

**RULE 207 TITLE V - FEDERAL OPERATING PERMIT PROGRAM****Adopted 6-7-94****(Amended 9-5-96, 12-4-97, 4-26-01, 7-28-11)****INDEX****100 GENERAL**

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**100 GENERAL**

- 101 **PURPOSE:** To establish an operating permitting system consistent with the requirements of 42 U.S.C. Section 7661 et seq. (Title V) and pursuant to 40 CFR Part 70. Stationary sources subject to the requirements of this Rule are also required to comply with any other applicable federal, state, or District orders, rules and regulations, including requirements pertaining to prevention of significant deterioration pursuant to Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION, requirements to obtain an authority to construct pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS, or applicable requirements under the District's new source review rule in the State Implementation Plan.
- 102 **APPLICABILITY:** This rule shall apply to the following sources:
- 102.1 Major stationary sources as defined in Section 219.
  - 102.2 Affected sources under the acid rain provisions of Title IV of the Federal Clean Air Act.
  - 102.3 Any source subject to Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION.
  - 102.4 Any solid waste incineration unit required to obtain a Title V permit pursuant to Section 129(e) (42 U.S.C. Section 7429) of the Federal Clean Air Act.
  - 102.5 Any other stationary source in a source category designated, pursuant to 40 CFR Part 70.3, by rule by EPA.
  - 102.6 Any stationary source that is subject to standards or other requirements promulgated pursuant to Section 111 or 112 (42 U.S.C. Section 7411 or 7412) of the Federal Clean Air Act.
- 103 **EXCLUSION - NON-MAJOR SOURCES DEFERRED PRIOR TO JULY 21, 1992:** The applicability determination pursuant to Section 102.6 of this rule shall not include standards or other requirements promulgated pursuant to Section 111 or 112 (42 U.S.C. Section 7411 or 7412) of the Federal Clean Air Act prior to July 21, 1992, that are applicable to non-major sources, unless EPA completes rulemaking eliminating this provision from 40 CFR 70.3(b).
- 104 **EXCLUSION - NON-MAJOR SOURCES EXEMPT WITHIN NEW SOURCE PERFORMANCE STANDARDS OR NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS:** The applicability determination pursuant to Section 102.6 of this rule shall not include standards or other requirements promulgated pursuant to Section 111 or 112 (42 U.S.C. Section 7411 or 7412) of the Federal Clean Air Act, published after July 21, 1992, if the EPA, at the time the new standard or requirement is promulgated, determines that non-major sources are deferred or exempt from the requirement to obtain a Title V permit.
- 110 **EXEMPTION - RESIDENTIAL WOOD HEATERS:** This rule shall not apply to residential wood heaters.
- 111 **EXEMPTION - ASBESTOS DEMOLITION AND RENOVATION:** This rule shall not apply to any demolition or renovation operation at an asbestos-containing source if the source is required to obtain a permit solely because it is subject to the demolition and renovation requirements in Section 304 of Rule 902, ASBESTOS.
- 112 **EXEMPTION - NOTIFICATION REQUIREMENTS:** The requirements of Sections 401 through 408 shall not apply to the following:
- 112.1 Administrative Title V permit amendments as defined in Section 202.
  - 112.2 Operational changes that are allowed under Section 308.

**200 DEFINITIONS**

- 201 **ACTUAL EMISSIONS:** Measured or estimated emissions which most accurately represent the emissions from an emissions unit.
- 202 **ADMINISTRATIVE TITLE V PERMIT AMENDMENT:** A permit revision that is not a modification as defined by the District's new source review rule in the State Implementation Plan and is limited to the following:
- 202.1 Corrects typographical errors;
  - 202.2 Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the stationary source;
  - 202.3 Requires more frequent monitoring or reporting by the responsible official of the stationary source;
  - 202.4 Allows for change in ownership or operational control of a source where the Air Pollution Control Officer determines that no other change in the Title V permit is necessary, provided that a written agreement containing a specific date for transfer of Title V permit responsibility, coverage, and liability between the current and new responsible official has been submitted to the Air Pollution Control Officer; or
  - 202.5 Incorporates into the Title V permit the conditions of a preconstruction permit that is issued to an existing Title V stationary source through the District's new source review rule in the State Implementation Plan and meeting the procedural requirements specified in Sections 401 through 408 of this Rule and the compliance requirements in Section 305 of this Rule; or
  - 202.6 Removes equipment, provided that equipment removal does not result in an increase in emissions.

Administrative Title V permit amendments for purposes of the acid rain portion of the Title V permit shall be governed by regulations promulgated under Title IV (42 U.S.C. Section 7651 et Seq) of the Federal Clean Air Act.

- 203 **AIR POLLUTION CONTROL OFFICER:** The air pollution control officer of the Sacramento Metropolitan Air Quality Management District (SMAQMD), or his or her designee.
- 204 **ALTERNATIVE OPERATING SCENARIOS:** Any alternative operating conditions of the permitted emissions units at the stationary source which are:
- 204.1 Identified by the responsible official in the Title V permit application;
  - 204.2 Approved by the Air Pollution Control Officer;
  - 204.3 Specified in the Title V permit conditions; and
  - 204.4 In compliance with all applicable District, state, and federal requirements.
- 205 **AMBIENT AIR QUALITY STANDARDS:** National Ambient Air Quality Standards.
- 206 **APPLICABLE FEDERAL REQUIREMENT:** All of the following as they apply to emissions units at a stationary source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance of the Title V permit but have future effective compliance dates):
- 206.1 Any standard or other requirement provided for in the applicable state implementation plan approved by EPA or in the federal implementation plan promulgated by EPA;
  - 206.2 Any term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, or the Federal Clean Air Act, including permits issued pursuant to the District's new source review rule in the State Implementation Plan, or Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION;

