RULE 1101 Title V - Federal Operating Permits

(Adopted November 9, 1993; Amended and Recodified June 24, 1999; Amended April 26, 2001; Recodified August 22, 2002)

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RULE 1101

1 **PURPOSE AND GENERAL REQUIREMENTS OF RULE 1101:** [Reference: 40 CFR Part 70.1, 70.4, 70.6(a)(6) and 70.7(a)(6) and (b)] This Rule implements the requirements of Title V of the federal Clean Air Act (CAA) as amended in 1990 for Permits to Operate. Title V provides for the establishment of operating permit programs for sources, which emit regulated air pollutants, including attainment and nonattainment pollutants. The effective date of this Rule is the date the DISTRICT Board adopts this Rule.

By June 2, 1995, the Butte County Air Quality Management District (DISTRICT) shall implement an operating permit program pursuant to the requirements of this Rule. The requirements of this Rule shall augment and take precedence over conflicting administrative requirements of other provisions of the DISTRICT's Rules and Regulations. The DISTRICT shall also continue to implement its existing permit program required by Regulation IV of these Rules and Regulations, including Rule 402, Authority to Construct, or Rule 430, New Source Review. Nothing in this Rule limits the authority of the DISTRICT to revoke or terminate a permit pursuant to Sections 40808, and 42307-42309 of the California Health and Safety Code (HSC).

Sources subject to this Rule include major sources, acid rain units subject to Title IV of the CAA, solid waste incinerators subject to Section 111 or 129 of the CAA, and any other sources specifically designated by rule of the United States Environmental Protection Agency (EPA). Sources subject to this Rule shall obtain Permits to Operate pursuant to this Rule. Each Permit to Operate issued pursuant to this Rule shall contain conditions and requirements adequate to ensure compliance with and the enforceability of:

1.1 All applicable provisions of Division 26 of the HSC, commencing with Section 39000;

1.2 All applicable Rules, Regulations, or orders of the DISTRICT and the California Air Resources Board (CARB);

1.3 All applicable provisions of the applicable implementation plan required by the CAA;

1.4 Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the CAA;

1.5 The requirements of all preconstruction permits issued pursuant to Parts C and D of the CAA.

The operation of an emissions unit to which this Rule is applicable without a permit or in violation of any applicable permit condition or requirement shall be a violation

of this Rule.

2 **DEFINITIONS:** The definitions in this Section apply throughout this Rule and are derived from related provisions of the U.S. EPA's Title V regulations in Part 70 Code of Federal Regulations (CFR), "State Operating Permit Programs."

2.1 **Acid Rain Unit** - An "acid rain unit" is any fossil fuel-fired combustion device that is an affected unit under 40 CFR Part 72.6 and therefore subject to the requirements of Title IV (Acid Deposition Control) of the CAA. [Reference: 40 CFR Part 70.2-Affected Unit]

2.2 **Administrative Permit Amendment** - An "administrative permit amendment" is an amendment to a permit to operate which:

2.2.1 Corrects a typographical error;

2.2.2 Identifies a minor administrative change at the stationary source; for example, a change in the name, address, or phone number of any person identified in the permit;

2.2.3 Requires more frequent monitoring or reporting by the owner/operator of the stationary source; or,

2.2.4 Transfers ownership or operational control of a stationary source, provided that, prior to the transfer, the Air Pollution Control Officer (APCO) receives a written agreement, which specifies a date for the transfer of permit responsibility, coverage, and liability from the current to the prospective permittee.

[Reference: 40 CFR Part 70.7(d)]

2.3 **Affected State** - An "affected state" is any state that:

2.3.1 Is contiguous with California and whose air quality may be affected by a permit action; or,

2.3.2 Is within 50 miles of the source for which a permit action is being proposed.

[Reference: 40 CFR Part 70.2 Affected States]

2.4 **Air Pollution Control Officer (APCO)** - "Air Pollution Control Officer" refers to the air pollution control officer of the Butte County Air Quality Management District, or his or her designee.

2.5 **Applicable Federal Requirement** - An "applicable federal requirement" is any requirement, which is enforceable by EPA and citizens pursuant to Section 304 of the CAA and is set forth in, or authorized by, the CAA or an EPA regulation. An "applicable federal requirement" includes any requirement of a regulation in effect at permit issuance and any requirement of a regulation that becomes effective during the term of the permit. Applicable federal requirements include:

2.5.1 Title I requirements of the CAA, including:

2.5.1.1 New Source Review requirements in the State Implementation Plan approved by EPA and the terms and conditions of the preconstruction permit issued pursuant to an approved New Source Review Rule;

2.5.1.2 Prevention of Significant Deterioration (PSD) requirements and the terms and conditions of the PSD permit (40 CFR Part 52);

2.5.1.3 New Source Performance Standards (40 CFR Part 60);

2.5.1.4 National Ambient Air Quality Standards, increments, and visibility requirements as they apply to portable sources required to obtain a permit pursuant to Section 504(e) of the CAA;

