

"AGENDA ITEM # 13"
"DATE: 11/23/94"

MOJAVE DESERT
AIR QUALITY MANAGEMENT DISTRICT



Regulation XII

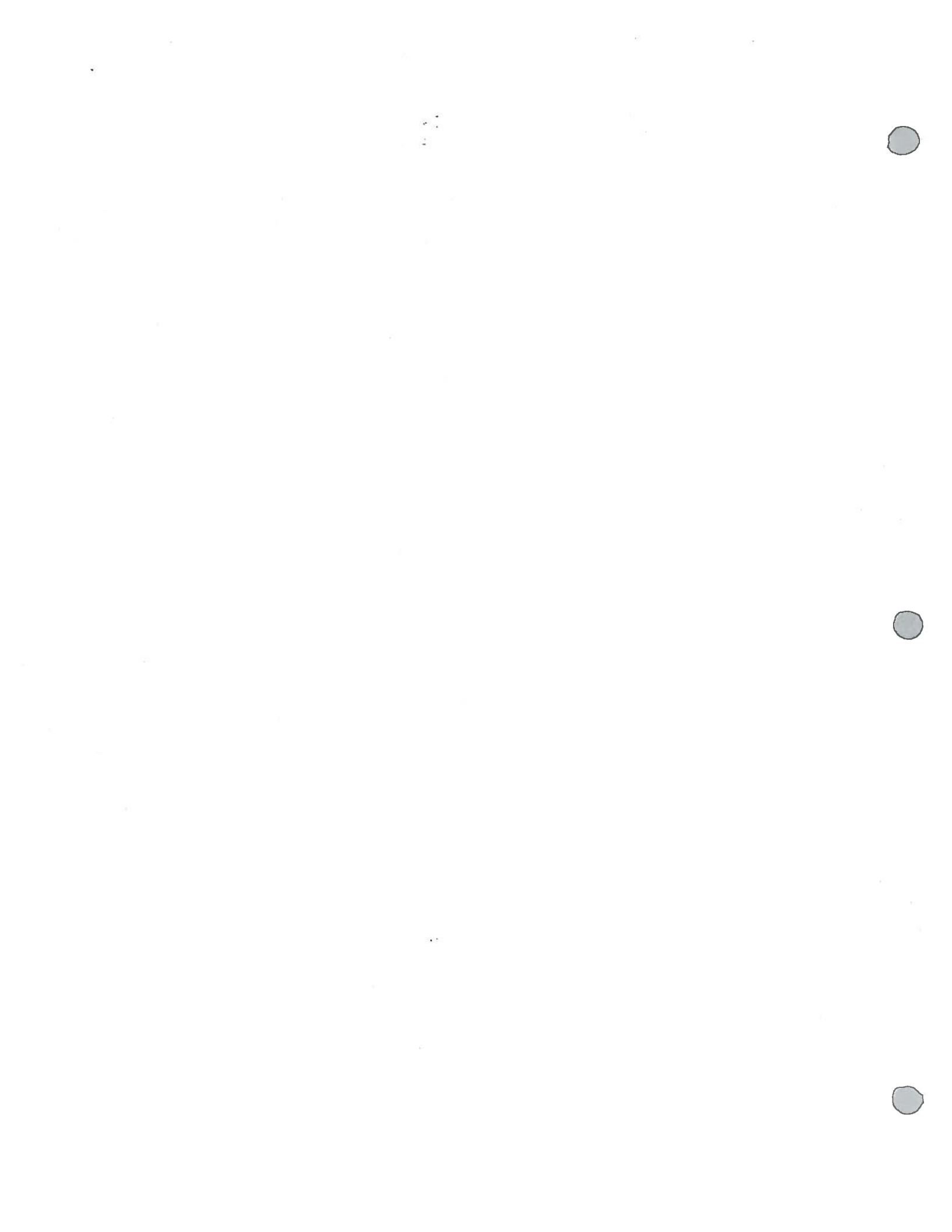
Federal Operating Permits

For adoption on

November 23, 1994

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RULE 1200

General

(A) Purpose.

- (1) The purpose of Regulation XII is to implement the operating permit requirements of Title V of the Federal Clean Air Act (42 U.S.C. §§7661-7661f). This rule is also intended to comply with the requirements promulgated by the USEPA and set forth in 40 C.F.R. Part 70.
- (2) Nothing in this regulation shall be interpreted to relieve a person from obtaining permits required under applicable Federal law or regulation, State law or regulation, or other District Rules or Regulations.

(B) Applicability.

- (1) The provisions of this regulation shall apply to:
 - (a) Any Major Facility; and
 - (b) Any Major Facility which is subject to a standard, limitation or other requirement under 42 U.S.C. §7411, Standards of Performance for New Stationary Sources (Federal Clean Air Act §111); or any Facility subject to a regulation promulgated pursuant to that section, published after July 21, 1992 that the USEPA does not exempt from the requirements of Title V of the Federal Clean Air Act (42 U.S.C. §§7661-7661f); and
 - (c) Any Major Facility which is subject to a standard or other requirement under 42 U.S.C. §7412, Hazardous Air Pollutants (Federal Clean Air Act §112); or any Facility subject to a regulation promulgated pursuant to that section, published after July 21, 1992 that the USEPA does not exempt from the requirements of Title V of the Federal Clean Air Act (42 U.S.C. §§7661-7661f); and
 - (d) Any Acid Rain Facility; and
 - (e) Any Solid Waste Incineration Unit subject to a performance standard promulgated pursuant to 42 U.S.C. §7429, Solid Waste Combustion

(Federal Clean Air Act §129); and

- (f) Any source in a category as designated by the USEPA pursuant to 40 C.F.R. §70.3(a)(5).

(C) Exemptions.

(1) The provisions of this regulation shall not apply to:

- (a) Any facility that would be required to obtain a permit solely because it is subject to:
 - (i) Standards of Performance for New Residential Wood Heaters pursuant to 40 CFR 60, subpart AAA.
 - (ii) National Emissions Standard for Hazardous Air Pollutants for Asbestos pursuant to 40 CFR 61, subpart M, section 61.145, Standard for Demolition and Renovation.
 - (iii) The requirements of 42 U.S.C. §7412(r), Prevention of Accidental Releases (Federal Clean Air Act §112(r)).
- (b) Any Facility that is not a Major Facility due to compliance with Federally Enforceable emission limitations which limit the Potential to Emit for such Facility and which is not otherwise subject to this regulation.

(D) Effective Date.

- (1) The requirements of this regulation shall become effective on the date of approval, including but not limited to any interim approval pursuant to the provisions of 40 CFR 70.4(d), by the USEPA.

