until the matter is decided upon by the Hearing Board.

Nothing in this section shall prohibit an operator from seeking or the Air Pollution Control Officer from issuing a permit amendment to reflect the change made. Any such permit application shall be processed pursuant to this regulation. If a permit amendment is approved, the permit shield, if any provided to a source pursuant to Section (p) of this rule, may thereafter apply to the revised permit.

(m) OPERATIONAL FLEXIBILITY: TRADING UNDER AN EMISSIONS CAP

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

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

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

(n) OPERATIONAL FLEXIBILITY: ALTERNATIVE OPERATING SCENARIOS

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

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

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

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

(o) REOPENING OF A PERMIT TO OPERATE

Any permit to operate issued pursuant to this regulation may be reopened prior to expiration if any of the following occur:

(1) Additional requirements promulgated under the federal Clean Air Act become applicable for a major stationary source with at least three years remaining on the permit term.

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

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

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

(ii) to assure compliance with all applicable requirements.

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

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

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

(p) **PERMIT SHIELD**

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

No shield may apply to requirements promulgated after the permit to operate is issued; to permit modifications or Section 502(b)(10) changes implemented without public notice and comment and an opportunity for review by the federal EPA and affected states.

A permit shield shall exist only as stated in the permit to operate.

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

The Air Pollution Control Officer shall grant at least a limited shield in all cases where the applicant identifies multiple inconsistent requirements that may be legally applicable to the source. If one of the potentially inconsistent requirements is a requirement that has been superseded in these Rules and Regulations by a subsequently promulgated requirement, the shield shall operate to prevent enforcement of the superseded requirement. The most recently promulgated requirement shall be enforceable.

A limited shield may also be granted against any State Implementation Plan (SIP) requirement not included in the permit to operate, and which the federal EPA failed to identify to the Air Pollution Control Officer before the permit to operate was approved. A shield stated to have been provided for this limited purpose shall not prevent enforcement of any requirement of these Rules and Regulations, or any term or condition contained in the permit to operate.

RULE 1411. EXEMPTION FROM PERMIT TO OPERATE FOR INSIGNIFICANT UNITS

A permit to operate shall not be required for any insignificant unit (see Appendix A). However, all such non-vehicular equipment shall be described in the initial application for permit to operate, and each application for renewal of a permit to operate, required by this regulation and emissions from such non-vehicular equipment shall be included to determine the applicability of this regulation.

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

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

RULE 1412. RESERVED

RULE 1413. EARLY REDUCTION OF HAZARDOUS AIR POLLUTANTS

(a) GENERAL

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

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

(b) FEDERAL EARLY REDUCTION PROGRAM

Any source proposing to implement alternative emissions limitations for hazardous air pollutants under Section 112(i)(5) of the federal Clean Air Act shall include proposed permit terms and conditions in its permit application. Those terms and conditions shall provide for at least a 95% reduction in particulate federal hazardous air pollutants, and at least a 90% reduction in all other federal hazardous air pollutants that would be subject to regulation under Section 112 of the federal Clean Air Act, in comparison to the baseline specified ~~by the federal EPA in Section 112(i)(5) of the federal Clean Air Act.~~ The proposed early reductions must occur before applicable federal standards are promulgated, and all other requirements of

Section 112(i)(5) must also be met. If the requirements of the federal Clean Air Act are met, the source shall receive a six-year delay in the effective date of requirements that would be otherwise applicable under Section 112 of the federal Clean Air Act, or under state and local programs implementing that Act.

(c) STATE AND LOCAL REQUIREMENTS

Any source proposing to accelerate control of federal hazardous air pollutants that are subject to regulation under state or local programs shall include proposed permit terms and conditions in its permit application. To qualify for a limitation on the imposition of additional state and local requirements, the source must demonstrate and the Air Pollution Control Officer must find that the early reduction program proposed by the source will provide reductions in emissions of federal hazardous air pollutants over the life of the permit that are at least equivalent in their anticipated effects on human health to the reductions that could be reasonably anticipated over the same period under state and local toxics programs in existence at the time the permit was approved. Notwithstanding an equivalence showing ~~to~~ of this kind, the Air Pollution Control Officer may reject any proposed permit terms and conditions that are not adequately protective of human health.

If permit terms and conditions for early reduction of hazardous or federal hazardous air pollutants are included in the permit to operate, no additional state and local toxic air contaminant control requirements may be imposed during the life term of the permit to operate (including any extension of that permit prior to its renewal).

(d) PROTECTION OF PUBLIC HEALTH

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

RULE 1414. APPLICATIONS

(a) GENERAL

Every application for a permit required under Rule 1410 shall be filed in the manner and form prescribed by the Air Pollution Control Officer and Section (f) of this rule. Each application must include the appropriate District supplemental standard forms for the equipment covered by the permit, or must reference applicable forms previously provided to the District. Upon request by the Air Pollution Control Officer an applicant shall give all the information necessary to enable the Air Pollution Control Officer to make the determinations required by Rules 1420 and 1421 of this regulation.

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

(b) INITIAL PERMIT TO OPERATE FOR EXISTING SOURCES

The first application for a permit to operate for a source that is in operation pursuant to an existing District permit issued pursuant to Rule 10 at the time this regulation becomes effective, and which source is subject to this regulation, shall be submitted no later than 12 months after the effective date of this regulation. Within 30 days of the effective date of this regulation, the Air Pollution Control Officer may direct up to one third of the sources expected to be required to apply for initial permits to submit their applications no later than six months after the effective date of this regulation. The Air Pollution Control Officer shall endeavor to limit this call for accelerated application submissions to sources that are expected to submit relatively simple permit applications, and that are expected to receive permits to operate that carry over existing permit to operate terms and conditions with little change (other than the addition of new terms and conditions that are mandatory for all permits to operate). In selecting sources for accelerated application submission, the Air Pollution Control Officer shall take into account any information provided by a potential applicant that indicates that applicant's permit application will not be relatively simple.

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

The first application for a permit to operate for a source constructed or modified after the effective date of this regulation must be submitted not later than 12 months after the source has completed construction, pursuant to a valid authority to construct issued pursuant to Rule 10. However, permits to operate ~~will be~~ are required under Rule 10 prior to operation or modification.

(d) INITIAL PERMIT TO OPERATE FOR NEWLY REGULATED SOURCES

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

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

(e) PHASE II ACID RAIN PERMITS

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

(f) **COMPLETE APPLICATION**

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

(1) Information sufficient to determine all applicable requirements and to evaluate the subject source for compliance with all applicable requirements.

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

(3) Information as described below for each emission unit:

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

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

(iii) The following emissions-related information:

(A) all emissions of pollutants for which the source is a major stationary source, and all emissions of federally regulated air pollutants. A permit application shall describe all emissions of federally regulated air pollutants emitted from any emission unit, including insignificant units as specified in Rule 1411. The applicant is required to submit additional information related to the emissions of air pollutants sufficient to allow the Air Pollution Control Officer to verify which requirements are applicable to the source, and other information necessary to ~~collect~~ determine any fees pursuant to Rule 40;

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

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

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

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

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

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

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

(iv) The following air pollution control information:

(A) citation and description of all applicable requirements, all other terms and conditions of existing permits to operate proposed to be carried over in the permit to operate, and any additional terms and conditions proposed for that permit. Where a proposed new term or condition is intended to substitute for an existing term or condition that the applicant proposes not be carried over, the relationship between old and new terms and conditions shall be set forth;

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

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

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

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

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

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

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

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

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

(D) for requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements, together with a copy of any variance order issued by the Hearing Board, granting temporary relief from such requirement;

(E) a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any Hearing Board order, judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

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

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

(ix) A compliance certification, including the following:

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

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

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

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

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

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

(g) OPTIONAL INFORMATION ON FEDERAL HAZARDOUS AIR POLLUTANTS

Any source may use the permit application process as an occasion for resolving issues related to the control of federal hazardous air pollutants at the source over the life of the permit. Any source seeking permit terms and conditions that will define applicable requirements over the life of the permit shall provide the information set forth in Subsection (f)(3) of this rule for any toxic air contaminant that is likely to be regulated at that source under federal or state law or local regulations over the life of the permit.

(h) ADDITIONAL INFORMATION

Additional information necessary for determining compliance with any applicable requirements may be requested by the Air Pollution Control Officer after an application has been determined to be or deemed to be complete. The applicant must provide such information within a reasonable time as specified by the Air Pollution Control Officer, but in no case later than ~~180 days~~ six months from the date requested.

