

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

REGULATION XIV - TITLE V OPERATING PERMITS

WORKSHOP REPORT

A workshop notice was mailed to each facility that might be required to have a Title V permit. Notices were also mailed to the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB) and other interested parties.

The workshop was held on December 19, 1994 and was attended by 77 people including two representatives from the Environmental Protection Agency (EPA). Written comments were also received. The following are all comments received and District responses.

1. WORKSHOP COMMENT

According to Subsection (b)(1) of Rule 1401, emission units at stationary sources which are not major are not subject to Regulation XIV until November 15, 2000. The District should check whether this is a required date by EPA.

DISTRICT RESPONSE

The District found no specific date in EPA's Part 70 regulation or Title V of the federal Clean Air Act by which non-major sources will become subject to this regulation and has revised Subsection (b)(1) to defer non-major sources until and unless such sources are specifically required by EPA to obtain Title V permits. Subsection (b)(1) will read as follows:

"Emission units at stationary sources that are not major stationary sources until the federal EPA completes rulemaking which requires such source to have a permit under Title V of the federal Clean Air Act."

2. WORKSHOP COMMENT

If you have a facility that is small enough not to be in Title V but you have one piece of equipment within the facility that is subject to one of the MACT standards, would the whole facility need a Title V permit or just that one piece of equipment?

DISTRICT RESPONSE

The District's understanding from EPA is that the whole facility would then be under the Title V program - not just that one piece or type of equipment - unless EPA specifies otherwise in its rulemaking for that type of equipment.

3. WORKSHOP COMMENT

What are the timelines for developing a prohibitory rule and a synthetic minor rule in conjunction with submitting an application for Title V?

DISTRICT RESPONSE

The general prohibitory rule has gone through several months of negotiations with EPA. EPA has now accepted the California version of that rule. The District expects to have a workshop on the local version of that rule this spring and have a rule adopted by summer. It will probably be a year before sources are required to apply for Title V permit. The synthetic minor source rule has not progressed as far and may take somewhat longer. The District is hopeful that a workshop can take place by this summer and a rule can be in place by this fall. Both rules should be in place well ahead of when sources would otherwise need to submit a Title V permit application.

4. **WORKSHOP COMMENT**

Does Rule 1401(c)(25)(viii)(V), part of the definition of major stationary source, apply to storage of JP5 and diesel?

DISTRICT RESPONSE

These are source categories that were included in EPA's Part 70 regulations and would apply to storage of JP5 and diesel.

5. **WORKSHOP COMMENT**

Is the definition in Rule 1401(c)(6), air contaminants, intended to apply to all noxious gases? The way the definition is written all gases would be included.

DISTRICT RESPONSE

This definition was written to parallel the definition in District Rule 2 and would include all gases. The wording of the definition has been revised to not refer to the term "regulated air pollutant". The definition of regulated air pollutant has been revised to conform to the definition in EPA's Part 70 regulations. Under that definition, gases that are not regulated by the federal Clean Air Act or EPA regulations will not be regulated air pollutants.

6. **WORKSHOP COMMENT**

The District should allow flexibility to apply for and obtain multiple Title V permits at a major source.

DISTRICT RESPONSE

The District agrees that there should be flexibility for multiple permits at a stationary source and has revised the definition of "Responsible Official" in Rule 1401(c)(41) and Subsection (b)(1) of Rule 1410, "Multiple Emission Unit Permits to Operate and Multiple Permits to Operate" to allow for this.

7. **WORKSHOP COMMENT**

How might contractors working on a Navy base be folded into the sources that are included on that base?

DISTRICT RESPONSE

The emissions associated with a contractor's operation need to be included in the facility emissions for determining Title V applicability. This includes stationary, transportable and portable emission units. However, portable emission units that are not themselves major sources, not subject to an applicable requirement, as defined by Rule 1401, and not prohibited by the stationary source's Title V permit need not be included in, nor cause a revision to, the Title V permit.

8. **WORKSHOP COMMENT**

Assuming that the bases are major stationary sources, would each of those contractors then be responsible for a Title V permit for their portion of the operation?

DISTRICT RESPONSE

It might be appropriate to obtain separate Title V permits, especially where the contractor is operating under contract terms, but generally has control over the operation of the equipment. As noted in the response to Workshop Comment No. 7, not all portable equipment will be required to have, or be included in, a Title V permit.

9. **WORKSHOP COMMENT**

What if those operations operated by contractors qualify as a synthetic minor? What about a contractor who is there all of the time? Part of the time?

DISTRICT RESPONSE

Once a Title V permit is required for a stationary source, it's required for all the operations at the facility. If a contractor operates stationary or transportable equipment which might otherwise qualify as a synthetic minor they would need to be covered by a Title V permit while operating at that facility. As noted in the response to Workshop Comment No. 7, portable emission units that are not themselves major sources, not subject to an applicable requirement, and not prohibited by the stationary source's Title V permit need not be included in, nor cause a revision to, the Title V permit.

10. **WORKSHOP COMMENT**

What about portable units such as lawn mowers operated by a contractor at a major stationary source?

DISTRICT RESPONSE

Engines under 50 Hp would qualify as insignificant units and need not be covered in the Title V permit. The facility may have to identify in the Title V permit application that there is portable equipment that qualifies as insignificant units and list that type of equipment. Those emission units that require permits under the current District permit program will generally be required to be covered by Title V permits. However, see the response to Workshop Comment No. 7 regarding the exclusion of portable equipment that requires local District permits.

11. **WORKSHOP COMMENT**

We would like the District to accommodate the statewide portable equipment registration program in this regulation.

DISTRICT RESPONSE

The District is reviewing how the registration program may be accommodated in the future. As noted in the response to Workshop Comment No. 7, portable equipment, whether under a local District permit or under the statewide registration program, does not need to be included in a facility's Title V permit unless the portable emission unit is itself a major source, or is subject to an applicable requirement or its operation is prohibited by or would cause a contravening of the Title V permit. Where portable equipment does need to be included, it may be eligible for off-permit changes or included under alternative operating scenarios.

12. **WORKSHOP COMMENT**

Within the definition of stationary source, if you have one unit which emits 80 tons per year of PM₁₀ and another unit which emits 20 tons, would that fall under the Title V requirements?

DISTRICT RESPONSE

The aggregate emissions from all sources at the stationary source are used to determine applicability. In the example given, total emissions would equal or exceed 100 tons per year of PM₁₀ and a Title V permit would be required.

13. **WORKSHOP COMMENT**

Does any gas, including air and CO₂, have to be counted to determine whether the source is a major stationary source, i.e., a source of 100 tons per year of any regulated air pollutant? This

appears to be true because air contaminant and regulated air pollutant are interchangeable by definition.

DISTRICT RESPONSE

The District has revised the definition of air contaminant to no longer have the same meaning as regulated air pollutant. The definition of regulated air pollutant has been revised to conform to that in EPA's Part 70 regulations. Air and CO₂ would not be considered regulated air pollutants and will not be used to determine applicability of Title V.

14. WORKSHOP COMMENT

Please clarify the intent of Subsection (iv) under the definition minor permit modification.

DISTRICT RESPONSE

That language should have been deleted when the District removed the provisions in Rule 1401(b) for obtaining an exemption based on a source's actual emissions. The subsection has been revised to refer to conditions which provide an exemption from an otherwise applicable requirement.

15. WORKSHOP COMMENT

The proposed Regulation XIV revision deletes references to exemptions for synthetic minors and sources with actual emissions below a threshold. You should add a reference in this regulation to the prohibitory rule and the synthetic minor rule.

DISTRICT RESPONSE

The planned general prohibitory rule and synthetic minor source rule will limit potentials to emit. They will reference Regulation XIV as well as other District rules. They cannot yet be referenced in Regulation XIV because they have not yet been adopted or approved by EPA. If they were referenced in Regulation XIV without having been approved by EPA, it would make Regulation XIV unapprovable.

16. WORKSHOP COMMENT

With reference to the application shield, once you've submitted an application we'd like to have wording in there that we have reasonable time to resubmit any changes? I don't see that language in this paragraph.

DISTRICT RESPONSE

Rule 1410(a) regarding the application shield has been revised to include a reference to Rule 1414(h). Rule 1414(h) allows the applicant to provide additional information in a reasonable time after a request from the District, but not to exceed six months.