RULE 1201

Definitions

For the purpose of Regulation XII the following definitions shall apply:

- (A) "Acid Rain Facility" - Any Facility containing an affected unit as defined in Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o) or regulations promulgated thereunder.
- (B) "Administrative Permit Amendment" - A revision to a Federal Operating Permit which includes, but is not necessarily limited to, the following:
- (1) Correction of typographical errors.
 - (2) Identification of an administrative change at a Facility such as a change in name, address, or phone number of persons identified in the permit, or **other** similar change as long as the change involve no physical or operational changes to the Facility.
 - (3) The imposition of more frequent emission monitoring or reporting requirements.
 - (4) A change in ownership, operation or control of the Facility as long as no **other** change to the permit is necessary and a written agreement containing a **specific** date for transfer of the permit responsibility, coverage, and liability **between** the parties involved in the change has been provided to the District.
 - (5) The incorporation of requirements imposed by a permit issued pursuant to the provisions of Regulation XIII, if and when USEPA has determined that Regulation XIII has met the requirements of an enhanced new source review program pursuant to the provisions of 40 CFR 70.7(d)(1)(v).
 - (6) For any requirement under Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o) an administrative permit amendment is any change listed in 40 CFR 72.83(a).
- (C) "Acid Rain Program" - Any program or requirement under Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o) or under any regulations promulgated thereunder.

- (D) "Affected State(s)" - Any state, whose air quality may be affected by the granting of a Federal Operating Permit to the Facility and is contiguous to the District; or Any state which is located within 50 miles of the Facility.
- (E) "Air Pollutant" - Any air pollution agent or combination of such agents, including any physical, chemical, biological, or radioactive (including source material, special nuclear material and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.
- (F) "Air Pollution Control Officer" (APCO) - The person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of California Health & Safety Code §40750 and his or her designee.
- (G) "Applicable Requirement" - Any of the following requirements, including requirements that have been promulgated or approved by USEPA through rulemaking at the time of permit issuance but have future effective dates, as they apply to a Facility or Permit Unit:
- (1) Any standard or other requirement contained in the applicable implementation plan for the District, and any amendments thereto, approved or promulgated pursuant to the provisions of Title I of the Federal Clean Air Act (42 U.S.C. §§7401-7515).
 - (2) Any term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated under Title I of the Federal Clean Air Act (42 U.S.C. §§7401-7515).
 - (3) Any standard or other requirement under 42 U.S.C. §7411, Standards of Performance for New Stationary Sources (Federal Clean Air Act §111); 42 U.S.C. §7412, Hazardous Air Pollutants (Federal Clean Air Act §112); and any regulations promulgated thereunder.
 - (4) Any standard or other requirement under Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o) or the regulations promulgated thereunder.
 - (5) Any requirements regarding monitoring, analysis, and compliance established pursuant to 42 U.S.C. §7414(a)(3), Record keeping, Inspections, Monitoring and Entry (Federal Clean Air Act §114); 42 U.S.C. §7661c(b), Permit Requirements and Conditions (Federal Clean Air Act §504); and the regulations promulgated thereunder.

- (6) Any standard or other requirement governing Solid Waste Incineration Units under 42 U.S.C. §7429, Solid Waste Combustion (Federal Clean Air Act §129) and the regulations promulgated thereunder.
 - (7) Any standard or other requirement for consumer or commercial products under 42 U.S.C. §7511b(e) (Federal Clean Air Act §183) and the regulations promulgated thereunder.
 - (8) Any standard or other requirement of the regulations promulgated under Title VI of the Federal Clean Air Act (42 U.S.C. §§7671-7671q) unless the USEPA has determined that such requirement need not be contained in a Federal Operating Permit.
 - (9) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Federal Clean Air Act (42 U.S.C. §§7401-7515), but only as it would apply to temporary sources pursuant to the provisions of 42 U.S.C. 7661c(e) (Federal Clean Air Act §504(e)).
- (H) "Compliance Certification" - A document certifying that a Facility complies with all Applicable Requirements which shall be submitted with an application and at least annually during the permit term pursuant to Rule 1203(D)(1)(g)(vii). Compliance Certifications shall include:
- (1) A certification of the compliance status made by a Responsible Official of the Facility consistent with District Rule 1208.
 - (2) Identification of each term or condition contained in the Federal Operating Permit that is the basis for the certification.
 - (3) A statement of the compliance status and whether compliance was continuous or intermittent.
 - (4) A statement describing methods used for determining that the Facility is in compliance.
 - (5) A statement indicating the Facility's compliance status in regard to any enhanced monitoring and compliance requirements.
- (I) "Compliance Plan" - A document detailing the compliance status of a Facility with respect to all Applicable Requirements. Compliance Plans shall include:
- (1) For Applicable Requirements for which the Facility is in compliance, a statement that the compliance will continue.

- (2) For Applicable Requirements which will become effective during the permit term, a statement that the Facility will comply with these requirements on a timely basis.
- (3) For Applicable Requirements for which the Facility is not in compliance the following information:
- (a) A narrative description of how the Facility will achieve compliance with such requirements; and
 - (b) A schedule of compliance which contains a list of remedial measures to be taken for the Facility to come into compliance with such requirements, an enforceable sequence of actions, with milestones, leading to compliance with such requirements and provisions for the submission of progress reports at least every six (6) months. The schedule shall include any judicial order, administrative order, and/or increments of progress or any other schedule as issued by any appropriate judicial or administrative body or by the District Hearing Board pursuant to the provisions of Health & Safety Code §42350 et seq.
 - (c) Progress reports submitted under the provisions of a schedule of compliance shall include: Dates for achieving the activities, milestone, or compliance required in the schedule of compliance; and dates when such activities, milestones or compliance were achieved; and an explanation of why any dates in the schedule of compliance were not or will not be met; and any preventive or corrective measures adopted due to the failure to meet dates in the schedule of compliance.
- (J) "Contiguous Property" - Two or more parcels of land with a common boundary or separated solely by a public or private roadway, or other public or private right-of-way.
- (K) "District" - The Mojave Desert Air Quality Management District the geographical area of which is described in District Rule 103.
- (L) "District Hearing Board" - The five (5) member board created by the provisions of Health & Safety Code §§40800 et seq. to hear variance petitions, appeals of certain permit decisions by the APCO, and abatement actions.
- (M) "Facility" - Any permit unit, group of permit units, non-permitted equipment, or any combination thereof which emits or may emit an Air Pollutant; and belongs to a single major industrial group in the Standard Industrial Classification Manual; and is

located on a single parcel of land or on contiguous property within the District; and which is owned or operated by the same person or by persons under common control.