- 206.3 Any standard or other requirement under Section 112 (U.S.C. Section 7412) of the Federal Clean Air Act, including any requirement concerning accident prevention under Section 112(r) (42 U.S.C. Section 7412(r)(7) of the Federal Clean Air Act;
- 206.4 Any standard or other requirement of the acid rain program under Title IV (42 U.S.C. Section 7651 et Seq) of the Federal Clean Air Act, or the regulations promulgated thereunder;
- 206.5 Any monitoring or other requirements established pursuant to Section 504(b) (42 U.S.C. Section 7661c(b) or Section 114(a)(3) (42 U.S.C. Section 7414(a)(3) of the Federal Clean Air Act;
- 206.6 Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Federal Clean Air Act, unless the EPA has determined that such requirements need not be contained in a Title V permit;
- 206.7 Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) (42 U.S.C. Section 7661c(e) of the Federal Clean Air Act;
- 206.8 Any standard or other requirement governing solid waste incineration under section 129 (42 U.S.C. Section 7429) of the Federal Clean Air Act;
- 206.9 Any standard or requirement or consumer and commercial products, under Section 183(e) (42 U.S.C. Section 7511b(e) of the Federal Clean Air Act; and
- 206.10 Any standard or other requirement under Section 111 (42 U.S.C. Section 7411) of the Federal Clean Air Act, including those adopted in Rule 801, NEW SOURCE PERFORMANCE STANDARDS.
- 207 **CODE OF FEDERAL REGULATIONS (CFR):** The United States Code of Federal Regulations.
- 208 **COMPLETE TITLE V PERMIT APPLICATION:** An application that meets all applicable requirements specified in the District's "LIST AND CRITERIA" for permit applications.
- 209 **CONTIGUOUS PROPERTY:** Two or more parcels of land with a common boundary or separated solely by a public roadway or other public right-of-way.
- 210 **DISTRICT:** The Sacramento Metropolitan Air Quality Management District.
- 211 **DRAFT TITLE V PERMIT:** The version of a Title V permit for which the Air Pollution Control Officer offers public participation pursuant to Section 403.
- 212 **EMERGENCY:** A situation arising from sudden and reasonable unforeseeable events beyond the control of the stationary source, including acts of God, which situation requires normal operation, and that causes the stationary source to exceed a technology-based emission limitation under the Title V permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- 213 **EMISSION CAP:** A federally enforceable emission limit affecting one or more emission units at a stationary source.
- 214 **EMISSIONS UNIT:** An identifiable operation or piece of process equipment such as an article, machine, or other contrivance which controls, emits, may emit, or results in the emissions of any regulated air pollutant or HAP. For purpose of this rule, each source of fugitive emissions shall be treated as an emissions unit and shall be subject to all exemptions and requirements applicable to emissions units.

- 215 **FEDERALLY ENFORCEABLE:** All limitations and conditions which are enforceable by EPA, including:
- 215.1 Requirements developed pursuant to 40 CFR Parts 60 (NSPS), 61 (NESHAPS), 63 (HAP), 70 (State Operating Permit Programs), and 72 (Permits Regulation, Acid Rain);
  - 215.2 Requirements contained in the State Implementation Plan (SIP), that are applicable to the District; and
  - 215.3 District permit requirements established pursuant to the District's new source review rule in the State Implementation Plan, or Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION.
- 216 **FINAL TITLE V PERMIT:** The version of the Title V permit that is issued by the Air Pollution Control Officer that has completed all applicable review procedures required by Section 400.
- 217 **FUGITIVE EMISSIONS:** Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- 218 **HAZARDOUS AIR POLLUTANT (HAP):** Any air pollutant listed pursuant to Section 112(b) (42 U.S.C. Section 7412(b) of the Federal Clean Air Act.
- 219 **MAJOR STATIONARY SOURCE - TITLE V:** For the purpose of this rule, a major stationary source is defined as follows:
- 219.1 Except as provided in Sections 219.2, 219.3, and 219.4, a stationary source, with a potential to emit that equals or exceeds 100 tons per year of any regulated air pollutant;
  - 219.2 A stationary source that emits greenhouse gases that are "subject to regulation" as defined in 40 CFR 70.2, provided that the mass emissions of all greenhouse gases emitted, without consideration of Global Warming Potential, are equal to or greater than 100 tons per year;
  - 219.3 A stationary source, as defined in Section 112 (42 U.S.C. Section 7412) of the Federal Clean Air Act, with a potential to emit 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 other than radionuclides, or such lesser quantity as the EPA may establish by rule. All fugitive emissions of hazardous air pollutants are included in determining the stationary source's potential to emit. For radionuclides, the definition of a major facility shall have the meaning specified by EPA by rule;
  - 219.4 A stationary source with a potential to emit a regulated air pollutant in quantities equal to or exceeding any of the following thresholds:
    - a. 25 tons per year of nitrogen oxides;
    - b. 25 tons per year of volatile organic compounds; or
    - c. the major stationary source thresholds that are listed in Title I of the Federal Clean Air Act for nitrogen oxides or volatile organic compounds, the thresholds that are listed in 40 CFR Part 51 for carbon monoxide, or the thresholds that are listed in 40 CFR Part 52 for PM10 or sulfur dioxide which correspond to the nonattainment classification of the District.
  - 219.5 The fugitive emissions of a source shall not be considered in determining whether it is a major stationary source pursuant to Sections 219.1, 219.2, or 219.4, unless the source belongs to one of the following categories of stationary sources:
    - 1. Coal cleaning plants (with thermal dryers);
    - 2. Kraft pulp mills;
    - 3. Portland cement plants;
    - 4. Primary zinc smelters;
    - 5. Iron and steel mills;
    - 6. Primary aluminum ore reduction plants;

7. Primary copper smelters;
  8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
  9. Hydrofluoric, sulfuric, or nitric acid plant;
  10. Petroleum refineries;
  11. Lime plants;
  12. Phosphate rock processing plants;
  13. Coke oven batteries;
  14. Sulfur recovery plants;
  15. Carbon black plants (furnace process);
  16. Primary lead smelters;
  17. Fuel conversion plants;
  18. Sintering plants;
  19. Secondary metal production plants;
  20. Chemical process plants – The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
  21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
  22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  23. Taconite ore processing plants;
  24. Glass fiber processing plants;
  25. Charcoal production plants;
  26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
  27. All other stationary source categories regulated by a standard promulgated under Section 111 or 112 (42 U.S.C. Section 7411 of 7412) of the Federal Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.
- 220 **MINOR TITLE V PERMIT MODIFICATION:** A modification to a federally enforceable condition in a Title V permit to operate which:
- 220.1 Is not a significant Title V permit modification;
  - 220.2 Is not an administrative Title V permit amendment; and
  - 220.3 Does not violate any applicable requirements which are federally enforceable.
- 221 **NESHAP:** National Emissions Standards for Hazardous Air Pollutants (40 CFR Part 61).
- 222 **NON-FEDERALLY ENFORCEABLE CONDITION:** A condition not subject to enforcement actions by EPA.
- 223 **OWNER OR OPERATOR:** Any person who owns, leases, operates, controls, or supervises a stationary source.
- 224 **PERMIT MODIFICATION:** Any revision to a Title V permit that cannot be accomplished under provisions for administrative Title V permit amendments pursuant to Section 409. A Title V permit modification for the purpose of the acid rain portion of the Title V permit shall be governed by 40 CFR Part 72 regulations promulgated under Title IV of the Federal Clean Air Act.
- 225 **PHASE II ACID RAIN FACILITY:** A facility that includes any affected unit listed in 40 CFR Part 72.6 that is subject to the Acid Rain Program.
- 226 **POTENTIAL TO EMIT:** The maximum physical and operational design capacity to emit a pollutant during each calendar year. Limitations on the physical or operational design capacity, including emissions control devices and limitations on hours of operation, may

be considered only if such limitations are federally enforceable or legally and practicably enforceable by the District.