~~(i) APPLICATIONS DEEMED COMPLETE~~

~~Unless the Air Pollution Control Officer takes prior action, an application for a permit to operate or renewal shall be deemed complete 60 days after its submission.~~

RULE 1415. PERMIT PROCESS-PUBLIC NOTIFICATION

(a) PUBLIC NOTICE

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

- (1) Publication in a newspaper of general circulation of a notice of intent to issue a permit to operate.
- (2) Notification to all persons requesting to be included in a mailing list for purposes of notification of all permit actions.
- (3) Availability of a copy of the draft permit for public review at the Air Pollution Control District offices.

(b) PUBLIC HEARINGS

Pursuant to any petition from the public as a result of public notice, the Air Pollution Control Officer shall, with reasonable cause, hold a public hearing to receive comments regarding initial issuance, modification, or renewal of a permit to operate. All public hearings shall be preceded by issuance of a public notice containing all information specified in Section (d) of this rule at least 30 days prior to the public hearing.

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

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

(d) CONTENTS OF PUBLIC NOTICE.

Notice to the public shall:

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

- (2) Provide the name and address of the District processing the permit;
- (3) Identify the activity or activities involved in the proposed permit action;
- (4) Identify the emissions change involved in any modification;
- (5) Identify the name and address of the person who can provide additional information including:
 - (i) a copy of the permit draft;
 - (ii) the permit application;
 - (iii) all relevant supporting materials available to the Air Pollution Control Officer; and
 - ~~(iv)~~ time and place of any hearing.
 - ~~(v)~~ Describe procedures for providing comments;
 - ~~(vi)~~ Describe procedures for petitioning for a hearing; and
- (8) Identify the scope of the permit review and identify areas that are appropriate for public comment.

(e) COORDINATED PROCESSING OF RELATED PERMITS

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

(f) EXCEPTIONS

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

(g) NEW APPLICATION LISTS

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

(h) CONSIDERATION OF COMMENTS

All comments received from the public notification process shall be considered and responded to by the District in the review of an application for permit.

(i) **COPIES OF PERMIT ACTION**

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

(j) **PUBLIC INSPECTION**

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

(k) **TRADE SECRETS**

Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public or the federal EPA any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX.

RULE 1416. RESERVED.

RULE 1417. PENDENCY AND CANCELLATION OF APPLICATIONS

(a) **PENDENCY AND APPLICATION SHIELD**

Notwithstanding the time periods for the Air Pollution Control Officer action on permit applications set forth in Rule 1418, an application for a permit to operate filed pursuant to this regulation shall remain pending until it is approved, denied or canceled by the Air Pollution Control Officer, or withdrawn by the applicant. Except as otherwise specified in Rule 1410(a), the application shield provided by Rule 1410(a) shall remain in effect from the time an application is determined to be or is deemed to be complete until an application is approved, denied, canceled or withdrawn.

~~The Air Pollution Control Officer's failure to act on an application for a permit to operate within the time frames specified in Rule 1418 shall be a final permit action solely to allow judicial review to compel action on the application without additional delay pursuant to Rule 1425. Judicial review may be sought by the applicant, any person who appeared, submitted written testimony, or otherwise participated in the public review process, and any other person who could obtain judicial review of such action under applicable law.~~

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

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

(c) FAILURE TO PROVIDE ADDITIONAL INFORMATION

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

(d) DELIVERY OF NOTICE OF CANCELLATION

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

RULE 1418. ACTION ON APPLICATIONS

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

(a) COMPLETENESS DETERMINATION

The Air Pollution Control Officer shall, within 60 days of receipt of an application for an initial permit to operate, for significant modification of a permit to operate or for renewal of such a permit, determine whether the application is complete or incomplete and so notify the applicant; if incomplete, the notice shall specify the additional information needed from the applicant to complete the application. An application for a permit to operate shall be determined to be complete when all required information and fees specified in Rule 1414 are submitted, even if the applicant or the Air Pollution Control Officer determines that testing will be required, pursuant to a temporary authorization under Rule 1410(b)(2), before a decision can be made to approve or disapprove the permit application. If a permit application is associated with an application for an authority to construct, the completeness determination for the application shall not be delayed to await satisfaction of any unrelated conditions of the authority to construct. When all the additional information is received and the application is deemed complete, the applicant will be so notified. Unless the Air Pollution Control Officer determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed complete.

(b) ACTION TIME

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

For all other applications, the Air Pollution Control Officer shall approve, conditionally approve or deny each complete application within six months of receipt if possible, or within a maximum of 12 months of receipt, provided however that no time shall be counted from the time the Air Pollution Control Officer requests more information from a source and the time the source provides that information. The 12-month period may be extended an additional six months with the concurrence of the applicant.

~~If no action is taken within the time frames set forth above, the applicant may seek judicial relief as provided in Rule 1417(a) and Rule 1425.~~

~~(e) **COMPLETENESS DETERMINATION AND NOTIFICATION**~~

~~The Air Pollution Control Officer shall promptly notify an applicant of its determination that an application for a permit to operate is complete. An application for a permit to operate shall be determined to be complete when all required information specified in Rule 1414(f) is submitted, even if the applicant or the Air Pollution Control Officer determines that testing will be required, pursuant to a temporary authorization under Rule 1410(b)(2), before a decision can be made to approve or disapprove the permit application. If a permit application is associated with an application for an authority to construct, the completeness determination for the application shall not be delayed to await satisfaction of any unrelated conditions of the authority to construct.~~

~~(d c) **DELAY IN SUBMISSION OF DISTRICT APPROVALS TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)**~~

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

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

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

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

(4) In no event shall submission of a proposed permit action to the federal EPA be delayed more than 90 days from the date on which action on the application was required by this regulation, except at the request of the applicant.

(e d) DELIVERY OF NOTICE OF ACTION

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

(f e) EFFECTIVE DATE OF PERMIT ACTION

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

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

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

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

RULE 1419.2. RESERVED

RULE 1420. STANDARDS FOR GRANTING PERMITS

(a) COMPLIANCE

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

(b) NEW TERMS AND CONDITIONS

The Air Pollution Control Officer shall not impose any new or additional terms or conditions on any emission unit presently under permit that were not previously required in the currently valid permit to operate for that unit (or, if the unit is new, in permits to operate for similar units at other sources), unless:

- (1) The new or additional term or condition is required by the federal Clean Air Act, or is required to implement an applicable requirement;
- (2) The new or additional term or condition updates the permit to operate to conform to, or clarify, the requirements of these Rules and Regulations;
- (3) The new or additional term or condition is a part of an alternative operating scenario proposed by the applicant, or is necessary to regulate trading under an emissions cap proposed by the applicant; or
- (4) Terms or conditions substantially the same as the new or existing terms or conditions in the permit to operate are being imposed at the same time and in the same manner on similar emission units that are not subject to this regulation. If an affected emission unit is unique due to physical or operational characteristics, the emissions controls in place, or the permit conditions imposed previously, those requirements for equal treatment of "similar" emission units shall not be applicable.

(c) PROVISIONS FOR SAMPLING AND TESTING

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

(d) INCORRECT INFORMATION IN AN APPLICATION

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

(e) APPLICATIONS PROPOSING TRADING UNDER AN EMISSIONS CAP

If an applicant proposes internal trading under a federally enforceable emissions cap to be established in the permit to operate, the Air Pollution Control Officer shall approve the proposed trading provisions only if the applicant demonstrates, or the Air Pollution Control Officer otherwise determines, that the permit will specify replicable procedures that ensure that trades are enforceable, accountable and quantifiable.

For trades to be enforceable, the requirements applicable to emission units involved in a trade must be clear and unambiguous, and it must be practicable to determine compliance with those requirements. For trades to be accountable, it must be clear how trades will affect emissions from the source. For trades to be quantifiable, the permit must specify measuring techniques, including test methods, monitoring, recordkeeping and reporting requirements, as appropriate, which will be used to measure emissions.

The permit may specify an averaging period within which emissions decreases must at least balance emissions increases. The permit may specify, based on emissions characteristics or other factors affecting the equivalence of specific emissions, that some specific emissions increases or decreases will be traded at ratios that differ from 1-to-1 with other specific emissions increases or decreases; however, the effects of any such ratios must be reversed if a given trade is reversed. (For example, if the permit provides that point A must be decreased by 10 tons when point B is increased by 8 tons, then a subsequent decrease of 8 tons returning B to its prior emissions level must allow A to be increased by 10 tons, returning A to its prior emissions level).

The permit may, but need not, specify that net emissions decreases within an averaging period may be carried forward and traded against emissions increases in a subsequent averaging period. If the permit allows such carry-overs, the permit may include terms and conditions requiring that such carry-overs be discounted before being used in trade against emissions decreases. In any permit that allows such carry-overs, procedures must also be specified for verifying carry-over emissions decreases, and for tracking the use of such carry-overs.