- (N) "Federal Clean Air Act" - The Federal Clean Air Act (codified at 42 U.S.C. §§7401-7671q) as well as any amendments thereto and any implementing regulations promulgated thereunder.
- (O) "Federal Operating Permit" - Any permit which is issued by the District pursuant to the provisions of this regulation.
- (P) "Federally Enforceable" - Any requirement, condition or other term which is fully enforceable by USEPA pursuant to the provisions of 42 U.S.C. §7413 (Federal Clean Air Act §113) or the public pursuant to the provisions of 42 U.S.C. §7604 (Federal Clean Air Act §304).
- (Q) "Fugitive Emissions" - Any Air Pollutant which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.
- (R) "Hazardous Air Pollutant" - Any air pollutant listed pursuant to 42 U.S.C. §7412(b) (Federal Clean Air Act §112) or in regulations promulgated thereunder.
- (S) "Major Facility" - Any Facility which emits or has the potential to emit the following amounts and types of Air Pollutants:
 - (1) For any Facility located in Zone A (Any area within the District which is designated Federal Severe-17 Non-attainment area for Ozone):
 - (a) 100 tons per year or more of any Air Pollutants other than those indicated in subparts (b) and (c) below.
 - (b) 25 tons per year or more of the following Air Pollutants:
 - (i) NO_x (nitrogen oxides)
 - (ii) VOC (volatile organic compounds)
 - (c) 10 tons per year or more of any Hazardous Air Pollutant or 25 tons per year or more of any combination of Hazardous Air Pollutants or such lesser quantity as the USEPA may establish by rule.
 - (2) For any Facility located in Zone B (Any area within the District which is designated Federal Ozone Attainment or Unclassified):
 - (a) 100 tons per year or more of any Air Pollutants other than those indicated in subpart (b) below.

- (b) 10 tons per year or more of any Hazardous Air Pollutant or 25 tons per year or more of any combination of Hazardous Air Pollutants or such lesser quantity as the USEPA may establish by rule.

(T) "Minor Permit Modification" - A revision to a Federal Operating Permit which meets all of the following criteria:

- (1) The proposed modification does not violate or cause a violation of any Applicable Requirement; and
- (2) The proposed modification does not change any monitoring requirements or relax any reporting or record keeping requirements; and
- (3) The proposed modification shall not require or change a federally mandated case-by-case determination of an emission limitation, any other standard, a facility specific determination of ambient impacts for temporary facilities, or a visibility or increment analysis; and
- (4) The proposed modification does not impose or change a permit condition which allows the facility, or any permit unit at the facility, to operate below the threshold of applicability for any Applicable Requirement or of this regulation; and
- (5) The proposed modification is not a modification under Title I of the Federal Clean Air Act; and
- (6) The proposed modification is not required to undergo New Source Review pursuant to Regulation XIII of the District; and
- (7) The proposed modification does not result in an increase in emissions from the facility which is greater than any of the following:
 - (a) Ten percent (10%) of the emissions of a regulated air pollutant allowed by a Federal Operating Permit or ten percent (10%) of the emissions allowed on a permit under District Rule 1205 for the Permit Unit for which the change is requested.
 - (b) Twenty percent (20%) of the regulated air pollutant which results in the classification of the facility as a Major Facility.
 - (c) Five (5) tons per year of any regulated air pollutant.

- (U) **"Permit Modification"** - Any action taken to modify a Federal Operating Permit. These include, but are not limited to, Administrative Permit Amendments, Minor Permit Modifications, Significant Permit Modifications.
- (V) **"Permit Unit"** - Any equipment which is required to have a permit to operate under District Rule 203.
- (W) **"Potential to Emit"** - The maximum capacity of a Facility to emit any air pollutant under its physical and operational design.
- (1) Any physical or operational limitation on the capacity of the unit to emit a pollutant including air pollution control equipment; restrictions on hours of operation; or restrictions on the type and/or amount of material combusted, stored or processed shall be treated as part of the design if such limitation is Federally Enforceable.
 - (2) Fugitive Emissions of Hazardous Air Pollutants shall be included in the calculation of a Facility's Potential to Emit.
 - (3) Fugitive Emissions of other Air Pollutants shall not be included in the calculations of a Facility's Potential to Emit unless the Facility belongs to a category listed in 40 CFR 70.2 "Major Source"(2).
 - (4) Emissions of Hazardous Air Pollutants from any oil or gas exploration well (with its associated equipment) and emissions from any pipeline compressor or pump stations shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area.
- (X) **"Regulated Air Pollutant"** - Any of the following Air Pollutants:
- (1) Any pollutant, and its precursors, for which a national ambient air quality standard has been promulgated.
 - (2) Any pollutant that is subject to a standard under 42 U.S.C. §7411 (Federal Clean Air Act §111) or any regulation promulgated pursuant to that section.
 - (3) Any substance which has been designated a Class I or Class II substance under 42 U.S.C. §7671a (Federal Clean Air Act §602) or any regulation promulgated pursuant to that section.
 - (4) Any pollutant subject to a standard or other requirement established pursuant to 42 U.S.C. §7412 (Federal Clean Air Act §112).

(Y) "Responsible Official" - One of the following persons with the authority to certify that a Facility complies with the provisions of this Regulation and all Applicable Requirements.

(1) For a corporation:

(a) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

(b) A duly authorized representative of a person listed in section (a) above if the representative is responsible for the overall operation of one or more manufacturing, production or operating Facilities which are applying for or subject to a Federal Operating permit and:

(i) The Facility employs more than 250 persons; or

(ii) The Facility has gross annual sales or expenditures exceeding Twenty-Five Million (25,000,000) dollars (in second quarter 1980 dollars); or

(iii) The delegation of the authority is approved in advance by the APCO.

(2) For a partnership or sole proprietorship:

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

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

(a) A principle executive officer or a ranking elected official.

(4) For an Acid Rain Facility:

(a) A designated representative as defined in 40 CFR 72.20.

(Z) "Reopening" - The process of modification of a Federal Operating Permit which is commenced by the District pursuant to the provisions of District Rule 1206.

(AA) "Solid Waste Incineration Unit" - Any Facility which burns solid waste material from commercial, industrial, or the general public sources for which a Performance

Standard has been promulgated pursuant to 42 U.S.C. §§7411 or 7429 (Federal Clean Air Act §§111 or 129) or regulations promulgated thereunder, except:

- (1) Facilities which burn hazardous waste and are required to have a permit under 42 U.S.C. §6925 (Solid Waste Disposal Act §3005); or
 - (2) A materials recovery Facility which primarily recovers metals; or
 - (3) Any qualifying small power production facility as defined in 16 U.S.C. §796(17)(C); or,
 - (4) Any qualifying cogeneration facility which burns homogenous waste for the production of energy as defined in 16 U.S.C. §796(18)(B); or
 - (5) Any air curtain incinerator which burns only wood, yard, or clean lumber waste and complies with the opacity limitations to be established by the USEPA.
- (BB) "Significant Permit Modification" - A revision or proposed revision to a Federal Operating Permit which does not meet the qualifications for an Administrative Permit Amendment or a Minor Permit Modification.
- (CC) "United States Environmental Protection Agency" (USEPA) - Refers to the Administrator or the appropriate designee of the United States Environmental Protection Agency.
- (DD) "Volatile Organic Compound" (VOC) - Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions excluding those compounds listed in 40 CFR 51.100(s)(1).