- 227 **PRECONSTRUCTION PERMIT:** A permit authorizing construction of an emissions unit and includes the following:
- 227.1 A preconstruction permit issued pursuant to Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION; or
  - 227.2 An Authority to Construct permit issued pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS and the District's new source review rule in the State Implementation Plan.
- 228 **PROPOSED TITLE V PERMIT:** The version of the Title V permit that the Air Pollution Control Officer proposes to issue and forwards to the EPA for review pursuant to Section 404.
- 229 **REGULATED AIR POLLUTANT:** Any of the following air pollutants:
- 229.1 Any pollutant for which a national ambient air quality standard has been promulgated under Title I of the Federal Clean Air Act, including nitrogen oxides and volatile organic compounds as precursors to ozone;
  - 229.2 Any pollutant that is regulated under any standard promulgated under Section 111(42 U.S.C. Section 7411) of the Federal Clean Air Act, including New Source Performance Standards in 40 CFR Part 60;
  - 229.3 Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Federal Clean Air Act;
  - 229.4 Any pollutants regulated under Section 112 (42 U.S.C. Section 7412) of the Federal Clean Air Act, including Sections 112(g), 112(j), and 112(r) (42 U.S.C. Sections 7412(g), 7412(j), and 7412(r) of the Federal Clean Air Act, including the following:
    - a. Any pollutant subject to requirements under Section 112(j) (42 U.S.C. Section 7412(j) of the Federal Clean Air Act If EPA fails to promulgate a standard by the date established pursuant to Section 112(e) (42 U.S.C. Section 7412(j) of the Federal Clean Air Act, any pollutant for which a source would be major shall be considered to be a regulated air pollutant on the date 18 months after the applicable date established pursuant to Section 112(e) (42 U.S.C. Section 7412(e) of the Federal Clean Air Act; and
    - b. Any pollutant for which the requirements of Section 112(g)(2) (42 U.S.C. Section 7412(g)(2) of the Federal Clean Air Act have been met, but only with respect to individual sources subject to Section 112(g)(2) (U.S.C. Section 7412(g)(2) of the Federal Clean Air Act requirements.
- 230 **RESPONSIBLE OFFICIAL:** For the purpose of this rule, a responsible official shall mean one of the following:
- 230.1 For a corporation: 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 a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a Title V permit and either:
    - a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
    - b. The delegation of authority to such representatives is approved in advance by the Air Pollution Control Officer;
  - 230.2 For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
  - 230.3 For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this rule, a



- principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
- 230.4 For phase II acid rain facilities subject to Title IV requirements:
- a. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Federal Clean Air Act or the regulations promulgated thereunder are concerned; and
  - b. The designated representative for any other purposes under 40 CFR Part 70 regulations.
- 231 **SCHEDULE OF COMPLIANCE:** A schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.
- 232 **SEVERABILITY CLAUSE:** A statement in the Title V permit that, in the case of a challenge to any part of the Title V permit, the remaining parts of the Title V permit will remain valid.
- 233 **SIGNIFICANT TITLE V PERMIT MODIFICATION:** A modification to a federally enforceable condition in the Title V permit which:
- 233.1 Involves any modification under Section 112(g) of Title I (42 U.S.C. Section 412(g) of the Federal Clean Air Act, or under EPA regulations promulgated pursuant to Title I of the Federal Clean Air Act, including 40 CFR Part 51, 52, 60, 61, and 63;
  - 233.2 Involves relaxation or significant change to existing monitoring, reporting or recordkeeping requirements in the Title V permit;
  - 233.3 Involves case-by-case determination of an emission limit or other standard;
  - 233.4 Involves a stationary source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
  - 233.5 Attempts to set or change a Title V permit term or condition which allows a source to avoid an applicable federal requirement including:
    - a. A federally enforceable emission cap pursuant to Title I of the Federal Clean Air Act; or
    - b. An alternative HAP emission limit pursuant to Section 112(i)(5) (Section 42 U.S.C. Section 7412(j)(5) of the Federal Clean Air Act;
  - 233.6 Involves a modification to a major stationary source which results in an increase in the potential to emit greater than: 25 tons per year of nitrogen oxides or 25 tons per year of volatile organic compounds when aggregated with all other increases in potential to emit over the period of five consecutive years before the application for modification, and including the calendar year of the most recent application; or 40 tons per year of sulfur dioxide, 100 tons per year of carbon monoxide, 15 tons per year of PM<sub>10</sub>, or 10 tons per year of PM<sub>2.5</sub>; or
  - 233.7 Involves a modification to a major stationary source which results in an increase in the potential to emit greater than the levels as defined in 40 CFR 52.21(b)(49).
- 234 **STATIONARY SOURCE:** Any building, structure, facility, or emissions unit which emits or may emit any regulated air pollutant or HAP.
- 234.1 Building, structure, facility, or emissions unit includes all pollutant emitting activities which:
    - a. Belong to the same industrial grouping, and
    - b. Are located on one property or on two or more contiguous properties, and
    - c. Are under the same or common ownership, operation, or control or which are owned or operated by entities which are under common control.
  - 234.2 Pollutant emitting activities shall be considered as part of the same industrial grouping if:
    - a. They belong to the same two-digit standard industrial classification code, or

- b. They are part of a common production process (Common production process includes industrial processes, manufacturing processes and any connected processes involving a common material).
- 234.3 The emissions from loading and unloading of cargo carriers at the stationary source shall be considered emissions from the stationary source.
- 234.4 The emissions related to the cargo carriers will not be included when determining the applicability of the requirements of Section 101.
- 235 **SUBJECT SOLID WASTE INCINERATOR FACILITY:** Any source that burns solid waste material (except sources required to have a permit under Section 3005 of the Solid Waste Disposal Act) from commercial, industrial or general public sources for which a NSPS has been promulgated.
- 236 **TITLE V PERMIT:** A permit issued, renewed, amended, or revised pursuant to Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM.
- 237 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA):** The Administrator or appropriate delegee of the United States Environmental Protection Agency.
- 238 **VOLATILE ORGANIC COMPOUND (VOC):** For the purposes of this rule, "volatile organic compound" has the same meaning as in Rule 101—GENERAL PROVISIONS AND DEFINITIONS.
- 239 **VOLUNTARY EMISSIONS CAP:** An optional federally enforceable emissions limit on one or more emissions unit(s) which a source assumes in order to avoid an applicable federal requirement. The source remains subject to all other applicable federal requirements.