(f) SPECIFIC COMPLIANCE REQUIREMENTS

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

- (1) All applicable requirements of these Rules and Regulations including new source review.

- (2) All applicable requirements of the California Health and Safety Code.
- (3) All applicable requirements of Subparagraphs ~~112(iv d)~~, (f), (g), (h), ~~or~~ and (j) of Section 112 of the federal Clean Air Act as amended in 1990.
- (4) All applicable requirement of the federal Acid Rain Program contained in Title IV of the federal Clean Air Act as amended in 1990.
- (5) Any requirements established in the permit to operate that were not already contained in permits to operate for the source.

(g) COMPLIANCE SCHEDULES

In acting upon a permit or modification application, if the Air Pollution Control Officer finds that the source is in compliance with all applicable requirements except those for which the Hearing Board has issued a variance, the Air Pollution Control Officer may approve the application provided the compliance schedule contained in the variance is included as a condition of the permit to operate pursuant to Rule 1421.

(h) NOTIFICATION REQUIREMENTS MANDATORY

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

**(i) FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)
OBJECTIONS**

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

RULE 1421. PERMIT CONDITIONS

(a) CONDITIONS AND COMPLIANCE SCHEDULES AUTHORIZED

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

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

Commencing or continuing operation under a permit to operate shall be deemed acceptance of all the conditions specified in the permit, to the extent those conditions are consistent with these Rules and Regulations.

(b) REQUIREMENT FOR NEW SOURCE REVIEW (NSR) IN SOME CIRCUMSTANCES

The Air Pollution Control Officer shall issue a permit to operate with revised conditions upon receipt evaluation of a new application, if the applicant demonstrates that the emission units at a source can operate in compliance with the provisions of these Rules and Regulations and applicable state and federal laws and regulations under the revised conditions. Where the proposed revision of permit to operate conditions, including proposed revision of conditions relating to the method of operations, will result in an increased aggregate potential to emit for the source, the Air Pollution Control Officer shall evaluate the proposed revision in accordance with the provisions of the District's new source review rules and shall determine compliance with the District's new source review rules as if an application for an authority to construct had been received containing the proposed revised conditions. In said situations, the permit to operate with revised conditions shall not be granted in cases where such an authority to construct would not have been granted.

This rule does not authorize the Air Pollution Control Officer to change conditions to a permit to operate in effect without prior notice to the permittee.

(c) STATE AND LOCAL ENFORCEMENT

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

(d) FEDERAL ENFORCEABILITY

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

The Air Pollution Control Officer may designate as federally enforceable only those permit conditions (1) that would have been federally enforceable but for the permit process, or

(2) that the applicant requests be made federally enforceable in order to render the source a synthetic minor source, or (3) that the applicant requests be made federally enforceable in order to create a voluntary emissions cap under which trading may occur. Except as provided herein, the Air Pollution Control Officer may not use the process to attach federal enforcement authority to permit conditions that would not otherwise have been federally enforceable. Any permit condition that was not federally enforceable prior to the permitting process or which was not affirmatively designated as federally enforceable in the permit to operate pursuant to and consistent with this rule, shall not be federally enforceable, unless such permit is modified pursuant to this regulation.

A requirement that is federally enforceable by operation of law apart from the permit process will continue to be federally enforceable despite the failure of the Air Pollution Control Officer to designate the requirement as federally enforceable. Any requirement explicitly designated as not federally enforceable by the Air Pollution Control Officer in a permit that was subject to public notice and to review by the federal EPA shall not be federally enforceable.

Where a permit condition is designated as federally enforceable, any enforcement undertaken by the federal EPA or a citizen shall have full force of any and all legal recourse and penalties the federal EPA or a court of law are empowered to impose pursuant to authority granted in the federal Clean Air Act and the Code of Federal Regulations.

RULE 1422. DENIAL OR CANCELLATION OF APPLICATIONS

Denial or cancellation of an application for a modification shall leave existing permits to operate issued pursuant to Rule 10 for the source intact, and the source may continue operations consistent with those permits.

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

Denial of an initial or renewal permit to operate, to a source required to have such a permit, shall also constitute suspension of the permits to operate for that source as of a date 90 days after the date of denial or cancellation, or the date on which a permit to operate was required, whichever is later. Except as provided in the preceding paragraph, denial of a required permit to operate and the accompanying suspension of permits to operate is a final permit action.

Unless the applicant submits a responsive supplemental application within 90 days after notice of cancellation, a cancellation of an application for a required permit to operate shall become effective 90 days after notice to the applicant of the proposed cancellation. If a responsive supplemental application is submitted within this 90-day period, the application shall be restored to pending status until the Air Pollution Control Officer takes further action. As of the effective date of a cancellation, permits to operate for the affected emission units

shall be suspended, and any permit application shield otherwise provided by Rule 1410(a) shall no longer be in effect. Any operation of equipment required to have permits after the effective date of a cancellation is prohibited, and subject to fines and penalties as provided in these Rules and Regulations, and state and federal law.

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

~~The applicant may appeal any denial of a permit to operate to a court of law as provided by Rule 1425, and may seek relief from the effects of the denial in that forum until the appeal is resolved. Any denial by the Air Pollution Control Officer that is noticed to the applicant prior to submission of the permit action to the federal EPA may also be appealed to the Hearing Board if the stated grounds for the denial are within the jurisdiction of the Hearing Board.~~

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

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

RULE 1423. FURTHER INFORMATION

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

RULE 1424. APPLICATIONS DEEMED DENIED

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

RULE 1425. APPEALS AND JUDICIAL REVIEW

(a) PLACE FOR APPEALS

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

(b) APPEAL BY APPLICANT TO THE HEARING BOARD

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

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

(c) APPEALS BY OTHERS TO THE HEARING BOARD

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

(d) REQUEST FOR STAY

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

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

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

(e) STAY AFFECTING MODIFICATION ONLY

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

(f) DISPUTE RESOLUTION

Not later than three business days after receipt by the Air Pollution Control Officer of an appeal pursuant to Section (b) or (c) of this rule or a request for stay pursuant to Section (d) of

this rule, the Air Pollution Control Officer or a designee shall attempt to schedule a meeting with the appellant and the applicant to resolve the issues identified in the appeal or request for stay. If there is a resolution of the issues by the parties, the matter before the Hearing Board shall be withdrawn or dismissed. If all the issues are not resolved at the meeting, the Air Pollution Control Officer shall file a report with the Hearing Board detailing the resolved and unresolved issues and the Air Pollution Control Officer's position on the unresolved issues.

(g) LIMITATIONS ON APPEALS TO THE HEARING BOARD

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

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

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

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

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

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

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

Administrator will modify, terminate, or revoke such permit, and the Air Pollution Control Officer may thereafter issue only a revised permit that satisfies the federal EPA's objections.

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

(i) **JUDICIAL ~~APPEALS~~ REVIEW**

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

REGULATION XIV - APPENDIX A

INSIGNIFICANT UNITS

This listing is of equipment determined to be exempt from permit requirements under this Regulation due to the relatively low potential to emit or because the equipment is not under the jurisdiction of the Air Pollution Control District.

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

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

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

(d) The following equipment, provided the emissions of organic compounds, as defined in Rule 20.1, or particulate matter from the equipment do not exceed 100 pounds per day of either pollutant, or construction of the equipment was commenced before September 26, 1984.

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

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

(ii) Any combination of piston-type engines at one source, with a total maximum power output of less than 200 brake horsepower;

(iii) Piston-type engines of less than 50 brake horsepower;

(iv) Piston-type engines of greater than 500 brake horsepower which were installed before August 1, 1980;

(v) Any combination of piston-type engines at a stationary source, with a total maximum power output equal to or greater than 200 brake horsepower and less than 500 brake horsepower, for which construction commenced prior to March 27, 1990;

(vi) Non-electrical generating piston type engines with a maximum power output of less than 500 brake horsepower when part of a process, process line, line, equipment, article, machine or other contrivance for which a permit to operate is required by these Rules and Regulations;

(vii) Any combination of piston-type engines for which construction commenced before April 5, 1983 provided all engines in the combination are less than 500 brake horsepower;

(viii) Gas turbines with a maximum heat input at ISO Standard Day Conditions of less than 5 million British Thermal Units (Btu) per hour fired exclusively with natural gas and/or liquified petroleum gas;

(ix) Gas turbines with a maximum heat input of less than 10 million British Thermal Units per hour fired exclusively with natural gas and/or liquified petroleum gas for which construction commenced before March 27, 1990; or

(x) Gas turbines with a maximum heat input of less than 50 million British Thermal Units per hour fired exclusively with natural gas and/or liquified petroleum gas installed before October 2, 1977.