RULE 1202

Applications

(A) Application Forms.

- (1) The APCO shall designate official application forms as necessary to be used under this regulation. The APCO shall also require the use of nationally standardized application forms required by the Acid Rain Program.

(B) Submission of Applications.

- (1) All applications for a Federal Operating Permit, or the Renewal of a Federal Operating Permit, must be submitted on the official application form.
- (2) An application will not be accepted by the District unless the application form includes enough information for the District to make a determination of the application's completeness.
- (3) Applications for Federal Operating Permits and the renewal of such permits shall be submitted in a timely manner as follows:
 - (a) Initial Permits.
 - (i) Any Facility subject to the provisions of this Regulation and in existence prior to the effective date of this regulation shall submit an application for a Federal Operating Permit no later than 12 months after the effective date of this regulation.
 - (ii) Any Facility which becomes subject to the provisions of this regulation at any time after the effective date shall submit an application for a Federal Operating Permit no later than 12 months after becoming subject to this regulation.
 - (b) Renewal Permits.
 - (i) Any permit holder of a Federal Operating Permit issued pursuant to this regulation shall submit an application for renewal at least six (6) months, but no earlier than eighteen (18) months, prior to the expiration date of that permit.

- (c) **New Facilities.**
 - (i) Any new Facility which becomes operational after the Effective Date and is subject to this regulation shall submit an application for a Federal Operating Permit no later than 12 months after commencing operations.
- (d) **Acid Rain provisions of Federal Operating Permits.**
 - (i) Any Acid Rain Facility shall submit an application for the Acid Rain provisions of its Federal Operating Permit pursuant to the provisions of District Rule 1210.
- (4) All applications shall be certified in accordance with the provisions of District Rule 1208.
- (5) The applicant shall update and correct its application when it becomes aware of incomplete or incorrect information contained in the application. The applicant shall submit additional information as necessary to address Applicable Requirements which become effective after an application has been determined complete but before a preliminary determination has been issued pursuant to District Rule 1203(B)(1).

(C) Complete Applications.

- (1) The APCO shall determine whether an application is complete or incomplete within 60 days of receipt of the application.
 - (a) The APCO shall notify the applicant by mail at the address indicated on the application of the completeness determination.
 - (b) If the APCO fails to notify an applicant of the determination, then the application is deemed complete 60 days after receipt of the application.
 - (c) If the APCO determines that the application is incomplete, he/she shall include in the notification of incompleteness:
 - (i) A statement specifying which parts of the application are incomplete and requesting the applicant to submit additional information.
 - (d) The applicant shall have thirty (30) days from the date of the completeness determination to submit the additional information. The

APCO may designate, in writing, a different time period in which the applicant shall submit the additional information.

- (2) If the District determines that additional information is necessary to evaluate or take final action on an application which has been determined or deemed complete, the District may request, and the applicant shall provide, such additional information.
 - (a) The APCO shall request such additional information from the applicant in writing and shall include a time period in which the applicant shall submit the additional information.
 - (b) The APCO may, for good cause shown, extend or modify a time period for the submission of additional information. Such extension shall be in writing and shall indicate the reason for such extension.

(D) Completeness Criteria.

- (1) An application is incomplete when it does not contain enough information to enable the permit to be processed by the District. To be determined complete an application must contain:
 - (a) Identifying information as required on the official application form designated by the APCO.
 - (b) A description of the Facility's processes and/or products by Standard Industrial Classification Code. A separate description is required for each alternate operating scenario proposed by the applicant.
 - (c) Information sufficient to evaluate the emissions of the Facility, including but not limited to:
 - (i) The amount and type of emissions which render the Facility a Major Facility as defined in District Rule 1201 and the amount and type of emissions for any other Regulated Air Pollutant.
 - (ii) The amount and type of emissions, in tons per year and in such terms as are necessary to establish compliance with an applicable standard reference test method of any Regulated Air Pollutant.
 - (iii) Identification and description of all Permit Units and other points of emission within the Facility.

- (iv) Identification and description of all air pollution control equipment and monitoring devices within the Facility.
 - (v) Information regarding fuels, fuel use, raw materials, process weight, production rates and operating schedules to the extent such information is used to determine or regulate emissions.
 - (vi) Any limitations on Facility operations, or common practices within the facility which affect the emissions of Air Pollutants.
 - (vii) Any other information specifically required by an Applicable Requirement.
 - (viii) Any calculations upon which the above information is based.
 - (ix) Fugitive emissions shall be included in the application in the same manner as any other emissions.
- (d) Information regarding Applicable Requirements including but not limited to:
- (i) Citation and description of all Applicable Requirements including a description or reference to test methods used to determine compliance.
 - (ii) Any other specific information necessary to implement and enforce other Applicable Requirements or to determine if a requirement is an Applicable Requirement.
 - (iii) An explanation of any proposed exemptions from Applicable Requirements.
- (e) Any additional information determined to be necessary to define alternative operating scenarios or to define permit terms and conditions necessary to implement operational flexibility under District Rule 1203(E).
- (f) A Compliance Plan and a Certification of Compliance.
- (g) A list of all activities claimed to be insignificant pursuant to District Rule 219.

(E) Effect of a Complete Application.

(1) Initial Applications.

(a) A Facility may operate without a Federal Operating Permit if:

(i) The Facility has submitted a timely application and that application has been determined to be complete; and

(ii) The District has not taken final action on the permit; and

(iii) The applicant has met all deadlines for the submittal of additional material and agrees to continue to meet such deadlines; and

(iv) The Facility holds the appropriate permits issued under District Rules 201, 202 and 203 and/or Regulation XIII for its permit units.

(b) If the applicant fails to meet a deadline for the submission of additional material imposed pursuant to District Rule 1202(C)(2), the ability to operate without a Federal Operating Permit under this section is automatically terminated.

(2) Renewal Applications.

(a) A Facility may continue operating under a previously issued Federal Operating Permit which has expired so long as:

(i) The Facility has, in a timely manner, submitted a renewal application and that renewal application has been determined to be complete; and

(ii) The District has not taken final action to issue or deny the Federal Operating Permit; and

(iii) The applicant has met all deadlines for the submittal of additional material and agrees to continue to meet such deadlines.

(b) All terms and conditions contained in the previously issued Federal Operating Permit shall remain in effect until the renewal has been issued, denied or the Federal Operating Permit has been terminated for cause.

- (c) If the applicant fails to meet a deadline for the submission of additional material imposed pursuant to District Rule 1202(C)(2), the ability to operate under the previously issued Federal Operating Permit is automatically terminated.

(F) Confidential Information.

