

# **Eastern Kern Air Pollution Control District**

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

### **ADOPTION STAFF REPORT**

**June 16, 2025**

*Prepared by*

**Jeremiah Cravens**  
**Air Quality Compliance Supervisor**

*Reviewed by*

**Gary Ray, Jr.**  
**Air Pollution Control Officer**

Eastern Kern Air Pollution Control District  
2700 "M" Street, Suite 302  
Bakersfield, California 93301  
(661) 862-5250 • [www.kernair.org](http://www.kernair.org)

## **Table of Contents**

I.	INTRODUCTION .....	1
II.	BACKGROUND .....	1
	A. Emergency Affirmative Defense .....	1
	B. Greenhouse Gas Tailoring Rule .....	2
III.	RULE 201.1 AMENDMENTS .....	3
	A. Emergency Defense Provisions .....	3
	B. Greenhouse Gas Provisions.....	4
	C. Extreme Major Source Threshold.....	5
IV.	ECONOMIC IMPACTS .....	5
V.	ENVIRONMENTAL IMPACTS .....	6
VI.	SOCIOECONOMIC IMPACTS.....	6
VII.	RULE APPROVAL PROCESS .....	6
APPENDIX A	REVISED RULE 201.1, PERMITS TO OPERATE FOR SOURCES SUBJECT TO TITLE V OF THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990	
APPENDIX B	REVISED RULE 201.1, PERMITS TO OPERATE FOR SOURCES SUBJECT TO TITLE V OF THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990. STRIKEOUT UNDERLINE	

## **I. INTRODUCTION**

The Eastern Kern Air Pollution Control District (District) is proposing to adopt amendments to Rule 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990. Rule 201.1 was originally adopted November 1, 1993, last amended September 1, 2022. The primary reason for amending Rule 201.1 is to remove the Emergency Affirmative Defense provisions to align with 40 CFR Parts 70 and 71. The amendment will also remove provisions relating to the U.S. Environmental Protection Agency's (EPA) Greenhouse Gas (GHG) Tailoring Rule, which are not being implemented due to a June 23, 2014, U.S. Supreme Court decision.

Proposed amendments to Rule 201.1 will be presented to the District's Governing Board for adoption at its regular Board Meeting held July 24, 2025, beginning 2 P.M. at the District's Board Room in Tehachapi, CA. Staff held a public workshop on May 15, 2025, in Tehachapi at the District's Board Room to present, discuss and receive comments on proposed amendments to Rule 201.1. A 30-day public review and comment period followed the workshop. No comments were received.

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

Appendix B: Revised of Rule 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990, Strikeout Underline.

## **II. BACKGROUND**

### **A. Emergency Affirmative Defense**

Title V of the Federal Clean Air Act (CAA) requires issuance of operating permits for certain sources emitting regulated air pollutants, including attainment and nonattainment pollutants (Title V).<sup>1</sup> Historically, a stationary source could use affirmative defense in an enforcement case to avoid liability for noncompliance with technology-based emission limits contained in the Title V permit. This is provided that the exceedances occurred due to qualifying emergency circumstances.

---

<sup>1</sup> [eCFR :: 40 CFR Part 70 -- State Operating Permit Programs](#)

On July 12, 2023, EPA removed the emergency affirmative defense provisions from 40 CFR 70.6(g) and 71.6(g) of their Title V regulations (88 FR 47029).<sup>2</sup> The “emergency” provisions have been removed because they were deemed inconsistent with EPA's interpretation of the enforcement structure of the CAA, considering prior court decisions from the U.S. Court of Appeals for the D.C. Circuit (*NRDC v. EPA*, 749 F.3d 1055). As a result, air districts were required to remove emergency affirmative defense provisions from their local Title V rules by August 21, 2024, or request EPA grant a one-year extension to allow time to do so.

Rule 201.1 was recently amended September 1, 2022, to revise the oxides of nitrogen (NOx) and volatile organic compounds (VOC) thresholds to match that of Severe nonattainment, and to update certain Part 70 elements that changed since the previous 2012 amendment. The rule action package was submitted to CARB on December 19, 2022, to be forwarded to the EPA as a revision to the District's State Implementation Plan (SIP). This occurred prior to EPA removing the emergency affirmative defense provisions from their Title V regulations. Therefore, language and conditions for emergency affirmative defense provisions were still included in Rule 201.1.

On July 25, 2024, the District submitted a letter titled “*Eastern Kern Air Pollution Control District Extension Request for Removal of the Emergency Affirmative Defense Provisions from Rule 201.1, Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990 (1990 FCAA)*” to EPA Region IX. The letter requested EPA grant a one-year compliance period for Rule 201.1 to be amended. EPA granted the District's request and moved the amendment deadline to August 21, 2025.

### **B. Greenhouse Gas Tailoring Rule**

Rule 201.1 includes Greenhouse Gas (GHG) emission provisions that trigger requirements for a facility to obtain a Title V permit based solely on GHGs being emitted. The GHG provisions were included in the rule to address EPA's *Greenhouse Gas Tailoring Rule*. However, the U.S. Supreme Court held that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source that is required to obtain a Title V permit or Prevention of Significant Deterioration (PSD) permit (*Utility Air Regulation Group v. EPA*, 573 U.S. 302).<sup>3</sup>

---

<sup>2</sup> <https://www.federalregister.gov/d/2023-15067>

<sup>3</sup> <https://www.epa.gov/nsr/clean-air-act-permitting-greenhouse-gases>

### III. RULE 201.1 AMENDMENTS

The proposed amendments to Rule 201.1 include the following:

#### A. Emergency Defense Provisions

##### 1. Emergency Provisions

The following language has been removed from Section VII.B.12.

*The permit shall include the following emergency provisions:*

- a. The permittee shall comply with the requirements of Rule 111 and the emergency provisions contained in all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules.*
- b. Within two weeks of an emergency event, an owner or operator of the source shall submit to the District a properly signed, contemporaneous log or other relevant evidence which demonstrates that:*
  - 1) An emergency occurred;*
  - 2) The permittee can identify the cause(s) of the emergency;*
  - 3) The facility was being properly operated at the time of the emergency;*
  - 4) All steps were taken to minimize the emissions resulting from the emergency; and*
  - 5) Within two working days of the emergency event, the permittee provided the District with a description of the emergency and any mitigating or corrective actions taken;*
- c. In any enforcement proceeding, the permittee has the burden of proof for establishing that an emergency occurred.*

##### 2. Reporting

The following language has been removed from Section VII.B.7.a.

*Including any attributable to emergency conditions (as defined in the permit) shall be promptly reported to the APCO and in accordance with Rule 111.*

## B. Greenhouse Gas Provisions

### 1. Section II, Definitions

Language from the following definitions has been removed:

#### **I. Carbon Dioxide Equivalent (CO<sub>2</sub>e):**

~~As defined in District Rule 102, Definitions.~~ CO<sub>2</sub>e is already defined in Section II.KK, Subject to Regulation.

#### **Y. Major Source:**

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

Language for the following definitions has been revised:

#### **T. Greenhouse Gas (GHG):**

~~As defined in District Rule 102, Definitions.~~ Carbon Dioxide (CO<sub>2</sub>), Methane (CH<sub>4</sub>), Nitrous Oxide (N<sub>2</sub>O), and fluorinated greenhouse gases as defined in 40 CFR 98.

#### **U. Global Warming Potential (GWP):**

~~As defined in District Rule 102, Definitions.~~ The ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas (i.e., CO<sub>2</sub>). GWPs for each greenhouse gas are provided in Table A-1 of 40 CFR 98.

#### **KK. Subject to Regulation:**

1. GHGs as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO<sub>2</sub> equivalent emissions.
2. The term tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at 40 CFR 98 Subpart A Table A-1 - Global Warming Potentials, and summing the resultant value for each to compute a tpy CO<sub>2</sub>e. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including

products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

## **2. Section V.B, Application Requirements**

The following language has been added to Section V.B.6:

*Greenhouse Gas Emissions: All applicable requirements for greenhouse gases shall be included in Title V permits for any facility that is otherwise required to obtain a new, renewed, or revised Title V permit.*

Any source subject to Rule 201.1 will still be required to submit actual GHG emissions for the previous calendar year to the District by March 31 of each year. Emissions shall be calculated and reported in accordance with 40 CFR Part 98, Mandatory Greenhouse Gas Reporting.

## **C. Extreme Major Source Threshold**

The District is currently designated Sever nonattainment pursuant to the 2008 (75ppb) and 2015 (70) ppb 8-hour Ozone National Ambient Air Quality Standards (NAAQS). Although the District is on track to attain the 2008 NAAQS, the 2015 standard may not be achieved by the applicable date and the District bumped up to Extreme nonattainment. To account for this possibility, Definition II.Y. is being revised to include the Extreme Major Source threshold of 10 tons per year (tpy) of VOC or NO<sub>x</sub>.

Language for the following definition has been added:

### **Y. Major Source, Major Source Type:**

*10 tpy of VOC or NO<sub>x</sub> if classified as Extreme nonattainment for Ozone NAAQS.*

The threshold for “Any Regulated Air Pollutant, excluding GHGs” will remain at 100 tpy and HAP thresholds will remain at 10 tpy of one HAP or 25 tpy of two or more HAP's.

## **IV. ECONOMIC IMPACT**

Amended Rule 201.1 is expected to pose no significant increased cost to industry.

## **V. ENVIRONMENTAL IMPACTS**

Both the California Environmental Quality Act (CEQA) and CARB policy require an evaluation of the potential adverse environmental impacts of proposed projects. The District has determined that no significant adverse environmental impacts should occur as a result of adopting amendments to Rule 201.1.

Pursuant to the Section 15061, Subsections (2) & (3) of the CEQA Guidelines, staff will prepared and file a Notice of Exemption for this project upon adoption.

## **VI. SOCIOECONOMIC IMPACTS**

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

## **VII. RULE APPROVAL PROCESS**

The District accepted written comments from people interested in proposed Amendments to Rule 201.1 for a period of 30 days following the May 15, 2025, workshop. No comments were received. The District anticipates that Amended Rule 201.1 will be adopted by the Governing Board at the July 24, 2025, Board Hearing.

*Remainder of Page Intentionally Left Blank*



**APPENDIX A:**

**REVISED RULE 201.1**

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

**RULE 201.1 Permits to Operate For Sources Subject To Title V of the Federal Clean Air Act Amendments of 1990** - Adopted 11/01/93 (effective 5/3/95), Amended 1/9/97, 5/3/01 (effective 10/22/01), Amended 3/11/04, Amended 1/12/12, 9/1/22, 7/24/25 (Effective X/XX/XX)

**I. Purpose and General Requirements**

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

As of October 22, 2001, the Eastern Kern Air Pollution Control District (District) shall implement an operating permit program pursuant to the requirements of this Rule, which shall augment and take precedence over any conflicting administrative requirement of any other District Rule or Regulation. The District shall continue to implement its other existing permitting programs pursuant to Rule 201 (Permits Required), which include Authority to Construct provisions, and Rule 210.1 (New Source Review). Nothing in Rule 201.1 limits the authority of the Air Pollution Control Officer (APCO) of the District to revoke or terminate a Rule 201 permit pursuant to Sections 40808 and 42307-42309 of the California Health and Safety Code (CH&SC).

This rule is applicable to major sources, acid rain units subject to Title IV of the CAA, solid waste incinerators subject to Section 111 or 129 of the CAA, and any other source specifically designated by Rule of the EPA. Sources subject to Rule 201.1 shall obtain an operating permit issued pursuant to the conditions and requirements listed within this Rule, and each permit to operate issued shall be adequate to ensure compliance with:

- A. All applicable provisions of Division 26 of the CH&SC, commencing with Section 39000;
- B. All applicable orders, rules, and regulations of the District and the California Air Resources Board (CARB);
- C. All applicable provisions of the implementation plan required by the CAA. In satisfaction of this requirement, a source may ensure compliance with a corresponding District-only rule in accordance with the procedure specified in Section VI.K.;
- D. Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the CAA. In satisfaction of this requirement, a source may propose compliance with a requirement of permit streamlining in accordance with procedures specified in Section VI.J.; and
- E. All requirements of all preconstruction permits issued pursuant to Parts C and D of the CAA (PSD and NSR).

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

## II. Definitions

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

- A. Acid Rain Unit: Any fossil fuel-fired combustion device constituting an affected unit under 40 CFR Part 72.6 and therefore subject to requirements of Title IV (Acid Deposition Control) of the CAA.
- B. Administrative Permit Amendment: Amendment to a permit to operate, which:
  - 1. Corrects a typographical error;
  - 2. Identifies a minor administrative change at the stationary source; for example, a change in name, address, or phone number of any person identified in the permit;
  - 3. Requires more frequent monitoring or reporting by an owner or operator of the stationary source; or
  - 4. Transfers ownership or operational control of a stationary source, provided, prior to transfer, the APCO receives a written agreement specifying a date for transfer of permit responsibility, coverage, and liability from current to prospective permittee.
- C. Affected State: Any state: 1) contiguous with California and whose air quality may be affected by a permit action, or 2) within 50 miles of the source proposing a permit action.
- D. Air Pollution Control Officer (APCO): Eastern Kern Air Pollution Control District Air Pollution Control Officer, or his designee.
- E. Alternative operating scenario (AOS): A scenario authorized in a part 70 permit that involves a change at the part 70 source for a particular emissions unit, and that either results in the unit being subject to one or more applicable requirements which differ from those applicable to the emissions unit prior to implementation of the change or renders inapplicable one or more requirements previously applicable to the emissions unit prior to implementation of the change.
- F. Applicable Federal Requirement: Any requirement enforceable by the EPA and citizens pursuant to Section 304 of the CAA and set forth in, or authorized by, the CAA or a EPA regulation, including any requirement of a regulation in effect at permit issuance and any requirement of a regulation becoming effective during the term of the permit. Applicable federal requirements include:
  - 1. Title I requirements of the CAA, including:
    - a. New Source Review (NSR) requirements in the State Implementation Plan (SIP) approved by the EPA and terms and conditions of a preconstruction permit issued pursuant to an approved New Source Review rule;

## 201.1 Staff Report – Revised

- b. Prevention of Significant Deterioration (PSD) requirements and terms and conditions of a PSD permit (40 CFR Part 52);
  - c. New Source Performance Standards (NSPS) (40 CFR Part 60);
  - d. National Ambient Air Quality Standards (NAAQS), increments, and visibility requirements as they apply to portable sources required to obtain a permit pursuant to Section 504(e) of the CAA;
  - e. National Emissions Standards for Hazardous Air Pollutants (NESHAPs) (40 CFR Part 61);
  - f. Maximum Achievable Control Technology (MACT) or Generally Available Control Technology Standards (GACT) (40 CFR Part 63);
  - g. Risk Management Plan Preparation and Registration Requirements (Section 112(r) of the CAA);
  - h. Solid Waste Incineration requirements (Sections 111 or 129 of the CAA);
  - i. Consumer and Commercial Product requirements (Section 183 of the CAA);
  - j. Tank Vessel requirements (Section 183 of the CAA);
  - k. District prohibitory rules approved into the SIP;
  - l. Standards or regulations promulgated pursuant to a Federal Implementation Plan; and
  - m. Enhanced Monitoring and Compliance Certification requirements (Section 114(a)(3) of the CAA).
- 2. Title IV (Acid Deposition Control) requirements of the CAA (40 CFR Parts 72, 73, 75, 76, 77, 78 and regulations implementing Sections 407 and 410 of the CAA);
  - 3. Title VI (Stratospheric Ozone Protection) requirements of the CAA (40 CFR Part 82); and
  - 4. Monitoring and Analysis requirements (Section 504(b) of the CAA).
- G. Approved Replicable Methodology (ARM): A part 70 permit terms that:
- 1. Specify a protocol which is consistent with and implements an applicable requirement, or requirement of this part, such that the protocol is based on sound scientific and/or mathematical principles and provides reproducible results using the same inputs; and

## 201.1 Staff Report – Revised

2. Require the results of that protocol to be recorded and used for assuring compliance with such applicable requirement, any other applicable requirement implicated by implementation of the ARM, or requirement of this part, including where an ARM is used for determining applicability of a specific requirement to a particular change.
- H. California Air Resources Board (CARB): Air Resources Board of the California Environmental Protection Agency.
- I. Clean Air Act (CAA): Federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.).
- J. Code of Federal Regulations (CFR): United States Code of Federal Regulations.
- K. Commence Operation: Date of initial operation of an emissions unit, including any start-up period authorized by a temporary permit to operate issued pursuant to Section 42301.1 of the CH&SC.
- L. Direct Emissions: Emissions that may reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- M. District: Eastern Kern Air Pollution Control District (EKAPCD).
- N. District-Only: A District rule, permit term, condition, or other requirement identified in accordance with CH&SC Section 42301.12(a)(3) that is not an applicable federal requirement. If a "District-only" requirement becomes a federally-enforceable condition upon issuance of the initial permit or permit modification in accordance with requirements of Rule 201.1 and CH&SC Section 42301.12(a)(3), such requirement shall no longer be a "District-only" requirement.
- O. Effective Date of Rule 201.1: The initial effective date of Rule 201.1 was October 22, 2001 (District Board approved May 3, 2001). The EPA approved effective date of amended Rule 201.1 is Need Date (District Board approved July 24, 2025)
- P. Emergency: Any situation arising from a sudden and reasonably unforeseeable event beyond control of a permittee causing exceedance of a technology-based emission limitation under a permit and requiring immediate corrective action to restore compliance. An emergency shall not include non-compliance resulting from improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.
- Q. Emissions Unit: Any identifiable article, machine, contrivance, or operation which emits, may emit, or results in emissions of, any regulated air pollutant or hazardous air pollutant.

