SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT

STAFF REPORT

Rule 207 – FEDERAL OPERATING PERMIT PROGRAM

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INTRODUCTION

Title V of the federal Clean Air Act (CAA) requires states or districts to adopt a permitting program that provides:

- EPA veto authority over permit issuance;
- greater opportunity for federal citizen enforcement;
- enhanced public participation during the permit issuance process;
- clearer determination of applicable requirements; and
- improved enforceability of applicable requirements.

Title V permitting is applicable to stationary sources of air pollution that emit air pollutants in excess of specified levels or fall into specified categories. The District currently meets the federal health-based air quality standards for nitric oxide (NO_2), lead (Pb), sulfur dioxide (SO_2) and carbon monoxide (CO), and is referred to as an attainment or unclassified area for those pollutants. The District is currently designated as a nonattainment area for federal ozone, PM10[1] and PM2.5[2] standards.

Rule 207 – Federal Operating Permit Program was adopted on June 7, 1994, and amended in 1996, 1997, and 2001. Rule 207 established an operating permit system consistent with the requirements of Title V of the CAA (42 U.S.C. Section 7661 et seq.) and Title 40 of the Code of Federal Regulations (CFR) Part 70. Rule 207 was granted full approval by the U.S. Environmental Protection Agency (EPA) effective November 30, 2001.

In June 2010, EPA promulgated a rule known as the Tailoring Rule[3] that defined Title V permitting requirements for greenhouse gases[4] (GHGs), which became subject to regulation when EPA adopted greenhouse gas (GHG) requirements for motor vehicles in May 2010. GHGs are subject to Title V requirements for sources subject to Title V for another regulated pollutant starting January 2, 2011, with the additional requirement that Title V can be triggered solely on GHG emissions beginning July 1, 2011. The proposed amendments incorporate GHG requirements into Rule 207.

BACKGROUND

Title V Applicability and Requirements

Stationary sources are required to obtain Title V permits if their potential emissions exceed thresholds that depend on the attainment status of the district. In general, Title V applies to:

- Any major stationary sources as defined by Rule 207.
- Any stationary source with a potential to emit of 100 tons per year (tpy) or more of any air pollutant subject to regulation.

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[1] Particulate matter with an aerodynamic diameter of 10 microns or less, Title 40 of the Code of Federal Regulations (CFR), Part 50, Section 50.6. California Air Resources Board requested EPA to re-designate Sacramento County as attainment for federal PM10 standards on December 7, 2010.

[2] Particulate matter with an aerodynamic diameter of 2.5 microns or less, 40 CFR Part 50, Section 50.7.

[3] "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, Final Rule", Federal Register 75 (June 3, 2010) p. 31514.

[4] Greenhouse gases are defined as the aggregate group of six gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

- Any source with a potential to emit 10 tpy or more of any hazardous air pollutant or 25 tpy or more of any combination of hazardous air pollutants.
- Any source with a potential to emit exceeding:
    - 25 tpy of nitrogen oxides (NOx); or
    - 25 tpy of volatile organic compounds (VOC).
- Affected sources regulated under the CAA acid rain provisions (42 U.S.C. 7651 et seq.).
- Any source subject to Rule 203 – Prevention of Significant Deterioration (PSD).
- Any solid waste incineration unit required to obtain a Title V permit pursuant to the CAA.
- Any other stationary source in a source category designated by rule by EPA.
- Any stationary source subject to a New Source Performance Standard (NSPS) except for some instances where EPA excludes non-major stationary sources.
- Any stationary source subject to National Emission Standards for Hazardous Air Pollutants (NESHAP) except for some instances where EPA excludes non-major stationary sources.

For existing Title V facilities, the Tailoring Rule does not require reopening Title V permits to address GHG. However, when a facility triggers a modification to its Title V permit or a Title V permit is renewed, information about GHG emissions must be included in their Title V renewal application.

For existing sources that become newly subject to Title V, all District rules in the State Implementation Plan (SIP) are enforceable requirements that must be included in the Title V permit. A facility with a new Title V permit will also be subject to the following requirements:

- Federal GHG requirements[5], if any, including:
    - Best Available Control Technology, if required by Rule 203; and
    - future GHG New Source Performance Standards or other federal requirements.
- Requirements for non-GHG emissions (such as Maximum Achievable Control Technology standards);
- Title V compliance requirements (see Sections 413 and 501 of Rule 207):
    - records of emissions monitoring;
    - deviation reporting;
    - six-month monitoring reports; and
    - annual compliance certifications.