- (1) No information contained in an application for a Federal operating Permit shall be considered confidential unless:
 - (a) The information is a trade secret under the provisions of California Government Code §6254.7(d); or
 - (b) The information is otherwise entitled to confidential treatment pursuant to 18 U.S.C. §1905; and
 - (c) The information is marked or otherwise identified as confidential in the application.

RULE 1203

Federal Operating Permits

(A) Permit Term.

- (1) A Federal Operating Permit shall be valid for five (5) years unless it is revoked or suspended by the APCO or the District Hearing Board. The expiration date shall be clearly indicated on the permit.

(B) Permit Issuance.

- (1) Federal Operating Permits, Significant Modifications to Federal Operating Permits and Renewals of Federal Operating Permits shall be issued using the following procedure:
- (a) Preliminary Determination.
- (i) Prior to the final determination the APCO shall issue a preliminary determination which includes: a copy of the proposed permit, if any, and a statement of the legal and **factual** basis for the terms of the proposed permit or the basis **for the** denial of the permit.
- (b) Notice and Comment Period.
- (i) Prior to the final determination, but after any preliminary determination, the APCO shall: initiate public notice and comment pursuant to District Rule 1207(A) and initiate **Affected State(s)**' notice and comment pursuant to District Rule **1207(B)**.
- (ii) Prior to the final determination, but after the initiation of **the** notice and comment period, the APCO shall, if necessary, hold a properly noticed public hearing on the proposed permit pursuant to District Rule 1207(A)(4) and 1207(C).
- (c) Revisions and Submission to USEPA.
- (i) Prior to the final determination, but after the initiation of **the** notice and comment period, the APCO shall make any revisions

or modifications to the proposed permit and statement which are necessary.

- (ii) The APCO shall thereafter submit copies of the application, any supplemental information, the proposed permit, with revisions if any, and the Statement of Legal and Factual basis to the USEPA for review.
 - (iii) Upon receipt of comments from the USEPA, the APCO shall make any necessary revisions and resubmit the proposed permit to USEPA within 90 days of receipt of the comments.
- (d) Date of Final Determination.
- (i) Initial Permit for Facilities Operating Prior to Effective Date.
 - a. For Facilities existing and operating prior to the effective date of this regulation and for which timely and complete applications pursuant to District Rule 1202(B)(3) have been received by the District, the APCO shall make a final determination to issue or deny the Federal Operating Permit, at the latest, three (3) years from the effective date.
 - b. At a minimum, the District shall issue Federal Operating Permits for one-third (1/3) of all the timely applications received in each of the three years following the effective date.
 - (ii) Facilities Commencing Operations After the Effective Date and Renewals of Federal Operating Permits.
 - a. For Facilities commencing operations after the Effective Date and for any Renewals of Federal Operating Permits the APCO shall make a final determination to issue or deny the Federal Operating Permit within eighteen (18) months after the date the timely and complete application was received by the District.

- (iii) Applications Containing Hazardous Air Pollutant Early Reduction.
 - a. For Facilities which have submitted a timely application which contains an early reduction demonstration for any Hazardous Air Pollutant pursuant to 42 U.S.C. §7412(i)(5), (Federal Clean Air Act §112(i)(5)), the APCO shall make a final determination to issue or deny a Federal Operating Permit within nine (9) months after the date the timely and complete application was received by the District.
- (iv) Applications for Acid Rain Provisions of a Federal Operating Permit.
 - a. The APCO shall make a final determination to issue or deny a Federal Operating Permit or the Acid Rain provisions of a Federal Operating Permit pursuant to District Rule 1210.
- (v) Applications for Significant Permit Modifications.
 - a. For Facilities which have submitted a timely and complete application for a Significant Permit Modification, the APCO shall attempt to make a final determination on a majority of such applications within nine (9) months after the date the timely and complete application was received by the District. The APCO shall, at the latest, make a final determination on such applications within eighteen (18) months after the date the timely and complete application was received by the District.
- (vi) Reopened Permits.
 - a. For Facilities holding Federal Operating Permit which have been reopened due to the promulgation of a new regulation pursuant to the provisions of District Rule 1206(A)(1)(a) the APCO shall make a final determination within eighteen (18) months after the promulgation date of the new regulation.
 - b. For Facilities holding a Federal Operating Permit which has been reopened pursuant to the provisions of District

Rule 1206(A)(1)(b-c) the APCO shall make a final determination within eighteen (18) months after the date noticed for the reopening of the Federal Operating Permit.

(C) Restriction on Permit Issuance.

- (1) No Federal Operating Permit shall be issued as a result of the default by the District of any requirement contained in this Regulation. No Federal Operating Permit shall be issued unless the following conditions are met:
 - (a) A complete application has been submitted pursuant to the provisions of District Rule 1202.
 - (b) The notice and comment procedures pursuant to the provisions of District Rule 1207 have been complied with.
 - (c) The permit contains the required contents as set forth in District Rule 1203(D).
 - (d) The USEPA has not objected to the proposed permit within 45 days of its submittal to USEPA for review.

(D) Permit Contents.

- (1) All Federal Operating Permits shall contain, at a minimum, the following terms and conditions:
 - (a) Identification of Applicable Requirements as follows:
 - (i) For a Major Facility, all Applicable Requirements for all relevant permit units, non-permitted equipment and fugitive emissions within the Major Facility.
 - (ii) For any Facility which is not a Major Facility but is subject to the provisions of Regulation XII, all applicable requirements for any permit unit, non-permitted equipment or fugitive emissions which cause the Facility to be subject to the provisions of Regulation XII.
 - (b) Emissions limitations and/or standards, including operational limitations, which assure compliance with all Applicable Requirements

and a reference to the origin and authority of each term or condition contained in the Federal Operating Permit.

- (c) Monitoring requirements including but not limited to:
 - (i) All emissions monitoring and analysis methods required by an Applicable Requirement.
 - (ii) Periodic monitoring, testing or record keeping (including test methods sufficient to yield reliable data) to determine compliance with an Applicable Requirement that does not directly require such monitoring.
 - (iii) Necessary requirements concerning use and maintenance of equipment including the installation and maintenance of monitoring equipment.
- (d) Record keeping requirements, where applicable, including but not limited to:
 - (i) Records of required monitoring information including dates and times of sampling, operating conditions at the time of sampling, date of analysis, analytical techniques and methods, the person or company performing the analysis, and the results of the analysis.
 - (ii) The retention of all records for a period of at least five (5) years from the date of monitoring.
- (e) Reporting requirements, where applicable, including but not limited to:
 - (i) Submittal of any required monitoring reports at least every six (6) months.
 - (ii) Prompt reporting of all deviations from permit requirements including those attributable to breakdown conditions. Prompt reporting shall be determined in compliance with District Rule 430.
- (f) Various Standardized Provisions and/or Conditions.
 - (i) A severability clause.