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

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

(4) Fuel-burning equipment as described below:

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

(ii) Fuel burning equipment, except steam boilers and internal combustion engines, with a maximum gross heat input of less than 50 million British Thermal Units (12.6 x 10⁶ Kcal) per hour, and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.

(iii) Steam boilers with a maximum gross heat input of less than 50 million British Thermal Units (12.6 x 10⁶ Kcal) per hour, if construction commenced prior to March 27, 1990, and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.

(iv) Any combination of steam boiler equipment at one stationary source with a total maximum gross heat input rate of less than 20 million British Thermal Units (7.6 x 10⁶ Kcal) per hour, if construction commenced on or after March 27, 1990 and fired exclusively with natural gas, liquified petroleum gas or a combination of natural gas and liquified petroleum gas.

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

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

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

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

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

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

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

(12) Molds used for the casting of metals.

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

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

(15) Die casting machines.

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

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

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

- (19) Hand soldering equipment and solder-screen processes. Solder-screen means those processes which use a process similar to silk-screening to apply solder and which subsequently undergo a reflow process other than a vapor phase solder reflow process.
- (20) Equipment used exclusively for the sintering of glass or metals.
- (21) Atmosphere generators and vacuum producing devices used in connection with metal heat treating processes.
- (22) Dry batch mixers of 0.5 cubic yards (0.38 cubic meters) rated working capacity or less. Dry batch means material is added in a dry form prior to the introduction of a subsequent liquid fraction or when no liquid fraction is added.
- (23) Batch mixers (wet) of 1 cubic yard (0.765 cubic meter) capacity or less where no organic solvents, diluents or thinners are used.
- (24) Equipment used exclusively for the packaging of lubricants or greases.
- (25) Portable conveyors (belt or screw type) where there is no screening.
- (26) Roofing kettles (used to heat asphalt) with a capacity of 85 gallons (322 liters) or less.
- (27) Abrasive blasting equipment with a manufacturer's-rated sand capacity of less than 100 pounds (45.4 kg) or 1 cubic foot or less.
- (28) Abrasive blast cabinets which vent through control devices and into the buildings in which such cabinets are located.
- (29) Blast cleaning equipment using a suspension of abrasive in water.
- (30) Equipment used for buffing (except automatic or semi-automatic tire buffers) or polishing, carving, cutting, drilling, machining, routing, shearing, sanding, sawing, surface grinding, or turning of ceramic artwork, ceramic precision parts, leather, metals, rubber, fiberboard, masonry, except fiber reinforced plastics unless the process involves the use of water as a means for cutting and is equipped with a control device that does not emit to the atmosphere.
- (31) Handheld equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding or turning of fiber reinforced plastic, when not used at a designated workstation, booth or room.
- (32) Equipment used for carving, cutting, drilling, surface grinding, planing, routing, sanding, sawing, shredding or turning of wood, or the pressing or storing of sawdust, wood chips or wood shavings.
- (33) Paper shredders and paper disintegrators which have a capacity of 600 pounds per hour or less.

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

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

(36) Equipment, other than boilers, used for preparing food for human consumption and located at eating establishments, bakeries and confectioneries.

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

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

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

"Bench Scale Laboratory Equipment" shall mean equipment which a) is under direct, immediate and exclusive control of a laboratory director; b) is sub-scale in size; and c) is used for the sole purpose of conducting studies or tests to develop a new or improved product or service.

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

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

(40) Orchard or citrus grove heaters.

(41) Non-immersion dry cleaning equipment.

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

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

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

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

(46) Cold solvent cleaning and paint stripping tanks with a liquid surface area of 1.0 square foot (0.09 square meter) or less used for the employment or application of organic solvents or materials containing organic solvents.

(47) Railway sweepers used for cleaning rail tracks.

(48) Equipment used for powder coating operations, except metalizing gun operations, where emissions of volatile organic compounds are less than one pound per day. The person claiming this exemption must keep daily usage records, and all data necessary to establish maximum daily emission level. This information must be made available immediately upon request.

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

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

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

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

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

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

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

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

(h) Liquid surface coating application operations:

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

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

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

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

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

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

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

(1) Foam manufacturing or application.

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

(3) Plastics manufacturing or fabrication.

(4) Ink mixing tanks.

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

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

(7) Peptide Synthesis.

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

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

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

(k) Back-pack power blowers.

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

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

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

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

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

(o) Any article, machine, equipment, or contrivance other than an incinerator or boiler, the discharge from which contains airborne radioactive materials and which is emitted into the atmosphere in concentrations above the natural radioactive background concentration in air. "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, smoke, mists, liquids, vapors or gases.

Atomic energy development and radiation protection are controlled by the State of California to the extent it has jurisdiction thereof, in accordance with the advice and recommendations made to the Governor by the Advisory Council on atomic energy development and radiation protection. Such development and protection are fully regulated by the Nuclear Regulatory.

(p) The following equipment:

(1) Equipment used for hydraulic or hydrostatic testing.

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

- (3) Equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in a paste form and no organic solvents, diluents or thinners are used.
- (4) Equipment used exclusively for the melting or applying of wax where no organic solvents, diluents or thinners are used.
- (5) Equipment used for inspection of metal products except metal inspection tanks utilizing a suspension of magnetic or fluorescent dye particles in volatile organic solvent which have a liquid surface area greater than 5 ft² and are equipped with spray type flow or a means of solvent agitation.
- (6) Equipment used exclusively for the manufacture of water emulsions of asphalt, greases, oils or waxes.
- (7) Equipment used exclusively for conveying and storing plastic pellets.
- (8) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.
- (9) Curing or baking ovens in which no organic solvents or materials containing organic solvents are charged.
- (10) Mixers for rubber or plastics where no material in powder form is added and no organic solvents, diluents or thinners are used.
- (11) Each process line at a stationary source, as defined in Rule 20.1, for coating of pharmaceutical tablets provided maximum emissions of volatile organic compounds (defined in Rule 67.15), are below 15.0 pounds on each day for all operations subject to Rule 67.15. It will be the responsibility of any person claiming this exemption to maintain all records necessary to establish maximum daily emissions and to make this information available to the District upon request.
- (12) Roll mills or calendars for rubber or plastics and no organic solvents, diluents or thinners are used.
- (13) Vacuum-producing devices used in laboratory operations or in connection with other equipment which is exempt by Rule 11.
- (14) Natural draft hoods, natural draft stacks or natural draft ventilators.
- (15) Natural gas-fired or liquefied petroleum gas-fired or electrically heated furnaces for heat treating glass or metals, the use of which does not involve molten materials.

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

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

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

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

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

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

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

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

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

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

IT IS FURTHER RESOLVED AND ORDERED that the addition of Regulation XIV shall take effect and be in force upon final approval by the United States Environmental Protection Agency as published in the Federal Register.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this _____ day of _____, 1994 by the following votes:

AYES:

NOES:

ABSENT:

**APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL**

**BY _____
DEPUTY**

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

PROPOSED NEW REGULATION XIV - TITLE V OPERATING PERMITS

WORKSHOP REPORT

A workshop notice was mailed to each company holding a District permit. Notices were also mailed to the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB) and other interested parties.

The workshop was held on October 12, 1993, and was attended by 44 people. Written comments were also received. The following are all comments received and District responses. Comments which are supportive of the proposal have not been included.

1. WORKSHOP COMMENT

Would the addition of control equipment to emissions units at a stationary source such that emissions were reduced below major source thresholds be an acceptable method of getting a source out of the Title V Operating Permit program?

DISTRICT RESPONSE

Yes. However, permit conditions will have to be imposed to ensure that thresholds are not exceeded. Such conditions must be reasonably enforceable. If actual emissions are 75 % or more of the Title V thresholds, the permit conditions will also need to be federally enforceable. This 75% trigger criteria must still be approved by EPA as part of proposed Regulation XIV.

2. WORKSHOP COMMENT

What is the District's position regarding a single permit for a facility as opposed to separate permits for each emissions unit?

DISTRICT RESPONSE

The District believes that for most Title V facilities, a single permit will be too complex and cumbersome to be used by a source to assist in compliance efforts. Such a single permit would list a description of all equipment, all applicable rule requirements, and all permit conditions. For most large sources subject to the Title V program, a single permit would be very long and any one single piece of equipment and its associated requirements would not stand out. The District believes a single permit for each piece of equipment will be more effective in specifying the specific requirements that piece of equipment must meet. Regulation XIV contains language to allow the District to group related equipment on a single permit if such grouping meets specified requirements. The individual equipment permits will be incorporated into the Title V permit documentation for the facility.