Sacramento's Rule 207 Title V program was approved by EPA effective January 1, 2004 as recorded in 40 CFR 70 Appendix A for California Section (w). This rule revision will be submitted to EPA for approval.

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[5] Sources may be required to meet the requirements of the Mandatory Reporting Rule; however, EPA noted that GHG reporting is not considered an applicable Title V requirement

LEGAL MANDATES

Federal Mandates:

EPA Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule: The EPA was required to take several actions that ultimately resulted in these permitting requirements to comply with the Supreme Court's April 2, 2007 decision[6]. In *Massachusetts v. EPA*, the Supreme Court held that GHGs, including carbon dioxide (CO_2), fit within the definition of air pollutant in the CAA. The case arose from EPA's denial of a petition for rulemaking filed by more than a dozen environmental, renewable energy, and other organizations requesting that EPA control emissions of GHGs from new motor vehicles under section 202(a) of the CAA. The court found that, in accordance with CAA section 202(a), EPA was required to determine whether or not emissions of GHGs from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision.

In December 2009, the EPA Administrator signed two distinct findings regarding GHGs under section 202(a) of the CAA. The Administrator found: 1) that the current and projected atmospheric concentrations of six, well-mixed GHG compounds threaten the public health and welfare of current and future generations and 2) that the combined emissions of these compounds from new motor vehicles and new motor vehicle engines contribute to GHG pollution, which threatens public health and welfare.

EPA issued a joint rule along with the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) to address the health impacts of GHG emissions from motor vehicles[7]. That rule set emissions standards for new light-duty vehicles to reduce GHG emissions and improve fuel economy. The rule made GHG air pollutants subject to regulation under the CAA for the first time. Under EPA's "PSD Interpretive Memo[8]," federal permitting requirements for GHG would be required beginning January 2, 2011, when federal automotive and light truck GHG emissions standards take effect.

On June 3, 2010, EPA promulgated regulations tailoring the applicability criteria to determine which stationary sources and modification projects become subject to permitting requirements for GHG emissions under the PSD and Title V programs of the CAA. Without tailoring the requirements for GHG emissions, many small sources would be subject to GHG permitting at the levels specified under the CAA (100/250 tpy for PSD and 100 tpy for Title V). The Tailoring Rule emission thresholds and permitting deadlines are:

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[6] *Massachusetts v. EPA*, 549 U.S. 497 (2007)

[7] "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, Final Rule" Federal Register 75 (May 7, 2010) p. 25324.

[8] "Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs, Final Action on Reconsideration of Interpretation," Federal Register 75 (April 2, 2010) p. 17004.

Deadline	Title V Action Required
January 2, 2011	Sources obtaining a Title V permit for non-GHG pollutants are required to include information about their GHG emissions as part of their Title V application. Sources are **not** required to get a Title V permit based **solely** on their GHG emissions.
July 1, 2011	All new sources must obtain a Title V permit if they emit 100,000 tpy or more CO_2e*. Existing sources without a Title V permit that emit 100,000 tpy or more of CO_2e must obtain a Title V permit[9].
July 1, 2013	Additional sources may be required to obtain Title V permits if EPA lowers the permitting thresholds in rules to be issued not later than July 1, 2012.
April 30, 2016	The Tailoring Rule states that no source that emits less than 50,000 tpy CO_2e will be required to obtain a Title V permit (solely due to GHG) before April 30, 2016.

* Carbon dioxide equivalent emissions (see Section 207 of proposed Rule 207)

Under the first phase of the Tailoring Rule, which took effect January 2, 2011, GHG Title V permitting applies only to sources required to have a Title V permit due to non-GHG requirements. Existing sources with Title V permits are not required to reopen their Title V permits to add GHG emissions. Any action that requires reopening of a Title V permit, such as a modification or renewal, will require the applicant to include information about their GHG emissions in their Title V permit application.

Existing sources with Title V permits in the District are: Aerojet, Chevron, Procter & Gamble, Santa Fe Pacific Pipeline, UC Davis Medical Center, Grafil, City of Sacramento Landfill, County of Sacramento Kiefer Landfill, D&T Fiberglass, SMUD Cosumnes Power Plant, Sacramento Power Authority, Sacramento Cogeneration Authority, Carson Energy, Silgan Can, Campbell Soup and Raging Wire (pending). Raging Wire recently submitted a Title V application for reasons other than GHGs and was required to include information about their GHG emissions in their initial Title V permit application.