17. WORKSHOP COMMENT

What is the meaning of a permit application being determined to be complete as opposed to an application being deemed complete?

DISTRICT RESPONSE

If the District does not make a determination whether an application is complete or incomplete within 60 days, and does not request additional information as described in Rule 1414(f) for a complete application, the application would be deemed complete. Determined complete would be an affirmative finding by the District that, after application review, an application is complete.

18. WORKSHOP COMMENT

If you're going to move equipment from one part of a site to another part, you can't do that administratively?

DISTRICT RESPONSE

"Address change" was inadvertently revised to "Change". "Address change" has been restored under administrative permit amendments (Rule 1410(i)) to allow address changes that do not result in physical relocation of equipment. In addition, equipment not specifically prohibited by permit conditions from relocation within a facility can be moved within the facility. This would not be a change subject to any provisions of this regulation. If there are permit conditions that prohibit or limit relocation, such as might result from netting of risks from toxic air contaminants, a permitted facility would have to follow the procedures for permit modification set out in Regulation XIV.

19. WORKSHOP COMMENT

We want to ensure that we have permit shields and applications shields that will cover permits that are signed by particular commanding officers.

DISTRICT RESPONSE

The permit shield only exists as it is specifically described in the permit. Whomever is responsible for that permit, that permit shield applies to them. Both application and permit shields apply to a source. Since a source can be one or more emission units, or an applicant for permit, the shields are separable to the same extent that sources (i.e., emission units) are separately grouped for applications and permits.

20. WORKSHOP COMMENT

Would moving permit units between multiple permits at a stationary source be a significant permit modification.

DISTRICT RESPONSE

Such a change would be a change of ownership and is eligible for processing as an administrative permit amendment, provided that no other permit changes are necessary.

21. WORKSHOP COMMENT

With a relocation on site, when relocation results in a change in the risk produced, would there then be any problem making that relocation, without having to make any changes on a permit or only in the case when the risk is increased?

DISTRICT RESPONSE

At this time, the District would not require a re-evaluation of the equipment nor a revision of the permit unless the movement of the equipment is prohibited by conditions in the permit or the permit requires prior notification to the District. If the permit itself does not limit where that equipment can be located within a stationary source or require prior notice to the District, it can be moved within the stationary source without District approval. The District will review the public health impacts of the change in the next AB2588 program review of the facility. If there is a potentially significant change in the risk, that should be captured in the AB2588 program. If such movement does require a change in the permit and the effect of the relocation is to increase risk, it may result in further requirements to ensure that the risks are not significant.

22. WORKSHOP COMMENT

What happens if that risk goes over some threshold when equipment located in the middle of the base is moved to the boundary of the base. Is that by itself subject to Title III?

DISTRICT RESPONSE

This would not be subject to Title III. However, if it is a significant increase which would trigger a new threshold under the AB2588 or the SB1731 program, it may be prudent to either consult with the District and file an application for the relocation or make some provisions that will mitigate that risk. However, if those mitigating provisions are adding on control equipment or modifying processes or operations, that may require an application be submitted to the District.

23. WORKSHOP COMMENT

There's probably not going to be a need to do any kind of identification of that potential under operational flexibility under Title V.

DISTRICT RESPONSE

That is correct. However an applicant could make this an operational flexibility scenario, but in doing that, it would be reviewed in the initial permit.

24. WORKSHOP COMMENT

Is it expected that what ultimately happens to Rule 11 would then feed back with changes in the Appendix for insignificant units again.

DISTRICT RESPONSE

Yes.

25. WORKSHOP COMMENT

Referring to Rule 1413, industry is still hopeful, at some point, in finding a way to get the state to pass legislation for an early reductions program for toxic air contaminants. We may want to ask for changes in Rule 1413 within a year and a half.

DISTRICT RESPONSE

The District is open to future changes in this rule.

26. WORKSHOP COMMENT

Does a source need to provide detailed information as specified in Section (f) of Rule 1414 for insignificant units?

DISTRICT RESPONSE

Emissions from insignificant units may need to be quantified or considered to determine the applicability of Regulation XIV, fees or other applicable requirements to a source. The detailed information required in Rule 1414(f)(3) is not required for insignificant units. Rule 1414(f)(3) has been revised to reflect this. In addition, Rule 1414(f)(4) has been added to require only a list of insignificant units that are exempt based on size or production rate. Other insignificant units are not required to be included or listed in permit applications.

27. WORKSHOP COMMENT

Rule 1414 (f) may need revision for multiple permits at a single stationary source.

DISTRICT RESPONSE

Rule 1414(f)(3) has been revised to refer to an application required for a "source". Since the term "source" allows considerable flexibility, this change in conjunction with other changes described in the response to Workshop Comment No. 6 should allow for multiple applicants and permit holders at a stationary source.

28. WORKSHOP COMMENT

Which sources may be required to submit permit applications within six months of the effective date of the regulation?

DISTRICT RESPONSE

With an advisory to sources about the rule changes in the spring of 1995, the District will also include additional information regarding implementation of the program, including which sources will be required to apply within six months of the effective date. As far as the first phase of applications, it may include the two SDG&E power plants, a few large industrial facilities and perhaps one military facility. SDG&E and one large VOC source have expressed interest in having pilot programs for early application submittal.

29. WORKSHOP COMMENT

What insignificant units have to be included in the application? It is presently not clear from the regulation or the appendix which insignificant units should be included.

EPA RESPONSE

EPA has commented that insignificant activities don't have to be on applications except to the extent that they are exempt because of size or production rate. If the insignificant activity is not exempt based on size or production rate it doesn't have to be included in the application. If the insignificant activity is needed to determine applicability it must also be in the application. EPA has made that Workshop Comment to San Diego APCD.

DISTRICT RESPONSE

The District has clarified in the regulation which insignificant units need to be included in the application along with what information should be supplied about the insignificant units. (See the response to Workshop Comment No. 26. (See also changes to Rule 1401(b)(4) and Rule 1414 (f)(4)).

30. WORKSHOP COMMENT

How detailed does that information on the insignificant unit need to be?

DISTRICT RESPONSE

All that is required is an informational list showing which insignificant units were not included in the application. Only insignificant units that are exempt based on size or production rate needed to be listed. A statement that a source has, for example, 10 I/C engines below 50 Hp is sufficient. Make, model and serial number are not required.

31. WORKSHOP COMMENT

So we don't have to quantify emissions of an insignificant unit if our facility is already in because of another source of emissions?

EPA RESPONSE

Yes, if you don't need it for other applicable requirements, you know you're already subject to the regulation. There's nothing in EPA's Part 70 regulations requiring sources to quantify the emissions.

32. WORKSHOP COMMENT

I would presume that the only thing that would be necessary for an insignificant unit would be information sufficient to determine the applicable requirement, i. e., that it is an exempt unit.

DISTRICT RESPONSE

You may need to provide information to the District to show that it qualifies as an insignificant unit but nothing beyond that in terms of detailed information.

EPA WORKSHOP COMMENT

If you need to know the emissions to determine fees, then the emissions of insignificant units would have to be covered in the application.

33. WORKSHOP COMMENT

If you have 50 I/C engines of less than 50 Hp and you add two more for one purpose or another, whether portable or not, would there be any requirement to amend the permit to indicate that we now have 52?

DISTRICT RESPONSE

No. The list of insignificant units would be updated only on renewal of the permit.

34. WORKSHOP COMMENT

Is it still true that the District will only need to provide justification for the list of insignificant activities before EPA reviews the regulation for final approval?

DISTRICT RESPONSE

EPA is not looking as critically at the list of insignificant units during the interim approval phase. Regulation XIV, as proposed for revision, only includes as insignificant units categories of sources that have historically had insignificant emissions.

35. WORKSHOP COMMENT

You've deleted equipment from the list of insignificant units that is still exempt under Rule 11, e. g., an IC engine that was installed before 1983 between 50 and 500 horsepower. These would need to be included in your application for Title V? Are these still exempt from the requirement for District permits?

DISTRICT RESPONSE

The District will shortly be proposing similar changes to Rule 11 - Exemptions From Permit Requirements. The changes in Regulation XIV are those that will apply to major sources.