2.5.1.5 National Emissions Standards for Hazardous Air Pollutants (40 CFR Part 61);

2.5.1.6 Maximum Achievable Control Technology or Generally Available Control Technology Standards (40 CFR Part 63);

2.5.1.7 Risk Management Plan preparation and registration requirements (Section 112(r) of the CAA);

2.5.1.8 Solid Waste Incineration requirements (Sections 111 or 129 of the CAA);

2.5.1.9 Consumer and Commercial Product requirements (Section 183 of the CAA);

2.5.1.10 Tank Vessel requirements (Section 183 of the CAA);

2.5.1.11 DISTRICT prohibitory Rules that are approved into the State Implementation Plan; and,

2.5.1.12 Standards or regulations promulgated pursuant to a federal Implementation Plan; and,

2.5.1.13 Enhanced Monitoring and Compliance Certification requirements (Section 114(a)(3) of the CAA).

2.5.2 Title III, Section 328 (Outer Continental Shelf) requirements of the CAA (40 CFR Part 55);

2.5.3 Title IV (Acid Deposition Control) requirements of the CAA (40 CFR Parts 72, 73, 75, 76, 77, 78 and regulations implementing Sections 407 and 410 of the CAA); and,

2.5.4 Title VI (Stratospheric Ozone Protection) requirements of the CAA (40 CFR Part 82); and,

2.5.5 Monitoring and Analysis requirements (Section 504(b) of the CAA).

2.6 **California Air Resources Board (CARB)** - "California Air Resources Board" refers to the Air Resources Board of the State of California.

2.7 **Clean Air Act (CAA)** - "Clean Air Act" refers to the federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.).

2.8 **Code of Federal Regulations (CFR)** - "Code of Federal Regulations" refers to the United States Code of Federal Regulations.

2.9 **Commence Operation** - "Commence operation" is the date of initial operation of an emissions unit, including any start-up or shakedown period authorized by a temporary Permit to Operate issued pursuant to Section 42301.1 of the HSC.

2.10 **Direct Emissions** - "Direct emissions" are emissions that may reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

2.11 **DISTRICT** - "DISTRICT" refers to the Butte County Air Quality Management District.

2.12 **Effective Date of This Rule** - The "effective date of this Rule" is the date the DISTRICT Board adopts this Rule. [Reference: 40 CFR Part 70.4(g)]

2.13 **Emergency** - An "emergency" is any situation arising from a sudden and reasonably unforeseeable event beyond the control of a permittee (e.g., an act of God), which causes the exceedance of a technology-based emission limitation under a permit and requires immediate corrective action to restore compliance. An "emergency" shall not include noncompliance as a result of improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. [Reference: 40 CFR Part 70.6(g)(1)]

2.14 **Emissions Unit** - An "emissions unit" is any identifiable article, machine, contrivance, or operation which emits, may emit, or results in the emissions of, any regulated air pollutant or hazardous air pollutant. [Reference: 40 CFR Part 70.2 Emissions Unit]

2.15 **Federally-enforceable Condition** - A "federally-enforceable condition" is any condition set forth in the Permit to Operate which addresses an applicable federal requirement or a voluntary emissions cap.

2.16 **Fugitive Emissions** - "fugitive emissions" are emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. [Reference: 40 CFR Part 70.2 Fugitive Emissions]

2.17 **Hazardous Air Pollutant (HAP)** - A "hazardous air pollutant" is any air pollutant listed pursuant to Section 112(b) of the CAA.

2.18 **Health and Safety Code (HSC)** - "Health and Safety Code" refers to the California Health and Safety Code.

2.19 **Initial Permit** - An "initial permit" is the first operating permit for which a

source submits an application that addresses the requirements of the federal operating permits program as implemented by this Rule.

2.20 **Major Source** - A "major source" is a stationary source which has the potential to emit a regulated air pollutant or HAP in quantities equal to or exceeding the lesser of any of the following thresholds:

2.20.1 100 tons per year (tpy) of any regulated air pollutant;

2.20.2 50 tpy of volatile organic compounds or oxides of nitrogen for a federal nonattainment area classified as serious, 25 tpy for an area classified as severe, or, 10 tpy for an area classified as extreme;

2.20.3 70 tpy of PM10 (particulate matter of 10 microns or less) for a federal PM10 nonattainment area classified as serious;

2.20.4 10 tpy of one HAP or 25 tpy of two or more HAPs; or,

2.20.5 Any lesser quantity threshold promulgated by EPA.

[Reference: 40 CFR Part 70.2 Major Source]

2.21 **Minor Permit Modification** - A "minor permit modification" is any modification to a federally-enforceable condition on a Permit to Operate which: 1) is not a significant permit modification; or, 2) is not an administrative permit amendment. [Reference: 40 CFR Part 70.7(e)(2)]

2.22 **Permit Modification** - A "permit modification" is any addition, deletion, or revision to a Permit to Operate condition. [Reference: 40 CFR Part 70.2 Permit Modification and Permit Revision]

2.23 **Potential to Emit** - For the purposes of this Rule, "potential to emit" as it applies to an emissions unit and a stationary source is defined below.