## 201.1 Staff Report – Revised

- R. Federally-Enforceable Condition: Any term, condition, or requirement set forth in the Permit to Operate addressing an applicable federal requirement or voluntary emissions cap, a District-only requirement of permit streamlining imposed in accordance with Section VI.L., and CH&SC Section 42301.12(a)(3), or a District-only requirement which applies in accordance with Section VI.M.1., and CH&SC Section 42301.12(a)(3) for satisfaction of a corresponding requirement in the SIP.
- S. Fugitive Emissions: Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- T. Greenhouse Gas (GHG): Carbon Dioxide (CO<sub>2</sub>), Methane (CH<sub>4</sub>), Nitrous Oxide (N<sub>2</sub>O), and fluorinated greenhouse gases as defined in 40 CFR 98.
- U. Global Warming Potential (GWP): The ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas (i.e., CO<sub>2</sub>). GWPs for each greenhouse gas are provided in Table A-1 of 40 CFR 98.
- V. Hazardous Air Pollutant (HAP): Any air pollutant listed pursuant to Section 112(b) of the CAA.
- W. Health and Safety Code (CH&SC): California Health and Safety Code.
- X. Initial Permit: First Rule 201.1 operating permit for which a source submits an application addressing requirements of Title V of the CAA.
- Y. Major Source: Any stationary source having the potential to emit a regulated air pollutant or a HAP in quantities equal to or exceeding any of the following thresholds:  
  
Major Source Type:
  - 1. 100 tpy of any Regulated Air Pollutant, excluding GHGs;
  - 2. 25 tpy of volatile organic compounds (VOC) or oxides of nitrogen (NO<sub>x</sub>);
  - 3. 10 tpy of VOC or NO<sub>x</sub> if classified as Extreme nonattainment for Ozone NAAQS;
  - 4. 10 tpy of one HAP or 25 tpy of two or more HAP's; or
  - 5. Any lesser quantity threshold of Regulated Air Pollutants promulgated by the EPA.
- Z. Minor Permit Modification: Any modification to a federally-enforceable condition on a permit to operate: 1) not constituting a significant permit modification, and 2) not constituting an administrative permit amendment.
- AA. Permit Modification: Any addition, deletion, or revision to a permit to operate condition.

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

1. Emissions Unit Potential to emit for an emissions unit is the maximum capacity of the unit to emit a regulated air pollutant or HAP considering the unit's physical and operational design. Physical and operational limitations on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions which address applicable federal requirements. Physical and operational limitations shall include, but are not limited to the following: limits placed on emissions; and restrictions on operations such as hours of operation and type or amount of material combusted, stored, or processed.
2. Stationary Source Potential to emit for a stationary source is the sum of the potentials to emit from all emissions units at the stationary source. If two or more HAP's are emitted at a stationary source, the potential to emit for each of those HAP's shall be summed to determine Section III, applicability. Fugitive emissions shall be considered in determining potential to emit for: 1) sources specified in 40 CFR Part 70.2 Major Sources Subsection(2)(i) through (xxvi), 2) sources of HAP emissions, and (3) any other stationary source category regulated under Section 111 or 112 of the CAA and for which the EPA has made an affirmative determination by rule under Section 302(j) of the CAA. Notwithstanding the above, any HAP emissions from any pipeline compressor station shall not be aggregated with emissions of similar units for the purpose of determining a major source of HAP's, even if such units are located on contiguous or adjacent properties or under common control.

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

1. Any preconstruction permit issued pursuant to a PSD program of air quality required by Section 165 of the CAA; or
2. Any preconstruction permit issued pursuant to a New Source Review (NSR) program required by Sections 172 and 173 of the CAA or Rule 210.1.

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

1. VOCs and NOx;
2. Any pollutant having a NAAQS promulgated pursuant to Section 109 of the CAA;
3. Any pollutant subject to a New Source Performance Standard (NSPS) promulgated pursuant to Section 111 of the CAA;
4. Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrochlorofluorocarbons) substance pursuant to Title VI of the CAA; and

## 201.1 Staff Report – Revised

5. Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the CAA, including sections 112(g), (j), and (r) of the CAA, including the following:
    - a. Any pollutant subject to requirements under section 112(j) of the CAA. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the CAA, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the CAA; and
    - b. Any pollutant for which the requirements of section 112(g)(2) of the CAA have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.
- EE. Regulated pollutant (for presumptive fee calculation), which is used only for purposes of §70.9(b)(2): Any regulated air pollutant except the following:
1. Carbon monoxide;
  2. Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance to a standard promulgated under or established by title VI of the Act;
  3. Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act; or
  4. Greenhouse gases.
- FF. Responsible Official: Responsible official means one of the following:
1. For a corporation or federal research facility, a president, secretary, treasurer, or vice-president of the corporation or facility in charge of a principal business function, or any other person performing similar policy or decision-making functions for the corporation or facility, or a duly authorized representative of such person if the representative is responsible for overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
    - a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
    - b. The delegation of authority to such representative is approved in advance by the APCO.
  2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
  3. For a municipality, state, federal, or other public agency, either a principal executive officer or a ranking elected official;



## 201.1 Staff Report – Revised

4. For a federal military facility, the commanding officer; or
5. For an acid rain unit subject to Title IV (Acid Deposition Control) of the CAA, the responsible official is the designated representative of that unit for any purposes under Title IV and this Rule.

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

1. Involving any modification under Section 112(g) of Title I of the CAA or under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, and 63;
2. Significantly changing monitoring conditions;
3. Providing for relaxation of any reporting or recordkeeping conditions;
4. Involving a permit term or condition allowing a source to avoid an applicable federal requirement, including: 1) a federally-enforceable voluntary emissions cap established to avoid triggering a modification requirement of Title I of the CAA, or 2) an alternative HAP emission limit pursuant to Section 112(i)(5) of the CAA;
5. Involving a case-by-case determination of any emission standard or other requirement;
6. Involving a source-specific determination for ambient impacts, visibility analysis, or increment analysis for portable sources;
7. Involves permit streamlining in accordance with Section VI.L.; or
8. Involves use of a District-only rule, in accordance with Section VI.M.1. in satisfaction of a requirement in the SIP.

HH. Solid Waste Incinerator: Any incinerator burning solid waste material from commercial, industrial, medical, general public sources (e.g., residences, hotels, or motels), or other categories of solid waste incinerators subject to a performance standard promulgated pursuant to Sections 111 or 129 of the CAA.

The following incinerators shall not be considered solid waste incinerators for purposes of this Rule:

1. Any hazardous waste incinerator required to obtain a permit pursuant to Section 3005 of the Solid Waste Disposal Act (42 U.S.C. Section 6925);
2. Any materials recovery facility primarily recovering metals;
3. Any qualifying small power production facility as defined in 16 U.S.C.A. Section 796(17)(C);

## 201.1 Staff Report – Revised

4. Any qualifying cogeneration facility burning homogenous waste for production of energy as defined in 16 U.S.C.A. Section 796(18)(B); or
5. Any air curtain incinerator burning only wood, yard, or clean lumber waste and complying with opacity limitations established by the Administrator of the EPA.

### II. Standard District Application: See Section V.C.

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

1. Emitting, or having the potential to emit, or resulting in emissions of any regulated air pollutant or HAP;
2. Located on one or more contiguous or adjacent properties;
3. Under the ownership, operation, or control of the same person (or persons under common control) or entity; and
4. Belonging to a single major industrial grouping; i.e., each building, structure, facility, or installation in the grouping has the same two-digit code under the system described in the 1987 Standard Industrial Classification Manual.

#### KK. Subject to Regulation: For any air pollutant, that the pollutant is subject to either a provision in the CAA, or a nationally-applicable regulation codified by the Administrator in 40 CFR 1, Subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

1. GHGs as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO<sub>2</sub> equivalent emissions.
2. The term tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at 40 CFR 98 Subpart A, Table A-1 - Global Warming Potentials, and summing the resultant value for each to compute a tpy CO<sub>2</sub>e. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

## 201.1 Staff Report – Revised

- LL. United States Environmental Protection Agency (EPA): The Administrator or appropriate delegate of the "United States Environmental Protection Agency."
- MM. Voluntary Emissions Cap: An optional, federally-enforceable emissions limit on one or more emissions unit(s) established by a source to avoid an applicable federal requirement. Notwithstanding acceptance and recognition of a voluntary emissions cap, the source remains subject to all other applicable federal requirements.

### III. Applicability

This rule shall apply to the following sources:

- A. Major source as defined in Section II.Y;
- B. Any source subject to Rule 210.4, Prevention of Significant Deterioration;
- C. Source with an acid rain unit required by Title IV of the CAA to apply for an Acid Rain Permit;
- D. Solid waste incineration unit required to obtain a Title V permit pursuant to Section 129(e) (42 U.S.C. Section 7429) of the CAA;
- E. Any other stationary source in a source category designated, pursuant to 40 CFR Part 70.3, by rule of the EPA; and
- F. Any non-major source that is subject to a standard or other requirement promulgated pursuant to Section 111 (NSPS) or 112 (HAP's) (42 U.S.C. Section 7411 or 7412) of the CAA, published after July 21, 1992, if designated by the Administrator at the time the new standard or requirement is promulgated.

### IV. Exemptions

This Rule shall not apply to:

- A. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);
- B. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 61, Subpart M, NESHAP for Asbestos, §61.145, Standard for Demolition and Renovation.

### V. Administrative Procedures for Sources

#### A. Permit Requirement and Application Shield

A source shall operate in compliance with Permit to Operate issued pursuant to Rule 201(Permits Required). Rule 201.1 does not alter any applicable requirement that a source obtain preconstruction permits.

## 201.1 Staff Report – Revised

If an owner or operator submits a timely and complete application for permit, pursuant to Rule 201.1, a source shall not be in violation of the requirement to have a Permit to Operate until the APCO takes final action on the application.

This application shield will cease to insulate a source from enforcement action if an owner or operator of the source fails to submit any additional information requested by the APCO pursuant to Section V.C.2.

If an owner or operator submits a timely and complete application for an initial permit, the source shall operate in accordance with requirements of any valid Permit to Operate issued pursuant to Section 42301 of the CH&SC until the APCO takes final action on the application. If an owner or operator submits a timely and complete application for renewal of a Permit to Operate, the source shall operate in accordance with the Permit to Operate issued pursuant to Rule 201.1, notwithstanding expiration of this permit, until the APCO takes final action on the application.

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

### B. Application Requirements

#### 1. Initial Permit

- a. For a Type 2 major source (as defined in Section II.Y.2) subject to this Rule on its effective date, an owner or operator shall submit a standard District application within 6 months after this date (by December 4, 1995).
- b. For a source that becomes subject to Rule 201.1 after the Rule's effective date, a responsible official shall submit a standard District application within 12 months of the source commencing operation or of otherwise becoming subject to Rule 201.1.
- c. For a source becoming subject to this Rule after the effective date of the Rule, an owner or operator shall submit a standard District application within 6 months of the source commencing operation.
- d. For a source with an acid rain unit, an owner or operator shall submit a standard District application and acid rain permit application to the District. Such applications shall be submitted within the following timeframe:
  - 1) If the source is subject to Rule 201.1 because of Section III.A., within the applicable timeframe specified in Subsection V.B.1.a. or V.B.1.b., above.
  - 2) If the source is subject to Rule 201.1 only because of Section III.B., by January 1, 1996, or, if applicable, a later date established by 40 CFR Part 72.

### 2. Permit Renewal

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

### 3. Significant Permit Modification

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

### 4. Minor Permit Modification

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

- a. A description of the proposed permit revision, any change in emissions, and additional applicable federal requirements;
- b. Proposed permit terms and conditions; and
- c. Certification by a responsible official the permit revision meets criteria for use of minor permit modification procedures and a request such procedures be used.

### 5. Acid Rain Unit Permit Modification

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

### 6. Greenhouse Gas Emissions

All applicable requirements for greenhouse gases shall be included in Title V permits for any facility that is otherwise required to obtain a new, renewed, or revised Title V permit.

C. Application Content and Correctness

1. Standard District Application

An application submitted by the responsible official shall include:

- a. Information identifying the stationary source;
- b. Description of processes and products (by Standard Industrial Classification Code), including any associated with proposed alternative operating scenarios (see Section VI.K.1.);
- c. Identification of fees required by Rules 301, and 301.3;
- d. Listing of all existing emissions units at the stationary source and identification and description of all points of emissions from emissions units in sufficient detail to establish applicable federal requirements and basis for any fees pursuant to Section VIII;
- e. Citation and description of all applicable federal requirements, information and calculations used to determine applicability of such requirements and other information necessary to implement and enforce such requirements;
- f. Calculation of all emissions, including fugitive emissions, in tons per year and in terms necessary to establish compliance with all applicable District, state, or federal requirements for:
  - 1) All regulated air pollutants emitted from the source;
  - 2) Any HAP the source has the potential to emit in quantities equal to or in excess of 10 tons per year; and
  - 3) If the source has the potential to emit two or more HAP's in quantities equal to or in excess of 25 tons per year, all HAP's emitted by the source.
- g. Identification of fuels, fuel use, raw materials, production rates, operating schedules, limitations on source operation or workplace practices if these affect source emissions;
- h. Identification and description of air pollution control equipment and compliance monitoring devices or activities;
- i. Any other information required by an applicable federal requirement (or a District-only rule in accordance with Section VI.M.1.);
- j. Information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating scenarios pursuant to Section VI.K.1.;

k. Compliance plan and compliance schedule, including:

- 1) Description of the compliance status of each emissions unit within the stationary source with respect to applicable federal requirements, except as provided below:
  - a) For all applicable federal requirements which are to be satisfied by compliance with requirements of a permit streamlining proposal made in accordance with Subsection V.C.1.s., the responsible official may certify compliance with only requirements of the permit streamlining proposal if data on which to base such a certification is submitted or referenced with the application. Such application shall include an attachment demonstrating compliance with requirements of the permit streamlining proposal ensures compliance with the identified applicable federal requirements;
  - b) In order to certify compliance with a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a District-only rule, if data on which to base such a certification is submitted or referenced with the application, and if use of the District-only rule is proposed and approved in accordance with Subsection V.C.1.t.
- 2) A statement the source will continue to comply with such applicable federal requirements with which the source is in compliance;
- 3) A statement the source will comply, on a timely basis, with applicable federal requirements which will become effective during the permit term; and
- 4) A description of how the source will achieve compliance with requirements for which the source is not in compliance. However, if the source complies with a District-only rule addressed in a proposal submitted in accordance with Subsection V.C.1.t., no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District;
1. A schedule of compliance which resembles and is at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law, identifying remedial measures with specific increments of progress, a final compliance date, testing and monitoring methods, recordkeeping requirements, and a schedule for submission of certified progress reports to the EPA and the APCO at least every 6 months for a source that is not in compliance at the time of permit issuance or renewal, and modification (if the non-compliance is with units being modified) and is:

## 201.1 Staff Report – Revised

- 1) A streamlined emission limit proposed in accordance with Subsection V.C.1.s.
  - 2) A District-only rule proposed in accordance with Subsection V.C.1.t. or
  - 3) An applicable federal requirement not to be subsumed by a proposal submitted in accordance with Subsection V.C.1.s. or V.C.1.t.
- m. A certification by a responsible official of all reports and other documents submitted for permit application, compliance progress reports at least every 6 months, statements on compliance status with any applicable enhanced monitoring, and compliance plans at least annually which shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;
- n. For a source with an acid rain unit, an application shall include elements required by 40 CFR Part 72;
- o. For a source of HAP's required to prepare a risk management plan pursuant to Section 112(r) of the CAA, the application shall include verification such a plan has been submitted to the authorized implementing agency, or shall include a compliance schedule for submittal of such a plan;
- p. For proposed portable sources, an application shall identify all locations of potential operation and how such sources will comply with all applicable District, state, and federal requirements at each location;
- q. In lieu of providing the information specified in Subsection V.C.1.e., an owner or operator may, upon written concurrence from the APCO, stipulate the source is a major source and/or identified applicable federal requirements apply to the source. A stipulation does not preclude the APCO from requiring submittal of subsequent additional information in accordance with this Rule;
- r. An owner or operator may, upon written concurrence from the APCO, reference documents that contain information required in Subsections V.C.1.a. through j. and o., provided documents are specifically and clearly identified, and are readily available to the District and to the public. Each reference shall include, at a minimum, title or document number, author and recipient if applicable, date, identification of relevant sections of the document, and identification of specific application content requirements and source activities or equipment for which the referencing applies. A reference does not preclude the APCO from requiring submittal of information to supplement or verify the referencing or the submittal of other additional information in accordance with this Rule;
- s. The application may contain a proposal for permit streamlining of two or more sets of applicable federal requirements and/or District-only requirements, to be reviewed by the District in accordance with Section VI.L.. The application shall clearly note any proposal for permit streamlining.