36. WORKSHOP COMMENT

What about the requirements for new source review (NSR) for those equipment that are no longer exempt under Rule 11?

DISTRICT RESPONSE

If such emission units are already in existence and they are only being required to get a permit because of a change in Rule 11 they are specifically exempt from NSR.

37. WORKSHOP COMMENT

Is the concern for notification of schools, daycare centers, hospitals and convalescent facilities proposed in Rule 1415(a)(3) and (a)(4) driven by federal requirements or by local concerns? Industry would have no objection to the District providing enhanced public notice, but not in the rule.

DISTRICT RESPONSE

This is strictly a local concern expressed by a local environmental group. However, Subsections (a)(3) and (a)(4) of Rule 1415 have been replaced with more general language to address both this Workshop Comment and a Written Comment from EPA, as follows:

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

38. WORKSHOP COMMENT

Rule 1415(h) states that you would consider responding to all public comments. But I understand that the District's past experience is that a lot of the public comments you get really won't be pertinent to what's the issue in the permit action. In Rule 1415(d)(8) you say your notice would identify issues that are appropriate for public comment. You might want to limit your District Response in Rule 1415(h) to public comments that are relevant. This position is supported by a recent court case.

DISTRICT RESPONSE

The District agrees. Rule 1415(h) has been revised as follows:

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

39. WORKSHOP COMMENT

Is there a federal requirement for a three-year implementation for Title V permits? Is there a way to stretch that out? We prefer to see a five-year implementation which some states have adopted.

EPA RESPONSE

Yes. If the agency can identify source categories that for certain reasons cannot be permitted sooner sources in these categories can be deferred for a year or two into a five-year implementation schedule. The reasons for the deferral would need to be provided and a demonstration that 60% of the Title V sources would be included in the first three years. The reasons justifying the deferral are based on the burden placed on the permitting authority. Because San Diego is going to be late already, you may not even have time to qualify for that five-year schedule.

40. WORKSHOP COMMENT

What is your current schedule for implementation of Title V, especially with respect to interim approval?

DISTRICT RESPONSE

The regulation and program don't become effective until 30 days after EPA publishes interim approval in the Federal Register. The District will be resubmitting the program to EPA through ARB shortly after the March 7, 1995 Board hearing for adoption of the Regulation XIV amendments. EPA's review and approval process will take some time. The District does not expect interim program approval from EPA until this fall. The District must have program approval from EPA by November 15, 1995, otherwise EPA is obligated to promulgate and implement a program.

Following EPA approval, all Title V permit applications will be due within 13 months.

INDUSTRY WRITTEN COMMENTS

41. WRITTEN COMMENT

We request the regulation include a statement that allows the flexibility of obtaining multiple Title V Operating Permits at a major source at the discretion of the Air Pollution Control Officer.

DISTRICT RESPONSE

The District agrees that there should be flexibility for multiple permits at a stationary source and has revised the definition of responsible official in Rule 1401(c)(41) and Subsection (b)(1) of Rule 1410 to allow for multiple permits. See also the response to Workshop Comment No. 6.

42. WRITTEN COMMENT

How will the Synthetic Minor Source Rule being developed affect facilities that are borderline for Title V applicability which will be required to obtain a Title V permit under this amended regulation? What is the timeline on the development of the Synthetic Minor Source Rule?

DISTRICT RESPONSE

The synthetic minor source rule is being developed to provide a mechanism for a facility to limit its potential to emit through a federally enforceable condition and remain below the emission threshold for which Title V permits are required. Once the facility has obtained such a potential to emit limiting condition that is federally enforceable, the facility will not be required to obtain a Title V permit. The District is hopeful that a workshop for this rule can take place by this summer, and a rule can be in place by this fall.

43. WRITTEN COMMENT

Rule 1401(c)(25)(viii)(V) refers to petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels. Does the definition include Navy fuel farms if such facilities have capacities exceeding 300,000 barrels of JP-5 and diesel fuel?

DISTRICT RESPONSE

Yes, the definition would include such facilities as noted in the response to Workshop Comment No. 4.

44. WRITTEN COMMENT

Language should be included in Rule 1410(a) to ensure that an applicant is provided "reasonable" time to submit additional information.

DISTRICT RESPONSE

Rule 1410(a) regarding the application shield has been revised to include a reference to Rule 1414(h) which provides timelines for submittal of additional information, as noted in the response to Workshop Comment No. 16.

45. WRITTEN COMMENT

The first sentence of Rule 1414(f)(3) should read

"Information as described below for each emission unit except for insignificant emission units".

DISTRICT RESPONSE

The District has revised Rule 1414(f)(3) as suggested.

46. WRITTEN COMMENT

Will the District consider a five year versus a three year implementation of Regulation XIV?

DISTRICT RESPONSE

Part 70 provides that the District can identify source categories that for specific reasons cannot be permitted within a three-year period. If approved by EPA, sources in these categories can be deferred for a year or two into a five-year implementation schedule, as noted in the response to Workshop Comment No. 39. The District, however, has specified a three-year implementation schedule because EPA has indicated there is not now time to qualify for a five-year schedule.

47. WRITTEN COMMENT

What is the definition of "noxious" in respect to regulated air pollutant which is defined as any air contaminant? What authority does the District have for regulating these?

DISTRICT RESPONSE

The District has revised the definition of air contaminant to not refer to regulated air pollutant, as noted in the response to Workshop Comment No. 5. The definition of regulated air pollutant has been revised to conform to the definition in EPA's Part 70 regulations to clarify which compounds or materials are subject to this regulation.

48. WRITTEN COMMENT

Is the emissions rate for major source or federal permit applicability based on maximum emissions rate, uncontrolled, with 24 hour per day maximum operation?

DISTRICT RESPONSE

The potential to emit for an emission unit is based on its maximum emission rate determined for the unit operating at maximum design capacity 24 hours per day. The potential to emit of a controlled emission unit would be determined with controls. However, potential to emit can be limited by permit conditions agreed to by the source. If these conditions are federally enforceable, or established under another mechanism approved by EPA, the limited potential to emit can be used to determine Title V applicability.

49. WRITTEN COMMENT

We request you delete tetrachloroethylene from the list of exempt compounds because it is not considered exempt by the EPA.

DISTRICT RESPONSE

The District has deleted this compound from the exempt compound list.

50. WRITTEN COMMENT

We suggest the District insert a general reference to the potential to emit provisions of the prohibitory rule and the synthetic minor rule in Regulation XIV.

DISTRICT RESPONSE

The District has not incorporated a reference to potential to emit provisions of these rules because EPA has indicated these references may become disapproval issues. The District has addressed this decision in greater detail in the response to Workshop Comment No. 15.

51. WRITTEN COMMENT

Many sources have switched from hazardous air pollutant (HAP) use, reducing actual HAP emissions. If the District believes an explicit permit restriction is required to prevent a source's use of a HAP previously used from affecting potential to emit determinations in some circumstances, those circumstances should be identified in the synthetic minor source rule.

DISTRICT RESPONSE

When developing the synthetic minor source rule, the District will address those circumstances where an explicit permit restriction may be required to prevent a source's previous use of a HAP from affecting potential to emit determinations.

52. WRITTEN COMMENT

We suggest deletion of Rule 1415(a)(3) and (a)(4) regarding public notice as they go beyond federal requirements, and recommend replacement with the language recommended in EPA's written comments.

DISTRICT RESPONSE

Subsections (a)(3) and (a)(4) of Rule 1415 have been replaced with more general language to address both Workshop Comment No. 37 and EPA's Written Comment.

53. WRITTEN COMMENT

The District may want to amend Section (h) of Rule 1415, Consideration of Comments, to clarify that comments that are outside the scope of the permit review issues identified by the District need not receive a substantive response.

DISTRICT RESPONSE

Rule 1415(h) has been revised to clarify that only comments relevant to the permit review and areas identified pursuant to Subsection (d)(8) of Rule 1415 will be considered. The changes are set forth in the response to Workshop Comment No. 38.