Under the second phase, effective July 1, 2011, GHG permitting applies to new sources and existing sources not already subject to Title V that emit or have the potential to emit of both 100 tpy or more of the sum of GHGs on a mass basis and 100,000 tpy or more of CO_2e. Staff has identified as many as 3 existing sources that may have to obtain Title V permits due to GHG. Some of these sources may be able to accept a permit condition to limit their potential to emit to less than 100,000 tpy CO_2e to avoid the requirement. The facilities that have been identified as needing a Title V permit due solely to GHGs are: Sacramento Regional County Sanitation District, State of California Department of General Services Central Plant, and Sacramento Power Authority (McClellan).

In a third phase, EPA established an enforceable commitment to complete additional rulemaking, no later than July 1, 2012, that may lower the permitting thresholds for obtaining a Title V permit due to GHG or may result in the permanent exclusion of a category of sources from Title V for GHGs. No source with a potential to emit of less than 50,000 tpy CO_2e will be required to obtain a Title V permit (solely due to GHG) before April 30, 2016.

[9] For Title V to apply in this case, the source must also have the potential to emit of 100 tpy or more of GHGs calculated as the sum of the six GHGs on a mass basis.

EPA Deferral for CO_2 emissions from Biogenic Sources, Proposed Rule[10]: On January 12, 2011, EPA granted a Petition for Reconsideration filed by the National Alliance of Forest Owners related to the PSD and Title V Greenhouse Gas Tailoring Rule (75 FR 31514, June 3, 2010). On March 21, 2011, EPA proposed a rule to defer for three years the application of PSD and Title V permitting requirements to biogenic CO_2 emissions from stationary sources. Biogenic sources are those that result from the combustion or decomposition of biologically-based material[11].

Only the CO_2 emissions are excluded. The other GHG emissions, such as methane, are still included. Final rulemaking is expected in July 2011. Title V applications submitted before EPA's final rule becomes effective must consider biogenic CO_2 emissions.

SUMMARY OF PROPOSED AMENDMENTS

The proposed amendments will incorporate by reference revisions made by EPA's Tailoring Rule. GHGs are incorporated into the rule through the definition of "major stationary source" as a source with a potential to emit of 100 tpy of any air pollutant subject to regulation. The term "subject to regulation", as defined in 40 CFR 70.2, includes the requirement that a source with a potential to emit of over 100,000 tpy CO_2e (and with mass emissions of all greenhouse gases equal to or greater than 100 tons per year) is considered a major stationary source for the purposes of Title V. This approach will maintain GHG requirements consistent with federal Title V regulations regardless of whether EPA promulgates a final rule to defer CO_2 emissions from bioenergy and biogenic sources.

A revision to the applicability clarifies that the rule applies to any stationary source that is subject to any NSPS or NESHAP regulation unless otherwise noted. Two exclusions have been proposed to further clarify that some non-major sources have been deferred or are exempt from Title V permitting even though a NSPS or NESHAP regulation applies. The other exclusion clarifies that EPA has the authority to determine non-major sources are exempt from Title V permitting in an NSPS or NESHAP regulation even though those sources must meet the requirements of that NSPS or NESHAP.

Other significant amendments include: 1) setting the GHG emission threshold for defining a significant Title V permit modification, and 2) adding an administrative permit revision for removal of equipment. This administrative permit revision qualifies under 40 CFR 70.7(d)(vi) as similar to the those administrative permit amendments listed in 40 CFR 70.7(d)(i-iv) (which are identical to Sections 202.1-202.4).

For a detailed list of changes, see Appendix A.

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[10] "Deferral for CO_2 emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs: Proposed Rule", Federal Register 76 (March 21, 2011) p. 15249

[11] Non-fossilized and biodegradable organic material originating from plants, animals or microorganisms (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.

COST IMPACTS

Impact on Businesses in Sacramento: Proposed amendments to Rule 207 implement federal Clean Air Act Title V permit requirements established in EPA's Tailoring Rule.

The cost impacts from this rule change depend on the actual amount of time required for processing a source's Title V permit application. On average, Staff spends approximately 100 hours processing an initial Title V permit application. The actual number of hours typically ranges between 50 to 100 hours; however, a few sources have required significantly more time to process. The processing time depends on the number of District permits, the complexity of the permits and the number of different rules and regulations that are applicable to the source.