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

- 1) A side-by-side comparison of all District-only and applicable federal requirements that are currently applicable and effective. Requirements for emissions and/or work practice standards shall be distinguished from provisions for monitoring and compliance demonstration;
- 2) A determination of the most stringent emissions and/or performance standard (or any hybrid or alternative limits as appropriate) and the documentation relied upon to make this determination;
- 3) A proposal for one set of permit terms and conditions to include the most stringent emissions limitations and/or standards (including pertinent work practice standards), appropriate monitoring and its associated recordkeeping and reporting requirements, and such other conditions as are necessary to ensure compliance with all applicable federal requirements affected by the proposal. The most stringent emission limits shall be determined in accordance with criteria in Subsection II.A.2.(a). of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996.

Streamlining of work practice standards shall be consistent with guidance in Subsection II.A.2.(b) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996. Streamlining of monitoring, recordkeeping, and reporting requirements shall be consistent with guidance in Subsection II.A.2.(e) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996;

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

- 5) A compliance schedule to implement any new monitoring/compliance approach relevant to the streamlined limit if the emission unit is unable to comply with the streamlined limit at the time of permit issuance. Recordkeeping, monitoring, and reporting requirements of applicable federal requirements being subsumed shall continue to apply (as would the requirement for the emission unit to operate in compliance with each of its emission limits) until the new streamlined compliance approach becomes operative;
  - 6) A proposal for a permit shield in accordance with Subsection V.C.1.u., for applicable federal requirements and District-only requirements associated with the streamlining proposal;
  - 7) If the proposal includes use of any District-only requirement(s) as a requirement of permit streamlining, an authorization for the APCO to identify such District-only requirement(s), and any streamlined monitoring, recordkeeping, or reporting requirement derived from it, in the permit as a federally-enforceable condition in accordance with CH&SC Section 42301.12(a)(3); and
  - 8) Other pertinent information as specified by the APCO, including supplementary information pertaining to paragraphs 1) through 6) of this Subsection.
- t. If the application contains a proposal to address a District-only rule that has been submitted to the EPA for State Implementation Plan approval, in lieu of a corresponding requirement in the State Implementation Plan, the application shall include the following additional information:
- 1) An indication this approach is being proposed, a list or cross-reference of all requirements from pertinent District-only rules eligible for this approach, and reference to the list maintained for this purpose by the District;
  - 2) Identification of State Implementation Plan requirements the District-only rule(s) would replace;
  - 3) A compliance certification for requirements of pertinent District-only rule(s) in lieu of requirements in the State Implementation Plan in accordance with Subsection V.C.1.k.;
  - 4) A proposal for a permit shield in accordance with Subsection V.C.1.u., below, for the affected applicable federal requirements in the State Implementation Plan;
  - 5) An authorization for the APCO to identify in the permit, in accordance with CH&SC Section 42301.12(a)(3), any such District-only emission limit and any associated District-only monitoring, recordkeeping, or reporting requirement as a federally-enforceable condition; and

- 6) Other information as specified by the APCO in accordance with this Rule.
- u. The application may contain a proposal for a permit shield to be reviewed by the District in accordance with Section VI.N., and to be included in the permit. The proposal shall indicate applicable federal requirements and District-only requirements for which the permit shield is sought. The proposal shall also specify emission unit(s) for which the permit shield is sought or whether the permit shield is sought for the entire stationary source;
- v. For the purposes of this Rule, an insignificant activity shall be any activity, process, or emissions unit which is not subject to a source-specific applicable federal requirement and which emits no more than 0.5 tons per year of a HAP, no more than two tons per year of a regulated air pollutant excluding HAPs and GHGs, and no more than 5,000 tpy of GHG measured as CO<sub>2</sub>e. Source-specific applicable federal requirements include requirements for which emission unit-specific information is required to determine applicability.
- w. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required in Section VIII, Annual Fees. [Reference: 40 CFR Part 70.5(c)]

## 2. Correctness of Applications

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

- a. Upon written request of the APCO, an owner or operator shall supplement any complete application with any necessary additional information within the timeframe specified by the APCO; or
- b. An owner or operator shall promptly provide additional/replacement information in writing to the APCO upon discovery of submittal of any inaccurate information as part of the application or as a supplement thereto, or of any additional relevant facts previously omitted and needed for accurate analysis of the application.
- c. Intentional or negligent submittal of inaccurate information shall result in denial of an application.

## D. Written Requests for District Action

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

### 1. Administrative Permit Amendment

For an administrative permit amendment, an owner or operator may implement the change addressed in the written request immediately upon submittal of the request.

2. Permit Modification for a Non-Federally-Enforceable Condition

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

3. Permit to Operate for New Emissions Unit

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

- a. Construction or operation of the emissions unit is a modification under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, 63;
- b. Construction or operation of the emissions unit is addressed or prohibited by existing Rule 201.1 permits for other emissions units at the stationary source; or
- c. The emissions unit is an acid rain unit subject to Title IV of the CAA. For circumstances specified in Subsections V.D.3.a., b., or c., above, an owner or operator shall apply for a Permit to Operate for the new emissions unit pursuant to requirements of this Rule.

E. Response to Permit Reopening For Cause

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

**VI. District Administrative Procedures**

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

A. Completeness Review of Applications

The APCO shall determine if an application is complete and shall notify the responsible official of his determination within the following timeframes:

1. For an initial permit, permit renewal, or a significant permit modification, within 60 days of receiving the application;
2. For a minor permit modification, within 30 days of receiving the application. An application shall be deemed complete unless the APCO requests additional information or otherwise notifies the owner or operator the application is incomplete within the timeframes specified above.

B. Notification of Completeness Determination

The APCO shall provide written notification of a completeness determination to the EPA, the CARB and any affected state and shall submit a copy of the complete application to the EPA within five working days of the determination. If the application includes a proposal for permit streamlining, the APCO shall note this when submitting a copy of the complete application to the EPA. The APCO need not provide notification for applications from non-major sources when the EPA waives such requirement for a source category by regulation or at the time of approval of the District operating permits program.

C. Application Processing Timeframes

The APCO shall act on a complete application in accordance with procedures in following Sections VI.D., VI.F. and VI.G., except as application procedures for acid rain units are provided for under regulations promulgated pursuant to Title IV of the CAA, and take final action within the following timeframes:

1. For an initial permit for a source subject to this Rule on the effective date of the Rule, no later than three years after the effective date of the Rule;
2. For an initial permit for a source becoming subject to this Rule after the effective date of the Rule, no later than 18 months after the complete application is received;
3. For a permit renewal, no later than 18 months after the complete application is received;
4. For a significant permit modification, no later than 18 months after the complete application is received;
5. For a minor permit modification, no later than 90 days after the application is received or 60 days after written notice to the EPA of the proposed decision, whichever is later; or
6. For any permit application with early HAP's reductions pursuant to Section 112(i)(5) of the CAA, within 9 months after the complete application is received.
7. Provided the EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of a permit in accordance with Section VI.M.2., until the EPA formally acts to approve or disapprove a District-only rule submitted for inclusion in the State Implementation Plan. If the EPA disapproves the District-only rule, the APCO shall require the owner or operator to revise the application to address corresponding requirements in the State Implementation Plan not yet addressed and to provide additional information as specified by the APCO in accordance with this Rule. The APCO shall specify an expeditious timeframe for the owner or operator to submit the revised application.

D. Notification and Opportunity for Review of Proposed Decision

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

1. For initial permit, renewal of permit, significant permit modification, and reopening for cause, the APCO shall provide:
  - a. Written notice, the draft proposed permit and, upon request, a copy of the District analysis to interested persons or agencies. The District analysis shall include a statement setting forth the legal and factual basis for proposed permit conditions, including references to applicable statutory and regulatory provisions. "Interested persons or agencies" includes persons having requested in writing to be notified of proposed Rule 201.1 decisions, any affected state and the CARB;
  - b. On or after providing written notice pursuant to Subsection VI.D.1.a., above, public notice that shall be published in at least one newspaper of general circulation in the District and, if necessary, by other means to assure adequate notice to the affected public. The notice shall include:
    - 1) Identification of the source, name and address of permit holder, activities and emissions change involved in the permit action;
    - 2) Name and address of the District, name and telephone number of District staff capable of providing additional information;
    - 3) Availability, upon request, of a statement setting forth legal and factual basis for proposed permit conditions;
    - 4) Location where the public may inspect the complete application, District analysis, and proposed permit;
    - 5) Statement that public may submit written comments regarding the proposed decision within at least 30 days from date of publication and brief description of commenting procedures; and
    - 6) Statement that members of the public may request the APCO preside over a public hearing for the purpose of receiving oral public comment if a hearing has not already been scheduled. The APCO shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing.
  - c. A copy of the complete application, District analysis and proposed permit at a District office for public review and comment during normal business hours;

- d. Written response to persons or agencies submitting written comments postmarked by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the District office and made available upon request; and
  - e. After completion of the public notice and comment period pursuant to Subsection VI.D.1.b., written notice to the EPA of the proposed decision, including copies of the proposed permit, District analysis, public notice submitted for publication, District's response to written comments, and all necessary supporting information.
2. For minor permit modification, the APCO shall provide written notice of the proposed decision to the EPA, CARB, and any affected state. Additionally, the District shall provide to the EPA and, upon request, to CARB or any affected state copies of the proposed permit, District analysis, and all necessary supporting information. The District analysis shall include a statement setting forth legal and factual basis for proposed permit conditions, including references to applicable statutory and regulatory provisions.

E. Transmission of Information to the Administrator

1. The District shall provide to the Administrator a copy of each permit application (including any application for significant or minor permit modification), each proposed permit, each final permit, and, if significant comment is received during the public participation process and the written response to comments. The applicant may be required by the permitting authority to provide a copy of the permit application (including the compliance plan) directly to the Administrator.

Upon agreement with the Administrator, the permitting authority may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

- a. If significant comment was received during the public participation process before the proposed permit is submitted to the Administrator, such comments and District responses must be submitted with the proposed permit along with other supporting materials. The Administrator's 45-day review period for this proposed permit will not begin until such materials have been received by the EPA
- b. In instances where the Administrator has received a proposed permit from a permitting authority before the public participation process on the draft permit has been completed, the public comments must be submitted with the proposed permit along with other supporting materials, excepting the final permit and the written response to comments.

If the permitting authority receives significant comment on the draft permit during the public participation process, but after the submission of the proposed permit to the Administrator, the Administrator will no longer consider the submitted proposed permit as a permit proposed to be issued under section 505 of the Act.

In such instances, the permitting authority must make any revisions to the permit and permit record necessary to address such public comments, including preparation of a written response to comments (which must include a written response to all significant comments raised during the public participation process, and must submit the proposed permit and the supporting material, excepting the final permit, to the Administrator after the public comment period has closed. This later submitted permit will then be considered as a permit proposed to be issued under section 505 of the Act, and the Administrator's review period for the proposed permit will not begin until all required materials have been received by the EPA.

2. The Administrator may waive the requirements of this section for any category of sources (including any class, type, or size within such category) other than major sources according to the following:
  - a. By regulation for a category of sources nationwide, or
  - b. At the time of approval of a State program for a category of sources covered by an individual permitting program.

### F. Changes to Proposed Decision

Changes to a proposed decision shall be administered as follows:

1. The APCO may modify or change a proposed decision, the proposed permit, or District analysis based on information in comments received during the public comment period pursuant to Subsection VI.D.1.b. or based on further analysis of the APCO. Pursuant to Subsection VI.D.1.e., above, the APCO shall forward any such modified proposed decision, the proposed permit, District analysis, and all necessary supporting information to the EPA.
2. If the EPA objects in writing to the proposed decision within 45 days of being notified of the decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to Subsection VI.D.1.e., above, the APCO shall not issue the permit. Also, if the public petitions the EPA within 60 days after the end of the EPA's 45-day review period and the permit has not yet been issued, the APCO shall not issue the permit until EPA objections in response to the petition are resolved. The APCO shall, either, respond in writing to EPA's comments, deny the application, or revise and resubmit a permit addressing EPA's identified deficiencies within the following timeframes:



## 201.1 Staff Report – Revised

- a. For initial permits, permit renewals, and significant permit modifications, within 90 days of receiving the EPA objection; or
- b. For minor permit modifications, within 90 days of receipt of the application or 60 days of the notice to EPA, whichever is later.

### G. Final Decision

If the EPA does not object in writing within 45 days of a notice provided pursuant to Subsection VI.D.1.e., or the APCO submits a revised permit pursuant to Section VI.F.2., above, the APCO shall, expeditiously, deny the application or issue the final permit to operate. In any case, the APCO shall take final action on an application within applicable timeframes specified in Section VI.C. Failure of the APCO to act on a permit application or permit renewal application in accordance with timeframes provided in Section VI.C., shall be considered final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously.

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

### H. Public Petitions to the Administrator

If the Administrator does not object in writing, any person may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. The petitioner shall provide a copy of such petition to the permitting authority and the applicant. 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 the 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 District shall not issue the permit until 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 45-day review period and prior to an EPA objection. If the District has issued a permit prior to receipt of an EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in §70.7 (g)(4) or §70.8 (g)(5)(i) and (ii) except in unusual circumstances, and the District may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

1. Standard Petitions Requirements

Each public petition sent to the Administrator must include the following elements in the following order:

a. Identification of the proposed permit on which the petition is based

The petition must provide the permit number, version number, or any other information by which the permit can be readily identified. The petition must specify whether the permit action is an initial permit, a permit renewal, or a permit modification/revision, including minor modifications/revisions.

b. Identification of petition claims

Any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements under this part. Any arguments or claims the petitioner wishes the EPA to consider in support of each issue raised must be contained within the body of the petition, or if reference is made to an attached document, the body of the petition must provide a specific citation to the referenced information, along with a description of how that information supports the claim. In determining whether to object, the Administrator will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. For each claim raised, the petition must identify the following:

- 1) The specific grounds for an objection, citing to a specific permit term or condition where applicable.
- 2) The applicable Part 70 requirement that is not met.
- 3) An explanation of how the term or condition in the permit, or relevant portion of the permit record or permit process, is not adequate to comply with the corresponding applicable Part 70 requirement.
- 4) If the petition claims that the District did not provide for a public participation procedure, the petition must identify specifically the required public participation procedure that was not provided.
- 5) Identification of where the issue was raised with reasonable specificity during the public comment period, citing to any relevant page numbers in the public comment submitted to the District and attaching this public comment to the petition. If the grounds for the objection were not raised with reasonable specificity during the public comment period, the petitioner must demonstrate that such grounds arose after that period, or that it was impracticable to raise such objections within that period.

- 6) Unless the grounds for the objection arose after the public comment period or it was impracticable to raise the objection within that period, the petition must identify where the District responded to the public comment, including page number(s) in the publicly available written response to comment, and explain how the permitting authority's response to the comment is inadequate to address the issue raised in the public comment. If the response to comment document does not address the public comment at all, the petition must state that.

2. Documents that may be considered in reviewing petitions

The information that the Administrator considers in making a determination whether to grant or deny a petition on a proposed permit generally includes the petition itself, including attachments to the petition, and the administrative record for the proposed permit. This includes the draft and proposed permits; any permit applications that relate to the draft or proposed permits; the technical support document; any comments the District received during the public participation process on the draft permit; the District's written responses to comments, including responses to all significant comments raised during the public participation process on the draft permit; and all materials available to the District that are relevant to the permitting decision and that the District made available to the public. If a final permit is available during the agency's review of a petition on a proposed permit, that document may also be considered as part of making a determination whether to grant or deny the petition.

3. Submission of Petitions

Any petition to the Administrator must be submitted through the Operating Permits Group in the Air Quality Policy Division in the Office of Air Quality Planning and Standards, using one of the three following methods, as described at the EPA Title V Petitions website: An electronic submission through the EPA's designated submission system identified on that website (the agency's preferred method); an electronic submission through the EPA's designated email address listed on that website; or a paper submission to the EPA's designated physical address listed on that website. Any necessary attachments must be submitted together with the petition, using the same method as for the petition. Once a petition has been successfully submitted using one of these three methods, the petitioner should not submit additional copies of the petition using another method. The Administrator is not obligated to consider petitions submitted to the agency using any method other than the three identified in this section.

4. Timeliness

In order for the EPA to be able to determine whether a petition was timely filed, the petition must have or be accompanied by one of the following: A date or time stamp of receipt through EPA's designated electronic submission system as described in VI.H.3; a date or time stamp on an electronic submission through EPA's designated email address as described in VI.H.3; or a postmark date generated for a paper copy mailed to EPA's designated physical address.

I. District Action on Written Requests

The APCO shall act on a written request of an owner or operator for permit action using the applicable procedure specified in this Subsection.

1. Administrative Permit Amendment

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

- a. After designating the permit revision(s) as an administrative permit amendment, the APCO may revise the permit without providing notice to the public or any affected state;
- b. The APCO shall provide a copy of the revised permit to the responsible official and the EPA; and
- c. The APCO is not required to make a completeness determination on a written request, but shall notify the owner or operator if the APCO determines the permit can not be revised as an administrative permit amendment.

2. Permit Modification for Non-Federally-Enforceable Condition

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

- a. Any change at the stationary source allowed by the permit modification shall comply with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules imposed in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by a permit streamlining requirements imposed in accordance with Section VI.L., or District-only rules substituting for provisions of the State Implementation Plan pursuant to Section VI.M.1., and will not violate any existing permit term or condition; and
- b. The APCO shall provide to the EPA a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement applying as a result of the change.