3. WORKSHOP COMMENT

What is the expected time period for EPA to review a Title V permit?

DISTRICT RESPONSE

The District expects EPA's review to be completed within 45 days. This is the time that is prescribed in 40 CFR Part 70 and proposed Regulation XIV.

4. **WORKSHOP COMMENT**

Will there need to be a separate Title V permit and APCD permit for an individual piece of equipment?

DISTRICT RESPONSE

The District will try to combine the requirements of both programs such that only one permit for individual emission units or emission unit groups will be needed. However, each facility with multiple equipment permits will likely have, in addition, a single Title V permit document that contains facility-wide requirements, alternative operating scenarios and a listing of the individual equipment permits.

5. **WORKSHOP COMMENT**

Will Regulation XIV contain requirements that there be a certification of facility compliance and for a compliance plan?

DISTRICT RESPONSE

Yes. Such certification of facility compliance and compliance plans are required to be submitted when the Title V application is submitted. Annual certification of facility compliance is also required. In addition however, EPA's Part 70 regulations, specifically, Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

6. **WORKSHOP COMMENT**

When are Title V applications required to be submitted to the District?

DISTRICT RESPONSE

All applications from facilities subject to the Title V program are required to be submitted no later than one year from the date of EPA approval of Regulation XIV and the District's Title V permitting program.

7. **WORKSHOP COMMENT**

Is the compliance plan that must be submitted open to public review and comment?

DISTRICT RESPONSE

Yes. All information provided in an application is open to public review unless specifically identified as trade secret or proprietary.

8. **WORKSHOP COMMENT**

If a source is under a variance, does the variance become part of the Title V permit?

DISTRICT RESPONSE

Yes. The terms and conditions of the variance will become part of the conditions of the Title V permit and, as appropriate, the applicable Rule 10 permits.

9. WORKSHOP COMMENT

After the Title V program is in place, will EPA increase enforcement locally to implement the program or will they delegate this authority to the District?

DISTRICT RESPONSE

Currently, the District is uncertain how EPA will elect to enforce the requirements of the Title V program.

10. WORKSHOP COMMENT

Will EPA review and comment on local variances?

DISTRICT RESPONSE

EPA will not review and comment on variances for minor sources. However, EPA could elect to review and comment on variances for major sources. Variance terms that become part of a Title V permit are subject to EPA review and approval, similar to any other terms and conditions of a Title V permit.

11. WORKSHOP COMMENT

Will equipment and CEM "breakdowns" (Rule 98) be subject to EPA enforcement?

DISTRICT RESPONSE

EPA indicates that 40 CFR Part 70 acknowledges emergency conditions at 70.6(g). This applies to exceedances of technology based limits during an emergency. It provides that such incidents are an affirmative defense against EPA legal action. EPA is of the opinion that this section also applies to breakdowns involving CEM's.

12. WORKSHOP COMMENT

The District should reference Rule 98 in Regulation XIV and allow EPA to review and comment on this element of the regulation.

DISTRICT RESPONSE

This is not necessary because Rule 98 is applicable to all provisions of the District's Rules and Regulations including Regulation XIV. The District will be submitting Rule 98 as part of the Title V program description in order for EPA to comment on its acceptability as described in the response to the preceding comment.

13. WORKSHOP COMMENT

Who makes the final decision on whether a modification is "significant" or "minor", EPA or APCD?

DISTRICT RESPONSE

The District makes the initial decision in accordance with the provisions of proposed Regulation XIV. However, this decision is subject to EPA review and EPA can object to the District's decision.

14. WORKSHOP COMMENT

If an add-on control device is used for the purpose of establishing emissions offsets, is it subject to Title V review or is it a minor modification?

DISTRICT RESPONSE

This type of change will be considered an administrative amendment unless it is also a part of a minor modification, a significant modification or a Section 502 (b)(10) change.

15. WORKSHOP COMMENT

Rule 1401(c)(40) [Significant Modification] states, "Any relaxation of monitoring, reporting or record keeping requirements at a source required to have a permit to operate (e.g., a change from daily to monthly record keeping) shall be considered a significant modification." Is this a specific requirement of EPA?

DISTRICT RESPONSE

Yes.

16. WORKSHOP COMMENT

What does the District intend to do with the "Stationary Source" definition?

DISTRICT RESPONSE

For the purposes of Regulation XIV only, the District will amend its proposed definition of stationary source to the following:

"Stationary Source" means an emission unit, or aggregation of emission units which are located on the same or contiguous properties and which are under common ownership or entitlement to use. ~~Related emission units on the same or contiguous property shall also be considered to be part of the stationary source regardless of the ownership or entitlement to use of the emission unit or property.~~ Stationary sources also include those emission units or aggregation of emission units located in California Coastal Waters.

17. WORKSHOP COMMENT

Rule 1401(c)(44) [Toxic Air Contaminant] states that Toxic Air Contaminant or Toxic Air Pollutant has the same meaning as "Federal Hazardous Air Pollutant". The term that should be used is "Federal Hazardous Air Pollutants". Using other terminology may include other contaminants in the Federal Title V program that EPA does not require.

DISTRICT RESPONSE

The District agrees. The regulation has been reworded to only refer to Federal Hazardous Air Pollutants.

18. WORKSHOP COMMENT

Once a source is in the Federal Title V program, can it reduce its emissions below the Title V thresholds and drop out of the program? Is there a formal opportunity for a source to get out of the Title V program if its emissions have dropped below the Title V threshold levels and five years have elapsed from when the source entered the program and the source is now subject to re-review.

DISTRICT RESPONSE

The EPA has stated that once a source is in the Title V program it must stay in the program. The District does not agree and will continue to pursue this with EPA. Proposed Regulation XIV would allow a source to reduce emissions below the Title V thresholds and agree to federally enforceable permit conditions. The proposed Regulation allows a source to drop out of Title V if its emissions fall below 75% of the threshold or if above 75% but below the threshold and the source agrees to federally enforceable permit conditions. Again, EPA must approve this provision.

19. WORKSHOP COMMENT

How does the fact that it takes EPA so long to approve new rules and rule changes into the SIP affect the Title V program and federal enforceability? What is the timing associated with keeping Title V permits up to date (e.g., How often are they updated)? How can the District or local industry get EPA to take action on local rule adoptions in a timely manner?

DISTRICT RESPONSE

The District will enforce local rules as they are adopted. EPA will not enforce them until they approve them into the SIP. Under the Clean Air Act, EPA is required to act on SIP revisions within one year from submittal. If EPA fails to act, citizen suits are an option to force EPA to act. EPA has stated they will provide state and local agencies with a complete listing of SIP approved rules by July, 1994. If applicable local rules are adopted or revised, however, the District permits will be updated as soon as possible. The federally enforceable parts of the Title V permits will not be updated until after EPA approves the new or revised rule as a SIP revision. Also, Part 70 provides that if a source becomes subject to a new rule when less than 3 years remain for renewal, the source must comply with the new rule without delay but the Title V permit need not be re-opened until the 5-year renewal takes place.

20. WORKSHOP COMMENT

If the District allows more flexible requirements for record keeping, how will they affect Title V permits? Will such changes be considered significant or minor modifications?

DISTRICT RESPONSE

If a rule District changes record keeping requirements and this results in a relaxation of a Title V permit record keeping requirement, such a change is considered a significant modification by EPA.

21. WORKSHOP COMMENT

Is the District working with other California air districts regarding the Title V program and associated issues?

DISTRICT RESPONSE

Yes. The District has participated in a statewide Title V Task Force organized by the California Air Pollution Control Officers Association (CAPCOA). This Task Force has included ARB and EPA representatives.

22. WORKSHOP COMMENT

Have all of the major sources that would be subject to the Title V program been identified?

DISTRICT RESPONSE

The District has a preliminary list of such sources based on the actual emissions of the sources. Since the Title V program is applied based on a source's potential to emit rather than actual emissions, this list will have to be revised, after EPA final approval of Regulation XIV.

23. WORKSHOP COMMENT

Will emissions from equipment that is currently grandfathered (e.g., NSR) be counted in determining the applicability of the Title V program?

DISTRICT RESPONSE

Yes.

24. WORKSHOP COMMENT

Will emissions from mobile sources be included in Title V applicability calculations? Mobile sources are included in the District's exemptions list.

DISTRICT RESPONSE

The District's intent is not to include emissions from mobile sources. This will be clarified in the rule. In addition, a definition for non-vehicular sources will be added to the rule. EPA representatives have indicated that EPA does not require inclusion of mobile source emissions.