54. WRITTEN COMMENT

To accommodate multiple Title V permits at a single facility or stationary source, we suggest the following changes:

1. amend the definition of responsible official, Rule 1401(c)(41) if necessary,
2. clarify in Section (a), Application Shield, of Rule 1410 whether a separate application shield applied to an application for a Part 70 permit would encompass less than an entire stationary source,
3. amend Rule 1410(b)(1) to clarify that split permits can be issued and to ensure all units at a stationary source that is issued split permits are included in some permit, and
4. amend Rule 1414(f) to add a cross check to ensure all units at a stationary source with split permits are included in some permit.

DISTRICT RESPONSE

The District agrees that there should be flexibility for multiple permits at a stationary source and has revised the definition of responsible official in Rule 1401(c)(41) and Rule 1410(b)(1) to allow for multiple permits. The changes are also discussed in the response to Workshop Comment No. 6.

55. WRITTEN COMMENT

We suggest the District implement the procedures for getting confidential business information to EPA that were proposed at the workshop. We prefer to provide the information directly to EPA and would prefer that the District notify EPA that some information had been withheld and EPA could ask the source for the information if EPA determined it was needed.

DISTRICT RESPONSE

Rule 1415(k) has been revised to allow for this procedure. The changes are discussed in detail in the response to EPA Written Comment No. 76.

56. WRITTEN COMMENT

We request the District not make the revisions requested by EPA to Rule 1401(c)(18), the definition of federally mandated new source review and, moreover, delete the reference to the SIP in the workshop draft of this definition.

DISTRICT RESPONSE

The District has indicated to EPA that no revision would be made to the definition of federally mandated new source review at this time, as noted in the response to EPA Written Comment No. 82. The District, however, has not deleted the reference to the SIP because EPA may consider deleting this reference as a new disapproval issue.

57. WRITTEN COMMENT

We request the District not make the revisions requested by EPA to Rule 1401(c)(24)(viii), the definition of major stationary source, with respect to fugitive HAP emissions as this is likely to be an issue in comments on EPA's proposed Part 70 revisions.

DISTRICT RESPONSE

The District has discussed the issue of whether fugitives must be included in determining applicability of the regulation to a source with EPA and believes the definition of major stationary

source which includes fugitive emissions is consistent with Part 70 and EPA policy. The District has, moreover, modified Rule 1401(c)(24)(viii), part of the definition of major stationary source, to clarify that, for sources of any specified regulated air pollutant, fugitive emissions shall not be considered unless the stationary source belongs to source categories listed in Subsection (viii) of the definition.

58. WRITTEN COMMENT

We recommend the District only make EPA's recommended changes in Rule 1401(c)(40)(ii) to monitoring, recordkeeping or reporting which are to be treated as significant permit modifications only to the extent EPA requires such changes as a disapproval issue.

DISTRICT RESPONSE

The District agrees and has indicated to EPA this change will be deferred as noted in the response to EPA Written Comment No. 90.

60. WRITTEN COMMENT

We recommend the District not eliminate the second and third paragraphs of Subsection (b)(3) of Rule 1410 in response to EPA's recommendation.

DISTRICT RESPONSE

The District agrees and has indicated to EPA this change will not be made as noted in the response to EPA Written Comment No. 93.

61. WRITTEN COMMENT

If reactivation of an inactive status permit is treated as a Section 502 (b)(10) change, the 45-day notice period for such changes that is specified in the current rule should be changed to the seven-day minimum.

DISTRICT RESPONSE

The District has not made this change because EPA's Part 70 regulation revisions will likely revise how these types of changes will be handled.

62. WRITTEN COMMENT

District response to EPA's comments on Subsection (k)(3) of Rule 1410, portable equipment, should be deferred to a later date when the District enacts and implements the "state" portable equipment rule.

DISTRICT RESPONSE

The District has added language requiring prior notification to the District when moving portable sources to Subsection (k)(3) of Rule 1410. Only portable equipment which is by itself a major source or is subject to an applicable requirement, or would contravene a facility's permit, requires this notification.

63. WRITTEN COMMENT

District response to EPA's comments on Section (m) of Rule 1410, Trading Under an Emissions Cap, should be deferred to a later date because Part 70 revisions may change or clarify the rules in this area.

DISTRICT RESPONSE

The District agrees and has indicated to EPA this change will be deferred as noted in the response to EPA Written Comment No. 105.

64. WRITTEN COMMENT

Terms specifying time periods for reporting deviations should be set in permits, not in this regulation. The District should study reporting periods in other jurisdictions before defining prompt in this regulation.

DISTRICT RESPONSE

The District agrees and has indicated to EPA this change will not be made as noted in the response to EPA Written Comment No. 132.

A. EPA PRIORITY DISAPPROVAL ISSUES

65. EPA WRITTEN COMMENT

The District's regulation allows any change that does not qualify as a minor or significant permit modification to be processed as an administrative permit amendment. We suggest changing Rule 1401(c)(3), definition of Administrative Permit Amendment to read:

"Administrative Permit Amendment means changes to the terms and conditions of a permit, which have been approved pursuant to this regulation."

DISTRICT RESPONSE

The District agrees and has revised the definition as suggested.

66. EPA WRITTEN COMMENT

The District's regulation allows an unlimited number of unspecified changes including substantive changes, to qualify as administrative permit amendments. We suggest changing Rule 1410(i)(1), Administrative Permit Amendment, to read:

"Address changes that do not result in the physical relocation of equipment."

DISTRICT RESPONSE

"Address changes" was inadvertently modified and has been restored.

67. EPA WRITTEN COMMENT

The District's regulation states in Rule 1401(c)(40), the definition of significant permit modification, that if a relaxation of monitoring, reporting or recordkeeping is based on a change in a rule (District rule) that was noticed to the EPA, then a change to permit conditions would not require a significant permit modification. This is contrary to Part 70 requiring any significant change to monitoring, reporting, or recordkeeping requirement in the permit and any relaxation of reporting and recordkeeping permit terms to be processed as significant permit modifications. We suggest the language be revised to read:

"Any relaxation of monitoring, reporting or recordkeeping requirements at a source required to have a permit to operate shall be a significant modification."

DISTRICT RESPONSE

The District has modified the definition of significant permit modification. However, the District strongly believes there should be flexibility in the treatment of such relaxations for which there has been public notice and comment and EPA review during the rule revision process. EPA should allow for this flexibility in its Part 70 regulations.

68. EPA WRITTEN COMMENT

The District's Rule 1401(c)(25), definition of minor permit modification, references Rule 1401(c)(40), the definition of significant permit modification, which is not approvable as stated above. We suggest Subsection (ii) of the definition, Rule 1401(c)(25), be revised as follows:

"Involves significant relaxation to monitoring, recordkeeping, or reporting requirements;"

DISTRICT RESPONSE

The District has revised Subsection (ii) of the definition of minor permit modification but raises the same concerns with respect to flexibility of treatment of these relaxations as noted in the response to the previous EPA comment.

69. EPA WRITTEN COMMENT

The District's definition of modification, Rule 1401(c)(26), is too narrow and the regulation therefore limits the changes subject to minor and significant permit modifications beyond what is allowed by Part 70. We suggest the following revisions:

1. Delete this definition (Rule 1401(c)(26)).
2. List the changes currently described in Subsections (i) through (iii) in Rule 1410 along with the appropriate off-permit, operational flexibility, and alternative operating scenario provisions.

DISTRICT RESPONSE

The District has revised the definition of modification to clarify that permit modifications are not limited by the definition of modification. The following language has been added to the definition to emphasize the distinction between a (source) modification and a permit modification:

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

70. EPA WRITTEN COMMENT

Application provisions do not assure that all Title V sources are required to apply for Title V operating permits. Specifically, the District's Rule 1414(c) does not adequately meet the Part 70 requirement for allowing operation of a new or modified unit for 12 months until a permit application is required only if the source has received a preconstruction permit under Section 112(g) of the Act or under a preconstruction review program approved into the applicable SIP under Parts C or D of the Act. Rule 1414(c) refers to District Rule 10 rather than its SIP-approved new source review rule. Rule 1414(c) does not include the exception when permits must be revised before the source can initiate the change. Also, the rule must use commencing operation rather than completion of construction as the start of the 12-month grace period.

DISTRICT RESPONSE

The District has revised Rule 1414(c) to parallel Section 70.5(a)(1)(ii) of EPA's Part 70 regulations. The District would note that this change leaves somewhat vague the ability to operate sources that are not subject to the referenced preconstruction reviews and which are not prohibited by an existing permit. The District presumes that any relevant procedures in the permit modification procedures in Regulation XIV will then apply.