The fee for a Title V permit application is calculated based on the District's time (Rule 301 – Stationary Source Permit Fees, Section 308.12) which is currently $132 per hour.

For existing Title V sources that are subject to Title V requirements for pollutants other than GHGs, Staff does not expect a need for additional time to evaluate GHG emissions when reviewing Title V permits; therefore, costs will not increase for existing sources with Title V permits.

Cost to District: The District currently has 15 (soon to be 16) facilities with Title V permits. The addition of GHG emissions to the Title V permitting program is expected to require up to 3 additional facilities to obtain Title V permits; however, some of these facilities may choose to accept permit conditions to limit their potential to emit to less than 100,000 tpy CO_2e to avoid the Title V permitting program. If all of the identified facilities obtain Title V permits (rather than take permit limits), Staff estimates 0.15 full time equivalents (FTE) will be needed to issue these Title V permits.

EMISSIONS IMPACT

There are no emission requirements associated with GHGs for the Title V permitting program. The Title V permitting program was established to enhance compliance with air quality rules. Overall, increased compliance by Title V facilities due to their GHG emissions may result in a small, but unquantifiable, emissions reduction.

SOCIOECONOMIC IMPACT ANALYSIS

CHSC Section 40728.5 requires a district to perform an assessment of the socioeconomic impacts before adopting, amending, or repealing a rule that will significantly affect air quality or emission limitations. The proposed amendments to Rule 207 are administrative in nature and do not affect air quality or emissions limitations. Therefore, Section 40728.5 of the Health and Safety Code does not apply.

ENVIRONMENTAL REVIEW AND COMPLIANCE

Staff finds that the proposed rule is not subject to the California Environmental Quality Act because it is an activity that will not result in a direct or reasonably foreseeable indirect physical change in the environment. (Public Resources Code 21084(a) and Preliminary Review, Section 15060(c)(2) State CEQA Guidelines).

PUBLIC COMMENTS

Staff held a meeting with affected sources to discuss the proposed amendments on May 12, 2011. The draft rule and staff report were made available to the affected sources at that time.

Staff received comments and questions at the workshop. All comments and responses are included in Appendix C. No changes to the rule language have been made in response to the public comments received at the workshop.

Staff also received comments from EPA during the public workshop notice period. EPA identified parts of the rule that were not consistent with federal regulations. Staff made changes to the proposed rule language in response to the comments received from EPA. The most significant changes to the proposal include restricting the incorporation by reference for the addition of GHGs, the clarifying exclusions for some non-major sources that are subject to certain NSPS or NESHAP regulations, and clarifications to the definition of “significant Title V permit modification” and procedures for minor Title V permit modifications.

FINDINGS

The California Health and Safety Code (HSC), Division 26, Air Resources, requires local districts to comply with a rule adoption protocol as set forth in Section 40727 of the Code. This section has been revised through legislative mandate to contain six findings that the District must make when developing, amending, or repealing a rule. These findings and their definitions are listed in the table below.

Rule 207 – Required Findings

Finding	Finding Determination
Authority: The District must find that a provision of law or of a state or federal regulation permits or requires the District to adopt, amend, or repeal the rule.	The District is authorized to adopt and amend Rule 207 by California Health and Safety Code (HSC) Sections 40001, 40702, 41010 and 42300. [HSC Section 40727(b)(2)].
Necessity: The District must find that the rulemaking demonstrates a need exists for the rule, or for its amendment or repeal.	It is necessary to amend Rule 207 to comply with the federal Clean Air Act, 42 U.S.C. 7661 et seq. (Title V), and 40 Code of Federal Regulations Part 70. [HSC Section 40727(b)(1)].
Clarity: The District must find that the rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.	Staff has reviewed the proposed rule and determined that it can be understood by the affected parties. In addition, the record contains no evidence that people directly affected by the rule cannot understand the rule. HSC Section 40727(b)(3)].
Consistency: The rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.	The proposed rule does not conflict with, and is not contradictory to, existing statutes, court decisions, or state or federal regulations. [HSC Section 40727(b)(4)].
Non-Duplication: The District must find that either: 1) The rule does not impose the same requirements as an existing state or federal regulation; or (2) that the duplicative requirements are necessary or proper to execute the powers and duties granted to, and imposed upon the District.	The proposed rule duplicates federal regulations for permitting programs. The duplicative requirements are necessary in order to execute the powers and duties imposed upon the District under 42 U.S.C. 7661 et seq. (Title V) and 40 CFR Part 70. [HSC Section 40727(b)(5)].
Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.	By amending the rule, the District is implementing the requirements of the Federal Clean Air Act (42 U.S.C. 7661 et seq. (Title V), 40 CFR Part 70 and the Tailoring Rule (75 FR 31514). [HSC Section 40727(b)(6)]
Additional Informational Requirements: In complying with HSC Section 40727.2, the District must identify all federal requirements and District rules that apply to the same equipment or source type as the proposed rule or amendments.	Appendix B includes a comparison with federal requirements. [HSC Section 40727.2].