2.23.1 **Emissions Unit:** The "potential to emit" for an emissions unit is the maximum capacity of the unit to emit a regulated air pollutant or HAP considering the unit's physical and operational design. Physical and operational limitations on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions or rules or regulations that are legally and practicable enforceable by EPA and citizens or by the DISTRICT. Physical and operational limitations shall include, but are not limited to, the following: Limits placed on emissions and restrictions on hours of operation and type or amount of material combusted, stored, or processed.

2.23.2 **Stationary Source:** The "potential to emit" for a stationary source is the sum of the potential to emit from all emissions units at the stationary source. If two or more HAPs are emitted at a stationary source, the potential to emit for each of those HAPs shall be combined to determine applicability. Fugitive emissions shall be considered in determining the potential to emit for: 1) sources as specified in 40 CFR Part 70.2 Major Source (2), and 2) sources of

HAP emissions. Notwithstanding the above, any HAP emissions from any oil or gas exploration or production well (with its associated equipment) and any pipeline compressor or pump station shall not be aggregated with emissions of similar units for the purpose of determining a major source of HAPs, whether or not such units are located in contiguous areas or are under common control. [Reference: 40 CFR Part 70.2 Potential to Emit and Major Source (2)]

2.24 **Preconstruction Permit -** A "preconstruction permit" is a permit issued prior to construction which authorizes construction:

2.24.1 Pursuant to a program for the prevention of significant deterioration of air quality required by Section 165 of the CAA; or,

2.24.2 Pursuant to a new source review program required by Sections 172 and 173 of the CAA or New Source Review Rule 430.

[Reference: 40 CFR Part 70.2 Applicable Requirement (2)]

2.25 **Regulated Air Pollutant -** A "regulated air pollutant" is any pollutant: 1) which is emitted into or otherwise enters the ambient air, and 2) for which EPA has adopted an emission limit, standard, or other requirement. Regulated air pollutants include:

2.25.1 Oxides of nitrogen and volatile organic compounds;

2.25.2 Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the CAA;

2.25.3 Any pollutant subject to a new source performance standard promulgated pursuant to Section 111 of the CAA;

2.25.4 Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrofluorocarbons) substance pursuant to Title VI of the CAA; and,

2.25.5 Any pollutant subject to a standard or requirement promulgated pursuant to Section 112 of the CAA, including:

2.25.5.1 Any pollutant listed pursuant to Section 112(r) of the CAA (Prevention of Accidental Releases) shall be considered a "regulated air pollutant" upon promulgation of the list.

2.25.5.2 Any HAP subject to a standard or other requirement promulgated by EPA pursuant to Section 112(d) or adopted by the DISTRICT pursuant to 112(g) and (j) of the CAA shall be considered a "regulated air pollutant" for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the CAA.

2.25.5.3 Any HAP subject to a DISTRICT case-by-case

emissions limitation determination for a new or modified source, prior to EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a "regulated air pollutant" when the determination is made pursuant to Section 112(g)(2) of the CAA. In case-by-case emissions limitation determinations, the HAP shall be considered a "regulated air pollutant" only for the individual source for which the emissions limitation determination was made.

[Reference: 40 CFR Part 70.2 Regulated Air Pollutant]

2.26 **Responsible Official** - A "responsible official" is an individual with the authority to certify that a source complies with all applicable federal requirements and federally-enforceable conditions of permits issued to sources in accordance with this Rule. "Responsible official" means one of the following:

2.26.1 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 permit and either:

2.26.1.1 The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or,

2.26.1.2 The delegation of authority to such representative is approved in advance by the APCO.

2.26.2 For a partnership or sole proprietorship, a general partner or the proprietor, respectively;

2.26.3 For a municipality, State, federal, or other public agency, either a principal executive officer or a ranking elected official; or,

2.26.4 For an acid rain unit subject to Title IV (Acid Deposition Control) of the CAA, the "responsible official" is the designated representative of that unit for any purposes under Title IV and this Rule.

[Reference: 40 CFR Part 70.2 Responsible Official]

2.27 **Significant Permit Modification** - A "significant permit modification" is any modification to a federally-enforceable condition on a Permit to Operate which:

2.27.1 Involves any modification under Section 112(g) of Title I of the CAA or under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, and 63;

2.27.2 Significantly changes monitoring conditions;

2.27.3 Provides for the relaxation of any reporting or recordkeeping conditions;

2.27.4 Involves a permit term or condition which allows a source to avoid an applicable federal requirement, including: 1) a federally-enforceable voluntary emissions cap assumed in order to avoid triggering a modification requirement of Title I of the CAA, or 2) an alternative HAP emission limit pursuant to Section 112(i)(5) of the CAA;

2.27.5 Involves a case-by-case determination of any emission standard or other requirement; or,

2.27.6 Involves a source-specific determination for ambient impacts, visibility analysis, or increment analysis on portable sources.