71. EPA WRITTEN COMMENT

The reference to temporary authorizations in Rule 1414(c) is not approvable because it is not clear from Rule 1410(b)(2), Temporary Authorizations, that such temporary authorization does not relieve the facility of the requirement to file a timely and complete application for a permit to operate or permit revision. We suggest adding the following to Rule 1410(b)(2):

"Issuance of a temporary authorization shall in no way relieve the facility of the requirement to file a timely and complete application for a permit to operate or permit revision."

DISTRICT RESPONSE

The District has added the suggested language to Rule 1410(b)(2).

72. EPA WRITTEN COMMENT

The District's Rule 1414(d) requires a newly subject source to submit an application 12 months after written notice by the APCO. If the APCO fails to provide written notice, the source is never obligated to apply for a Title V permit. The District's application deadline is inconsistent with the Act and Part 70. We suggest that Rule 1414(d) be revised to read:

"... Administrator of the federal EPA, or for any other reason, shall apply for a permit under this regulation not later than 12 months after becoming subject to this rule."

DISTRICT RESPONSE

The District has made the suggested revision to Rule 1414(d).

73. EPA WRITTEN COMMENT

The temporary authorization mechanism could potentially allow sources to operate out of compliance with federal requirements. In order to approve the temporary authorizations provisions as part of your Title V program, they must be consistent with the Act. We recommend the following revisions:

Rule 1410 (b)(2), Temporary Authorizations

1. Add a statement that the temporary authorization expires on the deadline for submitting a Title V permit application.
2. Add a statement that the temporary authorization cannot relieve the facility of the obligation to comply with any federal requirements.
3. Delete the sentence stating that "Actions consistent with a temporary authorization issued pursuant to this regulation shall not be modifications for purposes of this

regulation" as this language suggests that a temporary authorization could supersede Part 70 and NSR modification requirements.

Alternatively, the District may elect to remove Rule 1410(b) and all references in the regulation to temporary authorizations.

DISTRICT RESPONSE

The District has made the following changes in response to EPA's suggested revisions to Rule 1410(b)(2):

1. The expiration date of a temporary authorization is specified as follows:

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

2. The cautionary statement regarding the facility's obligation with respect to compliance is added:

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

3. The sentence noted by EPA as suggesting that a temporary authorization could supersede Part 70 and NSR modification requirements has been deleted.

74. EPA WRITTEN COMMENT

Permits with limited permit shields do not assure compliance with all applicable requirements. All applicable requirements must be included in the Part 70 permit, and the District must assure compliance with those requirements. The District's regulation, on the other hand, allows certain requirements to supersede the applicable requirements. The limited permit shield then prohibits District enforcement of any applicable requirements that have been superseded. As a result, neither the District nor the permit can assure compliance with all applicable requirements.

Deleting the fifth paragraph of Rule 1410(p), Permit Shield, would resolve this disapproval issue.

DISTRICT RESPONSE

The District has deleted the paragraph noted. However, the District has concerns that multiple inconsistent requirements will be a frequent occurrence with RACT rule revisions and new MACT standards and that there needs to be a mechanism to address these inconsistencies without creating an unnecessary burden on local agencies and affected sources. This is especially true in the case where EPA takes far too long to review and approve revised rules submitted to EPA as SIP revisions.

75. EPA WRITTEN COMMENT

The regulation allows a source to operate without either a Title V operating permit or an application shield. Rule 1418(e) and Rule 1422, third paragraph, both allow a source to continue operating after final permit action without an effective operating permit.

We suggest the following revision to Rule 1418(e), Effective Date of Permit Action:

"... the Air Pollution Control Officer shall make the effective date of the permit action the first day following the last day for federal EPA review, ~~unless the applicant has requested a delayed effective date or~~ unless the federal EPA has objected to the permit action."

and the following revision to the third paragraph of Rule 1422, Denial or Cancellation of Applications:

"Denial of an initial or renewal permit to operate, to a source required to have such a permit, shall also constitute suspension of the permits to operate for that source as of ~~a date 90 days after~~ the date of denial or cancellation, or the date on which a permit to operate was required, whichever is later."

DISTRICT RESPONSE

The District has revised Rule 1418(e) and Rule 1422, third paragraph, as suggested.

76. EPA WRITTEN COMMENT

Rule 1415(k), Trade Secrets, allows the District to withhold trade secret permit application information from EPA which restricts EPA's ability to adequately review the proposed permit action. We suggest either of the following two alternatives to correct this situation:

1. Revise Rule 1415(k) to read

"Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public ~~or the federal EPA~~ any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX and 40 CFR part 70.4 (b)(3)(viii)."

or

2. Require the source to submit a copy of information claimed to be "trade secret" directly to EPA pursuant to Part 70.5 (a)(3).

DISTRICT RESPONSE

The District has revised Rule 1415(k) to require the District to notify EPA of any trade secret information withheld, as follows:

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

77. EPA WRITTEN COMMENT

The District's Rule 1418(c) allows time frames for final permit actions required by Part 70 to be exceeded. We suggest the following changes to Rule 1418(c):

1. Change the first paragraph of Rule 1418(c), Delay in Submission to Federal EPA, to read:

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

and

2. Delete Rule 1418(c)(4) because the reference to "the date on which action on the application was required" suggests that final permit action can be delayed, upon request of the applicant, beyond the allowable time frames.

DISTRICT RESPONSE

The District has made the suggested changes.

B. OTHER EPA DISAPPROVAL ISSUES

78. EPA WRITTEN COMMENT

The term "regulated air pollutant" is never defined, but it is critical to do so since the term is used to define major source. The changes made in the workshop draft of the regulation adequately resolve this issue.

DISTRICT RESPONSE

The District has revised the definition of "regulated air pollutant" to:

"Regulated Air Pollutant" means any of the following:

- (i) Oxides of nitrogen and volatile organic compounds.
- (ii) Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the federal Clean Air Act.
- (iii) Any pollutant subject to a new source performance standard promulgated pursuant to Section 111 of the federal Clean Air Act.
- (iv) Any ozone-depleting compound specified as a Class I or Class II substance pursuant to Title VI of the federal Clean Air Act.
- (v) Any federal hazardous air pollutant subject to a standard or requirement promulgated pursuant to Section 112 of the federal Clean Air Act."

79. EPA WRITTEN COMMENT

We suggest Rule 1401(b)(4), exemptions for insignificant activities, be revised as follows:

"... determining the applicability of or fees associated with any provisions of this regulation ..."

DISTRICT RESPONSE

The District has added the suggested reference to fees to Rule 1401(b)(4).

80. EPA WRITTEN COMMENT

Under Part 70, requirements become applicable upon promulgation and not upon incorporation into the permit. We suggest the following revision to Rule 1401 (c)(9)(ii):

~~"any new federally enforceable requirement added to any permit to operate pursuant to this regulation that becomes effective during the term of the permit."~~

DISTRICT RESPONSE

The District has revised Rule 1401(c)(9)(ii) to incorporate EPA's suggested language.

81. EPA WRITTEN COMMENT

The substances regulated under Titles III and VI of the Act are regulated air pollutants and cannot be exempt from Title V as previously suggested by Rule 1401(c)(14), the definition of exempt compound. The clarification made in the workshop draft of the regulation adequately address this issue.

DISTRICT RESPONSE

The comment has been addressed in proposed revisions to Regulation XIV.

82. EPA WRITTEN COMMENT

Clarify in Rule 1401(c)(18), the definition of federally mandated new source review, that this review would included any regulations approved or promulgated under Title I, Parts C and D of the Act.

DISTRICT RESPONSE

The District intends to defer making the suggested changes because current proposed revisions to EPA's Part 70 regulations will likely further clarify how changes involving minor new source review and federally mandated new source review are treated under Title V.

83. EPA WRITTEN COMMENT

If District Rules 50 and 51 have been approved into the District's SIP then they are applicable requirements and must be removed from Rule 1401(c)(23), the definition of insignificant unit. If not, this reference is unnecessary and misleading.