### 300 STANDARDS

- 301 **TIMING FOR SUBMITTAL OF A COMPLETE TITLE V PERMIT APPLICATION:**
- 301.1 **Application Submittal for New Stationary Sources:** The owner or operator of a new stationary source which becomes subject to the requirements of this rule shall submit to the Air Pollution Control Officer a complete Title V permit application for a Title V permit to operate within 12 months of commencing operation.
- 301.2 **Application Submittal for Modified Stationary Sources:** The owner or operator of an existing stationary source which becomes subject to the requirements of this Rule because of modifications to its operation shall submit to the Air Pollution Control Officer a complete Title V permit application for a Title V permit to operate within 12 months of commencing modified operation.
- 301.3 **Application Submittal for Renewal:** The owner or operator of a stationary source shall submit to the Air Pollution Control Officer a complete Title V permit application for renewal no later than 12 months prior to the expiration date of the Title V permit.
- 301.4 **Application Submittal for Acid Rain Facilities:** The owner or operator of an Acid Rain Facility shall additionally submit to the Air Pollution Control Officer a standard acid rain permit application and forms required by 40 CFR Part 72.
- 301.5 **Application Submittal for Minor Title V Permit Modifications:** The owner or operator of a the stationary source shall submit to the Air Pollution Control Officer a complete Title V permit application for minor Title V permit modification. The application shall be submitted after receiving any required preconstruction permit from the District and before commencing operation associated with the Minor Title V permit modification.
- 301.6 **Application Submittal for Significant Title V Permit Modifications:** The owner or operator of a stationary source shall submit to the Air Pollution Control Officer a complete Title V permit application for Significant Title V permit

modification. The application shall not be submitted prior to receiving any required preconstruction permit from the District but no later than 12 months after commencing an operation associated with the Significant Title V permit modification. Where an existing federally enforceable Title V permit condition would prohibit such change in operation or the stationary source is not required to obtain a preconstruction permit, the owner or operator must obtain a Title V permit modification before commencing operation.

301.7 **Application Submittal for Acid Rain Permit Modification:** A permit modification of the acid rain portion of the Title V permit shall be governed by regulations promulgated pursuant to Title IV of the Federal Clean Air Act.

301.8 **Application Submittal for Existing Stationary Sources that Become Subject to the Requirements of this Rule:** The owner or operator of a stationary source that becomes subject to this Rule, because of a change in a federally enforceable permit term or condition, or because of EPA or District rulemaking shall submit to the Air Pollution Control Officer a complete Title V permit application within 12 months of the date of becoming subject to this Rule.

302 **CORRECTING AND UPDATING OF A TITLE V PERMIT APPLICATION:**

302.1 The applicant shall submit to the Air Pollution Control Officer timely updates to the Title V application as new requirements become applicable to the source.

302.2 The applicant shall submit to the Air Pollution Control Officer any additional information necessary to correct any incorrect information in the Title V permit application upon becoming aware of such incorrect submittal or if the applicant is notified by the Air Pollution Control Officer of such incorrect submittal.

302.3 The applicant shall submit to the Air Pollution Control Officer any additional information relating to the Title V application within 30 days if such information is requested in writing by the Air Pollution Control Officer.

303 **TITLE V APPLICATION SHIELD:**

303.1 No stationary source may operate after the time that it is required to submit a timely and complete Title V application except in compliance with a Title V permit issued pursuant to this rule. Prior to final permitting action, an existing major stationary source shall not be in violation and shall not be subject to enforcement action for operating without a Title V permit to operate if the stationary source has complied with all of the following requirements:

a. The applicant has submitted to the Air Pollution Control Officer a complete Title V permit application in a timely manner required pursuant to Section 301;

b. The applicant continues to submit to the Air Pollution Control Officer timely updates to the Title V permit application required pursuant to Section 302.1;

c. The applicant submits to the Air Pollution Control Officer any additional information required pursuant to Sections 302.2 and 302.3; and

d. The Title V permit has not been canceled, suspended or terminated.

303.2 Title V permit expiration terminates the stationary source's right to operate unless a timely and complete Title V permit application for renewal has been submitted and the stationary source complies with subsections 303.1a, b, c, and d. The Title V permit will not expire until the Title V permit renewal has been issued or denied.

304 **CERTIFICATION REQUIREMENTS:** Any Title V application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

305 **TITLE V PERMIT CONTENT:** A Title V permit shall contain all of the following information and provisions:

305.1 **Standard Permit Requirements:**

- a. **Emission Limitations and Standards:** The Title V permit shall include all operational requirements and limitations that assure compliance with all applicable federal requirements. The fugitive emissions shall be included in the Title V permit in the same manner as stack emissions.
- b. **Alternative Operating Scenarios:** The Title V permit shall include conditions specifying compliance provisions for alternative operating scenarios pursuant to Section 308.1 if the responsible official identifies more than one operating scenario.
- c. **Referencing of Origin and Authority for Each Title V Permit Condition:** The Title V permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable federal requirement upon which the term or condition is based.
- d. **Listing of Conflicting Requirements:** The Title V permit shall state that, where an applicable federal requirement of the Federal Clean Air Act is more stringent than an applicable federal requirement of regulations promulgated under Title IV of the Federal Clean Air Act, both provisions shall be incorporated into the Title V permit and shall be enforceable by the EPA.
- e. **Title V Permit Duration:** The duration shall be specified pursuant to Section 306.
- f. **Monitoring Requirements:** The Title V permit shall contain conditions addressing the following requirements:
  1. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and test methods promulgated pursuant to Sections 114(a)(3) or 504(b) (42 U.S.C. Sections 7414(a)(3) or 7661c(b) of the Federal Clean Air Act.
  2. Where an applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the Title V permit as reported pursuant to Section 305.1(g) and Section 501. Such monitoring requirements shall assure the use of terms, test methods, averaging periods, and other statistical conventions consistent with the applicable requirements;
  3. As necessary, requirements concerning the use, maintenance, and where appropriate, installation of monitoring equipment or methods; and
  4. Compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the Title V permit.
- g. **Recordkeeping Requirements:** The Title V permit shall include conditions for any applicable recordkeeping requirements including those specified in Section 502.
- h. **Reporting Requirements:** The Title V permit shall include conditions for any applicable reporting requirements including those specified in Section 501.
- i. **Title IV Sources:** A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Federal Clean Air Act or the regulations promulgated thereunder which includes the following:
  1. No Title V permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not