[Reference: 40 CFR Part 70.7(e)(2) and (4)]

2.28 **Solid Waste Incinerator** - A "solid waste incinerator" is any incinerator which burns solid waste material from commercial, industrial, medical, general public sources (e.g., residences, hotels, or motels), or other categories of solid waste incinerators subject to a performance standard promulgated pursuant to Sections 111 or 129 of the CAA.

The following incinerators are excluded from the definition of "solid waste incinerator" for the purpose of this Rule:

2.28.1 Any hazardous waste incinerator required to obtain a permit under the authority of Section 3005 of the Solid Waste Disposal Act (42 United States Code (U.S.C) Section 6925);

2.28.2 Any materials recovery facility which primarily recovers metals;

2.28.3 Any qualifying small power production facility as defined in 16 U.S.C.A. Section 796(17)(C); or,

2.28.4 Any qualifying co-generation facility which burns homogenous waste for the production of energy as defined in 16 U.S.C.A. Section 796(18)(B); or,

2.28.5 Any air curtain incinerator which burns only wood, yard, or clean lumber waste and complies with the opacity limitations to be established by the Administrator of EPA.

2.29 **Stationary Source** - For the purposes of this Rule, a "stationary source" is any building, structure, facility, or installation (or any such grouping) that:

2.29.1 Emits, may emit, or results in the emissions of any regulated air pollutant or HAP;

2.29.2 Is located on one or more contiguous or adjacent properties;

2.29.3 Is under the ownership, operation, or control of the same person (or persons under common control) or entity; and,

2.29.4 Belongs to a single major industrial grouping; for example, each building, structure, facility, or installation in the grouping has the same two-digit code under the system described in the "1987

Standard Industrial Classification Manual."
[Reference: 40 CFR Part 70.2 Stationary Source]

2.30 United States Environmental Protection Agency (EPA) - "United States Environmental Protection Agency" refers to the Administrator or appropriate delegee of the "United States Environmental Protection Agency."

2.31 Voluntary Emissions Cap - A "voluntary emissions cap" is 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.

3 APPLICABILITY

3.1 Sources Subject to This Rule: [Reference: 40 CFR Part 70.3(a)] The sources listed below are subject to the requirements of this Rule:

3.1.1 A major source;

3.1.2 A source with an acid rain unit for which application for an Acid Rain Permit is required pursuant to Title IV of the CAA;

3.1.3 A solid waste incinerator subject to a performance standard promulgated pursuant to Section 111 or 129 of the CAA;

3.1.4 Any other source in a source category designated, pursuant to 40 CFR Part 70.3, by rule of EPA; and,

3.1.5 Any source that is subject to a standard or other requirement promulgated pursuant to Section 111 or 112 of the CAA, published after July 21, 1992, designated, pursuant to 40 CFR Part 70.3, by EPA at the time the new standard or requirement is promulgated.

3.2 Sources Exempt from This Rule: [Reference: 40 CFR Part 70.3(b)] The sources listed below are not subject to the requirements of Rule 1101:

3.2.1 Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);

3.2.2 Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 61, Subpart M, Section 145 (National Emission Standards for Asbestos, Standard for Demolition and Renovation); and,

3.2.3 Any other source in a source category deferred, pursuant to 40 CFR Part 70.3, by EPA rule-making, unless such source is otherwise subject to Title V (i.e., it is a major source).

4 ADMINISTRATIVE PROCEDURES FOR SOURCES

4.1 Permit Requirement and Application Shield: A source shall operate in compliance with Permits to Operate issued pursuant to this Rule. This Rule

does not alter any applicable requirement that a source obtain preconstruction permits. [Reference: 40 CFR Part 70.7(a)(6) and (b)]

If the owner/operator submits, pursuant to this Rule, a timely and complete application for a Permit to Operate, a source shall not be in violation of the requirement to have a Permit to Operate until the APCO takes final action on the application. The application shield here will cease to insulate a source from enforcement action if the owner/operator of the source fails to submit any additional information requested by the APCO pursuant to Section 4.3.2 below. [Reference: 40 CFR Part 70.7(b)]

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

The application shield does not apply to sources applying for permit modifications. For permit modifications, a source shall operate in accordance with the applicable federal requirements, the Permit to Operate issued pursuant to this Rule and any temporary Permit to Operate issued pursuant to Section 42301.1 of the HSC. [Reference: 40 CFR Part 70.6(a)(6)(iii) and 70.7(b) and (e)(2)(v)]

4.2 Application Requirements: [Reference: 40 CFR Part 70.5]

4.2.1 Initial Permit: [Reference: 40 CFR Part 70.5(a)(1) and (c)(10)]

4.2.1.1 For a source with a Standard Industrial Classification Code of 4911 or 5171 that is subject to this Rule on the date the Rule becomes effective, the owner/operator shall submit a completed standard DISTRICT application form within three (3) months after the Rule becomes effective.