- (ii) A provision which states that the permit holder shall comply with all conditions of the Federal Operating Permit. Any noncompliance constitutes a violation of the Federal Clean Air Act and is grounds for enforcement action; the termination, revocation and reissuance, or modification of the Federal Operating Permit; and/or grounds for denial of a renewal application.
- (iii) A provision which states that the need to halt or reduce activity to maintain compliance with the provisions of the Federal Operating Permit, or for any other reason, is not a defense in an enforcement action.
- (iv) A provisions which states that the Federal Operating Permit may be modified, revoked, reopened, reissued or terminated for cause.
- (v) A provision which states that the filing of an application for modification; a request for revocation and reissuance, or termination; or notifications of planned changes, or anticipated noncompliance does not stay any condition of the Federal Operating Permit.
- (vi) A provision which states that the permit does not convey any property rights of any sort, or any exclusive privilege.
- (vii) A provision which states that the Permit holder shall furnish to the District, within a reasonable time as specified by the District, any information that the District may request in writing to determine whether cause exists for modifying, revoking and reissuing, terminating or determining compliance with the Federal Operating Permit.
- (viii) A provision which states that the Permit holder shall, upon request, furnish to the District copies of records required to be kept pursuant to conditions of the Federal Operating Permit.
- (ix) A provision requiring the payment of annual permit renewal fees and other applicable fees as prescribed in District Rule 312.
- (x) A provision stating that no permit revision shall be required under any approved economic incentives, marketable permits,

emissions trading or other similar programs provided for in the permit.

- (xi) Terms and conditions, if applicable, for reasonably anticipated operating scenarios identified by the Facility in its application which require the Facility, contemporaneously with making the change from one operating scenario to another, to record in a log at the Facility a record of the scenario under which it is operating; and ensure that each alternative operating scenario meets all Applicable Requirements.
 - (xii) Terms and conditions, if requested by the applicant, for the trading of emissions increases and decreases within the Facility to the extent any Applicable Requirements allow for such trading without case-by-case approval. Such terms conditions shall include all terms and conditions to determine compliance with all Applicable Requirements; and meet all Applicable Requirements.
- (g) Compliance Conditions.
- (i) Inspection and entry requirements which require that the Permit Holder allow an authorized representative of the District to enter upon the Permit holder's premises, at reasonable times.
 - (ii) Provisions which allow an authorized representative of the District to have access to and copy any records that must be kept under conditions of the Federal Operating Permit.
 - (iii) Provisions which allow an authorized representative of the District to inspect any Permit Unit, equipment, practice, or operation regulated or required under the Federal Operating Permit.
 - (iv) Provisions which allow an authorized representative of the District to sample or monitor substances or parameters for the purpose of assuring compliance with the Federal Operating Permits or with any Applicable Requirement.
 - (v) A Compliance Plan.
 - (vi) A restatement, if applicable, of the requirement that the Permit holder submit progress reports at least semiannually pursuant to

a schedule of compliance. Such progress reports shall comply with the provisions of District Rule 1201(I)(3)(iii).

- (vii) Certification requirements including the frequency of submission, not less than annually, for Compliance Certifications.
 - (viii) Requirements that methods for monitoring compliance be included in the Compliance Certifications.
 - (ix) Requirements that all Compliance Certifications be contemporaneously submitted to USEPA.
 - (x) Any additional certification requirements as specified in 42 U.S.C §7414(a)(3), Recordkeeping Inspections Monitoring and Entry (Federal Clean Air Act §114(a)(3)) and 42 U.S.C. §7661c(b), Permit Requirements and Conditions (Federal Clean Air Act §503(b)) or in regulations promulgated thereunder.
- (h) Fugitive Emissions.
- (i) Fugitive emissions shall be included in the permit and permit conditions in the same manner as stack emissions.

(E) Operational Flexibility.

- (1) Upon the request of the permit holder the APCO shall allow certain changes in operations under a Federal Operating Permit without modification of the permit. Such changes shall not be allowed if such change constitutes a modification under any provision of Title I of the Federal Clean Air Act (42 U.S.C. §§7401-7515) or exceeds the emissions currently allowed under the permit.
 - (a) Alternate Operating Scenarios.
 - (i) The APCO shall allow changes between Alternate Operating Scenarios which have been:
 - a. Identified in the permit application; and
 - b. Approved by the APCO; and
 - c. Incorporated in the Federal Operating Permit; and

- d. Shown to be in compliance with all other Federal, ~~State~~ and Local requirements including any Applicable Requirement; and
 - e. Required, by condition contained in the Federal Operating Permit, to have a contemporaneous log of changes between each alternative operating scenario.
- (b) Emissions Trading Under a Facility Emissions Limit.
- (i) The APCO shall allow a Facility to participate in trading ~~under~~ a voluntary facility-wide emissions limit if:
 - a. The applicant requests a voluntary facility-wide ~~emissions~~ limit in its permit application; and
 - b. The facility-wide emissions limit is independent of any otherwise Applicable Requirements; and
 - c. The facility-wide emissions limit and the terms and conditions for emissions trading under that limit are approved as enforceable and quantifiable by the APCO and included in the Federal Operating Permit; and
 - d. The facility-wide emissions limit is included in the Federal Operating Permit; and
 - e. The facility-wide emissions limit is shown to be in compliance with all other Federal, state and local requirements including any Applicable Requirement; and
 - f. A condition is included in the Federal Operating Permit requiring written notice of the emissions trade by a Responsible Official to be provided to the APCO and USEPA thirty (30) days prior to the effective date of the trade. Such notice shall identify the permit unit(s) involved in the trade; the date of the trade; the duration of the trade; any change in emissions of any Air Pollutant, including new emissions, which will occur as a result of the trade; and how the changes in emissions will comply with the terms and conditions of the Federal Operating Permit.

(c) Changes not Expressly Allowed by the Federal Operating Permit.

- (i) The APCO shall allow a change not expressly allowed by the Federal Operating permit if:
- a. Written notice of the change is provided to the APCO and USEPA at least 30 days prior to the implementation date of the change; and
 - b. The written notice shall identify the permit unit(s) involved in the change; the date of the change; the duration of the change; any change in emissions of any Air Pollutant, including new emissions, which will occur as a result of the change; and any Applicable Requirement that would apply as a result of the change; and
 - c. The change will not violate any Federal, State or Local requirement, including any Applicable Requirement, and the notice required under section (E)(1)(c)(i)(b) above indicates which term or condition contained in the Federal Operating Permit is no longer applicable; and
 - d. The proposed change is not subject to any requirement under Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o) and is not a modification under Title I of the Federal Clean Air Act (42 U.S.C. 7401-7515) and is not a modification subject to the provisions of District Regulation XIII; and
 - e. The change does not result in the exceedance of the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions; and
 - f. The holder of the Federal Operating Permit shall keep a record describing changes made at the Facility and the emissions, if any, resulting from the changes; and
 - g. The APCO has not disapproved the change within the thirty (30) days prior to the proposed date of change.