- require a Title V permit revision under any other applicable requirement;
2. No limit shall be placed on the number of allowances held by the stationary source. The stationary source may not, however, use allowances as a defense to noncompliance with any other applicable requirement; and
  3. Any such allowances shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Federal Clean Air Act.
- j. **Severability:** A severability clause
- k. **Permit Compliance Provisions:** A provision in the Title V permit stating the following:
1. The permittee must comply with all conditions of the Title V permit.
  2. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the Title V permit.
  3. The Title V permit may be modified, revoked, reopened, and reissued, or terminated for cause.
  4. The permittee shall furnish to the Air Pollution Control Officer, within a reasonable time, any information that the Air Pollution Control Officer may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit pursuant to Section 411 or to determine compliance with the Title V permit. Upon request, the permittee shall also furnish to the Air Pollution Control Officer copies of records required to be kept by the Title V permit conditions or, for information claimed to be confidential, the permittee may furnish such records directly to the EPA along with a claim of confidentiality.
  5. Noncompliance with any Title V permit condition is grounds for Title V permit termination, revocation and reissuance, modification, enforcement action, or denial of the Title V permit renewal application. Any violation of the Title V permit shall also be a violation of Rule 207.
  6. A pending Title V permit action or notification or anticipated noncompliance does not stay any permit condition.
  7. The Title V permit does not convey any property rights of any sort, or any exclusive privilege.
  8. The Title V permit shall prohibit emissions exceeding any allowances that the stationary source lawfully holds under Title IV of the Federal Clean Air Act or the regulations promulgated thereunder.
- 305.2 **Enforceability of Title V Permit Conditions:** The Air Pollution Control Officer shall specify in Title V permits all conditions which are federally enforceable.
- 305.3 **Inspection and Entry Requirements:** A provision for inspection and entry requirements pursuant to Section 413.1.
- 305.4 **Schedule of Compliance:** A provision for submitting a schedule of compliance pursuant to Section 413.2.
- 305.5 **Progress Reports:** A provision for submitting progress reports pursuant to Section 413.3.
- 305.6 **Compliance Certification:** A provision for compliance certification pursuant to Section 413.4.
- 305.7 **Payment of Fees:** A Title V permit shall contain a condition requiring the stationary source to pay appropriate fees in accordance with Rule 301, PERMIT FEES - STATIONARY SOURCE. The condition shall require that the Title V permit shall be revoked if fees are not paid.

- 306 **TITLE V PERMIT TERM:** A Title V permit shall have a 5-year fixed term from the date of issuance. The Title V permit shall have a new 5-year fixed term from the date of final action on reopening if the responsible official chooses to submit to the District a complete Title V application for renewal upon reopening of the Title V permit pursuant to Sections 411 or 412 and the Title V permit is renewed according to the administrative procedures listed in Sections 401 through 408.
- 307 **TITLE V PERMIT SHIELD:**
- 307.1 Except as provided in this Rule, the District may expressly provide in the Title V permit a provision stating that compliance with the conditions of the Title V permit shall be deemed compliance with any applicable requirements as of the date of the Title V permit issuance, provided that:
- a. The Air Pollution Control Officer either:
    1. Includes and specifically identifies such requirements in the Title V permit; or
    2. Determines in acting on the Title V permit application or revision, in writing, that other requirements specifically identified are not applicable to the stationary source, and the Title V permit includes the determination or a concise summary thereof; and
  - b. The facility specifically requests a Title V permit shield and indicates the following:
    1. Specific process units for which a shield is sought;
    2. Reason that a Title V permit shield is sought; and
    3. Proposed duration of the Title V permit shield.
- 307.2 The Title V permit must expressly state that a Title V permit shield exists. A Title V permit lacking such statement is presumed to have no shield. A shield shall not apply to changes under Section 502(b)(1) (42 U.S.C. Section 7661a(b)(1) of the Federal Clean Air Act, changes under Section 308.3 or any minor Title V permit modifications under Section 410.
- 307.3 The Title V permit shield shall not alter or affect any of the following:
- a. The provisions of Section 303 (42 U.S.C. Section 7603) of the Federal Clean Air Act, (Emergency Powers) including the authority of the EPA;
  - b. The applicable requirements of the acid rain program, consistent with Section 408(a) (42 U.S.C. Section 7651g(a) of the Federal Clean Air Act;
  - c. The liability of an owner or operator of a stationary source for any violation of regulatory requirements prior to, or at the time of, Title V permit issuance;
  - d. The requirement of the stationary source to provide EPA with information if requested by EPA pursuant to Section 114 (42 U.S.C. Section 7414) of the Federal Clean Air Act;
  - e. The applicability of state or District requirements that are not applicable federal requirements, at the time of Title V permit issuance but which apply to the stationary source, such as state laws concerning toxics;
  - f. The applicability of any regulatory requirements that become applicable to the stationary source after the Title V permit issuance date; or
  - g. The applicability of any regulatory requirements with compliance dates after the Title V permit issuance date.
- 307.4 A request for a Title V permit shield made outside an application for initial Title V permit or Title V permit renewal, shall be applied for as a significant Title V permit modification.
- 308 **OPERATIONAL FLEXIBILITY:** The Air Pollution Control Officer shall allow changes in operation at the stationary source without requiring a Title V permit modification. Changes without a Title V permit modification are not allowed for minor Title V permit modifications or significant Title V permit modifications. This Section shall apply to:

- 308.1 **Alternative Operating Scenarios:** The Air Pollution Control Officer shall allow the use of alternative operating scenarios provided that the terms and conditions applicable to each operating scenario are:
- a. Identified by the applicant in the Title V permit application;
  - b. Approved by the Air Pollution Control Officer;
  - c. Specified in the Title V permit conditions; and
  - d. In compliance with all applicable District, state, and federal requirements including Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM.

The permittee shall maintain a contemporaneous log to record each change made from one operating scenario to another.

- 308.2 **Voluntary Emission Cap:** The Air Pollution Control Officer shall allow permit terms and conditions for emissions trading solely to meet a federally enforceable emissions cap independent of all other applicable federal requirements and District requirements within the stationary source if all existing emission limits and performance standards for emissions units and operations remain in effect, and the terms and conditions of the emissions cap are:
- a. Identified by the applicant in the Title V permit application;
  - b. Approved by the Air Pollution Control Officer as terms and conditions that include replicable procedures that ensure trades are quantifiable and enforceable;
  - c. Specified in the Title V permit conditions; and
  - d. In compliance with all applicable District, State, and federal requirements.