REFERENCES

42 United States Code Section 7661 et seq. (Title V).

"Deferral for CO_2 emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs: Proposed Rule", Federal Register 76 (March 21, 2011) p. 15249.

"Mandatory Reporting of Greenhouse Gases, Final Rule", Federal Register 74 (October 30, 2009) p. 56260.

"Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, Final Rule" Federal Register 75 (May 7, 2010) p. 25324.

"Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, Final Rule", Federal Register 75 (June 3, 2010) p. 31514.

"Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs, Final Action on Reconsideration of Interpretation," Federal Register 75 (April 2, 2010) p. 17004.

U.S. EPA, 40 CFR Part 70, State Operating Permit Programs.

U.S. EPA, "PSD and Title V Permitting Guidance for Greenhouse Gases," November 2010.

APPENDIX A

LIST OF CHANGES TO RULE

Rule 207 – Federal Operating Permit Program

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
101	Same	Revised reference to refer to the District's new source review rule in the State Implementation Plan.
N/A	102.2	Eliminated section that duplicated the applicability in Section 102.1.
102.2-102.5	102.3-102.6	Renumbered Sections.
102.6	102.7	Revised applicability to clarify this Rule applies to all sources subject to standards or other requirements promulgated pursuant to the Federal Clean Air Act Section 111 – New Source Performance Standard (NSPS) or Section 112 – National Emission Standards for Hazardous Air Pollutants (NESHAP).
103	N/A	Added exclusion to clarify that the District continues to defer Title V permitting for non-major sources that were subject to an NSPS or a NESHAP prior to July 21, 1992. This category of sources is deferred from Title V permitting until EPA completes a rulemaking that ends this deferral. However, if a source is later required to obtain a Title V permit due to a newly promulgated NSPS or NESHAP or for any other reason, than this exclusion shall not apply.
104	112	Added exclusion to clarify that EPA has the authority to exempt non-major sources that must meet the requirements of a NSPS or NESHAP from Title V permitting. At the time of a new standard or requirement is promulgated, EPA can determine if non-major sources are deferred or exempt from Title V permitting.
202 & 202.5	Same	Revised reference to refer to the District's new source review rule in the State Implementation Plan.
202.6	N/A	Added section to include the removal of equipment as an additional amendment that meets the requirements of an administrative amendment. This section meets 40 CFR 70.7(d)(vi) as a type of change which the Administrator has determined as part of the approved part 70 program to be similar to those in Sections 202.1-202.5. This additional administrative amendment has been approved in both the Bay Area AQMD and South Coast AQMD Title V programs.
206.2	Same	Revised reference to refer to the District's new source review rule in the State Implementation Plan.
215.3	Same	Changed references to District permit requirements that are based on Prevention of Significant Deterioration or the version of the District's new source review rule in the State Implementation Plan.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
		Instead of referring to the federal regulations this section now refers to the District rules that implement them.
219.1	Same	Revised definition of "major stationary source – Title V" to include any stationary source with a potential to emit equal to or exceeding 100 tons per year of any regulated air pollutant. This section can apply to sources that are not considered major pursuant to Section 219.2, 219.3 or 219.4.
219.2	N/A	Added section to incorporate by reference GHG thresholds at which a stationary source is consider major for purposes of Title V. Referencing the term "subject to regulation" in 40 CFR Part 70.2 automatically allows the major source definition to change should the GHG thresholds be modified or exclusions be made for certain categories of sources.
219.3	219.2	Section Renumbered.
219.4	219.3	Reduced the threshold for NOx and VOC emissions to 25 tpy, consistent with the District's designation as a severe ozone nonattainment area. The 100 tons per year thresholds are removed as duplicative; sources at these levels are a major source under Section 219.1.
219.5	N/A	Added section number for existing rule language to clarify that fugitive emissions are not considered when determining if a source is major (for Sections 219.1, 219.2 and 219.4) unless the source belongs to one of the categories in the list.
227.2	Same	Revised reference to refer to the District's new source review rule in the State Implementation Plan.
233.6	Same	Revised section to match the federal Title V regulation that the aggregation of increases in potential to emit over the period of five consecutive years before the application for modification only applies when calculating nitrogen oxides or volatile organic compounds. Added threshold level for a significant Title V permit modification for PM2.5 consistent with the CAA.
233.7	N/A	Added reference to the Code of Federal Regulations section that defines the threshold level for a significant Title V permit modification for GHG consistent with the Tailoring Rule.
N/A	301.1	Eliminated section that is no longer relevant.
301.1	301.2	Eliminated date that is no longer relevant.
301.2-301.3	301.3-301.4	Sections renumbered.
301.4	301.5	Revised section to clarify that all applications for Acid Rain Facilities shall meet the requirements of 40 CFR Part 72.
301.5-301.7	301.6-301.8	Sections renumbered.
301.8	301.9	Revised title to clarify that this section applies to sources when they become subject to this rule.
303.1a	Same	Revised section references.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
308.2	Same	Revised section reference.
308.3b	Same	Revised reference to refer to the District's new source review rule in the State Implementation Plan.
N/A	407.2 & 407.3	Eliminated sections that are no longer applicable.
407.2 – 407.8	407.4 – 407.10	Sections renumbered. Corrected grammatical errors.
407.9	N/A	Added section to clarify that the District must take final action on Title V applications within 18 months of receiving a complete application for sources that become subject to Rule 207 due to EPA or District rulemaking
410.4	Same	Revised section to correct language to properly match the language found in 40 CFR 70.7(e)(2)(v) and to clarify what is required by Section 301.5 of this rule.
501.2	Same	Revised section reference.