4.2.1.2 For a source with a Standard Industrial Classification Code, other than 4911 or 5171, that is subject to this Rule on the date the Rule becomes effective, the owner/operator shall submit a standard DISTRICT application within twelve (12) months after the date the Rule becomes effective.

4.2.1.3 For a source that becomes subject to Rule 1101 after the date the Rule becomes effective, a responsible official shall submit a standard DISTRICT application within 12 months of the source commencing operation

or of otherwise becoming subject to Rule 1101.

4.2.1.4 For a source with an acid rain unit, the owner/operator shall submit a standard DISTRICT application and acid rain permit applications to the DISTRICT. The applications shall be submitted within the following time frame:

4.2.1.4.1 If the source is subject to this Rule because of Section 3.1.1 of this Rule, within the applicable time frame specified in Sections 4.2.1.2 or 4.2.1.3 above.

4.2.1.4.2 If the source is subject to this Rule only because of Section 3.1.2 of this Rule, by January 1, 1996, or, if applicable, a latter date established by 40 CFR Part 72.

4.2.2 **Permit Renewal:** [Reference: 40 CFR Part 70.5(a)(1)(iii)] For renewal of a permit, the owner/operator shall submit a standard DISTRICT application no earlier than 18 months and no later than 6 months before the expiration date of the current Permit to Operate. Permits to Operate for all emissions units at a stationary source shall undergo simultaneous renewal.

4.2.3 **Significant Permit Modification:** [Reference: 40 CFR Part 70.5(a)(1)(ii)] After obtaining any required preconstruction permits, a responsible official shall submit a standard DISTRICT application for each emissions unit affected by a proposed permit revision that qualifies as a significant permit modification. Upon request by the APCO, the responsible official shall submit copies of the latest preconstruction permit for each affected emissions unit. Unless authorized by the APCO, the emissions unit(s) affected by the proposed permit modification shall not commence operation until the APCO takes final action to issue the revised permit or until the requirements of Section 4.2.3.1 below are met.

4.2.3.1 An emissions unit may commence operation of change(s) in a proposed significant permit modification prior to final action by the APCO to issue the permit modification provided:

4.2.3.1.1 The stationary source has received and complies with a pre-construction permit under Section 112(g) of the CAA, or under pre-construction review programs either approved into the State Implementation Plan, or authorized by the provisions of 40 CFR Part 52.21 pursuant to Parts C and D of Title I of

the CAA; and,

4.2.3.1.2 The stationary source submits an application for a significant permit modification within 12 months of commencing operation of the change(s); and,

4.2.3.1.3 The change(s) is not prohibited by any permit conditions including those issued pursuant to this Rule; and,

4.2.3.1.4 The modified emissions unit(s) complies with all applicable federal requirements and Rules and Regulations of the DISTRICT.

4.2.4 **Minor Permit Modification:** [Reference: 40 CFR Part 70.5(a)(ii) and 70.7(e) (2)(ii and v)] After obtaining any required preconstruction permits, a responsible official shall submit a standard DISTRICT application for each emissions unit affected by the proposed permit revision that qualifies as a minor permit modification. The emissions unit(s) affected by the proposed permit modification shall not commence operation until the APCO takes final action to approve the permit revision. The application shall include the following:

4.2.4.1 A description of the proposed permit revision, any change in emissions, and additional applicable federal requirements that will apply;

4.2.4.2 Proposed permit terms and conditions; and,

4.2.4.3 A certification by a responsible official that the permit revision meets criteria for use of minor permit modification procedures and a request that such procedures be used.

4.2.5 **Acid Rain Unit Permit Modification:** [Reference: 40 CFR Part 70.7(e)] A permit modification of the acid rain portion of the operating permit shall be governed by regulations promulgated pursuant to Title IV of the CAA.

4.3 **Application Content and Correctness** [Reference: 40 CFR Part 70.5]

4.3.1 **Application Content:** When submitting an application, the owner/operator shall include the following information:

4.3.1.1 Information identifying the source; [Reference: 40 CFR Part 70.5(c)(1)]

4.3.1.2 Description of processes and products (by Standard Industrial Classification Code) including any associated with proposed alternative operating scenarios; [Reference: 40 CFR Part 70.5(c)(2)]

4.3.1.3 Identification of fees specified in Regulation V of these

Rules and Regulations; [Reference: 40 CFR Part 70.6(a)(7)]

4.3.1.4 A listing of all existing emissions units at the stationary source and identification and description of all points of emissions from the emissions units in sufficient detail to establish the applicable federal requirements and the basis for fees pursuant to Rule 505, Title V Fees of these Rules and Regulations. [Reference: 40 CFR Part 70.5(c)(3)(i)]