DISTRICT RESPONSE

District Rules 50, Visible Emissions, and Rule 51, Nuisance, have been approved by EPA into the SIP. However, these rules have commonly been applied to all insignificant activities including those exempt from local permit requirements. To include them would negate the effect of having any insignificant units exempt from permits. Rules 50 and 51 must be excepted in order to exempt insignificant activities from Title V requirements.

84. EPA WRITTEN COMMENT

According to EPA policy set forth in the March 8, 1994 guidance entitled "Consideration of Fugitive Emissions in Major Source Determinations", fugitives must be counted for all hazardous air pollutants (HAPs). This policy stems from the fact that Part 70 defines "major source" in three ways and only limits the counting of fugitives in the Section 302(j) definition. Because the District's regulation contains only one definition of major stationary source, Rule 1401(c)(24),

Subsection (viii) of this definition effectively limits the counting of fugitives with respect to HAPs to only the listed source categories.

DISTRICT RESPONSE

The District believes the proposed definition of major stationary source in Rule 1401(c) is consistent with Part 70 and EPA policy. The District has also revised the definition of major stationary source to clarify that, for sources of certain other regulated air pollutants, fugitive emissions shall not be considered unless the stationary source belongs to source categories listed in Subsection (viii).

85. EPA WRITTEN COMMENT

We suggest modifying Subsection (iii) of Rule 1401(c)(25) [now (c)(26)] to read:

“... or a federally mandated source-specific determination for temporary sources of ambient impacts on air quality, or a visibility or air quality increment analysis.”

DISTRICT RESPONSE

The District has revised Subsection (iii) of Rule 1401(c)(26) as suggested by EPA.

86. EPA WRITTEN COMMENT

Delete Subsection (iv) of Rule 1401(c)(25) [now (c)(26)], the definition of minor permit modification, which seems to indicate a source can put permit terms and conditions into its Title V permit in order to be exempt from Title V.

DISTRICT RESPONSE

The District agrees the reference to exemptions in Rule 1401(b) is misleading and has replaced the reference to Rule 1401(b) with language to instead refer to permit terms or conditions a source accepted in order to qualify as exempt from an otherwise applicable requirement. Changes to such terms and conditions will be processed as significant permit modifications.

87. EPA WRITTEN COMMENT

Delete Subsection (vi) of Rule 1401(c)(26), the definition of minor permit modification, because the provision is redundant as modifications subject to Section 112 (g) are Title I modifications. (FYI)

DISTRICT RESPONSE

The District intends to maintain the provision for clarity and emphasis.

88. EPA WRITTEN COMMENT

Delete APCO discretion from Rule 1401(c)(35) [now (c)(37)], the definition of quantifiable or add EPA discretion to the definition.

DISTRICT RESPONSE

The District has deleted the reference to APCO discretion from the definition of quantifiable.

89. EPA WRITTEN COMMENT

The designated representative for Part 72 may be the responsible official as defined in Part 70.

DISTRICT RESPONSE

This comment was intended to be informational and no change to the definition of 'responsible official' in Rule 1401 is needed.

90. EPA WRITTEN COMMENT

Revise Subsection (ii) of the definition of significant permit modification to

"Involves a significant change or relaxation to monitoring, recordkeeping, or reporting requirements."

DISTRICT RESPONSE

The District intends to defer making the suggested change because current proposed revisions to EPA's Part 70 regulations will likely revise or clarify what changes will be considered significant permit modifications.

91. EPA WRITTEN COMMENT

We suggest the following revision to Rule 1401(c)(42) [now (c)(45)], the definition of stationary source:

"... which is under common ownership or control or entitlement to use."

DISTRICT RESPONSE

The District believes the term "entitlement to use" includes control and therefore has not made this revision.

92. EPA WRITTEN COMMENT

The first paragraph of Rule 1410(b)(3), Availability and Effects of Appeals, suggests that a temporary authorization can "modify" a permit to operate. That is not, and cannot be, the case. If a permit must be modified to make a change, the source must comply with the permit modification procedures in this rule. We also suggest modifying the first paragraph as follows:

"... or 18 months for initial permits, reopenings, or significant permit modification ..."

DISTRICT RESPONSE

The District has removed this reference by deleting "During the appeal period ... unless modified by a temporary authorization". The District has also added "permit reopening" to the list of procedures for which final permit action must be taken within 18 months.

93. EPA WRITTEN COMMENT

The enforcement deferrals in the second and third paragraphs encourage bad faith appeals and must be eliminated. Furthermore, the purpose of the third paragraph is unclear because a new standard would not be enforced until after its effective date.

DISTRICT RESPONSE

The District does not agree. The appeal process has served well in resolving such issues and has not encouraged bad faith appeals as suggested. The referenced paragraphs only defer District enforcement of specific issues under appeal. They do not preclude EPA enforcement.

94. EPA WRITTEN COMMENT

We recommend having some flexibility in the initial permit duration in Rule 1410(h), Renewal of Permits to Operate, to accommodate the time frames for the acid rain portion of the permit.

DISTRICT RESPONSE

This comment was intended to be informational and no response was requested. However, the District believes the language of Rule 1410(h) already provides the flexibility suggested.

95. EPA WRITTEN COMMENT

The District's Rule 1410(h), Renewal of Permits to Operate, must state that renewal applications may not be submitted more than 18 months prior to permit expiration.

DISTRICT RESPONSE

The District has made the following revision to Rule 1410(h):

"An application for renewal of a permit to operate issued must be submitted at least 12 months, but not more than 18 months, prior to permit expiration . . ."

96. EPA WRITTEN COMMENT

Add notice to affected states in Rule 1410 (h)(5), Renewal of Permits to Operate.

DISTRICT RESPONSE

The District has added a requirement to notice affected states in Rule 1410 (h)(5).

97. EPA WRITTEN COMMENT

Because moving from inactive to active status is essentially contravening the permit term that prohibits operation of the equipment, the change could be viewed as a section 502 (b)(10) change. For this type of change, the source would have to provide the permitting authority with a written notice 7 days prior to the proposed change in status. In addition, the public comment that occurs at the time of renewal must include a clear statement that the source is being permitted to operate at full capacity and is authorized to change its active/inactive status without further notice to the public.

DISTRICT RESPONSE

This comment was intended to be informational only and no response was requested.

98. EPA WRITTEN COMMENT

We suggest a revision to Rule 1410(h)(7), Inactive Status, as follows:

"No changes shall be made to the emission unit without the source applying for and obtaining approval pursuant to the modification procedures set out in Sections (j) or (k) of this rule to change the unit."

DISTRICT RESPONSE

The District has revised Rule 1410(h)(7) as follows:

"No changes shall be made to the emission unit without the source applying for and obtaining any necessary approval to change the unit pursuant to the permit modification procedures of this rule."

99. EPA WRITTEN COMMENT

Does your regulation require that a copy of the revised permit be sent to EPA? If not, this requirement needs to be added.

DISTRICT RESPONSE

The requirement has been added to Section (i) of Rule 1410 as follows:

"The Air Pollution Control Officer shall provide the federal EPA with a copy of each approved revised permit."

100. EPA WRITTEN COMMENT

In Rule 1410(k)(1), Significant Permit Modification, the second paragraph does not make sense as written since "a person" makes changes to a facility and not to a permit. We recommend the following revision:

"A person shall not make any change at a facility that is subject to a significant permit modification ~~a significant permit modification as defined in these Rules and Regulations to any emission unit that is the subject of a permit to operate issued pursuant to this regulation~~ unless such modification is authorized by . . ."

DISTRICT RESPONSE

The District has revised the second paragraph of Rule 1410(k)(1) replacing "change" with "modification to a source" to clarify the change was not intended to refer to a permit change.

101. EPA WRITTEN COMMENT

In Rule 1410(k)(3), Change of Location, as you correctly note, permit revisions are not required when portable sources change location. However, permits for portable sources must include conditions that will assure compliance with all applicable requirements at all authorized locations and a requirement that the owner/operator notify the permitting authority at least 10 days in advance of each change in location.

DISTRICT RESPONSE

The District has added this prior notification requirement for portable sources to Rule 1410(k)(3). (See also response to Workshop Comments Nos. 10 and 62).

102. EPA WRITTEN COMMENT

Please clarify that Section 502 (b)(10) changes in Rule 1410 (l), Operational Flexibility, are changes that contravene an express permit term.