APPENDIX B

California HSC Section 40727.2 Matrix
Proposed Rule 207 – Federal Operating Permit Program

Elements of Comparison	Specific Provisions	Proposed Rule 207	40 CFR Part 70
Exemptions		Same as federal requirements	Source category exemptions for: residential wood heaters, asbestos demolition and renovation.
Averaging Provisions		Not Applicable	Not Applicable
Units		Same as federal requirements	Tons/year, CO_2e, $\mu g/m^3$
Emissions Limits	Emissions Reduction	Not Applicable	Not Applicable
	Compliance alternatives	Not Applicable	Not Applicable
Permit Conditions		Same as federal requirements	Federally enforceable permit conditions
Operating Parameters		Not Applicable	Not Applicable
Work Practice Requirements		Same as federal requirements	Monitor emissions; Recordkeeping for hours of operations, throughput, and emissions.
Monitoring/Records	Recordkeeping	Same as federal requirements.	Recordkeeping is required to ensure compliance with Title V permit conditions
	Frequency	Same as federal requirements.	Records are required to be kept for 5 years
Monitoring/Testing	Test Methods	Same as federal requirements.	This rule requires testing to verify compliance, but does not specify what test methods are required. The test methods are based on specific rules that the sources is subject to.
	Frequency	Same as federal requirements.	No testing frequency is specified in the rule. The Title V permit, however, must specify the testing frequency based on applicable federally enforceable requirements. The testing frequency will vary depending on the applicable regulation.

APPENDIX C

Public Comments

Public Workshop (May 12, 2011)

Attendees: Valerie Namba, California Department of General Services
Daniel O'Brien, California Department of General Services
Jorge L. Juarez, The Little Mexican
Anitra Brosseau, Aerojet
Brad Gacke, SMUD
Stu Husband, SMUD
John Batura, Campbells Soup
Eric Argent, Grafil
Vicki Fry, Sacramento Regional County Sanitation District
Bob Hitomi, Sacramento State University
George Contos, Blomberg Window Systems

Comment #1: Does EPA's "Deferral for CO_2 Emissions from Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs: Proposed Rule," affect Title V applicability?

Response: Yes, the proposed rule defers for a period of three years the consideration of CO_2 emissions from bioenergy and biogenic sources when determining whether a stationary source meets the Title V and Prevention of Significant Deterioration applicability thresholds. Until EPA issues a final rule, all CO_2 emissions from bioenergy and biogenic sources are included when determining Title V applicability.