4.3.1.5 Citation and description of all applicable federal requirements, information and calculations used to determine the applicability of such requirements and other information that may be necessary to implement and enforce such requirements; [Reference: 40 CFR Part 70.5(c)(3)(vii) and (4)(i and ii)]

4.3.1.6 Calculation of all emissions, including fugitive emissions, in tons per year and in such terms as are necessary to establish compliance with the all applicable DISTRICT, State, or federal requirements for the following:

4.3.1.6.1 All regulated air pollutants emitted from the source;

4.3.1.6.2 Any HAP that the source has the potential to emit in quantities equal to or in excess of 10 tons per year; and,

4.3.1.6.3 If the source has the potential to emit two or more HAPs in quantities equal to or in excess of 25 tons per year, all HAPs emitted by the source; [Reference: 40 CFR Part 70.5(c)(3)(i and viii)]

4.3.1.7 As these affect emissions from the source, the identification of fuels, fuel use, raw materials, production rates, operating schedules, limitations on source operation or workplace practices; [Reference: 40 CFR Part 70.5(c)(3)(iv and vi)]

4.3.1.8 An identification and description of air pollution control equipment and compliance monitoring devices or activities; [Reference: 40 CFR Part 70.5(c)(3)(v)]

4.3.1.9 Other information required by an applicable federal requirement; [Reference: 40 CFR Part 70.5(c)(3)(vii) and (5)]

4.3.1.10 The information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating

scenarios, pursuant to Section 5.9 of this Rule; [Reference: 40 CFR Part 70.5(c)(7)]

4.3.1.11 A compliance plan and compliance schedule with the following:

4.3.1.11.1 A description of the compliance status of each emissions unit within the stationary source with respect to applicable federal requirements;

4.3.1.11.2 A statement that the source will continue to comply with such applicable federal requirements that the source is in compliance;

4.3.1.11.3 A statement that the source will comply, on a timely basis, with applicable federal requirements that will become effective during the permit term; and,

4.3.1.11.4 A description of how the source will achieve compliance with requirements for which the source is not in compliance. [Reference: 40 CFR Part 70.5(c)(8)]

4.3.1.12 For a source not in compliance with an applicable federal requirement at the time of permit issuance renewal, and modification (if the non-compliance is with units being modified), a schedule of compliance which resembles and is at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the DISTRICT Hearing Board if required by State law and which identifies remedial measures with specific increments of progress, a final compliance date, testing and monitoring methods, recordkeeping requirements, and a schedule for submission of certified progress reports to EPA and the APCO at least every 6 months; [Reference: 40 CFR Part 70.5(c)(8)(iii)(C)]

4.3.1.13 A certification by a responsible official of all reports and other documents submitted for permit application, compliance progress reports at least every 6 months, statements on compliance status with any applicable enhanced monitoring, and compliance plans at least annually which shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete; [Reference: 40 CFR Part 70.5(c)(9) and (d)]

4.3.1.14 For a source with an acid rain unit, an application shall include the elements required by 40 CFR Part 72; [Reference: 40 CFR Part 70.5(c)(10)]

4.3.1.15 For a source of HAPs required to prepare a risk management plan pursuant to Section 112(r) of the CAA, the application shall include verification that such a plan has been submitted to the authorized implementing agency or a compliance schedule for the submittal of such a plan; ,

4.3.1.16 For proposed portable sources, an application shall identify all locations of potential operation and how the source will comply with all applicable DISTRICT, State, and federal requirements at each location; and, [Reference: 40 CFR Part 70.6(e)]

4.3.1.17 For the purposes of this Rule, an insignificant activity shall be any activity, process, or emissions unit which is not subject to a source-specific applicable federal requirement and which emits no more than 0.5 tons per year of a HAP and no more than two tons per year of a regulated air pollutant that is not a HAP. Source-specific applicable federal requirements include requirements for which emission unit-specific information is required to determine applicability. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required in Section VII of this Rule. [Reference: 40 CFR Part 70.5(c)]

4.3.2 **Correctness of Applications:** [Reference: 40 CFR Part 70.5(a)(2) and (b)] The owner/operator of a source shall submit an accurate and complete application in accordance with the requirements of the DISTRICT.

4.3.2.1 Upon written request of the APCO, the owner/operator shall supplement any complete application with additional information within the time frame specified by the APCO.

4.3.2.2 The owner/operator shall promptly provide additional information in writing to the APCO upon discovery of submittal of any inaccurate information as part of the application or as a supplement thereto, or of any additional relevant facts previously omitted which are needed for accurate analysis of the application.

4.3.2.3 Intentional or negligent submittal of inaccurate information shall be reason for denial of an application.

4.4 Written Requests for DISTRICT Action: The owner/operator shall submit a written request to the APCO for the following permit actions:

4.4.1 Administrative Permit Amendment: [Reference: 40 CFR Part 70.7(d)(3)] For an administrative permit amendment, the owner/operator may implement the change addressed in the written request immediately upon submittal of the request.