(F) Compliance Certification.

- (1) Each holder of a Federal Operating Permit shall submit a Compliance Certification annually within thirty (30) days of the anniversary of the **date** of the issuance or renewal of the Federal Operating Permit. Such Compliance Certification shall comply with the provision of District Rule 1208.

(G) Permit Shield.

- (1) Compliance with the conditions contained in the Federal Operating Permit shall be deemed compliance with an Applicable Requirement as of the **date** of permit issuance if:
 - (a) The Applicable Requirement involved is specifically identified **in the** Federal Operating Permit.
 - (b) A specific statement applying the permit shield is included in the Federal Operating Permit.
- (2) The permit shield may be extended to Applicable Requirements which **are not** applicable to the Facility if such Applicable Requirements are identified **and** the reasons for the nonapplicability are concisely summarized in the **Federal** Operating Permit.
- (3) Notwithstanding any other provision of this subpart, the permit shield **shall** not:
 - (a) Limit the emergency powers of USEPA as set forth in 42 U.S.C. §7603 (Federal Clean Air Act §303).
 - (b) Limit liability for violations which occurred prior to the time of the issuance of the Federal Operating Permit.
 - (c) Alter any Applicable Requirement contained in the Acid Rain Program.
 - (d) Limit the ability of the USEPA or the District to obtain information under 42 U.S.C. §7414, Recordkeeping, Inspection, Monitoring and Entry Requirements (Federal Clean Air Act §114).
 - (e) Apply to emissions trading pursuant to provisions contained in the applicable State Implementation Plan.

(f) Apply to changes made pursuant to the provisions of Rule 1203(E)(1)(c).

(g) Apply to changes made pursuant to the provisions of Rule 1205(A) and 1205(C) prior to such changes being included in the Federal Operating Permit.

(H) Violation of Permit Conditions.

(1) A violation of any permit condition imposed pursuant to this Regulation shall be deemed a violation of this Regulation.

RULE 1204
(Reserved, "General Permits")

RULE 1205

Modifications of Federal Operating Permits

(A) Administrative Permit Amendments.

(1) Applications.

- (a) A facility may request an administrative permit amendment at any time prior to the date of the change. The request shall be in writing but need not be on an official application form. The Facility may implement any changes immediately upon submittal of the request, however, if such request is denied the Facility may be subject to an enforcement action based upon that change.

(2) Final Determination.

- (a) The APCO shall designate the application as appropriate for an Administrative Permit Amendment and then make a final determination to grant or deny the Administrative Permit Amendment within sixty (60) days of the receipt of the request. Such determination and subsequent incorporation of the change into the Federal Operating Permit need not comply with the notice and comment provisions of District Rule 1207.

(3) Submission to USEPA.

- (a) The APCO shall submit the revised Federal Operating Permit to USEPA within ten (10) working days after the date of final determination.

(B) Minor Permit Modification.

(1) Application.

- (a) Any Facility holding a Federal Operating Permit issued pursuant to this regulation shall submit an application for a minor permit modification. The Facility may not implement the requested modification prior to such modification being included in the Federal Operating Permit.

- (b) An application for a minor permit modification shall be submitted on the official application form as designated by the APCO.
- (c) An application for a minor permit modification will not be accepted by the District unless the application is complete. A complete application shall, at a minimum, contain:
 - (i) A description of the proposed change, the emissions resulting from the change, and any new Applicable Requirements which will apply if the change occurs.
 - (ii) Suggested language for the modification.
 - (iii) Certification pursuant to the provisions of District Rule 1208 that the proposed change meets the criteria for a minor permit modification.
 - (iv) Completed forms to be used to notify USEPA and any Affected State(s) of the submission of an application for a minor permit modification.
- (d) Within five (5) working days of receipt of the complete application for minor permit modification the District shall submit to USEPA and the Affected State(s) a copy of the application for a Minor Permit Modification.

(2) Preliminary Determination.

- (a) Within forty-five (45) days of receipt of the complete application for minor permit modification the District shall make a preliminary determination to issue the permit as modified, deny the permit as modified, determine that the modification does not meet the requirements for a minor permit modification and that a significant permit modification is necessary, and/or revise the draft permit modification as submitted by the applicant.
- (b) After the preliminary determination has been made the District shall submit the preliminary determination to the USEPA for review.

(3) Final Determination.

- (a) Within ninety (90) days of receipt of the complete application for minor permit modification or within fifteen (15) days after the expiration of

the USEPA forty-five (45) day review period, whichever is later, the District shall take final action on the application for minor permit modification.

- (b) The District may make a final determination prior to the expiration of this period if USEPA has notified the District that USEPA will not object to the change in the Federal Operating Permit made by the District as expressed in the preliminary determination.

(C) Significant Permit Modification.

(1) Application.

- (a) Any Facility holding a Federal Operating Permit issued pursuant to this regulation shall submit any application for a significant permit modification. The Facility may not implement the requested modification prior to such modification being included in the Federal Operating Permit.
- (b) An application for a significant permit modification shall be submitted on the official application form as designated by the APCO.

(2) Procedure.

- (a) Any Significant Permit Modifications shall be issued in accordance with the provisions of District Rule 1203.

(D) Modifications for Acid Rain Provisions of a Federal Operating Permit.

- (1) Any modification of the Acid Rain provisions of a Federal Operating Permit shall be issued in accordance with the provisions of District Rule 1210.

(E) Prohibitions.

- (1) No Facility shall make a change in its operations without complying with the procedures contained in this rule unless:
 - (a) Such change qualifies as an Administrative Permit Amendment; or
 - (b) Such change is included in the provisions of the Federal Operating Permit; or

- (c) Such change is made pursuant to and in compliance with the provisions of District Rule 1203(E)(1)(c).

RULE 1206

Reopening, Reissuance and Termination of Federal Operating Permits

(A) Reopening for Cause.

- (1) All Federal Operating Permits may be reopened, in whole or in part, for cause by the District. Cause includes but is not limited to:
 - (a) Additional requirements under the Federal Clean Air Act which are promulgated and become Applicable Requirements as to a Facility when the remaining permit term is three (3) years or greater.
 - (i) No reopening is required if the effective date of an additional requirement is later than the expiration date on the Federal Operating Permit. Such additional requirements shall be added to the Federal Operating Permit upon permit renewal.
 - (b) Additional requirements, including requirements regarding excess emissions, become applicable to a Facility under the Title IV of the Federal Clean Air Act or regulations promulgated thereunder.
 - (c) The District or USEPA determines that:
 - (i) The permit contains a material mistake.
 - (ii) Inaccurate statements were made which were used to establish emissions standards or other terms and conditions of the permit.
 - (iii) The permit must be revised to assure compliance with any Applicable Requirement.

(B) Procedure for Reopening.