25. WORKSHOP COMMENT

Will there now be record keeping requirements for equipment that is currently exempt from such record keeping because it is not subject to NSR requirements?

DISTRICT RESPONSE

Records similar to those already specified in District rules will be required for such equipment to show that the equipment is in compliance with applicable requirements. There is still some uncertainty regarding what additional record keeping may be required because EPA has not yet issued all of the applicable guidance on record keeping. However, EPA's Part 70 regulations, specifically, Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

26. WORKSHOP COMMENT

How will the District select which sources are required to enter into the Title V program in the first year?

DISTRICT RESPONSE

EPA requires that sources reflecting one third of the emissions of all sources subject to the Title V program be included in the program in the first year. In meeting this requirement, the District intends to select the simplest sources (i.e., those that raise the least complex permitting issues) that meet this emissions criteria to enter the program during the first year.

27. WORKSHOP COMMENT

For companies that have more than one source in the air basin, will the District consider staggering the requirements for these sources such that both are not brought into the Title V program during the same year?

DISTRICT RESPONSE

The District is generally agreeable to this request, provided the statutory requirements of the program can be met.

28. WORKSHOP COMMENT

When does the District expect to have draft permit application forms available for review?

DISTRICT RESPONSE

The proposed permit application forms will be developed and submitted to EPA as part of the Title V program submittal. They should be available by the end of this calendar year.

29. WORKSHOP COMMENT

Rule 1414(f)(3)(viii)(C) requires that a compliance plan be submitted for applicable requirements that will become effective during the permit term (5 years). How is a source expected to know what rules will be adopted by the District over the next five years?

DISTRICT RESPONSE

This is intended to include existing rules that have future effective dates and other rules that a source knows or should know will be adopted such as EPA scheduled MACT rules.

30. WORKSHOP COMMENT

If a company is required to install control equipment in a future year as a result of a rule requirement and the resulting emission reductions would drop the company below Title V threshold levels, can the company get relief from the Title V program until the controls are in place?

DISTRICT RESPONSE

There are no provisions for such relief. However, if the installation of controls is moved up such that actual emissions fall below the Title V threshold before an application for the Title V program is submitted, the facility may qualify as exempt from the program if it accepts federally enforceable permit conditions. This assumes that EPA accepts this approach in Regulation XIV.

31. WORKSHOP COMMENT

Why doesn't EPA support the District's definition of "Potential to Emit"?

DISTRICT RESPONSE

EPA's position has been that many actual small emission sources have the potential to emit at or above major source thresholds (e.g., 25 tons per year of VOC or NO_x) and need to have enforceable permit conditions limiting them to less than these thresholds in order to avoid the Title V program. Such limiting conditions must be subject to EPA review and comment as well as review and comment by the public in order to be federally enforceable. There will be a substantial administrative cost associated with this process with no real benefits to air quality. The District does not believe the Title V program was intended to apply to small sources and has written Regulation XIV to specify that if a source's actual emissions are not above 75% of the major

source threshold, they will not be required to meet the Title V program requirements. The District is still negotiating this approach with EPA. If EPA determines this approach is unacceptable, the District is also considering the use of a "Commercially Reasonable Annual Capacity Factor" to define a source's maximum Potential to Emit.

32. WORKSHOP COMMENT

What is the baseline year for determining whether a source is in or out of the Title V program?

DISTRICT RESPONSE

In conjunction with developing RACT rules for major sources, EPA has recommended that the District evaluate a source's emissions back to 1990 to determine whether the emissions ever exceeded the Title V (major source) threshold levels. New and existing sources that were not over the thresholds in 1990 but may be in later years will also be subject to the program.

33. WORKSHOP COMMENT

What is the difference between EPA accepting the District's Title V program conditionally as opposed to accepting it on an interim basis?

DISTRICT RESPONSE

If EPA approves the District program conditionally, the District will likely have to satisfy all those conditions before the program can be implemented. Interim approval would allow the program to proceed as approved with a commitment to work with EPA to incorporate any missing elements or resolve any remaining issues.

34. WORKSHOP COMMENT

If there is a conditional approval, what happens to the areas of dispute with EPA?

DISTRICT RESPONSE

The areas of dispute that caused the conditional approval must be resolved with EPA before the program can be implemented.

35. WORKSHOP COMMENT

Does the Title V program come under the requirements to conduct a socioeconomic impact analysis?

DISTRICT RESPONSE

The Title V program is strictly an administrative program mandated by federal law. It will not have a significant impact on air quality or emissions limitations. As such, a socioeconomic impact analysis is not required under state law.

36. WORKSHOP COMMENT

Can the District provide some estimate of the cost of implementing the Title V program that will be passed on to affected sources?

DISTRICT RESPONSE

As a very preliminary estimate, the District expects the permit fees for an average sized facility subject to the Title V program will be an additional \$10,000. Facilities with a large number of permits will likely be more and those with less permits will likely pay a smaller fee. Actual future fees will be affected by the exact nature of the program that EPA ultimately approves.

37. WORKSHOP COMMENT

If a source has records of its emissions can they be used to get out of the Title V program?

DISTRICT RESPONSE

The District is proposing that if a source's actual emissions have never exceeded 75% of the major source threshold level, the source will not be subject to the Title V program. A source's records could be used to document this. However, the District's proposed 75% approach to limiting potential to emit must still be approved by EPA.

38. WORKSHOP COMMENT

Can a source revise its permits now to avoid the Title V program trigger levels?

DISTRICT RESPONSE

A source could revise its permits now. However, such a move may be premature until the District can obtain concurrence from EPA on the District's proposed approach to limiting potential to emit.

39. WORKSHOP COMMENT

How far back will the District go to look at a source's actual emissions?

DISTRICT RESPONSE

In the context of developing RACT rules required by federal law for major sources, the District has received guidance from EPA to look at a source's historic emissions back to 1990. The District will use the same approach for Title V.

40. WORKSHOP COMMENT

Will the District assume that emergency generators are operating full time in determining if Title V program threshold levels have been exceeded?

DISTRICT RESPONSE

If EPA approves the District's proposed approach to limiting potential to emit, this assumption will be unnecessary if a source's total emissions have been and will remain below 75% of the Title V emission trigger levels. If actual emissions have been above 75%, then the potential emissions from emergency generators (i.e., 100% use) must be assumed unless permit conditions that limit use are made federally enforceable.

41. WORKSHOP COMMENT

Can sources with emergency equipment do something now to show low emissions and get out of the Title V program?

DISTRICT RESPONSE

Actual emissions records, if not already provided to the District in conjunction with the annual emissions inventory, will be useful in determining whether a source's actual emissions exceed 75% of the Title V trigger levels. However, it must be reiterated that EPA has not yet agreed to the 75% approach.

42. WORKSHOP COMMENT

The District does not have an agreement with EPA that the 75% test will be acceptable. However, with this understanding, sources may elect to begin gathering data and records to establish that they have never exceeded 75% of the major source threshold level.

DISTRICT RESPONSE

Yes. Sources may elect to gather such data. However, Title V permit applications will not be due until one year after EPA approval of the District's program. Since that approval will resolve the potential to emit issue, there will remain some time for sources to demonstrate that they are below the trigger levels before they are required to submit a Title V application. Sources may want to begin gathering data now that such a demonstration will be based upon.

43. WORKSHOP COMMENT

Will exempt equipment now require a permit for the Title V program?

DISTRICT RESPONSE

No. Regulation XIV provides that the emissions from exempt equipment must be included in the source's potential to emit and that exempt equipment be listed in the Title V permit application but does not require the exempt equipment to be permitted.

44. WORKSHOP COMMENT

How will any required public hearings for Title V permits be conducted?

DISTRICT RESPONSE

Proposed permit actions must be publicly noticed and available for public review and comment. Comments received will be incorporated into the permit file. However, public hearings on Title V permits are not required.

45. WORKSHOP COMMENT

How will permits for new equipment be handled for sources that already have a Title V permit? If the new equipment is not added right away to the Title V permit, does the source need a variance? Can the source operate?

DISTRICT RESPONSE

The source would need an Authority to Construct from the District before it can be constructed and a Permit to Operate from the District before it can operate. The Title V program is not

applicable until the source is ready for a Permit to Operate. Regulation XIV provides that the addition of new units that have been permitted under New Source Review can be handled as administrative amendments to the Title V permit. This means it will be issued by the District but will not be subject to EPA review and approval until the next 5-year renewal of the Title V permit.

46. WORKSHOP COMMENT

How will pieces of equipment that are “found” operating by the District without an Authority to Construct or Permit to Operate be treated under the Title V operating permit program?