Emissions trading shall not be allowed if it involves a significant Title V permit modification as defined pursuant to Section 233. The permittee shall provide a written notice to the Air Pollution Control Officer and EPA 30 days in advance for a change in operation that is allowed under Section 308.2. The notice shall describe the change in operation, identify the emissions unit which will be affected, the date on which the change will occur and the duration of the change, any change in emission of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not and description of how the increases and decreases will comply with the terms of the Title V permit. The Air Pollution Control Officer shall not allow the emissions trade if one or more of the above conditions is not satisfied.

- 308.3 **Contravening an Express Permit Condition:** The owner or operator of a stationary source shall be allowed to make a change in operations that contravenes a Title V permit condition addressing an applicable federal requirement if the Air Pollution Control Officer receives written notice from the permittee at least 30 days before making the changes and if all of the following conditions are met:
- a. The change does not cause or allow any exceedance of any emission limitation or emission standard which limits the quantity, rate, or concentration of emissions of regulated air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a facility or emission unit to assure continuous emission reduction and any design, equipment work practice or operational standard. The following changes are operational flexibility changes and may be made if they meet the requirements of Section 308. Example of such change includes but is not limited to the following:
    1. Change in the supplier of similar raw materials, fuels, or other coatings.
    2. Change in the sequence of the process.
    3. Change in the method of raw material addition.
    4. Change in the method for product packaging.

5. Lengthening a paint drying oven to provide additional curing time.
- b. The change is not a modification under any provision of the District's new source review rule in the State Implementation Plan, or Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION or is not a significant Title V permit modification as defined in Section 233.
- c. The change does not cause or allow any exceedance of any standard of performance that requires continuous emission reduction, including any requirement relating to the operation or maintenance of a facility or emission unit to assure continuous emission reduction.
- d. The written notice is clearly marked as a request for operational flexibility under this Section and includes the following information:
  1. A description of the change.
  2. The date on which the change will occur and any change in emissions of any air pollutant.
  3. Any emissions of any pollutant not emitted before the change;
  4. Any Title V permit term or conditions that will no longer be applicable.
- e. The Air Pollution Control Officer does not provide the responsible official with a written denial of the request for operational change within 30 days of receipt of the request for operational change.
- f. Such change does not violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

The owner or operator shall not implement the proposed change if the Air Pollution Control Officer objects in writing to the proposal within the 30 day notice period. The notice period shall commence when the proposal is received by the Air Pollution Control Officer. The Air Pollution Control Officer shall object to the contravening of an express permit condition if any of the above conditions is not satisfied.

#### 400 ADMINISTRATIVE REQUIREMENTS

The requirements of Sections 401 through 408 shall apply to initial Title V permits, Title V permit renewals, and minor and significant Title V permit modifications. No Title V permit, Title V permit modification, or renewal shall be issued until the requirements of Sections 305, 401, 403 (except for changes qualifying for minor Title V permit modification procedures), 404, and 405 are met. Modifications to the acid rain section of the Title V permit shall be governed by the 40 CFR Part 72 acid rain regulations or the EPA approved equivalent District regulations.

401 **COMPLETE APPLICATION:** The Air Pollution Control Officer shall determine whether the application is complete no later than 60 days after receipt of the application. If the Air Pollution Control Officer determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any re-submittal of the application, a new 60-day period to determine completeness shall begin. Completeness of an application or re-submitted application shall be evaluated pursuant to the requirements specified in the District's "LIST AND CRITERIA" which identifies information required of an applicant seeking a permit (authority) to construct or a permit to operate from the District. The Air Pollution Control Officer shall notify the applicant in writing of the decision on the application's completeness. If the Air Pollution Control Officer does not notify the applicant in writing within 60 days of application submittal that the application is incomplete, then the application shall be deemed complete.

402 **PRELIMINARY DECISION:** Following acceptance of an application as complete, the Air Pollution Control Officer shall perform the evaluation required to determine compliance



with all applicable federal requirements and make a preliminary written decision as to whether a Title V permit should be approved or denied.

403 **PUBLICATION AND PUBLIC COMMENT, PRELIMINARY DECISION:**

403.1 Within ten (10) calendar days following the preliminary decision, the Air Pollution Control Officer shall publish in at least one newspaper of general circulation in the District a notice stating the preliminary decision of the Air Pollution Control Officer, noting how the pertinent information can be obtained, and inviting written public comments. The notice shall also be given to persons on a mailing list developed by the District, including those who request in writing to be on the mailing list and by other means (such as the District's Website, community groups, public meeting) when necessary to ensure that adequate notice is given.

403.2 The notice shall identify all of the following:

- a. The name and address of the affected stationary source;
- b. The name and address of the permittee;
- c. The name and address of the District;
- d. The activity or activities involved in the permit action;
- e. The emissions change involved in any Title V permit modification;
- f. The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft Title V permit, the Title V permit application, and all relevant supporting materials. Information submitted by the source which contains trade secrets shall be handled in accordance with Section 6254.7 of the California Government Code, and with relevant sections of the Administrative Code of the State of California;
- g. A brief description of the comment procedures; and
- h. The time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).

403.3 The Air Pollution Control Officer shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.

403.4 The Air Pollution Control Officer shall keep a record of the commenters and also of the issues raised during the public comment period. All public comments received by the District during the public comment period shall be available to the public for review upon request.

403.5 The Air Pollution Control Officer shall provide a statement that sets the legal and factual basis for the draft Title V permit conditions (including references to the applicable statutory or regulatory provisions). The Air Pollution Control Officer shall send this statement to EPA and to any other person who requests it.

404 **TRANSMITTING INFORMATION TO EPA:**

404.1 The Air Pollution Control Officer shall transmit to EPA a copy of each Title V permit application or summary (including any Title V permit application for modification), each proposed Title V permit, and each final Title V permit, unless EPA waives this requirement for specified categories of sources.

405 **EPA OBJECTION:**

405.1 The Air Pollution Control Officer shall not issue the Title V permit if EPA objects in writing to its issuance within 45 days from receipt of the proposed Title V permit and all necessary supporting information.

405.2 If the Air Pollution Control Officer and the applicant do not receive a written objection from EPA within 45 days of the notice provided pursuant to Section 404.1, describing the terms and conditions that the Title V permit shall include to respond to EPA's objection, the Air Pollution Control Officer shall issue the Title V permit.

405.3 If the Air Pollution Control Officer receives a written objection from EPA, the Air Pollution Control Officer shall revise and submit a proposed Title V permit in response to EPA objection no later than 90 days from EPA's objection date.

406 **PUBLIC OBJECTION:**

406.1 If EPA does not object in writing under Section 405, any person may petition the EPA within 60 days after the expiration of the EPA's 45-day review period to make such objection.

406.2 Any such petition shall be based only on objections to the Title V permit that were raised with reasonable specificity during the public comment period provided for in Section 403, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or that the grounds for such objection arose after the end of the review period.