3. Permit to Operate for New Emissions Unit

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

J. Permit Reopening for Cause

The APCO shall reopen and revise a Permit to Operate during the annual review period authorized by Section 42301(c) of the CH&SC, or petition the District hearing board to do so, as applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by the EPA, or within 18 months of promulgation of a new applicable federal requirement. The APCO shall act only on those parts of the permit for which cause to reopen exists.

1. Circumstances constituting cause for reopening and revision of a permit include, but are not limited to, the following:
  - a. Need to correct a material mistake or inaccurate statement;
  - b. Need to revise or revoke a permit to operate to assure compliance with permit streamlining requirements imposed in accordance with Section VI.L., District-only rules imposed in accordance with Section VI.M.1., all applicable federal requirements not subsumed by permit streamlining requirements imposed in accordance with Section VI.L., or District-only rules substituting for provisions of the State Implementation Plan pursuant to Section VI.M.1.;
  - c. Need to incorporate any new, revised, or additional applicable federal requirement, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after promulgation of such requirement (if less than 3 years remain in the authorized life of the permit, the APCO shall incorporate these requirements into the permit to operate upon renewal); or
  - d. Need to reopen a permit issued to an acid rain unit subject to Phase II of Title IV of the CAA to include:
    - 1) NO<sub>x</sub> requirements prior to January 1, 1999, and
    - 2) Additional requirements promulgated pursuant to Title IV as they become applicable to any acid rain unit governed by the permit.
2. In processing a permit reopening, the APCO shall use the same procedures as for an initial permit and:
  - a. Provide written notice to an owner or operator and the EPA within 30 days prior to reopening a permit; and
  - b. Complete action to revise the permit as specified in the notice of reopening within 60 days after the written notice to the EPA pursuant to Subsection VI.D.1.e., unless the EPA objects; or after the APCO has responded to the EPA's objection pursuant to Section VI.F.2.

K. Options for Operational Flexibility

The APCO shall allow specified changes in operations at a source without requiring a permit revision for conditions addressing an applicable federal requirement. The APCO shall not allow such changes constituting a modification under Title I of the CAA or Rule 210.1, or resulting in exceedance of emissions allowed by the permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility using the following options:

1. Alternative Operating Scenarios (AOS)

The APCO shall allow use of alternative operating scenarios provided:

- a. Terms and conditions applicable to each operating scenario are identified by the owner or operator in the permit application;
- b. Terms and conditions are approved by the APCO;
- c. Terms and conditions are incorporated into the permit; and
- d. Terms and conditions are in compliance with all applicable District, state, and federal requirements.

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

2. Voluntary Emissions Caps

The APCO shall issue a permit containing terms and conditions allowing for trading of emissions increases and decreases within the stationary source solely for the purpose of complying with a voluntary emissions cap established in the permit independent of otherwise applicable federal requirements provided:

- a. Requirements of Subsections VI.I.1.a., 1.c., and 1.d., above, are met;
- b. Terms and conditions are approved by the APCO as quantifiable and enforceable; and
- c. Terms and conditions are consistent with any applicable preconstruction permit.

A permit condition shall require an owner or operator to provide written notice to EPA and the APCO 30 days in advance of a change by clearly requesting operational flexibility pursuant to this Subsection. Such written notice shall describe the change, identify the emissions unit to be affected, date on which the change will occur and duration of change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not.

3. Contravening an Express Permit Condition

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

- a. Changes will not violate any applicable federal requirement or any previously District-only rule used in accordance with Section VI.M.1.;
- b. Changes will not contravene monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements constituting federally-enforceable conditions;
- c. Changes are not modifications under Title I of the CAA or any provision of Rule 210.1;
- d. Changes do not result in exceeding emissions allowable by the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
- e. Written notice is given to EPA and the APCO 30 days in advance of a change, and such notice clearly indicates term(s) or condition(s) to be contravened, requests operational flexibility under this Subsection, describes the change, identifies emissions units to be affected, date on which the change will occur, duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and
- f. APCO has not provided a written denial to the owner or operator within 30 days of receipt of the request for an operational change. The written denial shall identify which of the requirements of Subsections VI.I.3.a., b., c., d., or e., above, have not been satisfied.

L. Permit Streamlining

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

The APCO may approve a proposal which includes either: 1) the most stringent of multiple applicable emission limitations (including work practice and operational standards) for each regulated air pollutant, 2) an alternative or hybrid emission limitation at least as stringent as any applicable emission limitation, or 3) a District-only requirement which meets criteria set forth in Section VI.M., and is at least as stringent as the applicable federal requirement(s) which it subsumes.

### M. Requirements From the State Implementation Plan

1. In response to a proposal in the application submitted in accordance with Section V.C.1.t., the APCO may issue a permit with permit terms and conditions in accordance with Section VII., "Permit Content Requirements" based on a District-only rule in lieu of a corresponding rule in the State Implementation Plan, provided the following requirements are met:
  - a. Compliance with one of the following criteria:
    - 1) The EPA has determined in writing the District-only rule is at least as stringent as, and ensures compliance with, the corresponding rule in the applicable State Implementation Plan, or
    - 2) The owner or operator has demonstrated to satisfaction of the APCO and EPA, expressed in writing, that compliance with the District only rule assures compliance with the corresponding rule in the State Implementation Plan, and
  - b. Once the permit is issued, the permit terms and conditions based on the District-only rule shall be federally-enforceable in accordance with CH&SC Section 42301.12(a)(3) and Section VII.A.2.,. The permit shall include a permit shield provided in accordance with Section VI.N., for applicable federal requirements associated with the District-only rule. Requirements of the corresponding rule in the Implementation Plan shall remain federally enforceable until the EPA approves the District-only rule for inclusion in the State Implementation Plan. If, after permit issuance, the District or EPA determines the permit does not assure compliance with applicable federal requirements, the permit shall be reopened.
2. Provided the EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of the permit until the EPA formally acts to approve or disapprove the District-only rule submitted for inclusion in the State Implementation Plan.

### N. Permit Shield

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



## 201.1 Staff Report – Revised

- a. Such applicable federal requirements and/or District-only requirements are specifically identified and included in the permit; or
  - b. The APCO, in acting on the permit application or revision, determines in writing other specifically identified requirements are not applicable to the source, and the permit includes the determination or a concise summary thereof.
2. When a permit shield is provided by the APCO for permit streamlining in accordance with Section VI.L., the permit shield shall be effective only when the source is in compliance with streamlined emission limits (including applicable work standards and operational practices), during which time no enforcement action shall be taken for non-compliance with subsumed requirements. If the source is not in compliance with the streamlined emission limits, the permit shield shall not be in effect and enforcement action may be taken for non-compliance with subsumed emissions limitations to the extent such noncompliance can be established.
3. A permit that does not expressly state a permit shield exists shall be presumed not to provide such a shield.
4. A permit shield shall not be provided for the following:
  - a. Any minor permit modification;
  - b. Any change in operation allowed by Section VI.K.3., for contravening an express permit condition; or
  - c. Any change in operation or any permit modification pursuant to Section VI.I.2. or VI.I.3.
5. Provisions of Section VI.N.1., shall not alter or affect any of the following:
  - a. Provisions of Section 303 (Emergency Orders) of the CAA, including the authority of the EPA Administrator;
  - b. Liability of an owner or operator of a source for any violation of applicable federal requirements prior to or at the time of permit issuance;
  - c. Applicable federal requirements of Title IV (Acid Rain) of the CAA and the regulations promulgated thereunder;
  - d. Ability of the EPA or APCO to implement and enforce provisions of Section 114 of the CAA and regulations promulgated thereunder;
  - e. Applicability of state or District-only requirements not associated with any permit streamlining action in accordance with Section VI.L., at the time of permit issuance but which do apply to the source; or
  - f. Applicability of regulatory requirements with compliance dates after the permit issuance date.

## **VII. Permit Content Requirements**

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

### **A. Incorporation of Applicable Federal Requirements**

1. A Permit to Operate shall incorporate all applicable federal requirements (or District-only rules which apply in accordance with Section VI.M.1., in lieu of applicable federal requirements) as permit conditions. Streamlining, if any, of requirements shall be accomplished in accordance with Section VI.L.
2. A permit condition addressing an applicable federal requirement, a permit streamlining requirement imposed in accordance with Section VI.L., or a District-only rule which applies in accordance with Section VI.M.1., shall be specifically identified in the permit, or otherwise distinguished from any requirement not enforceable by EPA in accordance with CH&SC Section 42301.12(a)(3).

### **B. General Requirements**

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

#### **1. Emission and Operational Limitations**

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

#### **2. Preconstruction Permit Requirements**

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

#### **3. Origin and Authority for Permit Conditions**

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

#### **4. Equipment Identification**

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

5. Monitoring, Testing, and Analysis

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

6. Recordkeeping

The permit shall include recordkeeping conditions requiring:

- a. Recording of maintenance of all monitoring and support information associated with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirement not subsumed by such permit streamlining requirement(s) or District-only rules, including:
  - 1) Date, place, and time of sampling;
  - 2) Operating conditions at time of sampling;
  - 3) Date, place, and method of analysis; and
  - 4) Results of analysis;
- b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of sample collection, measurement, report, or application; and
- c. Any other recordkeeping deemed necessary by the APCO to ensure compliance with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules.

7. Reporting

The permit shall include reporting conditions requiring the following:

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

## 201.1 Staff Report – Revised

- c. All reports of non-conformance with permit requirements shall include probable cause of non-conformance and any preventative or corrective action taken;
- d. Progress report shall be made on a compliance schedule at least semiannually and including: 1) date when compliance will be achieved, 2) explanation of why compliance was not, or will not be achieved by the scheduled date, and 3) log of any preventative or corrective action taken;
- e. Each monitoring report shall be accompanied by a written statement from the responsible official certifying the truth, accuracy, and completeness of the report; and
- f. Any source subject to this rule shall submit to the District by March 31 of each year, actual GHG emissions for the previous calendar year. Emissions shall be calculated and reported in accordance with 40 CFR Part 98, Mandatory Greenhouse Gas Reporting.

### 8. Compliance Plan

The permit shall include a compliance plan:

- a. Describing the compliance status of an emissions unit with respect to each applicable federal requirement, except as provided below:
  - 1) For all applicable federal requirements which are satisfied by compliance with streamlining requirements approved by the District in accordance with Section VI.L., the responsible official may certify compliance with streamlined requirement(s) if there are data on which to base such a certification. The compliance plan shall include an attachment that indicates compliance with the permit streamlining requirement ensures compliance with identified applicable federal requirements being subsumed; and
  - 2) In lieu of a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a District only rule allowed by the District in accordance with Section VI.M.1., if there are data on which to base such a certification;
- b. Describing how compliance will be achieved if an emissions unit is not in compliance with an applicable federal requirement at time of permit issuance. However, if the emission unit complies with a District-only rule in accordance with Section VI.M.1., no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District;
- c. Assuring an emissions unit will continue to comply with all permit conditions with which it is in compliance; and
- d. Assuring an emissions unit will comply with, on a timely basis, any applicable federal requirement becoming effective during the permit term.

9. Compliance Schedule

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

- a. Statement the emissions unit will continue to comply with all permit conditions with which it is in compliance;
- b. Statement the emissions unit will comply, on a timely basis, with an applicable federal requirement becoming effective during the permit term;
- c. For each condition with which the emissions unit is not in compliance with a permit streamlining requirement imposed in accordance with Section VI.L., a District-only rule which applies accordance with Section VI.M.1., or an applicable federal requirement not subsumed by such permit streamlining requirements or District-only rules, a schedule of compliance listing all preventative or corrective activities, and dates when these activities will be accomplished; and
- d. For each emissions unit not in compliance with a permit streamlining requirement imposed in accordance with Section VI.L., a District-only rule which applies in accordance with Section VI.M.1., or an applicable federal requirement not subsumed by such permit streamlining requirements or District-only rules, a schedule of progress on at least a semi-annual basis including: 1) date when compliance will be achieved, 2) explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) log of any preventative or corrective actions taken.

10. Right of Entry

The permit shall require the source to allow entry of District, CARB, or EPA officials for purpose of inspection and sampling, including:

- a. Inspection of the stationary source, including equipment, work practices, operations, and emission-related activity;
- b. Inspection and duplication of records required by the permit to operate; and
- c. Source sampling or other monitoring activities.

11. Compliance with Permit Conditions

The permit shall include the following compliance provisions:

- a. Permittee shall comply with all permit conditions;
- b. Permit does not convey any property rights or any exclusive privilege;
- c. Non-compliance with any permit condition shall be grounds for permit termination, revocation and reissuance, modification, enforcement action, or denial of permit renewal;
- d. Permittee shall not use "need to halt or reduce a permitted activity in order to maintain compliance" as a defense for non-compliance with any permit condition;
- e. Pending permit action or notification of anticipated non-compliance does not stay any permit condition; and
- f. Within a reasonable time period, permittee shall furnish any information requested by the APCO, in writing, for purpose of determining: 1) compliance with the permit, or 2) whether or not cause exists for a permit or enforcement action.

12. Severability

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

13. Compliance Certification

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

- a. The responsible official shall submit a compliance certification to the EPA and the APCO every 12 months or more frequently as specified in an applicable requirement or by the District. All compliance reports and other documents required to be submitted to the District by the responsible official shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;
- b. Such compliance certification shall identify the basis for each permit term or condition, e.g., specify the emissions limitation, standard, or work practice, and a means of monitoring compliance with the term or condition;
- c. Such compliance certification shall include compliance status and method(s) used to determine compliance for the current time period and over entire reporting period; whether compliance was continuous or intermittent; and

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

14. Permit Life

With the exception of acid rain units subject to Title IV of the CAA and solid waste incinerators subject to Section 129(e) of the CAA, each Permit to Operate shall include a condition for a fixed term not to exceed five years from the time of issuance. A permit to operate for an acid rain unit shall have a fixed permit term of five years. A permit to operate for a solid waste incinerator shall have a permit term of 12 years; but such permit shall be reviewed at least every five years.

15. Payment of Fees

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

16. Alternative Operating Scenarios

Where an owner or operator requests an alternative operating scenario be included in the permit for an emissions unit, the permit shall contain specific conditions for each operating scenario, including each alternative operating scenario. Each operating scenario, including each alternative operating scenario, identified in the permit shall ensure compliance with all permit streamlining requirements imposed in accordance with Section VI.K.1., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules, and all requirements of this Section. The source shall maintain a contemporaneous log to record each change from one operating scenario to another.

17. Approved Replicable Methodology (ARM)

Emissions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. Such requirements and limitations may include ARMs identified by the source in its part 70 permit application as approved by the District, provided that no ARM shall contravene any terms needed to comply with any otherwise applicable requirement or requirement of this part or circumvent any applicable requirement that would apply as a result of implementing the ARM.

- a. The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

- b. The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.
- c. If an applicable implementation plan allows a determination of an alternative emission limit at a part 70 source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the State elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

18. Voluntary Emissions Caps

To the extent applicable federal requirements provide for averaging emissions increases and decreases within a stationary source without case-by-case approval, an owner or operator may request, subject to approval by the APCO, permitting one or more emissions unit(s) under a voluntary emissions cap. The permit for each emissions unit included under a voluntary emissions cap shall include federally-enforceable conditions requiring:

- a. Compliance with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules, including those authorizing emissions averaging;
- b. Compliance of all individual emissions units with applicable emissions limitations, standards, or other requirements;
- c. Any emissions limitation, standard, or other requirement be enforced through continuous emission monitoring, where applicable; and
- d. All affected emissions units under a voluntary emissions cap be considered to be operating in violation of the permit if the voluntary emissions cap is exceeded.

19. Acid Rain Units Subject to Title IV

The permit for an acid rain unit shall include conditions requiring compliance with any federal standard or requirement promulgated pursuant to Title IV (Acid Deposition Control) of the CAA and any federal standard or requirement promulgated pursuant to Title V of the CAA, except as modified by Title IV. Acid rain unit permit conditions shall include requirements of 40 CFR Part 72.9 and the following:



## 201.1 Staff Report – Revised

- a. Sulfur dioxide emissions from an acid rain unit shall not exceed annual emissions allowances (up to one ton per year of sulfur dioxide may be emitted for each emission allowance allotted) the source lawfully holds for such unit under Title IV of the CAA or the regulations promulgated pursuant to Title IV;
- b. Any increase in an acid rain unit's sulfur dioxide emissions authorized by allowances acquired pursuant to Title IV of the CAA shall not require a revision of the acid rain portion of the operating permit provided such increases do not require permit revision under any other applicable federal requirement;
- c. There is no limit on the number of sulfur dioxide emissions allowances held by a source, but a source with an acid rain unit shall not use such emissions allowances as a defense for non-compliance with any applicable federal requirement or District requirement, including District Rule 210.1 (New Source Review Rule); and
- d. An acid rain unit's sulfur dioxide allowances shall be accounted for according to procedures established in regulations promulgated pursuant to Title IV of the CAA.

### 20. Portable Sources

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

- a. Meet all applicable District, state, and federal requirements at each location;
- b. Specify monitoring methods, or other methods, e.g., air quality modeling, approved by the APCO, demonstrating compliance with all District, state, and federal requirements; and
- c. Notify the APCO ten working days prior to a change in location.