DISTRICT RESPONSE

If the “found” equipment is minor, the equipment may be subject to local enforcement action. If the equipment is major, it is exposed to potential federal enforcement action. If addition of the equipment to the Title V permit represents a significant modification, then the applicable procedures described in Regulation XIV must be followed. If the unit is subject to and evaluated under New Source Review, then the unit can be added as an administrative amendment to the Title V permit.

47. WORKSHOP COMMENT

How do variances (e.g., from Rules 10(a) or 10(b)) fit into the Title V program?

DISTRICT RESPONSE

The terms and conditions of a variance will be incorporated into the terms and conditions of the local and Title V permits.

48. WORKSHOP COMMENT

Does the District have an estimate of how many staff-hours it will likely take for a business to prepare and file a Title V operating permit application?

DISTRICT RESPONSE

The labor required to prepare and submit a Title V permit application will vary from source to source and be dependent upon, among other things, the number of existing permits and the complexity of the equipment. It will also depend on whether the source is in compliance or operating under a variance, and whether any federal MACT standards for hazardous air pollutants are, or will be, applicable.

49. WORKSHOP COMMENT

If a “found” piece of equipment is a “Minor Modification” pursuant to Rule 1401(c)(26) [Minor Modification], is it in violation of Title V or just local rules and regulations?

DISTRICT RESPONSE

Operating a “found” piece of equipment required to have a Title V permit without such a permit would be a violation of federal law. However, promptly applying for a modification of a source’s Title V permit to add the equipment may decrease the likelihood of an EPA enforcement action.

50. WORKSHOP COMMENT

Will sources be notified by the District prior to having to submit Title V operating permit applications? If so, when will they be notified?

DISTRICT RESPONSE

Sources will be notified by the District as soon as possible following EPA approval of the District Title V program.

51. WORKSHOP COMMENT

What guidance can the District provide regarding what EPA will require/accept with respect to record keeping requirements?

DISTRICT RESPONSE

As discussed in response to Comment No. 25, the District is uncertain what EPA's record keeping requirements will be beyond records already required under District rules and permits. These questions will hopefully be answered when EPA issues its proposed regulation on enhanced monitoring/record keeping. In addition however, EPA's Part 70 regulations, specifically Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

52. WORKSHOP COMMENT

Are the Title V reporting requirements to be submitted on a quarterly or annual basis?

DISTRICT RESPONSE

The proposed Regulation XIV requires a certification of compliance to be submitted with a Title V permit application and 5-year renewal of the permit. Submitting an annual compliance certification is also required. Supporting records will be required at that time. Records required by other District rules or permit conditions must continue to be submitted as prescribed by those rules or permit conditions, unless revised. In addition however, EPA's Part 70 regulations, specifically Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

53. WRITTEN COMMENT

The District's proposed definition of "Stationary Source" is broader than would be required by Title V. This definition does not include the "common control" requirement that EPA included in its Part 70 regulations and omits EPA's SIC code test. Instead, the District's proposed definition aggregates into a single stationary source all "related emission units" at a site. The definition of "Stationary Source" should be such that the scope of the Title V program is as narrow as possible.

DISTRICT RESPONSE

The District agrees that for purposes of the Title V program only, the Stationary Source definition should not be more encompassing than EPA requires. The District proposes to amend the definition as follows:

“**Stationary Source**” means an emission unit, or aggregation of emission units which are located on the same or contiguous properties and which are under common ownership or entitlement to use. ~~Related emission units on the same or contiguous property shall also be considered to be part of the stationary source regardless of the ownership or entitlement to use of the emission unit or property.~~ Stationary sources also include those emission units or aggregation of emission units located in California Coastal Waters.

54. WRITTEN COMMENT

The District should seek guidance from its legal counsel and appropriate state officials concerning the inclusion of provisions on judicial appeals in Regulation XIV.

DISTRICT RESPONSE

The District has discussed this further with its counsel. This issue must be resolved at the state level and we are awaiting an opinion from the Attorney General regarding the matter. For purposes of Regulation XIV, the requirements and limitations for judicial appeal will be deferred to state law and Rule 1425(i) will be amended to simply state:

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

55. WRITTEN COMMENT

Proposed Rule 1401(b)(5) provides that sources “...otherwise subject to this regulation at the time of permit application, based on their potential to emit, may propose and must accept federally enforceable permit terms and conditions that limit the stationary source’s potential to emit.” The addition of “must” language in a regulatory provision intended to provide an option for sources is confusing. Sources proposing new permit conditions in this manner will, presumably, do so because they intend to accept them. Moreover, if the District responded to an application by proposing specific permit terms that the source found unacceptable, the source would be free to reject those terms and proceed with full Title V permitting. Therefore, the use of the word “must” is technically inaccurate.

DISTRICT RESPONSE

The District will amend Rule 1401(b)(5) to delete the phrase “and must accept”. This should address the above concern. However, as (b)(5) goes on to state, such federally enforceable terms and conditions (that are agreed upon) shall be incorporated into the existing Rule 10 permits.

56. WRITTEN COMMENT

Rule 1410(p) allows a permit shield “...to preclude enforcement of enumerated requirements that are determined not to be applicable to the source, or to preclude enforcement of only those requirements that are specified as applicable in its permit to operate.” The quoted phrase, read literally, would prevent enforcement of applicable requirements. The intended meaning would be conveyed by the following: “...or to preclude enforcement of any requirements that are not specified as applicable in the permit to operate.”

DISTRICT RESPONSE

The District does not agree with the suggested alternative language since it could prevent District enforcement of rules omitted from permits. This would be a relaxation of current requirements. However, the District does agree that the language proposed in Rule 1401(p) is unclear. The District will amend the proposed language as follows:

“...to preclude enforcement of specific enumerated requirements that are determined not to be applicable to the source and which are specifically identified as such in the permit, or to preclude limit enforcement of only those requirements that are specified as applicable in its permit to operate to compliance with permit conditions for specified applicable requirements where the Air Pollution Control Officer has determined that compliance with such conditions may be deemed compliance with the underlying specified applicable requirements and the requirements are specifically identified as such in the permit.

57. WRITTEN COMMENT

Rule 1401(c)(14) [Emission Unit] defines an emission unit as an article which emits or reduces or may emit or reduce the emission of any air contaminant. Facilities may wish to install add-on control equipment for the purpose of establishing and banking emission offsets in the future. This would definitely equate to the addition of an additional emission unit. Would such a change qualify as a Section 502(b)(10) change?

DISTRICT RESPONSE

An add-on control device will not be considered a separate emission unit but rather a modification of the emission unit(s) that it is controlling the emissions from. The addition of an add-on control device to a Title V permit will be considered an administrative amendment unless it is part of a larger modification that must be considered as minor, significant or a Section 502(b)(10) change.

58. WRITTEN COMMENT

Major sources have historically provided a large wealth of information attendant to existing emission units to District engineers. Much of this same information is requested under Rule 1414(f)(3)(iii). Is it acceptable to the District to reference information already included in a facility's present unit-specific permits in a facility's permit application or will the District require a newly generated identification of emission units and associated control equipment in the permit application?

DISTRICT RESPONSE

Information already made available to or generated by the District may be included, by reference, in the permit application. However, all such information must be made available for public and EPA review and comment. Moreover, the costs to the District of assembling that information will be included in the facility's permit processing fees.

59. WRITTEN COMMENT

Rule 1414(f)(3)(viii)(C) requires facilities to include a proposed schedule of increments of progress for all applicable requirements that will become effective during the permit term (5 years). Can the District provide facilities with a listing of all requirements that will become applicable

during the permit term? It is unclear how facilities will be able to develop schedules for requirements that are not presently known.

DISTRICT RESPONSE

This provision refers to adopted rules with future effective dates and EPA MACT standards where EPA has published a future promulgation date. These rules and standards will vary among different source categories but should be known, to a reasonable extent, on the 5 year permitting cycles.

60. WRITTEN COMMENT

Rule 1414(f)(3)(ix)(B) requires a statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods. Several existing unit-specific permit conditions presently require the units and associated control equipment to be maintained in good working condition, but specific records of attendant maintenance of such equipment have not been required by the District in the past. Can the District provide insight into what they would consider as adequate maintenance records used for determining compliance with maintenance requirements and the frequency of collection and submission of such records.

DISTRICT RESPONSE

Until EPA promulgates its regulations on enhanced monitoring and record keeping (a draft is due this Fall), the District cannot say what additional records, or record submittals, may be required. In addition however, EPA's Part 70 regulations, specifically, Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

61. WRITTEN COMMENT

Rule 1401(c)(11) [Commercially Reasonable Annual Capacity Factor] - Will this be applied to the entire stationary source or to each particular emission unit? How often can this factor be adjusted and how will it be applied? How will the factor be controlled?