406.3 If the Air Pollution Control Officer receives a written objection from EPA as a result of a petition filed under this Section, the Air Pollution Control Officer shall not issue the Title V permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of the Title V permit if the Title V permit was issued after the end of the 45-day review period and prior to an EPA objection.

406.4 If the Air Pollution Control Officer has issued the Title V permit prior to receiving a written objection from EPA pursuant to objections raised under this Section, the Title V permit may be reopened for cause by EPA pursuant to Section 412. If EPA notifies the Air Pollution Control Officer to modify, terminate, or revoke the Title V permit, the Air Pollution Control Officer shall revise the Title V permit and issue a revised Title V permit that satisfies EPA's objection. The Air Pollution Control Officer shall revise and submit a proposed Title V permit in response to EPA objection no later than 90 days from the EPA objection date.

406.5 In any case, the source will not be in violation of the requirement to have submitted a timely and complete Title V permit application.

407 **FINAL ACTION ON TITLE V PERMITS:**

407.1 **New Stationary Source:** The Air Pollution Control Officer shall take final action on the Title V permit application for a new stationary source within 18 months after receiving a complete application.

407.2 **Administrative Title V Permit Amendments:** The Air Pollution Control Officer shall take final action within 60 days after receiving a request for administrative Title V permit amendments.

407.3 **Minor Title V Permit Modifications:** The Air Pollution Control Officer shall take final action within 90 days after receiving a complete application for a minor Title V permit modification or 15 days after the end of EPA's 45-day review period, whichever is later.

407.4 **Significant Title V Permit Modifications:** The Air Pollution Control Officer shall take final action within 18 months after receiving a complete application for significant Title V permit modification.

407.5 **Phase II Acid Rain Sources:** The Air Pollution Control Officer shall take final action on a Title V application for a source subject to the acid rain program in accordance with the deadlines set forth in Title IV of the Federal Clean Air Act and the regulations promulgated thereunder.

407.6 **Title V Permit Renewal:** The Air Pollution Control Officer shall take final action within 12 months after receiving a complete application for Title V permit renewal.

407.7 **Reopening of Title V Permit for Cause Due to a New Applicable Federal Requirement:** The Air Pollution Control Officer shall take final action on a Title V permit reopened for cause because new requirements under the Federal Clean Air Act became applicable to the stationary source no later than 18 months after the promulgation of the applicable federal requirement.

407.8 **Modified Stationary Sources:** The Air Pollution Control Officer shall take final action on a Title V application from an existing stationary source which becomes

- subject to the requirements of this Rule because of modification to its operation within 18 months of receiving the complete Title V application.
- 407.9 **Existing Stationary Sources that Become Subject to the Requirements of this Rule:** The Air Pollution Control Officer shall take final action on a Title V application from an existing stationary source that becomes subject to this Rule, because of a change in a federally enforceable permit term or condition, or because of EPA or District rulemaking, within 18 months of receiving the complete Title V application.
- 408 **NOTIFICATION AND PUBLICATION OF FINAL ACTION:** The Air Pollution Control Officer shall provide written notice of the final action to the permittee and the EPA and shall publish such notice in a newspaper of general circulation in the District and shall make the notice and all supporting documents available for public inspection at the Air Pollution Control District's office.
- 409 **ADMINISTRATIVE TITLE V PERMIT AMENDMENTS:**
- 409.1 Within 60 days of receiving a written request for administrative Title V permit amendments, the Air Pollution Control Officer shall:
- a. Take final action on the request incorporating the administrative amendments in the Title V permit without providing a notice to the public or affected states provided that the Air Pollution Control Officer designates any Title V permit revisions as having been made pursuant to this Section; or
  - b. Determine that the requested amendments do not meet the Administrative Title V permit amendments criteria and notify the applicant in writing.
- 409.2 The Air Pollution Control Officer shall submit a copy of the revised Title V permit to the applicant and EPA.
- 409.3 The stationary source may implement any such changes addressed in the request immediately upon submittal of the request.
- 410 **MINOR TITLE V PERMIT MODIFICATIONS:** The Air Pollution Control Officer shall take action on applications for minor Title V permit applications as follows:
- 410.1 **EPA Notification:** Within 5 business days after receiving a complete application for modification, the Air Pollution Control Officer shall notify EPA in writing of the requested Title V permit modification.
- 410.2 **EPA Review:** The Air Pollution Control Officer shall allow 45-days for EPA to review the Title V permit modification.
- 410.3 **Final Action on Application for Minor Title V permit Modification:** Within 90 days after the Air Pollution Control Officer's receipt of the application for minor Title V permit modifications or 15 days after the end of the EPA's 45-day review period, whichever is later, the Air Pollution Control Officer shall:
- a. Issue the Title V permit modification as proposed;
  - b. Deny the modification application and notify the applicant of reason for such action;
  - c. Determine that the requested modification does not meet the minor modification definition and review under the significant Title V permit modification procedures; or
  - d. Revise the draft Title V permit modification and send the revised version to EPA.
- 410.4 **Source Ability to Make Changes:** An applicant that has received the required preconstruction permit from the District may make the proposed changes at the stationary source as soon as the application for Title V minor permit modification has been filed with the Air Pollution Control Officer. After the applicant makes the changes allowed by the preceding sentence, and until the Air Pollution Control Officer takes final action on the application for minor Title V permit modification pursuant to Section 410.3, the stationary source must comply with both the applicable requirements governing the change and the terms and

conditions of the preconstruction permit issued by the District. During this time period, the source need not comply with the existing Title V permit terms and conditions it seeks to modify. However if the stationary source fails to comply with the preconstruction permit issued by the District during this time period, the existing Title V permit terms and conditions it seeks to modify may be enforced against it.

- 411 **REOPENING OF TITLE V PERMIT FOR CAUSE:** The Air Pollution Control Officer shall reopen a Title V permit under the following circumstances:
- 411.1 To include any new applicable federal requirements that become effective three years or more before the Title V permit renewal date;
  - 411.2 To include any new requirements that become applicable to acid rain sources under the acid rain program, such as nitrogen oxides requirements or excess emissions requirements;
  - 411.3 If the Air Pollution Control Officer or EPA determine that the Title V permit contains a material mistake or inaccurate statements were made in establishing the Title V permit conditions.
  - 411.4 If the Air Pollution Control Officer or EPA determine that the Title V permit must be revised or revoked to assure compliance with applicable federal requirements.

The Air Pollution Control Officer shall notify the permittee at least 30 days prior to reopening the Title V permit. Proceedings to reopen and reissue the Title V permit for cause shall be consistent with the administrative procedures listed in Sections 401 through 408 of this rule and shall affect only those parts of the Title V permit for which cause to reopen exists.