### 21. Permit Shield

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

### C. Referencing of District and Applicable Federal Requirements

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

and identification of specific source activities or equipment for which the referencing applies.

## **VIII. Annual Fees**

### **A. Greenhouse Gas Fee**

Title V permitted sources with actual GHG emissions, in the prior calendar year, greater than or equal to 100,000 tons of CO<sub>2</sub>e shall be subject to District Rule 301.4, Greenhouse Gas Fee.

### **B. Supplemental Fee**

#### **1. Supplemental Fee Required**

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

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

- a. "Fee-based emissions" means the actual rate of emissions in tons per year of any fee pollutant, including fugitive emissions, emitted from all stationary sources over the preceding year or any other period determined by the APCO to be representative of normal operation. Fee-based emissions shall be calculated using each emission unit's actual operating hours, production rates, and in-place control equipment; types of material processed, stored, or combusted during the preceding calendar year, or other time period established by the APCO.
- b. "Fee pollutant" means VOCs, NO<sub>x</sub>, any pollutant for which a National Ambient Air Quality Standard has been promulgated by the EPA (excluding carbon monoxide), and any other pollutant subject to a standard or regulation, excluding Greenhouse Gases, promulgated by the EPA under the CAA or adopted by the District pursuant to Section 112(g) and (j) of the CAA. Any air pollutant regulated solely because of a standard or regulation under Section 112(r) of the CAA for accidental release or under Title VI of the CAA for stratospheric ozone protection shall not be included.
- c. "(CPI-adjusted)" means adjusted by the percentage, if any, by which the Consumer Price Index for the year exceeds the Consumer Price Index for calendar year 1989. The value for (CPI-adjusted) shall be obtained from the EPA.

2. Supplemental Fee Not Required

There shall not be a supplemental annual fee if:

- a. The total annual fee rate paid by all sources subject to this Rule pursuant to Rules 301 and 303 (except Section III of Rule 303) (Permit Fees Rules) and 301.3 (CH&SC Section 44380-AB 2588 Toxic Hot Spots) equals or exceeds \$25 per ton of fee-based emissions (CPI adjusted). Only those AB 2588 Toxic Hot Spots fees funding direct and indirect costs associated with activities related to the operating permits program as specified in Section 502(b)(3)(A) of the CAA shall be used to meet the overall fee rate of \$25 per ton of fee-based emissions (CPI adjusted), or
- b. The District satisfactorily demonstrates to EPA that collection of less than the amount prescribed in Section VIII.B.1., is sufficient to administer a program for sources subject to Title V which adequately implements applicable CAA requirements, or
- c. EPA promulgates a regulation, guidance, or policy establishing a lower minimum dollars per ton. Should this occur, such new minimum shall be used in Section VIII.B.3, below.

3. Determination of Supplemental Fee

Any supplemental annual fee due shall be determined by completing the following steps:

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

$$S = [\$25 \text{ per ton (CPI adjusted)} \times e] - F$$

where:

S = supplemental District-wide annual fee in dollars

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

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

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

$$s = S \times f$$

where:

s = Given Facility's Supplemental Annual Fee

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

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

## 201.1 Staff Report – Revised

### c. Step 3: When the Supplemental Annual Fee is Zero:

If "F" is equal to or greater than "\$25 per ton (CPI adjusted) x e]", then "S" shall be zero and Section VIII.B.2., applies. If "F" is less than "\$25 per ton (CPI adjusted) x e]", then "S" shall be as calculated as in Step 1.

### C. Submittal of Information

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

***Remainder of Page Intentionally Left Blank***

**APPENDIX B:**

**REVISED RULE 201.1**

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

**STRIKEOUT UNDERLINE**

**RULE 201.1 Permits to Operate For Sources Subject To Title V of the Federal Clean Air Act Amendments of 1990** - Adopted 11/01/93 (effective 5/3/95), Amended 1/9/97, 5/3/01 (effective 10/22/01), Amended 3/11/04, Amended 1/12/12, 9/1/22, 7/24/25 (Effective X/XX/XX)

**I. Purpose and General Requirements**

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

As of October 22, 2001, the Eastern Kern Air Pollution Control District (District) shall implement an operating permit program pursuant to the requirements of this Rule: ~~Requirements of this Rule,~~ which shall augment and take precedence over any conflicting administrative requirement of any other District Rule or Regulation. The District shall continue to implement its other existing permitting programs pursuant to Rule 201 (Permits Required), which include Authority to Construct provisions, and Rule 210.1 (New Source Review). Nothing in Rule 201.1 limits the authority of the Air Pollution Control Officer (APCO) of the District to revoke or terminate a Rule 201 permit pursuant to Sections 40808 and 42307-42309 of the California Health and Safety Code (CH&SC).

This rule is applicable to ~~Sources subject to Rule 201.1 include~~ major sources, acid rain units subject to Title IV of the CAA, solid waste incinerators subject to Section 111 or 129 of the CAA, and any other source specifically designated by Rule of the EPA. Sources subject to Rule 201.1 shall obtain an operating permit issued pursuant to the conditions and requirements listed within this Rule, and each permit to operate issued shall be adequate to ensure compliance with:

- A. All applicable provisions of Division 26 of the CH&SC, commencing with Section 39000;
- B. All applicable orders, rules, and regulations of the District and the California Air Resources Board (CARB);
- C. All applicable provisions of the implementation plan required by the CAA. In satisfaction of this requirement, a source may ensure compliance with a corresponding District-only rule in accordance with the procedure specified in Section VI.K.;
- D. Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the CAA. In satisfaction of this requirement, a source may propose compliance with a requirement of permit streamlining in accordance with procedures specified in Section VI.J.; and
- E. All requirements of all preconstruction permits issued pursuant to Parts C and D of the CAA (PSD and NSR).

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

## II. Definitions

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

- A. Acid Rain Unit: Any fossil fuel-fired combustion device constituting an affected unit under 40 CFR Part 72.6 and therefore subject to requirements of Title IV (Acid Deposition Control) of the CAA.
- B. Administrative Permit Amendment: Amendment to a permit to operate, which:
  - 1. Corrects a typographical error;
  - 2. Identifies a minor administrative change at the stationary source; for example, a change in name, address, or phone number of any person identified in the permit;
  - 3. Requires more frequent monitoring or reporting by an owner or operator of the stationary source; or
  - 4. Transfers ownership or operational control of a stationary source, provided, prior to transfer, the APCO receives a written agreement specifying a date for transfer of permit responsibility, coverage, and liability from current to prospective permittee.
- C. Affected State: Any state: 1) contiguous with California and whose air quality may be affected by a permit action, or 2) within 50 miles of the source proposing a permit action.
- D. Air Pollution Control Officer (APCO): Eastern Kern Air Pollution Control District Air Pollution Control Officer, or his designee.
- E. Alternative operating scenario (AOS): A scenario authorized in a part 70 permit that involves a change at the part 70 source for a particular emissions unit, and that either results in the unit being subject to one or more applicable requirements which differ from those applicable to the emissions unit prior to implementation of the change or renders inapplicable one or more requirements previously applicable to the emissions unit prior to implementation of the change.
- F. Applicable Federal Requirement: Any requirement enforceable by the EPA and citizens pursuant to Section 304 of the CAA and set forth in, or authorized by, the CAA or a EPA regulation, including any requirement of a regulation in effect at permit issuance and any requirement of a regulation becoming effective during the term of the permit. Applicable federal requirements include:
  - 1. Title I requirements of the CAA, including:
    - a. New Source Review (NSR) requirements in the State Implementation Plan (SIP) approved by the EPA and terms and conditions of a preconstruction permit issued pursuant to an approved New Source Review rule;

## 201.1 Staff Report – Strikeout

- b. Prevention of Significant Deterioration (PSD) requirements and terms and conditions of a PSD permit (40 CFR Part 52);
  - c. New Source Performance Standards (NSPS) (40 CFR Part 60);
  - d. National Ambient Air Quality Standards (NAAQS), increments, and visibility requirements as they apply to portable sources required to obtain a permit pursuant to Section 504(e) of the CAA;
  - e. National Emissions Standards for Hazardous Air Pollutants (NESHAPs) (40 CFR Part 61);
  - f. Maximum Achievable Control Technology (MACT) or Generally Available Control Technology Standards (GACT) (40 CFR Part 63);
  - g. Risk Management Plan Preparation and Registration Requirements (Section 112(r) of the CAA);
  - h. Solid Waste Incineration requirements (Sections 111 or 129 of the CAA);
  - i. Consumer and Commercial Product requirements (Section 183 of the CAA);
  - j. Tank Vessel requirements (Section 183 of the CAA);
  - k. District prohibitory rules approved into the SIP;
  - l. Standards or regulations promulgated pursuant to a Federal Implementation Plan; and
  - m. Enhanced Monitoring and Compliance Certification requirements (Section 114(a)(3) of the CAA).
- 2. Title IV (Acid Deposition Control) requirements of the CAA (40 CFR Parts 72, 73, 75, 76, 77, 78 and regulations implementing Sections 407 and 410 of the CAA);
  - 3. Title VI (Stratospheric Ozone Protection) requirements of the CAA (40 CFR Part 82); and
  - 4. Monitoring and Analysis requirements (Section 504(b) of the CAA).
- G. Approved Replicable Methodology (ARM): A part 70 permit terms that:
- 1. Specify a protocol which is consistent with and implements an applicable requirement, or requirement of this part, such that the protocol is based on sound scientific and/or mathematical principles and provides reproducible results using the same inputs; and



## 201.1 Staff Report – Strikeout

2. Require the results of that protocol to be recorded and used for assuring compliance with such applicable requirement, any other applicable requirement implicated by implementation of the ARM, or requirement of this part, including where an ARM is used for determining applicability of a specific requirement to a particular change.

H. California Air Resources Board (CARB): Air Resources Board of the California Environmental Protection Agency.

~~I. Carbon Dioxide Equivalent (CO<sub>2</sub>e): As defined in District Rule 102, Definitions.~~

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

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

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

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

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

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

P. Effective Date of Rule 201.1: The initial effective date of Rule 201.1 was October 22, 2001 (District Board approved May 3, 2001). The EPA approved effective date of amended Rule 201.1 is Need Date (District Board approved ~~September 24, 2022~~ July 2025)

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

## 201.1 Staff Report – Strikeout

- ~~R~~Q. Emissions Unit: Any identifiable article, machine, contrivance, or operation which emits, may emit, or results in emissions of, any regulated air pollutant or hazardous air pollutant.
- ~~S~~R. Federally-Enforceable Condition: Any term, condition, or requirement set forth in the Permit to Operate addressing an applicable federal requirement or voluntary emissions cap, a District-only requirement of permit streamlining imposed in accordance with Section VI.L., and CH&SC Section 42301.12(a)(3), or a District-only requirement which applies in accordance with Section VI.M.1., and CH&SC Section 42301.12(a)(3) for satisfaction of a corresponding requirement in the SIP.
- ~~F~~S. Fugitive Emissions: Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- ~~U~~T. Greenhouse Gas (GHG): Carbon Dioxide (CO<sub>2</sub>), Methane (CH<sub>4</sub>), Nitrous Oxide (N<sub>2</sub>O), and fluorinated greenhouse gases as defined in 40 CFR 98.~~As defined in District Rule 102, Definitions.~~
- ~~V~~U. Global Warming Potential (GWP): The ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas (i.e., CO<sub>2</sub>). GWPs for each greenhouse gas are provided in Table A-1 of 40 CFR 98.~~As defined in District Rule 102, Definitions.~~
- ~~W~~V. Hazardous Air Pollutant (HAP): Any air pollutant listed pursuant to Section 112(b) of the CAA.
- ~~X~~W. Health and Safety Code (CH&SC): California Health and Safety Code.
- ~~Y~~X. Initial Permit: First Rule 201.1 operating permit for which a source submits an application addressing requirements of Title V of the CAA.
- ~~Z~~Y. Major Source: Any stationary source having the potential to emit a regulated air pollutant or a HAP in quantities equal to or exceeding any of the following thresholds:
- Major Source Type:
- ~~1. GHG emissions that are subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of Global Warming Potential (GWP), are equal to or greater than 100 tpy;~~
  - ~~2~~1. 100 tpy of any Regulated Air Pollutant, excluding GHGs;
  - ~~3~~2. 25 tpy of volatile organic compounds (VOC) or oxides of nitrogen (NO<sub>x</sub>);
  3. 10 tpy of VOC or NO<sub>x</sub> if classified as Extreme nonattainment for Ozone NAAQS;
  4. 10 tpy of one HAP or 25 tpy of two or more HAP's; or
  5. Any lesser quantity threshold of Regulated Air Pollutants promulgated by the EPA.

## 201.1 Staff Report – Strikeout

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

~~BB~~AA. Permit Modification: Any addition, deletion, or revision to a permit to operate condition.

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

1. Emissions Unit Potential to emit for an emissions unit is the maximum capacity of the unit to emit a regulated air pollutant or HAP considering the unit's physical and operational design. Physical and operational limitations on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions which address applicable federal requirements. Physical and operational limitations shall include, but are not limited to the following: limits placed on emissions; and restrictions on operations such as hours of operation and type or amount of material combusted, stored, or processed.
2. Stationary Source Potential to emit for a stationary source is the sum of the potentials to emit from all emissions units at the stationary source. If two or more HAP's are emitted at a stationary source, the potential to emit for each of those HAP's shall be summed to determine Section III, applicability. Fugitive emissions shall be considered in determining potential to emit for: 1) sources specified in 40 CFR Part 70.2 Major Sources Subsection(2)(i) through (xxvi), 2) sources of HAP emissions, and (3) any other stationary source category regulated under Section 111 or 112 of the CAA and for which the EPA has made an affirmative determination by rule under Section 302(j) of the CAA. Notwithstanding the above, any HAP emissions from any pipeline compressor station shall not be aggregated with emissions of similar units for the purpose of determining a major source of HAP's, even if such units are located on contiguous or adjacent properties or under common control.

~~DD~~CC. Preconstruction Permit: Permit authorizing construction and issued prior to construction including:

1. Any preconstruction permit issued pursuant to a PSD program of air quality required by Section 165 of the CAA; or
2. Any preconstruction permit issued pursuant to a New Source Review (NSR) program required by Sections 172 and 173 of the CAA or Rule 210.1.

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

1. VOCs and NO<sub>x</sub>;
2. Any pollutant having a NAAQS promulgated pursuant to Section 109 of the CAA;

## 201.1 Staff Report – Strikeout

3. Any pollutant subject to a New Source Performance Standard (NSPS) promulgated pursuant to Section 111 of the CAA;
4. Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrochlorofluorocarbons) substance pursuant to Title VI of the CAA; and
5. Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the CAA, including sections 112(g), (j), and (r) of the CAA, including the following:
  - a. Any pollutant subject to requirements under section 112(j) of the CAA. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the CAA, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the CAA; and
  - b. Any pollutant for which the requirements of section 112(g)(2) of the CAA have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

~~FF~~EE. Regulated pollutant (for presumptive fee calculation), which is used only for purposes of §70.9(b)(2): Any regulated air pollutant except the following:

1. Carbon monoxide;
2. Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance to a standard promulgated under or established by title VI of the Act;
3. Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act; or
4. Greenhouse gases.

~~GG~~FF. Responsible Official: Responsible official means one of the following:

1. For a corporation or federal research facility, a president, secretary, treasurer, or vice-president of the corporation or facility in charge of a principal business function, or any other person performing similar policy or decision-making functions for the corporation or facility, or a duly authorized representative of such person if the representative is responsible for overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
  - a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
  - b. The delegation of authority to such representative is approved in advance by the APCO.

## 201.1 Staff Report – Strikeout

2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
3. For a municipality, state, federal, or other public agency, either a principal executive officer or a ranking elected official;
4. For a federal military facility, the commanding officer; or
5. For an acid rain unit subject to Title IV (Acid Deposition Control) of the CAA, the responsible official is the designated representative of that unit for any purposes under Title IV and this Rule.

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

1. Involving any modification under Section 112(g) of Title I of the CAA or under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, and 63;
2. Significantly changing monitoring conditions;
3. Providing for relaxation of any reporting or recordkeeping conditions;
4. Involving a permit term or condition allowing a source to avoid an applicable federal requirement, including: 1) a federally-enforceable voluntary emissions cap established to avoid triggering a modification requirement of Title I of the CAA, or 2) an alternative HAP emission limit pursuant to Section 112(i)(5) of the CAA;
5. Involving a case-by-case determination of any emission standard or other requirement;
6. Involving a source-specific determination for ambient impacts, visibility analysis, or increment analysis for portable sources;
7. Involves permit streamlining in accordance with Section VI.L.; or
8. Involves use of a District-only rule, in accordance with Section VI.M.1. in satisfaction of a requirement in the SIP.

~~HHH~~. Solid Waste Incinerator: Any incinerator burning solid waste material from commercial, industrial, medical, general public sources (e.g., residences, hotels, or motels), or other categories of solid waste incinerators subject to a performance standard promulgated pursuant to Sections 111 or 129 of the CAA.

The following incinerators shall not be considered solid waste incinerators for purposes of this Rule:

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

## 201.1 Staff Report – Strikeout

2. Any materials recovery facility primarily recovering metals;
3. Any qualifying small power production facility as defined in 16 U.S.C.A. Section 796(17)(C);
4. Any qualifying cogeneration facility burning homogenous waste for production of energy as defined in 16 U.S.C.A. Section 796(18)(B); or
5. Any air curtain incinerator burning only wood, yard, or clean lumber waste and complying with opacity limitations established by the Administrator of the EPA.