DISTRICT RESPONSE

The definition of "Section 502 (b)(10) Change" in Rule 1401 clearly states that these are changes that contravene the express terms and conditions of a permit to operate. Therefore Rule 1410(l) needs no revision for further clarification.

103. EPA WRITTEN COMMENT

Your rule is more stringent than Part 70, as it requires a 45-day notice prior to a change rather than a 7-day advance notice.

DISTRICT RESPONSE

The District does not propose to revise this requirement.

104. EPA WRITTEN COMMENT

The fifth paragraph in Rule 1410(l):

"The Air Pollution Control Officer may . . . a change does not qualify as a Section 502 (b)(10) change,"

may be eliminated because the purpose of these types of changes is to give the source operational flexibility without having to undergo a review, approval, and appeals process.

DISTRICT RESPONSE

This comment was intended to be informational and no response was requested. The District will retain this paragraph to clarify the procedures that will apply if the District determines that a change does not qualify as a Section 502(b)(10) change.

105. EPA WRITTEN COMMENT

In Rule 1410 (m), Operational Flexibility: Trading Under an Emissions Cap, add that trades are prohibited if they qualify as modifications under any provision of title I or they exceed emissions allowable under the permit. The requirement that the permit applicant propose replicable procedures must also be added. In addition, add a requirement that the permit terms must ensure that the trades are quantifiable and enforceable and that they assure compliance with all applicable requirements.

DISTRICT RESPONSE

The District will defer addressing this comment while Part 70 is being revised. We understand the provisions for trading under an emissions cap are under review as part of this revision.

106. EPA WRITTEN COMMENT

In Rule 1410(n), Operational Flexibility: Alternative Operating Scenarios, the District should make the following revision:

"The applicant maintains contemporaneous operating logs . . ."

DISTRICT RESPONSE

The District has revised Rule 1410(n)(3) to require "current" operating logs. The term "contemporaneous" may be confusing.

107. EPA WRITTEN COMMENT

In Rule 1410 (o), Reopening of a Permit to Operate, the District should make the following revision:

"Any permit to operate issued pursuant to this regulation ~~may~~ shall be reopened prior to expiration . . ."

DISTRICT RESPONSE

The District has revised Rule 1410(o) as recommended.

108. EPA WRITTEN COMMENT

In Rule 1410(o), Reopening of a Permit to Operate, the District should add the following:

1. a provision that reopenings must be completed within 18 months after promulgation of the applicable requirement,

2. a statement that reopenings will follow the same procedures as initial permit issuance but affect only those parts of a permit for which cause to reopen exists, and
3. a statement that the permitting authority will provide a notice of intent to reopen at least 30 days prior to reopening the permit.

DISTRICT RESPONSE

The District has made the following changes to Rule 1410(o) in response to this comment:

1. added "Such reopening shall be completed within 18 months after promulgation of the applicable requirement." to Subsection (o)(1),
2. added "The procedures for reopening and revising or reissuing a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists." to Section (o), and
3. added a statement to indicate the District will provide the source with prior 30 day written notice of its intent to reopen a permit.

109. EPA WRITTEN COMMENT

In Rule 1410(q), Enhanced Procedures for Authorities to Construct, cross references must be added for compliance certifications, and monitoring, recordkeeping, testing, and reporting requirements.

DISTRICT RESPONSE

The District has made the following changes to Rule 1410(q):

1. added a reference to the compliance certification requirements of Rule 1421 (b)(2)(ii) to Subsection (q)(2)(ii) of Rule 1410.
2. added a reference to the monitoring, recordkeeping, testing and reporting requirements of Rule 1421(b)(1)(iii) to Subsection (q)(2)(v) of Rule 1410.

110. EPA WRITTEN COMMENT

Recommend the following revision for Subsection (2)(v) of Rule 1410(q):

"... as determined necessary by the Air Pollution Control Officer to ensure compliance with all applicable requirements."

DISTRICT RESPONSE

The District has made the recommended revision to Rule 1410(q)(2)(v).

111. EPA WRITTEN COMMENT

Recommend the following revision for Rule 1410(q)(3)(i):

"... specified in Sections (a), (d), (e), (j) and (k) of Rule 1415 as if the Authority to Construct were a permit to operate."

DISTRICT RESPONSE

The District has made the recommended revision to Rule 1410(q)(3)(i).

112. EPA WRITTEN COMMENT

If you plan to keep Rule 1411, Exemption from Permit to Operate for Insignificant Units, you must clarify that units subject to an applicable requirement, or necessary to determine applicability or fees, may not qualify as insignificant.

DISTRICT RESPONSE

The District disagrees. The emissions from insignificant units must be considered in determining applicability of Regulation XIV and any emission based fees. However, this does not then disqualify those units as insignificant. Rule 1411 has been revised to clarify this.

113. EPA WRITTEN COMMENT

Recommend the following revision for Section (a) of Rule 1413, Early Reduction of Hazardous Air Pollutants:

"If the requirements of this rule Part 63 subpart D are met, early reduction requirements shall, to the extent permitted . . ."

DISTRICT RESPONSE

The District does not agree. Rule 1413 includes sufficient references to Part 63 to provide clarity of reference.

114. EPA WRITTEN COMMENT

The second paragraph of Rule 1413(c), State and Local Requirements may violate state and local law.

DISTRICT RESPONSE

Existing Rule 1413(c) is proposed to be deleted. Further consideration of such provisions will be given if authorized through changes in state law.

115. EPA WRITTEN COMMENT

Subsection (f) of Rule 1414, Applications, might be revised to note that applications for permit revisions need only include information related to the proposed change.

DISTRICT RESPONSE

This comment was intended to be informational and the District intends to defer action on this suggestion as there may be future changes to EPA's Part 70 regulation regarding permit revision procedures.

116. EPA WRITTEN COMMENT

Recommend the following revision for Subsection (f)(3) of Rule 1414 to clarify that only a single application is required for a source:

"Information as described below for each ~~emission-unit~~ source."

DISTRICT RESPONSE

The District has made this recommended revision.

117. EPA WRITTEN COMMENT

The District should define the term "federally regulated air pollutant" used in Rule 1414(f)(3)(iii)(A).

DISTRICT RESPONSE

This reference was intended to be to regulated air pollutants which has been defined. Therefore, the District has deleted "federally".

118. EPA WRITTEN COMMENT

Recommend the following revision for Subsection (f)(3)(vii) of Rule 1414:

"... to define alternative operating scenarios identified by the source or to define permit terms and conditions for emissions trading."

DISTRICT RESPONSE

The District has made the recommended revision.

119. EPA WRITTEN COMMENT

The meaning of the term "applicable sources" used in Subsection (f)(3)(viii) of Rule 1414 is unclear both in the use of the word "applicable" and in the use of the plural "sources". Might there be multiple compliance plans included in a single application?

DISTRICT RESPONSE

The District agrees the term "for all applicable sources" is unclear and has deleted it from Rule 1414(f)(3)(viii) .

120. EPA WRITTEN COMMENT

Please add the requirement of Part 70.5 (b) for supplementary facts or corrected information to Subsection (h) of Rule 1414.

DISTRICT RESPONSE

The District has added the following to Subsection (h) of Rule 1414.

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

121. EPA WRITTEN COMMENT

Notice must be provided in Section (a) of Rule 1415, Permit Process - Public Notification, "by other means if necessary to assure adequate notice to the affected public."

DISTRICT RESPONSE

The District has replaced the proposed noticing provisions of Subsections (a)(3) and (a)(4) of Rule 1415 with wording similar to the recommended revision.

122. EPA WRITTEN COMMENT

Add a requirement in Section (a) of Rule 1415 that the permitting authority shall keep a record of the commentors and issues raised during the public participation process.

DISTRICT RESPONSE

The District has added this requirement in Rule 1415(h), Consideration of Comments.

123. EPA WRITTEN COMMENT

Rule 1415 must provide for a copy of each permit application (or summary thereof) to be sent to EPA.

DISTRICT RESPONSE

The District has added new Section (m), Transmittal of Documents to the Federal EPA, to Rule 1415 as follows:

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

124. EPA WRITTEN COMMENT

The telephone number of a District contact person must be included in the public notice [Rule 1415 (d)(5), Contents of Public Notice].