- (1) Reopenings shall be commenced by the District giving the permit holder written notice. This notice shall:

- (a) Be sent to the permit holder at least thirty (30) days in advance of the reopening; and
- (b) Indicate which part or parts of the permit are to be reopened.

(C) Termination.

- (1) Federal Operating Permits may be terminated for cause in accordance with the following procedures, including but not limited to:
 - (a) Non-payment of fees pursuant to District Rule 312.
 - (b) After suspension of the Federal Operating Permit by the APCO pursuant to Health & Safety Code §42304 and upon order of the District Hearing Board after hearing pursuant to Health & Safety Code §§42306 and 42308.
 - (c) After a request for revocation by the APCO pursuant to Health & Safety Code §42307, and upon order of the District Hearing Board pursuant to Health & Safety Code §42308.
 - (d) If an applicant for the renewal of a permit fails to meet a deadline for submission of additional material pursuant to District Rule 1202(E)(2)(c).
 - (e) After notification by USEPA that a determination has been made that cause exists to terminate the permit in compliance with the provisions of 40 CFR 70.7(g).

(D) Reissuance.

- (1) A Federal Operating Permit which has been reopened shall be reissued in accordance with the provisions of District Rule 1203. The permit expiration date shall remain the same and any notice required pursuant to District Rule 1207 shall only refer to the portion of the Federal Operating Permit which was modified or changed as a result of the reopening.
- (2) A Federal Operating Permit which has been terminated may not be reissued. The Facility may reapply for a Federal Operating Permit as if it were a new facility with the exception that the provisions of District Rules 1202(B)(3)(c) and 1202(E) shall not apply and such facility may not operate until after a Preliminary Determination pursuant to District Rule 1203(B)(1)(a) has been issued.

RULE 1207

Notice and Comment

(A) Public Notice and Comment.

- (1) When public notice and comment is required elsewhere in this regulation, the APCO shall provide such notice pursuant to the following procedure:
 - (a) The APCO shall publish a notice in at least one daily newspaper of general circulation within the District and shall send the notice to all persons who have requested such notice and/or are on a list of persons on file with the Clerk of the Board for the District. The APCO shall also provide notice by other reasonable means if such notice is necessary to assure fair and adequate notice to the affected public. The notice shall provide a 30 day period for written comments and shall include:
 - (i) The name and location of the Facility, including the name and address of the permit holder or applicant if different.
 - (ii) A brief description of the activity or activities for which a Federal Operating Permit is necessary.
 - (iii) A brief description of an emission change involved in a modification, if any.
 - (iv) The District name, address, telephone number, and contact person from whom interested persons may obtain additional information.
 - (v) A brief description of the comment procedures and the procedure to request a public hearing.
 - (b) The APCO shall send a copy of the application, preliminary determination, draft permit and all relevant supporting materials relevant to the permit decision to any interested person who requests such information.
 - (c) The APCO shall accept all relevant comment(s) submitted to the District in writing during the 30 day public comment period.

- (d) Any interested person who submits written comments during the 30 day public comment period may also, within that time period, request that a public hearing be held on the proposed Federal Operating Permit. Once a public hearing has been requested the APCO shall arrange for a public hearing, pursuant to the procedure in subsection (c) below.
- (e) The APCO shall keep a record of all written comments received during the public comment period and issues raised during the public hearing, if any. The APCO shall retain this record for at least five (5) years.

(B) Affected State(s)' Notice and Comment.

- (1) At the same time the APCO provides public notice and comment the APCO shall also give notice, a copy of the preliminary determination, if any, and a copy of the draft permit to any Affected State(s). The Affected State(s) shall have 30 days to submit comments and recommendations regarding the draft permit.
- (2) Upon receipt of any comments and/or recommendations from an Affected State(s) the APCO shall either:
 - (a) Accept such comments and/or recommendations and modify the draft permit accordingly; or
 - (b) Reject such comments and/or recommendations, notify the Affected State(s) and the USEPA of the rejection and the reasons for such rejection.
- (3) The District is not required to accept comments and/or recommendations which are not based upon an Applicable Requirement.

(C) Public Hearing Procedure.

- (1) Whenever a public hearing has been requested pursuant to subsection (A)(1)(d) above, the APCO shall schedule and hold a public hearing for the purpose of accepting public testimony and comments.
- (2) Such public hearing shall be noticed as follows:
 - (a) By publication of a notice in at least one daily newspaper of general circulation at least 30 days prior to the date of the hearing; and

- (b) By sending the notice to all persons who have requested such notice and/or are on a list of persons on file with the Clerk of the Board for the District.
- (c) The contents of the notice shall be substantially similar to the notice provided for in subsection (A)(1) as above.

RULE 1208

Certification

(A) Certification of Responsible Official.

- (1) Any submission to the District, pursuant to this regulation, of an application, form, report, compliance document, or any submission containing a combination thereof, shall contain a certification by a responsible official of the truth, accuracy and completeness of the document submitted.

(B) Form of Certification.

- (1) Each certification shall state that based upon information and belief, formed after a reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(Adopted: 12/21/1994)



RULE 1209

Appeals

(A) Appeal to the District Hearing Board.

- (1) Any aggrieved person who either in person (or through a representative) appeared, submitted written testimony or otherwise participated in the final decision of the APCO on the Federal Operating Permit may, within 10 days of such decision, petition the District Hearing Board to hold a public hearing to determine if such action was proper. The District Hearing Board shall hold the hearing within 30 days of the request.
- (2) Any applicant for a Federal Operating Permit whose application has been denied may, within 10 days after the receipt of the notice of denial, petition the District Hearing Board to hold a public hearing to determine if the Federal Operating Permit was properly denied.

(B) Petitions to USEPA.

- (1) If USEPA has not objected to the issuance of a Federal Operating Permit within 45 days after receipt of the proposed permit and all necessary supporting information, any person may:
 - (a) Petition USEPA to make such objection as long as:
 - (i) The petition is made within 60 days after the expiration of the 45 day review period; and
 - (ii) The petition is based on objections to the permit which were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within the comment period or that the grounds for such objection arose after the end of the comment period.
- (2) If USEPA objects to the issuance of a Federal Operating Permit in response to such a petition:
 - (a) If the Federal Operating Permit has not yet been issued the District shall not issue the permit until the objection has been resolved.

(Adopted: 12/21/1994)

- (b) If the District has issued the Federal Operating Permit the District shall reopen the permit pursuant to the provisions of District Rule 1206 and shall not reissue the Federal Operating Permit without alterations which resolve the objection to the satisfaction of USEPA.

(C) Appeals for Acid Rain Provisions of a Federal Operating Permit.

- (1) All appeals involving the Acid Rain provisions of a Federal Operating Permit shall be made pursuant to District Rule 1210.

RULE 1210

**(Reserved,
"Acid Rain Provisions of Federal Operating Permits")**