~~II~~ II. Standard District Application: See Section V.C.

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

1. Emitting, or having the potential to emit, or resulting in emissions of any regulated air pollutant or HAP;
2. Located on one or more contiguous or adjacent properties;
3. Under the ownership, operation, or control of the same person (or persons under common control) or entity; and
4. Belonging to a single major industrial grouping; i.e., each building, structure, facility, or installation in the grouping has the same two-digit code under the system described in the 1987 Standard Industrial Classification Manual.

~~LL~~ KK. Subject to Regulation: For any air pollutant, that the pollutant is subject to either a provision in the CAA, or a nationally-applicable regulation codified by the Administrator in 40 CFR 1, Subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

1. GHGs as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO<sub>2</sub> equivalent emissions.
2. The term tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at ~~§98.140~~ 40 CFR 98 Subpart A, Table A-1 - Global Warming Potentials, and summing the resultant value for each to compute a tpy CO<sub>2</sub>e. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic

## 201.1 Staff Report – Strikeout

material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

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

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

### III. Applicability

This rule shall apply to the following sources:

- A. Major source as defined in Section II.~~ZY~~of this Rule;
- B. Any source subject to Rule 210.4, Prevention of Significant Deterioration;
- C. Source with an acid rain unit required by Title IV of the CAA to apply for an Acid Rain Permit;
- D. Solid waste incineration unit required to obtain a Title V permit pursuant to Section 129(e) (42 U.S.C. Section 7429) of the CAA;
- E. Any other stationary source in a source category designated, pursuant to 40 CFR Part 70.3, by rule of the EPA; and
- F. Any non-major source that is subject to a standard or other requirement promulgated pursuant to Section 111 (NSPS) or 112 (HAP's) (42 U.S.C. Section 7411 or 7412) of the CAA, published after July 21, 1992, if designated by the Administrator at the time the new standard or requirement is promulgated.

### IV. Exemptions

This Rule shall not apply to:

- A. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);
- B. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 61, Subpart M, NESHAP for Asbestos, §61.145, Standard for Demolition and Renovation.



**V. Administrative Procedures for Sources**

**A. Permit Requirement and Application Shield**

A source shall operate in compliance with Permit to Operate issued pursuant to Rule 201(Permits Required). Rule 201.1 does not alter any applicable requirement that a source obtain preconstruction permits.

If an owner or operator submits a timely and complete application for permit, pursuant to Rule 201.1, a source shall not be in violation of the requirement to have a Permit to Operate until the APCO takes final action on the application.

This application shield will cease to insulate a source from enforcement action if an owner or operator of the source fails to submit any additional information requested by the APCO pursuant to Section V.C.2.

If an owner or operator submits a timely and complete application for an initial permit, the source shall operate in accordance with requirements of any valid Permit to Operate issued pursuant to Section 42301 of the CH&SC until the APCO takes final action on the application. If an owner or operator submits a timely and complete application for renewal of a Permit to Operate, the source shall operate in accordance with the Permit to Operate issued pursuant to Rule 201.1, notwithstanding expiration of this permit, until the APCO takes final action on the application.

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

**B. Application Requirements**

**1. Initial Permit**

- a. For a Type 2 major source (as defined in Section II.~~Z~~Y.2) subject to this Rule on its effective date, an owner or operator shall submit a standard District application within 6 months after this date (by December 4, 1995).
- b. For a source that becomes subject to Rule 201.1 after the Rule's effective date, a responsible official shall submit a standard District application within 12 months of the source commencing operation or of otherwise becoming subject to Rule 201.1.
- c. For a source becoming subject to this Rule after the effective date of the Rule, an owner or operator shall submit a standard District application within 6 months of the source commencing operation.
- d. For a source with an acid rain unit, an owner or operator shall submit a standard District application and acid rain permit application to the District. Such applications shall be submitted within the following timeframe:



## 201.1 Staff Report – Strikeout

- 1) If the source is subject to Rule 201.1 because of Section III.A., within the applicable timeframe specified in Subsection V.B.1.a. or V.B.1.b., above.
- 2) If the source is subject to Rule 201.1 only because of Section III.B., by January 1, 1996, or, if applicable, a later date established by 40 CFR Part 72.

### 2. Permit Renewal

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

### 3. Significant Permit Modification

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

### 4. Minor Permit Modification

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

- a. A description of the proposed permit revision, any change in emissions, and additional applicable federal requirements;
- b. Proposed permit terms and conditions; and
- c. Certification by a responsible official the permit revision meets criteria for use of minor permit modification procedures and a request such procedures be used.

### 5. Acid Rain Unit Permit Modification

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

6. Greenhouse Gas Emissions

All applicable requirements for greenhouse gases shall be included in Title V permits for any facility that is otherwise required to obtain a new, renewed, or revised Title V permit.

C. Application Content and Correctness

1. Standard District Application

An application submitted by the responsible official shall include:

- a. Information identifying the stationary source;
- b. Description of processes and products (by Standard Industrial Classification Code), including any associated with proposed alternative operating scenarios (see Section VI.K.1.);
- c. Identification of fees required by Rules 301, and 301.3;
- d. Listing of all existing emissions units at the stationary source and identification and description of all points of emissions from emissions units in sufficient detail to establish applicable federal requirements and basis for any fees pursuant to Section VIII;
- e. Citation and description of all applicable federal requirements, information and calculations used to determine applicability of such requirements and other information necessary to implement and enforce such requirements;
- f. Calculation of all emissions, including fugitive emissions, in tons per year and in terms necessary to establish compliance with all applicable District, state, or federal requirements for:
  - 1) All regulated air pollutants emitted from the source;
  - 2) Any HAP the source has the potential to emit in quantities equal to or in excess of 10 tons per year; and
  - 3) If the source has the potential to emit two or more HAP's in quantities equal to or in excess of 25 tons per year, all HAP's emitted by the source.
- g. Identification of fuels, fuel use, raw materials, production rates, operating schedules, limitations on source operation or workplace practices if these affect source emissions;
- h. Identification and description of air pollution control equipment and compliance monitoring devices or activities;

## 201.1 Staff Report – Strikeout

- i. Any other information required by an applicable federal requirement (or a District-only rule in accordance with Section VI.M.1.);
- j. Information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating scenarios pursuant to Section VI.K.1.;
- k. Compliance plan and compliance schedule, including:
  - 1) Description of the compliance status of each emissions unit within the stationary source with respect to applicable federal requirements, except as provided below:
    - a) For all applicable federal requirements which are to be satisfied by compliance with requirements of a permit streamlining proposal made in accordance with Subsection V.C.1.s., the responsible official may certify compliance with only requirements of the permit streamlining proposal if data on which to base such a certification is submitted or referenced with the application. Such application shall include an attachment demonstrating compliance with requirements of the permit streamlining proposal ensures compliance with the identified applicable federal requirements;
    - b) In order to certify compliance with a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a District-only rule, if data on which to base such a certification is submitted or referenced with the application, and if use of the District-only rule is proposed and approved in accordance with Subsection V.C.1.t.
  - 2) A statement the source will continue to comply with such applicable federal requirements with which the source is in compliance;
  - 3) A statement the source will comply, on a timely basis, with applicable federal requirements which will become effective during the permit term; and
  - 4) A description of how the source will achieve compliance with requirements for which the source is not in compliance. However, if the source complies with a District-only rule addressed in a proposal submitted in accordance with Subsection V.C.1.t., no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District;
- l. A schedule of compliance which resembles and is at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law, identifying remedial measures with specific increments of progress, a final compliance date, testing and monitoring methods, recordkeeping requirements, and a

schedule for submission of certified progress reports to the EPA and the APCO at least every 6 months for a source that is not in compliance at the time of permit issuance or renewal, and modification (if the non-compliance is with units being modified) and is:

- 1) A streamlined emission limit proposed in accordance with Subsection V.C.1.s.
  - 2) A District-only rule proposed in accordance with Subsection V.C.1.t. or
  - 3) An applicable federal requirement not to be subsumed by a proposal submitted in accordance with Subsection V.C.1.s. or V.C.1.t.
- m. A certification by a responsible official of all reports and other documents submitted for permit application, compliance progress reports at least every 6 months, statements on compliance status with any applicable enhanced monitoring, and compliance plans at least annually which shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;
- n. For a source with an acid rain unit, an application shall include elements required by 40 CFR Part 72;
- o. For a source of HAP's required to prepare a risk management plan pursuant to Section 112(r) of the CAA, the application shall include verification such a plan has been submitted to the authorized implementing agency, or shall include a compliance schedule for submittal of such a plan;
- p. For proposed portable sources, an application shall identify all locations of potential operation and how such sources will comply with all applicable District, state, and federal requirements at each location;
- q. In lieu of providing the information specified in Subsection V.C.1.e., an owner or operator may, upon written concurrence from the APCO, stipulate the source is a major source and/or identified applicable federal requirements apply to the source. A stipulation does not preclude the APCO from requiring submittal of subsequent additional information in accordance with this Rule;
- r. An owner or operator may, upon written concurrence from the APCO, reference documents that contain information required in Subsections V.C.1.a. through j. and o., provided documents are specifically and clearly identified, and are readily available to the District and to the public. Each reference shall include, at a minimum, title or document number, author and recipient if applicable, date, identification of relevant sections of the document, and identification of specific application content requirements and source activities or equipment for which the referencing applies. A reference does not preclude the APCO from requiring submittal of information to supplement or verify the referencing or the submittal of other additional information in accordance with this Rule;

- s. The application may contain a proposal for permit streamlining of two or more sets of applicable federal requirements and/or District-only requirements, to be reviewed by the District in accordance with Section VI.L.. The application shall clearly note any proposal for permit streamlining. The permit streamlining proposal shall include the most stringent of multiple applicable emission limitations for each regulated air pollutant in order to ensure compliance with all applicable requirements for each emission unit or group of emission units. For purposes of this paragraph, an alternative or hybrid emission limit at least as stringent as any applicable emission limitation or a District-only requirement which meets the criteria set forth in Section VI.M., may be submitted, provided the limits ensure compliance with all applicable requirements for each emission unit or group of emission units. All applicable federal requirements and permit conditions pertaining to or resulting from Title IV (acid rain) of the CAA and its implementing regulations shall remain unaltered. The application shall contain the following information for each streamlining proposal and associated emission unit:
- 1) A side-by-side comparison of all District-only and applicable federal requirements that are currently applicable and effective. Requirements for emissions and/or work practice standards shall be distinguished from provisions for monitoring and compliance demonstration;
  - 2) A determination of the most stringent emissions and/or performance standard (or any hybrid or alternative limits as appropriate) and the documentation relied upon to make this determination;
  - 3) A proposal for one set of permit terms and conditions to include the most stringent emissions limitations and/or standards (including pertinent work practice standards), appropriate monitoring and its associated recordkeeping and reporting requirements, and such other conditions as are necessary to ensure compliance with all applicable federal requirements affected by the proposal. The most stringent emission limits shall be determined in accordance with criteria in Subsection II.A.2.(a). of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996. Streamlining of work practice standards shall be consistent with guidance in Subsection II.A.2.(b) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996. Streamlining of monitoring, recordkeeping, and reporting requirements shall be consistent with guidance in Subsection II.A.2.(e) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", EPA Office of Air Quality Planning and Standards, dated March 5, 1996;
  - 4) If there is pertinent source compliance data, a certification the source complies with the streamlined emission limits and compliance with the streamlined emission limits ensures compliance, in accordance with Subsection V.C.1.k., with all applicable federal requirements affected by the proposal;

- 5) A compliance schedule to implement any new monitoring/compliance approach relevant to the streamlined limit if the emission unit is unable to comply with the streamlined limit at the time of permit issuance. Recordkeeping, monitoring, and reporting requirements of applicable federal requirements being subsumed shall continue to apply (as would the requirement for the emission unit to operate in compliance with each of its emission limits) until the new streamlined compliance approach becomes operative;
  - 6) A proposal for a permit shield in accordance with Subsection V.C.1.u., for applicable federal requirements and District-only requirements associated with the streamlining proposal;
  - 7) If the proposal includes use of any District-only requirement(s) as a requirement of permit streamlining, an authorization for the APCO to identify such District-only requirement(s), and any streamlined monitoring, recordkeeping, or reporting requirement derived from it, in the permit as a federally-enforceable condition in accordance with CH&SC Section 42301.12(a)(3); and
  - 8) Other pertinent information as specified by the APCO, including supplementary information pertaining to paragraphs 1) through 6) of this Subsection.
- t. If the application contains a proposal to address a District-only rule that has been submitted to the EPA for State Implementation Plan approval, in lieu of a corresponding requirement in the State Implementation Plan, the application shall include the following additional information:
- 1) An indication this approach is being proposed, a list or cross-reference of all requirements from pertinent District-only rules eligible for this approach, and reference to the list maintained for this purpose by the District;
  - 2) Identification of State Implementation Plan requirements the District-only rule(s) would replace;
  - 3) A compliance certification for requirements of pertinent District-only rule(s) in lieu of requirements in the State Implementation Plan in accordance with Subsection V.C.1.k.;
  - 4) A proposal for a permit shield in accordance with Subsection V.C.1.u., below, for the affected applicable federal requirements in the State Implementation Plan;
  - 5) An authorization for the APCO to identify in the permit, in accordance with CH&SC Section 42301.12(a)(3), any such District-only emission limit and any associated District-only monitoring, recordkeeping, or reporting requirement as a federally-enforceable condition; and

## 201.1 Staff Report – Strikeout

- 6) Other information as specified by the APCO in accordance with this Rule.
- u. The application may contain a proposal for a permit shield to be reviewed by the District in accordance with Section VI.N., and to be included in the permit. The proposal shall indicate applicable federal requirements and District-only requirements for which the permit shield is sought. The proposal shall also specify emission unit(s) for which the permit shield is sought or whether the permit shield is sought for the entire stationary source;
- v. For the purposes of this Rule, an insignificant activity shall be any activity, process, or emissions unit which is not subject to a source-specific applicable federal requirement and which emits no more than 0.5 tons per year of a HAP, no more than two tons per year of a regulated air pollutant excluding HAPs and GHGs, and no more than 5,000 tpy of GHG measured as CO<sub>2e</sub>. Source-specific applicable federal requirements include requirements for which emission unit-specific information is required to determine applicability.
- w. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required in Section VIII, Annual Fees. [Reference: 40 CFR Part 70.5(c)]

### 2. Correctness of Applications

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

- a. Upon written request of the APCO, an owner or operator shall supplement any complete application with any necessary additional information within the timeframe specified by the APCO; or
- b. An owner or operator shall promptly provide additional/replacement information in writing to the APCO upon discovery of submittal of any inaccurate information as part of the application or as a supplement thereto, or of any additional relevant facts previously omitted and needed for accurate analysis of the application.
- c. Intentional or negligent submittal of inaccurate information shall result in denial of an application.

### D. Written Requests for District Action

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

#### 1. Administrative Permit Amendment

For an administrative permit amendment, an owner or operator may implement the change addressed in the written request immediately upon submittal of the request.

## 201.1 Staff Report – Strikeout

### 2. Permit Modification for a Non-Federally-Enforceable Condition

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

### 3. Permit to Operate for New Emissions Unit

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

- a. Construction or operation of the emissions unit is a modification under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, 63;
- b. Construction or operation of the emissions unit is addressed or prohibited by existing Rule 201.1 permits for other emissions units at the stationary source; or
- c. The emissions unit is an acid rain unit subject to Title IV of the CAA. For circumstances specified in Subsections V.D.3.a., b., or c., above, an owner or operator shall apply for a Permit to Operate for the new emissions unit pursuant to requirements of this Rule.

### E. Response to Permit Reopening For Cause

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

## VI. District Administrative Procedures

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

### A. Completeness Review of Applications

The APCO shall determine if an application is complete and shall notify the responsible official of his determination within the following timeframes:

1. For an initial permit, permit renewal, or a significant permit modification, within 60 days of receiving the application;
2. For a minor permit modification, within 30 days of receiving the application. An application shall be deemed complete unless the APCO requests additional information or otherwise notifies the owner or operator the application is incomplete within the timeframes specified above.



### B. Notification of Completeness Determination

The APCO shall provide written notification of a completeness determination to the EPA, the CARB and any affected state and shall submit a copy of the complete application to the EPA within five working days of the determination. If the application includes a proposal for permit streamlining, the APCO shall note this when submitting a copy of the complete application to the EPA. The APCO need not provide notification for applications from non-major sources when the EPA waives such requirement for a source category by regulation or at the time of approval of the District operating permits program.