DISTRICT RESPONSE

The District has added “telephone number” to Rule 1415(d)(5).

125. EPA WRITTEN COMMENT

If the public hearing has been set, the time and place should be included in the public notice, not just a means for obtaining that information [Rule 1415(d)(5)(iv)].

DISTRICT RESPONSE

The District has deleted “time and place” from Rule 1415(d)(5) and added “time and place of the hearing if already scheduled” to Rule 1415(d)(7) .

126. EPA WRITTEN COMMENT

The Rule 1417(a) reference to Rule 1410 for permit action time limits should be changed to Rule 1418(b) because Rule 1410 does not clearly set out the time frames for permit action.

DISTRICT RESPONSE

The District has revised the references as requested.

127. EPA WRITTEN COMMENT

Recommend the following revision to Subsection (b)(4) of Rule 1418, Action on Applications:

“for initial permit or renewal, not more than 18 months . . .”

DISTRICT RESPONSE

The District has made the recommended revision.

128. EPA WRITTEN COMMENT

The purpose of Rule 1420(b), New Terms and Conditions, is unclear and it seems to create inconsistencies with other parts of the regulation. For instance, this section states that new terms or conditions stemming from state law are to be excluded from operating permits; yet, Section (f) of Rule 1420 says that a permit will be denied unless the source operates in compliance with all requirements of the California Health and Safety Code.

DISTRICT RESPONSE

The comment was intended to be informational and no response was requested. However, this section is intended to apply new or revised state and local requirements to sources subject to Title V permits and those not subject to Title V in an equitable manner.

129. EPA WRITTEN COMMENT

It is unclear what "except as provided in Rule 1421" means and what it is trying to accomplish in Subsection (f), Specific Compliance Requirements, of Rule 1420.

DISTRICT RESPONSE

Rule 1420 requires the District to deny a permit unless the source is in compliance with all requirements. Rule 1421 allows a source to operate with a compliance schedule although the source may not be in compliance with all requirements. In addition, Rule 1421 allows the District to establish permit terms and conditions necessary to ensure compliance even if not demonstrated specifically in a permit application as required by Rule 1420.

130. EPA WRITTEN COMMENT

The regulation defines "applicable requirement" as federally enforceable requirements; yet the term used in Rule 1420, Subsections (f)(1) and (f)(2) includes state and local requirements.

DISTRICT RESPONSE

The District has replaced "applicable requirements" with "relevant requirements" in Rule 1420, Subsections (f)(1) and (f)(2) to include relevant District requirements.

131. EPA WRITTEN COMMENT

Recommend the following revision for Subsection (i) of Rule 1420:

"... if the Administrator of the federal EPA objects ~~within the specified review periods specified in Rule 1410~~, to such issuance within the 45-day review period. In such case ..."

DISTRICT RESPONSE

The District does not agree to this revision and believes the existing regulation already effectively sets out the duration of the EPA review period. The District will not make this revision.

132. EPA WRITTEN COMMENT

Section 70.6 (a)(3)(iii)(B) requires the permitting authority to define "prompt" as used in Rule 1421 Subsection (b)(1), Permit Content, in relation to the degree and type of deviation likely to occur and the applicable requirements.

DISTRICT RESPONSE

The District disagrees. The term "prompt" will vary with the specific category of source being permitted and is better addressed during permit review and issuance to fit the specific requirements of each permit.

133. EPA WRITTEN COMMENT

If your SIP provides for alternative emission limits and you intend to include those limits in a Part 70 permit, the permit must contain provisions that the alternative emission limits are quantifiable, accountable, enforceable, and based on replicable procedures. Rule 1421(b)(1) must specify this.

DISTRICT RESPONSE

The District disagrees. Subsections (b)(1)(i) and (b)(1)(iii) of Rule 1421 already provide sufficient authority to ensure these elements are included in permits.

134. EPA WRITTEN COMMENT

In Subsection (b)(2)(iii)(B) of Rule 1421, compliance certifications must also include any requirements specified pursuant to Section 114 (a)(3) and 504 (b) of the Act.

DISTRICT RESPONSE

The District has added these requirements in a new Subsection (b)(2)(iii)(D) of Rule 1421 as follows:

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

135. ^qEPA WRITTEN COMMENT

Part 70 requires designation of state-only requirements so that the failure to designate a requirement clearly defaults to federal enforceability. The District's designation process proposed in Rule 1421(d) is inconsistent with Part 70 and Rule 1421(b)(3). This section should be revised to reflect Rule 1421(b)(3) by designating conditions that are not federally enforceable rather than those that are federally enforceable. In addition, the final paragraph of this section is unnecessary and could mislead the source to think that only designated provisions have "full force" federal enforceability.

DISTRICT RESPONSE

The District disagrees. An agreement between CAPCOA and EPA regarding designation of conditions as federal or state-only requirements allowed for designation of federal-only conditions during the interim period of Title V approval. The proposed language of Rule 1421(b)(3) and (d) reflect that agreement.

136. EPA WRITTEN COMMENT

The meaning of the term "compliance schedule" in Section (g) of Rule 1421 is not entirely clear in this rule and in Rule 1420. The compliance schedule defined in Rule 1414(f)(3)(viii) seems to refer to something different than the compliance schedule in Rules 1420 and 1421.

DISTRICT RESPONSE

The reference to Section (g) of Rule 1421 is incorrect. Nevertheless, the term "compliance schedule" in Regulation XIV has the common meaning - a schedule of events and actions that would bring a source into compliance.

137. EPA WRITTEN COMMENT

Because an appeal hearing before the Hearing Board is held before permit issuance, there has not yet been an opportunity to appear or give testimony. Therefore we suggest you delete the requirements of Section (c) of Rule 1425, Appeals and Judicial Review. Also the last sentence assumes that permit action has already been taken, which is incorrect according to Regulation XIV.

DISTRICT RESPONSE

The District agrees that an appeal would be of a "proposed" permit action and has revised Rule 1425(c) accordingly.

138. EPA WRITTEN COMMENT

We would like clarification on what types of permit actions (e.g., "permit actions that would otherwise be effective prior to the expiration of the time for EPA review") would be subject to the provisions of Subsection (d)(1) of Rule 1425.

DISTRICT RESPONSE

The types of permit actions subject to these provisions would be permit revisions and temporary authorizations for projects of a short duration and for which operation can commence prior to or without EPA review.

139. EPA WRITTEN COMMENT

Recommend the following revision for section (e) of Rule 1425:

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

DISTRICT RESPONSE

The District disagrees. The rule is already effectively the same as the recommended revision.

140. EPA WRITTEN COMMENT

While the rule correctly states that a unit subject to an applicable requirement may not be "insignificant", the rule must also state that units necessary to determine applicability or fees may not be "insignificant".

DISTRICT RESPONSE

While the District agrees that emissions of insignificant units must be included in determining applicability of the regulation or fees, the insignificant units included in making the applicability or fee determinations are still insignificant. Therefore no revision to the rule will be made.

141. EPA WRITTEN COMMENT

The insignificant activity listed in Section (c) violates Part 70.5 (c)(3)(v).

DISTRICT RESPONSE

The District disagrees. This section lists air pollution control equipment which is associated with an emission unit not requiring a permit because the unit is an insignificant activity. Since the emission unit without control would not be required to have a permit to operate, it is reasonable to not require a permit for a controlled insignificant activity. Including the air pollution control equipment associated with these insignificant activities does not violate Part 70.5 (c)(3)(v) which only requires information about air pollution control equipment if it is controlling emission units that are not insignificant as provided for in Part 70.5 (c).

142. EPA WRITTEN COMMENT

EPA does not believe that emissions of 100 lbs/day as allowed in Section (d) of Appendix A can be justified as "insignificant".

DISTRICT RESPONSE

The District has deleted the reference to the 100 lbs/day emission threshold in Section (d) of Appendix A.

143. EPA WRITTEN COMMENT

The type of equipment identified in Subsection (d)(7) of Appendix A is likely to be subject to the printing and publishing MACT standard, and hence, could not qualify as an insignificant activity.

DISTRICT RESPONSE

The District defers determining whether to change the emission threshold of Subsection (d)(7) of Appendix A to a later date. The District will review the printing and publishing MACT standard when promulgated by EPA and determine whether the emission threshold should be revised.