4.4.2 Permit Modification for a Condition that is not Federally Enforceable: For a permit modification for a condition that is not federally enforceable, the owner/operator shall submit a written request in accordance with the requirements of Regulation IV of these Rules and Regulations.

4.4.3 Permits to Operate for New Emissions Units: For Permits to Operate for a new emissions unit at a stationary source, the owner/operator shall submit a written request in accordance with the requirements of Regulation IV of these Rules and Regulations, except under the following circumstances:

4.4.3.1 The construction or operation of the emissions unit is a modification under EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, 63; [Reference: 40 CFR Part 70.7(e)(2)(i)(A)(5)]

4.4.3.2 The construction or operation of the emissions unit is addressed or prohibited by permits for other emissions units at the stationary source; or, [Reference: 40 CFR Part 70.5(a)(ii)]

4.4.3.3 The emissions unit is an acid rain unit subject to Title IV of the CAA. [Reference: 40 CFR Part 70.7(e)]

In the circumstances specified in Sections 4.4.3.1, 4.4.3.2, or 4.4.3.3 above, the owner/operator shall apply for a Permit to Operate for the new emissions unit pursuant to the requirements of this Rule.

4.5 Response to Permit Reopening For Cause: [Reference: 40 CFR Part 70.6(a)(6)(v)] Upon notification by the APCO of a reopening of a permit for cause for an applicable federal requirement pursuant to Section 5.8 of this Rule, the owner/operator shall respond to any written request for information by the APCO within the time frame specified by the APCO.

5 DISTRICT ADMINISTRATIVE PROCEDURES

5.1 Completeness Review of Applications: [Reference: 40 CFR Part 70.5(a)(2) and 70.7(a)(4)] The APCO shall determine if an application is complete and shall notify the owner/operator of the determination within the following time frames:

5.1.1 For an initial permit, permit renewal, or a significant permit modification, within 60 days of receiving the application;

5.1.2 For a minor permit modification, within 30 days of receiving the application.

The application shall be deemed complete unless the APCO requests additional information or otherwise notifies the owner/operator that the application is incomplete within the time frames specified above.

5.2 **Notification of Completeness Determination:** [Reference: 40 CFR Part 70.7(e)(2)(iii) and 70.8(a)(1 and 2)] The APCO shall provide written notification of the completeness determination to EPA, CARB and any affected state and shall submit a copy of the complete application to EPA within five working days of the determination. The APCO need not provide notification for applications from sources that are not major sources when EPA waives such requirement for a source category by regulation or at the time of approval of the DISTRICT operating permits program.

5.3 **Application Processing Time Frames:** [Reference: 40 CFR Part 70.7(a)(2)] The APCO shall act on a complete application in accordance with the procedures in Sections 5.4, 5.5 and 5.6 below (except as application procedures for acid rain units are provided for under regulations promulgated pursuant to Title IV of the CAA), and take final action within the following time frames:

5.3.1 For an initial permit for a source subject to this Rule on the date the Rule becomes effective, no later than three years after the date the Rule becomes effective; [Reference: 40 CFR Part 70.4(b)(11)]

5.3.2 For an initial permit for a source that becomes subject to this Rule after the date the Rule becomes effective, no later than 18 months after the complete application is received;

5.3.3 For a permit renewal, no later than 18 months after the complete application is received;

5.3.4 For a significant permit modification, no later than 18 months after the complete application is received;

5.3.5 For a minor permit modification, within 90 days after the application is received or 60 days after written notice to the U.S. EPA on the proposed decision, whichever is later; or, [Reference: 40 CFR Part 70.7(e)(2)(iv)]

5.3.6 For any permit application with early reductions pursuant to Section 112(i)(5) of the CAA, within 9 months from the date a complete application is received . [Reference: 40 CFR Part 70.4(b)(11)(iii)]

5.4 **Notification and Opportunity for Review of Proposed Decision:** [Reference: 40 CFR Part 70.7(h) and 70.8] Within the applicable time frame specified in Section 5.3 above, the APCO shall provide notice of and opportunity to review the proposed decision to issue a Permit to Operate in accordance with requirements in this Section.