Comment #2: How many hours does it take to process an initial Title V permit application?

Response: The actual number of hours for the District to process an initial Title V application varies. The actual number of hours typically ranges between 50 to 100 hours at the District labor rate of $132 per hour. However, a few sources have required significantly more time to process. The processing time varies depending on the number of District permits, complexity the permits, and the number of rules and regulations that apply to the source.

Comment #3: Does the 12-month application deadline begin from the Rule 207 adoption date or from the phase 2 date of the Tailoring Rule (July 1, 2011)?

Response: The 12-month deadline for sources required to obtain a Title V permit due solely to GHGs is July 1, 2012 as required by 40 CFR 70.5(a)(1).

Comment #4: Will the District's List and Criteria document be updated to include GHGs?

Response: Yes, this document will be updated to include GHGs. The current version of the document, not including GHGs, can be found at the following location: http://www.airquality.org/permits/index.shtml

EPA Comments (May 5, 2011)

Comment #1: Section 102.6 is really an exemption provision in 40 CFR 70.3(b)(2). The applicability section is deficient in that it does not require all sources subject to Sections 111 or 112 of the CAA to obtain a Title V permit. We suggest changing the applicability section and adding an exemption provision.

Response: Staff revised the proposed rule applicability, Section 102.6, to apply to any stationary source that is subject to Sections 111 or 112. 40 CFR 70.3(b)(2) allows States (or Districts) to defer Title V permitting for non-major sources subject to an NSPS or a NESHAP prior to July 21, 1992, and where EPA explicitly exempts non-major sources from permitting in the NSPS or NESHAP regulation. Staff added two exclusions, Sections 103 and 104, to exclude these non-major sources as allowed.

Comment #2: The references in Section 216 ("Federally Enforceable") are incorrect. Suggest referring to either 40 CFR 51.166 for PSD or Rule 203.

Response: Staff revised this section to refer to Rule 203 – Prevention of Significant Deterioration and Rule 214 – Federal New Source Review.

Comment #3: The rule language should either delete all the definitions related to GHGs or define all the terms using the language for 40 CFR 70.2 or by incorporating by reference the definition of "subject to regulation" in 40 CFR 70.2. Also, note that 40 CFR 70.12 is about future EPA commitments, not requirements for permit authorities.

Response: Staff deleted the individual GHG definitions. These definitions are incorporated by reference in the definition of "major stationary source – Title V".

Comment #4: The first provision of the definition of "major stationary source – Title V" should state, except as noted below, any source with the potential to emit of any regulated air pollutant that is equal to or greater than 100 tpy. Then in the subsequent provisions, bring in the additional requirements of GHGs, Hazardous Air Pollutants, and nonattainment pollutants.

Response: Staff revised the major stationary source definition as suggested.

Comment #5: The District needs to incorporate by reference 40 CFR 70.2 in Section 221.2 in order to address the GHG threshold. In addition, the incorporation by reference should include a date and require that the mass emissions of all GHGs emitted, without consideration of global warming potential, are equal to or greater than 100 tons per year.

Response: Staff added Section 221.2 as suggested and removed the individual GHG definitions from the other parts of the rule. Because of the ongoing changes to federal GHG regulations, the incorporation by reference is not dated, which

allows the District to implement changes EPA makes to GHG regulations without making changes to Rule 207

Comment #6: For improved clarity and enforceability of Section 221.4, EPA recommends that each threshold be presented in its own subparagraph. Note that the 100 tpy thresholds can be deleted because they would be covered by the suggested language in the first subsection of major stationary source as suggested.

Response: Staff revised this section as suggested.

Comment #7: In Section 235, Significant Title V Permit Modification, the 5-year window for aggregating increases in potential to emit only applies to NOx and VOC.

Response: Staff revised this section as suggested to properly align the rule with the Title V regulation.

Comment #8: Something is missing in Section 410.4. The old language does not quite read right. There are two options here, 1) source must comply with both old and new conditions, or 2) source must comply with the proposed permit terms. But the applicant must be required to submit those terms with application and must agree to comply with them in lieu of current Title V permit.

Response: Staff revised this section as suggested to clarify that sources must obtain the required preconstruction permit from the District prior to submitting a Title V minor permit modification. Until the District takes final action on the application for Title V modification, the source must comply with the conditions of the preconstruction permit issued by the District.