### C. Application Processing Timeframes

The APCO shall act on a complete application in accordance with procedures in following Sections VI.D., VI.F. and VI.G., except as application procedures for acid rain units are provided for under regulations promulgated pursuant to Title IV of the CAA, and take final action within the following timeframes:

1. For an initial permit for a source subject to this Rule on the effective date of the Rule, no later than three years after the effective date of the Rule;
2. For an initial permit for a source becoming subject to this Rule after the effective date of the Rule, no later than 18 months after the complete application is received;
3. For a permit renewal, no later than 18 months after the complete application is received;
4. For a significant permit modification, no later than 18 months after the complete application is received;
5. For a minor permit modification, no later than 90 days after the application is received or 60 days after written notice to the EPA of the proposed decision, whichever is later; or
6. For any permit application with early HAP's reductions pursuant to Section 112(i)(5) of the CAA, within 9 months after the complete application is received.
7. Provided the EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of a permit in accordance with Section VI.M.2., until the EPA formally acts to approve or disapprove a District-only rule submitted for inclusion in the State Implementation Plan. If the EPA disapproves the District-only rule, the APCO shall require the owner or operator to revise the application to address corresponding requirements in the State Implementation Plan not yet addressed and to provide additional information as specified by the APCO in accordance with this Rule. The APCO shall specify an expeditious timeframe for the owner or operator to submit the revised application.

D. Notification and Opportunity for Review of Proposed Decision

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

1. For initial permit, renewal of permit, significant permit modification, and reopening for cause, the APCO shall provide:
  - a. Written notice, the draft proposed permit and, upon request, a copy of the District analysis to interested persons or agencies. The District analysis shall include a statement setting forth the legal and factual basis for proposed permit conditions, including references to applicable statutory and regulatory provisions. "Interested persons or agencies" includes persons having requested in writing to be notified of proposed Rule 201.1 decisions, any affected state and the CARB;
  - b. On or after providing written notice pursuant to Subsection VI.D.1.a., above, public notice that shall be published in at least one newspaper of general circulation in the District and, if necessary, by other means to assure adequate notice to the affected public. The notice shall include:
    - 1) Identification of the source, name and address of permit holder, activities and emissions change involved in the permit action;
    - 2) Name and address of the District, name and telephone number of District staff capable of providing additional information;
    - 3) Availability, upon request, of a statement setting forth legal and factual basis for proposed permit conditions;
    - 4) Location where the public may inspect the complete application, District analysis, and proposed permit;
    - 5) Statement that public may submit written comments regarding the proposed decision within at least 30 days from date of publication and brief description of commenting procedures; and
    - 6) Statement that members of the public may request the APCO preside over a public hearing for the purpose of receiving oral public comment if a hearing has not already been scheduled. The APCO shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing.
  - c. A copy of the complete application, District analysis and proposed permit at a District office for public review and comment during normal business hours;

- d. Written response to persons or agencies submitting written comments postmarked by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the District office and made available upon request; and
  - e. After completion of the public notice and comment period pursuant to Subsection VI.D.1.b., written notice to the EPA of the proposed decision, including copies of the proposed permit, District analysis, public notice submitted for publication, District's response to written comments, and all necessary supporting information.
2. For minor permit modification, the APCO shall provide written notice of the proposed decision to the EPA, CARB, and any affected state. Additionally, the District shall provide to the EPA and, upon request, to CARB or any affected state copies of the proposed permit, District analysis, and all necessary supporting information. The District analysis shall include a statement setting forth legal and factual basis for proposed permit conditions, including references to applicable statutory and regulatory provisions.

E. Transmission of Information to the Administrator

1. The District shall provide to the Administrator a copy of each permit application (including any application for significant or minor permit modification), each proposed permit, each final permit, and, if significant comment is received during the public participation process and the written response to comments. The applicant may be required by the permitting authority to provide a copy of the permit application (including the compliance plan) directly to the Administrator. Upon agreement with the Administrator, the permitting authority may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.
- a. If significant comment was received during the public participation process before the proposed permit is submitted to the Administrator, such comments and District responses must be submitted with the proposed permit along with other supporting materials. The Administrator's 45-day review period for this proposed permit will not begin until such materials have been received by the EPA
  - b. In instances where the Administrator has received a proposed permit from a permitting authority before the public participation process on the draft permit has been completed, the public comments must be submitted with the proposed permit along with other supporting materials, excepting the final permit and the written response to comments. If the permitting authority receives significant comment on the draft permit during the public participation process, but after the submission of the proposed permit to the Administrator, the Administrator

## 201.1 Staff Report – Strikeout

will no longer consider the submitted proposed permit as a permit proposed to be issued under section 505 of the Act.

In such instances, the permitting authority must make any revisions to the permit and permit record necessary to address such public comments, including preparation of a written response to comments (which must include a written response to all significant comments raised during the public participation process, and must submit the proposed permit and the supporting material, excepting the final permit, to the Administrator after the public comment period has closed. This later submitted permit will then be considered as a permit proposed to be issued under section 505 of the Act, and the Administrator's review period for the proposed permit will not begin until all required materials have been received by the EPA.

2. The Administrator may waive the requirements of this section for any category of sources (including any class, type, or size within such category) other than major sources according to the following:
  - a. By regulation for a category of sources nationwide, or
  - b. At the time of approval of a State program for a category of sources covered by an individual permitting program.

### F. Changes to Proposed Decision

Changes to a proposed decision shall be administered as follows:

1. The APCO may modify or change a proposed decision, the proposed permit, or District analysis based on information in comments received during the public comment period pursuant to Subsection VI.D.1.b. or based on further analysis of the APCO. Pursuant to Subsection VI.D.1.e., above, the APCO shall forward any such modified proposed decision, the proposed permit, District analysis, and all necessary supporting information to the EPA.
2. If the EPA objects in writing to the proposed decision within 45 days of being notified of the decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to Subsection VI.D.1.e., above, the APCO shall not issue the permit. Also, if the public petitions the EPA within 60 days after the end of the EPA's 45-day review period and the permit has not yet been issued, the APCO shall not issue the permit until EPA objections in response to the petition are resolved. The APCO shall, either, respond in writing to EPA's comments, deny the application, or revise and resubmit a permit addressing EPA's identified deficiencies within the following timeframes:
  - a. For initial permits, permit renewals, and significant permit modifications, within 90 days of receiving the EPA objection; or
  - b. For minor permit modifications, within 90 days of receipt of the application or 60 days of the notice to EPA, whichever is later.

G. Final Decision

If the EPA does not object in writing within 45 days of a notice provided pursuant to Subsection VI.D.1.e., or the APCO submits a revised permit pursuant to Section VI.F.2., above, the APCO shall, expeditiously, deny the application or issue the final permit to operate. In any case, the APCO shall take final action on an application within applicable timeframes specified in Section VI.C. Failure of the APCO to act on a permit application or permit renewal application in accordance with timeframes provided in Section VI.C., shall be considered final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously.

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

H. Public Petitions to the Administrator

If the Administrator does not object in writing, any person may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. The petitioner shall provide a copy of such petition to the permitting authority and the applicant. 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 the 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 District shall not issue the permit until 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 45-day review period and prior to an EPA objection. If the District has issued a permit prior to receipt of an EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in §70.7 (g)(4) or §70.8 (g)(5)(i) and (ii) except in unusual circumstances, and the District may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

1. Standard Petitions Requirements

Each public petition sent to the Administrator must include the following elements in the following order:

## 201.1 Staff Report – Strikeout

a. Identification of the proposed permit on which the petition is based

The petition must provide the permit number, version number, or any other information by which the permit can be readily identified. The petition must specify whether the permit action is an initial permit, a permit renewal, or a permit modification/revision, including minor modifications/revisions.

b. Identification of petition claims

Any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements under this part. Any arguments or claims the petitioner wishes the EPA to consider in support of each issue raised must be contained within the body of the petition, or if reference is made to an attached document, the body of the petition must provide a specific citation to the referenced information, along with a description of how that information supports the claim. In determining whether to object, the Administrator will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. For each claim raised, the petition must identify the following:

- 1) The specific grounds for an objection, citing to a specific permit term or condition where applicable.
- 2) The applicable Part 70 requirement that is not met.
- 3) An explanation of how the term or condition in the permit, or relevant portion of the permit record or permit process, is not adequate to comply with the corresponding applicable Part 70 requirement.
- 4) If the petition claims that the District did not provide for a public participation procedure, the petition must identify specifically the required public participation procedure that was not provided.
- 5) Identification of where the issue was raised with reasonable specificity during the public comment period, citing to any relevant page numbers in the public comment submitted to the District and attaching this public comment to the petition. If the grounds for the objection were not raised with reasonable specificity during the public comment period, the petitioner must demonstrate that such grounds arose after that period, or that it was impracticable to raise such objections within that period.
- 6) Unless the grounds for the objection arose after the public comment period or it was impracticable to raise the objection within that period, the petition must identify where the District responded to the public comment, including page number(s) in the publicly available written response to comment, and explain how the permitting authority's response to the comment is inadequate to address the issue raised in the public comment. If the response to comment document does not address the public comment at all, the petition must state that.

### 2. Documents that may be considered in reviewing petitions

The information that the Administrator considers in making a determination whether to grant or deny a petition on a proposed permit generally includes the petition itself, including attachments to the petition, and the administrative record for the proposed permit. This includes the draft and proposed permits; any permit applications that relate to the draft or proposed permits; the technical support document; any comments the District received during the public participation process on the draft permit; the District's written responses to comments, including responses to all significant comments raised during the public participation process on the draft permit; and all materials available to the District that are relevant to the permitting decision and that the District made available to the public. If a final permit is available during the agency's review of a petition on a proposed permit, that document may also be considered as part of making a determination whether to grant or deny the petition.

### 3. Submission of Petitions

Any petition to the Administrator must be submitted through the Operating Permits Group in the Air Quality Policy Division in the Office of Air Quality Planning and Standards, using one of the three following methods, as described at the EPA Title V Petitions website: An electronic submission through the EPA's designated submission system identified on that website (the agency's preferred method); an electronic submission through the EPA's designated email address listed on that website; or a paper submission to the EPA's designated physical address listed on that website. Any necessary attachments must be submitted together with the petition, using the same method as for the petition. Once a petition has been successfully submitted using one of these three methods, the petitioner should not submit additional copies of the petition using another method. The Administrator is not obligated to consider petitions submitted to the agency using any method other than the three identified in this section.

### 4. Timeliness

In order for the EPA to be able to determine whether a petition was timely filed, the petition must have or be accompanied by one of the following: A date or time stamp of receipt through EPA's designated electronic submission system as described in VI.H.3; a date or time stamp on an electronic submission through EPA's designated email address as described in VI.H.3; or a postmark date generated for a paper copy mailed to EPA's designated physical address.

#### I. District Action on Written Requests

The APCO shall act on a written request of an owner or operator for permit action using the applicable procedure specified in this Subsection.

##### 1. Administrative Permit Amendment

## 201.1 Staff Report – Strikeout

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

- a. After designating the permit revision(s) as an administrative permit amendment, the APCO may revise the permit without providing notice to the public or any affected state;
- b. The APCO shall provide a copy of the revised permit to the responsible official and the EPA; and
- c. The APCO is not required to make a completeness determination on a written request, but shall notify the owner or operator if the APCO determines the permit can not be revised as an administrative permit amendment.

### 2. Permit Modification for Non-Federally-Enforceable Condition

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

- a. Any change at the stationary source allowed by the permit modification shall comply with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules imposed in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by a permit streamlining requirements imposed in accordance with Section VI.L., or District-only rules substituting for provisions of the State Implementation Plan pursuant to Section VI.M.1., and will not violate any existing permit term or condition; and
- b. The APCO shall provide to the EPA a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement applying as a result of the change.

### 3. Permit to Operate for New Emissions Unit

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

### J. Permit Reopening for Cause

The APCO shall reopen and revise a Permit to Operate during the annual review period authorized by Section 42301(c) of the CH&SC, or petition the District hearing board to do so, as applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by the EPA, or within 18 months of



## 201.1 Staff Report – Strikeout

promulgation of a new applicable federal requirement. The APCO shall act only on those parts of the permit for which cause to reopen exists.

1. Circumstances constituting cause for reopening and revision of a permit include, but are not limited to, the following:
  - a. Need to correct a material mistake or inaccurate statement;
  - b. Need to revise or revoke a permit to operate to assure compliance with permit streamlining requirements imposed in accordance with Section VI.L., District-only rules imposed in accordance with Section VI.M.1., all applicable federal requirements not subsumed by permit streamlining requirements imposed in accordance with Section VI.L., or District-only rules substituting for provisions of the State Implementation Plan pursuant to Section VI.M.1.;
  - c. Need to incorporate any new, revised, or additional applicable federal requirement, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after promulgation of such requirement (if less than 3 years remain in the authorized life of the permit, the APCO shall incorporate these requirements into the permit to operate upon renewal); or
  - d. Need to reopen a permit issued to an acid rain unit subject to Phase II of Title IV of the CAA to include:
    - 1) NOx requirements prior to January 1, 1999, and
    - 2) Additional requirements promulgated pursuant to Title IV as they become applicable to any acid rain unit governed by the permit.
2. In processing a permit reopening, the APCO shall use the same procedures as for an initial permit and ~~shall additionally:~~
  - a. Provide written notice to an owner or operator and the EPA ~~within at least 30 days, or a shorter period in the case of an emergency;~~ prior to reopening a permit; and
  - b. Complete action to revise the permit as specified in the notice of reopening within 60 days after the written notice to the EPA pursuant to Subsection VI.D.1.e., ~~if~~ unless the EPA ~~does not object~~ s; or after the APCO has responded to the EPA's objection pursuant to Section VI.F.2.

### K. Options for Operational Flexibility

The APCO shall allow specified changes in operations at a source without requiring a permit revision for conditions addressing an applicable federal requirement. The APCO shall not allow such changes constituting a modification under Title I of the CAA or Rule 210.1, or resulting in exceedance of emissions allowed by the permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility using the following options:

## 201.1 Staff Report – Strikeout

### 1. Alternative Operating Scenarios (AOS)

The APCO shall allow use of alternative operating scenarios provided:

- a. Terms and conditions applicable to each operating scenario are identified by the owner or operator in the permit application;
- b. Terms and conditions are approved by the APCO;
- c. Terms and conditions are incorporated into the permit; and
- d. Terms and conditions are in compliance with all applicable District, state, and federal requirements.

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

### 2. Voluntary Emissions Caps

The APCO shall issue a permit containing terms and conditions allowing for trading of emissions increases and decreases within the stationary source solely for the purpose of complying with a voluntary emissions cap established in the permit independent of otherwise applicable federal requirements provided:

- a. Requirements of Subsections VI.I.1.a., 1.c., and 1.d., above, are met;
- b. Terms and conditions are approved by the APCO as quantifiable and enforceable; and
- c. Terms and conditions are consistent with any applicable preconstruction permit.

A permit condition shall require an owner or operator to provide written notice to EPA and the APCO 30 days in advance of a change by clearly requesting operational flexibility pursuant to this Subsection. Such written notice shall describe the change, identify the emissions unit to be affected, date on which the change will occur and duration of change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not.

### 3. Contravening an Express Permit Condition

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

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

## 201.1 Staff Report – Strikeout

- b. Changes will not contravene monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements constituting federally-enforceable conditions;
- c. Changes are not modifications under Title I of the CAA or any provision of Rule 210.1;
- d. Changes do not result in exceeding emissions allowable by the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
- e. Written notice is given to EPA and the APCO 30 days in advance of a change, and such notice clearly indicates term(s) or condition(s) to be contravened, requests operational flexibility under this Subsection, describes the change, identifies emissions units to be affected, date on which the change will occur, duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and
- f. APCO has not provided a written denial to the owner or operator within 30 days of receipt of the request for an operational change. The written denial shall identify which of the requirements of Subsections VI.I.3.a., b., c., d., or e., above, have not been satisfied.

### L. Permit Streamlining

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

The APCO may approve a proposal which includes either: 1) the most stringent of multiple applicable emission limitations (including work practice and operational standards) for each regulated air pollutant, 2) an alternative or hybrid emission limitation at least as stringent as any applicable emission limitation, or 3) a District-only requirement which meets criteria set forth in Section VI.M., and is at least as stringent as the applicable federal requirement(s) which it subsumes.

### M. Requirements From the State Implementation Plan

- 1. In response to a proposal in the application submitted in accordance with Section V.C.1.t., the APCO may issue a permit with permit terms and conditions in accordance with Section VII., "Permit Content Requirements" based on a District-

## 201.1 Staff Report – Strikeout

only rule in lieu of a corresponding rule in the State Implementation Plan, provided the following requirements are met:

- a. Compliance with one of the following criteria:
  - 1) The EPA has determined in writing the District-only rule is at least as stringent as, and ensures compliance with, the corresponding rule in the applicable State Implementation Plan, or
  - 2) The owner or operator has demonstrated to satisfaction of the APCO and EPA, expressed in writing, that compliance with the District only rule assures compliance with the corresponding rule in the State Implementation Plan, and
- b. Once the permit is issued, the permit terms and conditions based on the District-only rule shall be federally-enforceable in accordance with CH&SC Section 42301.12(a)(3) and Section VII.A.2.,. The permit shall include a permit shield provided in accordance with Section VI.N., for applicable federal requirements associated with the District-only rule. Requirements of the corresponding rule in the Implementation Plan shall remain federally enforceable until the EPA approves the District-only rule for inclusion in the State Implementation Plan. If, after permit issuance, the District or EPA determines the permit does not assure compliance with applicable federal requirements, the permit shall be reopened.
2. Provided the EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of the permit until the EPA formally acts to approve or disapprove the District-only rule submitted for inclusion in the State Implementation Plan.