DISTRICT RESPONSE

If EPA does not approve the District's 75% of a Title V threshold proposal for limiting potential to emit, which we believe is simpler to implement than the "commercially reasonable annual capacity factor", then the District will consider proposing the latter. For now the term "commercially reasonable annual capacity factor" will be deleted from the rule.

62. WRITTEN COMMENT

Rule 1402 through 1409 - Why are these rules reserved?

DISTRICT RESPONSE

In developing Regulation XIV, the District tried to parallel Regulation II which contains the District's current permit program rules. This effort included matching rule numbers (e.g., Rule 10/Rule 1410; Rule 25/Rule 1425). Rules 2 through 9, however, would have no parallels in Regulation XIV.

63. WRITTEN COMMENT

Rule 1410(b)(2) (5th paragraph) states, "An application for a Permit to Operate shall not be found to be incomplete solely because research and development, testing or evaluation pursuant to a temporary authorization is determined to be necessary before a permit can be issued." How will this be applied? The reference to research and development indicates that if the technology does not yet exist, the application will not be denied. How flexible will APCD be on this policy?

DISTRICT RESPONSE

The reference to research and development will apply if such analysis is needed to apply a control technology to a specific facility. This will likely have only limited applicability with regard to Title V permits unless the compliance date of an applicable requirement has passed and the facility is operating under a variance.

64. WRITTEN COMMENT

Rule 1410(c) - It appears as if the Title V permit will be a book. The idea of posting the permits near the emission equipment sounds as if it is directed more toward the current permitting system. Will parts of the "book" be required to be posted at the appropriate emissions unit or will a solution for posting be evident at some later time? Some emission units are on a flight line and excess paper in the area could be damaging to aircraft as foreign object debris.

DISTRICT RESPONSE

Only the permit applicable to a specific emission unit must be posted at that emission unit. The District will work with sources if this requirement presents specific problems for specific emission units. However, the overlaying Title V permit documents must be readily available at the facility.

65. WRITTEN COMMENT

Rule 1410(k)(2) - Can APCD make modifications to permits within 12 months? Activities will be obligated to comply with Federal law and will not have the comfort of "working agreements" as is now done with local permitting requirements.

DISTRICT RESPONSE

Rule 1410(k)(2) requires that the District act on an application for a significant modification within 12 months. A failure of the District to act is considered a "final permit action" and an applicant may obtain judicial review of that "final permit action" pursuant to proposed Rule 1425(i).

66. WRITTEN COMMENT

Rule 1411 - Will Appendix A automatically change to follow revisions of Rule 11? What about items on the "gray list" which do not need permits from APCD but are not yet included in Rule 11? How will these items be handled?

DISTRICT RESPONSE

Rule 1411 will be amended to coincide with parallel changes to Rule 11 where appropriate and to the extent that such amendments are approved by EPA as part of the Title V permit program. The "gray list" refers to new equipment types that would otherwise require permits but which the District intends to add to the Rule 11 (and Rule 1411) exemptions list.

67. WRITTEN COMMENT

Rule 1414(f)(3)(ii) - To what level of detail must alternative operating scenarios be identified by a source? If an operation requires performing non-destructive inspection on aircraft parts, would the alternate operative scenario of performing non-destructive inspection on support equipment such as aircraft slings also have to be identified? Would it suffice to say that non-destructive inspection on equipment involved in flight operations will be performed?

DISTRICT RESPONSE

The alternative operating scenarios may be as broad or as narrow as an applicant requests and is willing to document. The alternative operating scenarios must be demonstrated to be in compliance with all applicable requirements. Further, the source must be willing to keep such records as are necessary to demonstrate on-going compliance.

68. WRITTEN COMMENT

Rule 1414(f)(3)(iii)(A) - How detailed must the inventory be? Locating and tracking all lawn mowers, tow tractors, light stands and everything that runs off of fuel, in addition to all fire extinguishers, will be burdensome. Some sources will not have the resources to follow all the equipment which may come in and leave during the year.

DISTRICT RESPONSE

Emissions from mobile sources are not required to be included. The District will develop guidance on filing Title V permit applications and the necessary emissions information before applications are due. The District may allow a source to demonstrate it has provided detailed information on a minimum percentage of total emissions (e.g., 95%) to reduce the costs of trying to detail the last few percent.

69. WRITTEN COMMENT

Rule 1414(f)(3)(iv)(C) - Will AP-42 emission factors be accepted as a default?

DISTRICT RESPONSE

AP-42 emission factors are generally not suitable for demonstrating compliance for individual emission units, but will be considered on a case-by-case basis where emission source testing is not appropriate and engineering calculations, mass balances, or other estimation techniques are not reliable.

70. WRITTEN COMMENT

Rule 1414(f)(3)(viii) - Can compliance plans include such things as intended replacement of equipment?

DISTRICT RESPONSE

Yes, presuming that the replacement equipment is integral to bringing the source into compliance.

71. WRITTEN COMMENT

Rule 1414(f)(3)(ix) - Records -- copy of all? Who will receive them? Will they go directly to EPA? Who determines the format? Will this be in addition to local inventories? The time required

to compile and submit records will not be worth the result. Can the checking of records during annual APCD inspections suffice for this requirement? Does EPA realize how many records they will get from each military activity?

DISTRICT RESPONSE

Proposed Regulation XIV does not require that the records required be submitted to the District or EPA. As is now currently the case, records must be submitted on request. In addition, summary reports of the records will be required at least every six months pursuant to EPA's part 70 regulations. However, EPA may have new requirements when it promulgates its enhanced monitoring/record keeping regulations.

72. WRITTEN COMMENT

Rule 1420(d) - The Air Pollution Control Officer can cancel an application if satisfactory information is not received within 90 days. Does this mean that the R & D mentioned in Rule 1410(b)(2) can only take 90 days without consent of APCD? The language of the sections seems to conflict, particularly when most modification of equipment is performed under contract. With a federally required contracting system, accomplishment of tasks with short deadlines cannot always be guaranteed.

DISTRICT RESPONSE

Both Rule 1414(h) and Rule 1417(c) allow an applicant up to 180 days (six months) to provide additional information. The provisions of Rule 1410(b)(2) state that a Title V permit application is not incomplete solely because information from R & D is necessary before a permit can be issued. However, such R & D must be done pursuant to a temporary authorization unless otherwise exempt under Rule 1411.

73. WRITTEN COMMENT

Rule 1421(d) - Will "federally enforceable" include use of the commercially reasonable annual capacity factor?

DISTRICT RESPONSE

If EPA does not approve the District's 75% of a Title V threshold proposal for limiting potential to emit, which the District believes is simpler to implement than the "commercially reasonable annual capacity factor", then the District will consider proposing the latter. For now the term "commercially reasonable annual capacity factor" will be deleted from the rule.

74. WRITTEN COMMENT

Appendix A - What happened to the equipment list of (p) from Rule 11? Has it been purposely excluded from the Appendix?

DISTRICT RESPONSE

Section (p) of Rule 1411 was omitted in error. The parallel Section (p) of Rule 11 will be incorporated into Rule 1411.

75. EPA WRITTEN COMMENT

We regret that the time provided to EPA for review and comment on San Diego's Regulation XIV (Title V Operating Permits) was too short for us to be able to provide comments useful for your October 12 Workshop. The version of Regulation XIV which we received for review on September 24, 1993 contains a number of significant issues which make it currently unapproveable, and which require detailed thought and comment.

Just to give you some idea of the breadth of the approveability issues with this Regulation, they run from the unapproveable exemption terms to the definition of potential to emit to appeal and judicial review terms. We would like to propose that we begin to work together closely, perhaps through a series of conference calls, to discuss these issues and bring them to resolution as quickly as possible.

DISTRICT RESPONSE

The District has been participating in a statewide task force with representatives of EPA, ARB and other California air districts for the purpose of trying to reach agreement with EPA on these and other issues. That effort has been underway for more than a year. The District understands that the issue of defining a source's potential to emit is still not yet resolved with EPA, but we believe that the District's proposal to consider actual emissions that are 75% or less of a Title V emission threshold is a reasonable approach to this issue. The District understood that the issue of permit exemptions had been resolved and that proposed Regulation XIV applied this correctly. The District was unaware that there were any outstanding issues regarding appeals and judicial review. Without EPA's detailed comments on these issues, the District cannot know what, if any, revisions to the Regulation may be required. In order to adopt this Regulation as expeditiously as possible, as required by EPA, the District intends to proceed with the regulation as proposed but will also discuss these issues with EPA in an effort to resolve them as soon as possible.

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