- 412 **REOPENING OF TITLE V PERMIT FOR CAUSE BY EPA:** If the Air Pollution Control Officer receives a written request from EPA to terminate, modify, or revoke and reissue a Title V permit, then:
- 412.1 The Air Pollution Control Officer shall, within 90 days after receipt of a written notification from EPA to reopen the Title V permit, forward to EPA a proposed determination of modification, termination, or revocation and reissuance, as appropriate. The EPA may extend the 90 day-period for an additional 90 days if a new or revised Title V permit application is necessary or if the Air Pollution Control Officer must require the responsible official to submit additional information.
  - 412.2 If the Air Pollution Control Officer does not receive a written objection from EPA (or does not additionally revise the Title V permit because of public comments) within 90 days after the Air Pollution Control Officer has submitted the revised Title V permit to EPA pursuant to Section 412.1, the Air Pollution Control Officer shall issue the Title V permit as proposed.
  - 412.3 If the Air Pollution Control Officer receives a written objection from EPA after submitting a response to EPA pursuant to Section 412.1, the Air Pollution Control Officer shall, within 90 days from the receipt of the EPA objection, resolve any objection that EPA makes and terminate, modify, or revoke and reissue the Title V permit in accordance with the EPA's objection.
  - 412.4 If the Air Pollution Control Officer fails to submit a proposed determination pursuant to Section 412.1 or fails to resolve any objection pursuant to Section 412.3, EPA may terminate, modify, or revoke and reissue the Title V permit after taking the following actions:
    - a. Providing at least 30 days notice to the responsible official in writing of the reasons for any such action. This notice may be given during the procedures in Sections 412.1 through 412.4; and
    - b. Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing.

The Air Pollution Control Officer shall comply with the notification requirements for the public and affected states listed in Sections 403 through 404.

- 413 **COMPLIANCE REQUIREMENTS:** A stationary source shall comply with all of the following:
- 413.1 **Inspection and Entry Requirements:** Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Air Pollution Control Officer or an authorized representative to perform all of the following:
- a. Enter upon the stationary source's premises where a Title V source is located or emissions related activity is conducted, or where records must be kept under the conditions of the Title V permit;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the Title V permit;
  - c. Inspect at reasonable times the stationary source, equipment (including monitoring and air pollution control equipment), practices, operations regulated or required under the Title V permit; and
  - d. As authorized by the Federal Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the Title V permit conditions or applicable federal requirements.
- 413.2. **Schedule of Compliance:** The compliance schedule shall contain a compliance plan that contains the following:
- a. A description of the compliance status of the stationary source with respect to all applicable requirements.
  - b. A description as follows:
    1. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
    2. For applicable requirements that will become effective during the Title V permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the Title V permit term shall satisfy this provisions, unless a more detailed schedule is expressly required by the applicable requirements.
    3. For requirements for which the source is not in compliance at the time of the Title V permit issuance, a narrative description of how the source will achieve compliance with such requirements.
    4. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of Title V permit issuance. Such schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of Title V permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
  - c. A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy violations.
  - d. The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Federal Clean Air Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

- 413.3 **Progress Reports:** The permittee shall submit to the Air Pollution Control Officer progress reports on any compliance schedule in the Title V permit at least every six months or more frequently if required by an applicable federal requirement. The progress reports must be certified by the responsible official consistent with Section 304 and shall contain all of the following:
- a. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance are achieved; and
  - b. 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.
- 413.4 **Compliance Certification:** The permittee shall submit to the Air Pollution Control Officer and EPA on an annual basis, unless required more frequently by additional applicable federal requirements such as Section 114(a)(3) and 504(b) (42 U.S.C. Sections 7414(a)(3) and 7661c(b) of the Federal Clean Air Act, a certification of compliance by a responsible official with all terms and conditions contained in the Title V permit, including emission limitations, standards, or work practices. The compliance certification shall include the following:
- a. The identification of each term or condition of the Title V permit that is the basis of the certification;
  - b. The compliance status and whether compliance was continuous or intermittent;
  - c. The method(s) used for determining the compliance status of the source, currently and over the reporting period;
  - d. Such other facts as the Air Pollution Control Officer may require to determine the compliance status of the source; and
  - e. In accordance with Section 305, a method for monitoring the compliance of the stationary source with its emissions limitations, standards, and work practices.
- 414 **EMERGENCY PROVISIONS:**
- 414.1 **Effect of an Emergency:** An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology based emission limitations if the conditions of Section 414 are met.
- 414.2 **Affirmative Defense of an Emergency:** The affirmative defense of an emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
- a. An emergency occurred and that the permittee can identify the cause(s) of the emergency;
  - b. The permitted facility was at the time being properly operated;
  - c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the Title V permit;
  - d. The permittee submitted notice of the emergency to the Air Pollution Control Officer within 2 working days of the time when emissions limitations were exceeded due to the emergency. The notice must contain a description of the emergency, and corrective actions taken.
- 414.3 **Burden of Proof:** In any enforcement proceedings, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

## 500 REPORTING AND RECORDKEEPING

- 501 **REPORTING REQUIREMENTS:** The permittee must comply with the following:
- 501.1 The permittee must submit reports of any required monitoring at least every 6 months. All instances of deviations from Title V permit conditions must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Section 304.
- 501.2 The permittee must notify the Air Pollution Control Officer of any occurrence which constitutes an emergency as defined in Section 212 as soon as

reasonably possible, but no later than one hour after its detection. If the emergency occurs when the Air Pollution Control Officer cannot be contacted, their report of the emergency shall be made at the commencement of the next regular working day. The notification shall identify the time, specific location, equipment involved, and to the extent known the cause(s) of the occurrence.

501.3 The permittee shall report within 24 hours of detection any other deviations from the Title V permit conditions not attributable to emergency.

502 **RECORDKEEPING REQUIREMENTS:**

502.1 The permittee shall maintain on site, records of operation for all emissions units included in the Title V permit. The records shall contain all of the following information and shall be made available to the Air Pollution Control Officer and EPA for review upon request:

a. Monitoring Records:

1. The date, place as defined in the Title V permit, and time of sampling or measurements;
2. The date(s) analyses were performed;
3. The company or entity that performed the analyses;
4. The analytical techniques or methods used;
5. The results of such analyses; and
6. The operating conditions existing at the time of sampling or measurement.

502.2 Recordkeeping for process weight, fuel usage, and operating hours as specified in the Title V permit conditions.

502.3 **Retention of Records:** All required monitoring data and support information must be kept by the stationary source for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recording for continuous monitoring instrumentation, and copies of all reports required by the Title V permit.

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