### N. Permit Shield

1. In response to a proposal in the application, the APCO may include in the permit a provision stating compliance with specifically-identified conditions of the permit shall be deemed compliance with any applicable federal requirement(s) or with any District-only requirement(s) set forth in accordance with Section VI.L., as of the date of permit issuance, provided:
  - a. Such applicable federal requirements and/or District-only requirements are specifically identified and included in the permit; or
  - b. The APCO, in acting on the permit application or revision, determines in writing other specifically identified requirements are not applicable to the source, and the permit includes the determination or a concise summary thereof.
2. When a permit shield is provided by the APCO for permit streamlining in accordance with Section VI.L., the permit shield shall be effective only when the source is in compliance with streamlined emission limits (including applicable work standards and operational practices), during which time no enforcement action shall

## 201.1 Staff Report – Strikeout

be taken for non-compliance with subsumed requirements. If the source is not in compliance with the streamlined emission limits, the permit shield shall not be in effect and enforcement action may be taken for non-compliance with subsumed emissions limitations to the extent such noncompliance can be established.

3. A permit that does not expressly state a permit shield exists shall be presumed not to provide such a shield.
4. A permit shield shall not be provided for the following:
  - a. Any minor permit modification;
  - b. Any change in operation allowed by Section VI.K.3., for contravening an express permit condition; or
  - c. Any change in operation or any permit modification pursuant to Section VI.I.2. or VI.I.3.
5. Provisions of Section VI.N.1., shall not alter or affect any of the following:
  - a. Provisions of Section 303 (Emergency Orders) of the CAA, including the authority of the EPA Administrator;
  - b. Liability of an owner or operator of a source for any violation of applicable federal requirements prior to or at the time of permit issuance;
  - c. Applicable federal requirements of Title IV (Acid Rain) of the CAA and the regulations promulgated thereunder;
  - d. Ability of the EPA or APCO to implement and enforce provisions of Section 114 of the CAA and regulations promulgated thereunder;
  - e. Applicability of state or District-only requirements not associated with any permit streamlining action in accordance with Section VI.L., at the time of permit issuance but which do apply to the source; or
  - f. Applicability of regulatory requirements with compliance dates after the permit issuance date.

## **VII. Permit Content Requirements**

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

### **A. Incorporation of Applicable Federal Requirements**

## 201.1 Staff Report – Strikeout

1. A Permit to Operate shall incorporate all applicable federal requirements (or District-only rules which apply in accordance with Section VI.M.1., in lieu of applicable federal requirements) as permit conditions. Streamlining, if any, of requirements shall be accomplished in accordance with Section VI.L.
2. A permit condition addressing an applicable federal requirement, a permit streamlining requirement imposed in accordance with Section VI.L., or a District-only rule which applies in accordance with Section VI.M.1., shall be specifically identified in the permit, or otherwise distinguished from any requirement not enforceable by EPA in accordance with CH&SC Section 42301.12(a)(3).

### B. General Requirements

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

#### 1. Emission and Operational Limitations

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

#### 2. Preconstruction Permit Requirements

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

#### 3. Origin and Authority for Permit Conditions

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

#### 4. Equipment Identification

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

#### 5. Monitoring, Testing, and Analysis

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

## 201.1 Staff Report – Strikeout

condition to ensure monitoring is sufficient to yield reliable data representative of the source's compliance with permit conditions over the relevant time period.

### 6. Recordkeeping

The permit shall include recordkeeping conditions requiring:

- a. Recording of maintenance of all monitoring and support information associated with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirement not subsumed by such permit streamlining requirement(s) or District-only rules, including:
  - 1) Date, place, and time of sampling;
  - 2) Operating conditions at time of sampling;
  - 3) Date, place, and method of analysis; and
  - 4) Results of analysis;
- b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of sample collection, measurement, report, or application; and
- c. Any other recordkeeping deemed necessary by the APCO to ensure compliance with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules.

### 7. Reporting

The permit shall include reporting conditions requiring the following:

- a. Any non-conformance with permit requirements; ~~including any attributable to emergency conditions (as defined in the permit) shall be promptly reported to the APCO and in accordance with Rule 111;~~
- b. Monitoring report shall be submitted at least every six months identifying any non-conformance with permit requirements, including any previously reported to the APCO;
- c. All reports of non-conformance with permit requirements shall include probable cause of non-conformance and any preventative or corrective action taken;
- d. Progress report shall be made on a compliance schedule at least semiannually and including: 1) date when compliance will be achieved, 2) explanation of why compliance was not, or will not be achieved by the scheduled date, and 3) log of any preventative or corrective action taken;

## 201.1 Staff Report – Strikeout

- e. Each monitoring report shall be accompanied by a written statement from the responsible official certifying the truth, accuracy, and completeness of the report; and
- f. Any source subject to this rule shall submit to the District by March 31 of each year, actual GHG emissions for the previous calendar year. Emissions shall be calculated and reported in accordance with 40 CFR Part 98, Mandatory Greenhouse Gas Reporting.

### 8. Compliance Plan

The permit shall include a compliance plan:

- a. Describing the compliance status of an emissions unit with respect to each applicable federal requirement, except as provided below:
  - 1) For all applicable federal requirements which are satisfied by compliance with streamlining requirements approved by the District in accordance with Section VI.L., the responsible official may certify compliance with streamlined requirement(s) if there are data on which to base such a certification. The compliance plan shall include an attachment that indicates compliance with the permit streamlining requirement ensures compliance with identified applicable federal requirements being subsumed; and
  - 2) In lieu of a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a District only rule allowed by the District in accordance with Section VI.M.1., if there are data on which to base such a certification;
- b. Describing how compliance will be achieved if an emissions unit is not in compliance with an applicable federal requirement at time of permit issuance. However, if the emission unit complies with a District-only rule in accordance with Section VI.M.1., no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District;
- c. Assuring an emissions unit will continue to comply with all permit conditions with which it is in compliance; and
- d. Assuring an emissions unit will comply with, on a timely basis, any applicable federal requirement becoming effective during the permit term.

### 9. Compliance Schedule

The permit shall include a compliance schedule for any emissions unit which is not in compliance, at the time of permit issuance, renewal, and modification (if the non-compliance is with units being modified), with any permit streamlining requirement imposed in accordance with Section VI.L., any District-only rule which applies in accordance with Section VI.M.1., and any current applicable federal requirements



## 201.1 Staff Report – Strikeout

not subsumed by such permit streamlining requirement(s) or District-only rules. The compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law and shall require:

- a. Statement the emissions unit will continue to comply with all permit conditions with which it is in compliance;
- b. Statement the emissions unit will comply, on a timely basis, with an applicable federal requirement becoming effective during the permit term;
- c. For each condition with which the emissions unit is not in compliance with a permit streamlining requirement imposed in accordance with Section VI.L., a District-only rule which applies accordance with Section VI.M.1., or an applicable federal requirement not subsumed by such permit streamlining requirements or District-only rules, a schedule of compliance listing all preventative or corrective activities, and dates when these activities will be accomplished; and
- d. For each emissions unit not in compliance with a permit streamlining requirement imposed in accordance with Section VI.L., a District-only rule which applies in accordance with Section VI.M.1., or an applicable federal requirement not subsumed by such permit streamlining requirements or District-only rules, a schedule of progress on at least a semi-annual basis including: 1) date when compliance will be achieved, 2) explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) log of any preventative or corrective actions taken.

### 10. Right of Entry

The permit shall require the source to allow entry of District, CARB, or EPA officials for purpose of inspection and sampling, including:

- a. Inspection of the stationary source, including equipment, work practices, operations, and emission-related activity;
- b. Inspection and duplication of records required by the permit to operate; and
- c. Source sampling or other monitoring activities.

### 11. Compliance with Permit Conditions

The permit shall include the following compliance provisions:

- a. Permittee shall comply with all permit conditions;
- b. Permit does not convey any property rights or any exclusive privilege;

## 201.1 Staff Report – Strikeout

- c. Non-compliance with any permit condition shall be grounds for permit termination, revocation and reissuance, modification, enforcement action, or denial of permit renewal;
- d. Permittee shall not use "need to halt or reduce a permitted activity in order to maintain compliance" as a defense for non-compliance with any permit condition;
- e. Pending permit action or notification of anticipated non-compliance does not stay any permit condition; and
- f. Within a reasonable time period, permittee shall furnish any information requested by the APCO, in writing, for purpose of determining: 1) compliance with the permit, or 2) whether or not cause exists for a permit or enforcement action.

### 12. Emergency Provisions

~~The permit shall include the following emergency provisions:~~

- ~~a. The permittee shall comply with the requirements of Rule 111 and the emergency provisions contained in all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules.~~
- ~~b. Within two weeks of an emergency event, an owner or operator of the source shall submit to the District a properly signed, contemporaneous log or other relevant evidence which demonstrates that:
  - ~~1) An emergency occurred;~~
  - ~~2) The permittee can identify the cause(s) of the emergency;~~
  - ~~3) The facility was being properly operated at the time of the emergency;~~
  - ~~4) All steps were taken to minimize the emissions resulting from the emergency; and~~
  - ~~5) Within two working days of the emergency event, the permittee provided the District with a description of the emergency and any mitigating or corrective actions taken;~~~~
- ~~c. In any enforcement proceeding, the permittee has the burden of proof for establishing that an emergency occurred.~~

### ~~13~~ 12. Severability

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

~~14~~<sup>13</sup>. Compliance Certification

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

- a. The responsible official shall submit a compliance certification to the EPA and the APCO every 12 months or more frequently as specified in an applicable requirement or by the District. All compliance reports and other documents required to be submitted to the District by the responsible official shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;
- b. Such compliance certification shall identify the basis for each permit term or condition, e.g., specify the emissions limitation, standard, or work practice, and a means of monitoring compliance with the term or condition;
- c. Such compliance certification shall include compliance status and method(s) used to determine compliance for the current time period and over entire reporting period; whether compliance was continuous or intermittent; and
- d. Such compliance certification shall include any additional inspection, monitoring, or entry requirement promulgated pursuant to Sections 114(a) and 504(b) of the CAA.

~~15~~<sup>14</sup>. Permit Life

With the exception of acid rain units subject to Title IV of the CAA and solid waste incinerators subject to Section 129(e) of the CAA, each Permit to Operate shall include a condition for a fixed term not to exceed five years from the time of issuance. A permit to operate for an acid rain unit shall have a fixed permit term of five years. A permit to operate for a solid waste incinerator shall have a permit term of 12 years; but such permit shall be reviewed at least every five years.

~~16~~<sup>15</sup>. Payment of Fees

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

~~17~~<sup>16</sup>. Alternative Operating Scenarios

Where an owner or operator requests an alternative operating scenario be included in the permit for an emissions unit, the permit shall contain specific conditions for each operating scenario, including each alternative operating scenario. Each operating scenario, including each alternative operating scenario, identified in the permit shall ensure compliance with all permit streamlining requirements imposed in accordance with Section VI.K.1., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not

subsumed by such permit streamlining requirement(s) or District-only rules, and all requirements of this Section. The source shall maintain a contemporaneous log to record each change from one operating scenario to another.

### ~~18~~17. Approved Replicable Methodology (ARM)

Emissions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. Such requirements and limitations may include ARMs identified by the source in its part 70 permit application as approved by the District, provided that no ARM shall contravene any terms needed to comply with any otherwise applicable requirement or requirement of this part or circumvent any applicable requirement that would apply as a result of implementing the ARM.

- a. The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
- b. The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.
- c. If an applicable implementation plan allows a determination of an alternative emission limit at a part 70 source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the State elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

### ~~19~~18. Voluntary Emissions Caps

To the extent applicable federal requirements provide for averaging emissions increases and decreases within a stationary source without case-by-case approval, an owner or operator may request, subject to approval by the APCO, permitting one or more emissions unit(s) under a voluntary emissions cap. The permit for each emissions unit included under a voluntary emissions cap shall include federally-enforceable conditions requiring:

- a. Compliance with all permit streamlining requirements imposed in accordance with Section VI.L., all District-only rules which apply in accordance with Section VI.M.1., and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules, including those authorizing emissions averaging;
- b. Compliance of all individual emissions units with applicable emissions limitations, standards, or other requirements;

## 201.1 Staff Report – Strikeout

- c. Any emissions limitation, standard, or other requirement be enforced through continuous emission monitoring, where applicable; and
- d. All affected emissions units under a voluntary emissions cap be considered to be operating in violation of the permit if the voluntary emissions cap is exceeded.

### ~~20~~19. Acid Rain Units Subject to Title IV

The permit for an acid rain unit shall include conditions requiring compliance with any federal standard or requirement promulgated pursuant to Title IV (Acid Deposition Control) of the CAA and any federal standard or requirement promulgated pursuant to Title V of the CAA, except as modified by Title IV. Acid rain unit permit conditions shall include requirements of 40 CFR Part 72.9 and the following:

- a. Sulfur dioxide emissions from an acid rain unit shall not exceed annual emissions allowances (up to one ton per year of sulfur dioxide may be emitted for each emission allowance allotted) the source lawfully holds for such unit under Title IV of the CAA or the regulations promulgated pursuant to Title IV;
- b. Any increase in an acid rain unit's sulfur dioxide emissions authorized by allowances acquired pursuant to Title IV of the CAA shall not require a revision of the acid rain portion of the operating permit provided such increases do not require permit revision under any other applicable federal requirement;
- c. There is no limit on the number of sulfur dioxide emissions allowances held by a source, but a source with an acid rain unit shall not use such emissions allowances as a defense for non-compliance with any applicable federal requirement or District requirement, including District Rule 210.1 (New Source Review Rule); and
- d. An acid rain unit's sulfur dioxide allowances shall be accounted for according to procedures established in regulations promulgated pursuant to Title IV of the CAA.

### ~~21~~20. Portable Sources

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

- a. Meet all applicable District, state, and federal requirements at each location;
- b. Specify monitoring methods, or other methods, e.g., air quality modeling, approved by the APCO, demonstrating compliance with all District, state, and federal requirements; and
- c. Notify the APCO ten working days prior to a change in location.

~~22~~21. Permit Shield

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

C. Referencing of District and Applicable Federal Requirements

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

**VIII. Annual Fees**

A. Greenhouse Gas Fee

Title V permitted sources with actual GHG emissions, in the prior calendar year, greater than or equal to 100,000 tons of CO<sub>2</sub>e shall be subject to District Rule 301.4, Greenhouse Gas Fee.

B. Supplemental Fee

1. Supplemental Fee Required

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

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

- a. "Fee-based emissions" means the actual rate of emissions in tons per year of any fee pollutant, including fugitive emissions, emitted from all stationary sources over the preceding year or any other period determined by the APCO to be representative of normal operation. Fee-based emissions shall be calculated using each emission unit's actual operating hours, production rates, and in-place control equipment; types of material processed, stored, or combusted during the preceding calendar year, or other time period established by the APCO.

## 201.1 Staff Report – Strikeout

- b. "Fee pollutant" means VOCs, NO<sub>x</sub>, any pollutant for which a National Ambient Air Quality Standard has been promulgated by the EPA (excluding carbon monoxide), and any other pollutant subject to a standard or regulation, excluding Greenhouse Gases, promulgated by the EPA under the CAA or adopted by the District pursuant to Section 112(g) and (j) of the CAA. Any air pollutant regulated solely because of a standard or regulation under Section 112(r) of the CAA for accidental release or under Title VI of the CAA for stratospheric ozone protection shall not be included.
- c. "(CPI-adjusted)" means adjusted by the percentage, if any, by which the Consumer Price Index for the year exceeds the Consumer Price Index for calendar year 1989. The value for (CPI-adjusted) shall be obtained from the EPA.

### 2. Supplemental Fee Not Required

There shall not be a supplemental annual fee if:

- a. The total annual fee rate paid by all sources subject to this Rule pursuant to Rules 301 and 303 (except Section III of Rule 303) (Permit Fees Rules) and 301.3 (CH&SC Section 44380-AB 2588 Toxic Hot Spots) equals or exceeds \$25 per ton of fee-based emissions (CPI adjusted). Only those AB 2588 Toxic Hot Spots fees funding direct and indirect costs associated with activities related to the operating permits program as specified in Section 502(b)(3)(A) of the CAA shall be used to meet the overall fee rate of \$25 per ton of fee-based emissions (CPI adjusted), or
- b. The District satisfactorily demonstrates to EPA that collection of less than the amount prescribed in Section VIII.B.1., is sufficient to administer a program for sources subject to Title V which adequately implements applicable CAA requirements, or
- c. EPA promulgates a regulation, guidance, or policy establishing a lower minimum dollars per ton. Should this occur, such new minimum shall be used in Section VIII.B.3, below.

### 3. Determination of Supplemental Fee

Any supplemental annual fee due shall be determined by completing the following steps:

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

$$S = [\$25 \text{ per ton (CPI adjusted)} \times e] - F$$

where:

S = supplemental District-wide annual fee in dollars

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

## 201.1 Staff Report – Strikeout

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

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

$$s = S \times f$$

where:

s = Given Facility's Supplemental Annual Fee

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

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

- c. Step 3: When the Supplemental Annual Fee is Zero:

If "F" is equal to or greater than "\$25 per ton (CPI adjusted) x e]", then "S" shall be zero and Section VIII.B.2., applies. If "F" is less than [\$25 per ton (CPI adjusted) x e], then "S" shall be as calculated as in Step 1.

### C. Submittal of Information

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

*Remainder of Page Intentionally Left Blank*