5.4.1 For initial permits, renewal of permits, significant permit

modifications, and reopenings for cause, the APCO shall provide the following:

5.4.1.1 Written notice, the proposed permit and, upon request, copies of the DISTRICT analysis to interested persons or agencies. The DISTRICT analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions. Interested persons or agencies shall include persons who have requested in writing to be notified of proposed Rule 1101 decisions, any affected state and CARB. [Reference: 40 CFR Part 70.7(h)(3) and 70.8 (b)(1)]

5.4.1.2 On or after providing written notice pursuant to Section 5.4.1.1 above, public notice that shall be published in at least one newspaper of general circulation in the DISTRICT and, if necessary, by other means to assure adequate notice to the affected public. The notice shall provide the following information:

5.4.1.2.1 The identification of the source, the name and address of permit holder, the activity(ies) and emissions change involved in the permit action;

5.4.1.2.2 The name and address of the DISTRICT, the name and telephone number of DISTRICT staff to contact for additional information;

5.4.1.2.3 The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions;

5.4.1.2.4 The location where the public may inspect the complete application, the DISTRICT analysis, and the proposed permit;

5.4.1.2.5 A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures; and,

5.4.1.2.6 A statement that members of the public may request the APCO to preside over a public hearing for the purpose of receiving oral public comment, if a

hearing has not already been scheduled. The APCO shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing. [Reference: 40 CFR Part 70.7(a)(5) and 70.7(h)(1, 2 and 4)]

5.4.1.3 A copy of the complete application, the DISTRICT analysis and the proposed permit at the DISTRICT office for public review and comment during normal business hours;

5.4.1.4 A written response to persons or agencies that submitted written comments which are postmarked by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the DISTRICT office and made available upon request. [Reference: 40 CFR Part 70.7(h)(5) and 70.8]

5.4.1.5 After completion of the public notice and comment period pursuant to Section 5.4.1.2 above, written notice to EPA of the proposed decision along with copies of the proposed permit, the DISTRICT analysis, the public notice submitted for publication, the DISTRICT's response to written comments, and all necessary supporting information. [Reference: 40 CFR Part 70.8]

5.4.2 For minor permit modifications, the APCO shall provide written notice of the proposed decision to EPA, CARB, and any affected state. Additionally, the DISTRICT shall provide to EPA (and, upon request, to CARB or any affected state) copies of the proposed permit, the DISTRICT analysis, and all necessary supporting information. The DISTRICT analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions. [Reference: 40 CFR Part 70.7(a)(1)(iii and v) and (5)]

5.5 **Changes to the Proposed Decision**: Changes to the proposed decision shall be governed by the following procedure:

5.5.1 The APCO may modify or change the proposed decision, the proposed permit, or the DISTRICT analysis on the basis of information set forth in the comments received during the public comment period provided pursuant to Section 5.4.1.2 above, or due to further analysis of the APCO. Pursuant to Section 5.4.1.5 above, the APCO shall forward any such modified proposed decision, the proposed permit, the DISTRICT analysis, and all necessary

supporting information to EPA. [Reference: 40 CFR 70.7(g)(5) and 70.8(b)(2)]

5.5.2 If EPA objects in writing to the proposed decision within 45 days of being notified of the decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to Section 5.4.1.5 above, the APCO shall not issue the permit. Also, if the public petitions EPA within 60 days after the end of EPA's 45-day review period and the permit has not yet been issued, the APCO shall not issue the permit until EPA objections in response to the petition are resolved. The APCO shall either deny the application or revise and resubmit a permit which addresses the deficiencies identified in the EPA objection within the following time frames:

5.5.2.1 For initial permits, permit renewals, and significant permit modifications, within 90 days of receiving EPA objection; or,

5.5.2.2 For minor permit modifications, within 90 days of receipt of the application or 60 days of the notice to EPA, whichever is later. [Reference: 40 CFR Part 70.7(e)(2)(iv) and 70.8(c)]

5.6 **Final Decision:** If EPA does not object in writing within 45 days of the notice provided pursuant to Section 5.4.1.5 above, or the APCO submits a revised permit pursuant to Section 5.5.2 above, the APCO shall, expeditiously, deny the application or issue the final Permit to Operate. In any case, the APCO shall take final action on an application within the applicable time frame specified in Section 5.3 above. Failure of the APCO to act on a permit application or permit renewal application in accordance to the time frames provided in Section 5.3 above, shall be considered final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously. [Reference: 40 CFR Part 70.4(b)(xi), 70.7(a)(1)(v) and (a)(2), and 70.8(c)]

Written notification of the final decision shall be sent to the owner/operator of the source, EPA, CARB and any person and affected state that submitted comments during the public comment period. Written notification of any refusal by the DISTRICT to accept all recommendations for the proposed permit that an affected state submitted during the public comment period shall be sent to the U.S. EPA and affected states. The APCO shall submit a copy of a Permit to Operate as issued to EPA and provide a copy to any person or agency requesting a copy. If the application is denied, the APCO shall provide reasons for the denial in writing to the owner/operator along with the DISTRICT analysis and cite the specific statute, Rule, or Regulation upon which the denial is based. [Reference: 40 CFR Part 70.8(a)(1)]

5.7 **District Action on Written Requests:** The APCO shall act on a written

request of the owner/operator for permit action using the applicable procedure specified in this Section.

5.7.1 Administrative Permit Amendment: [Reference: 40 CFR Part 70.7(d)(3)] The APCO shall take final action no later than 60 days after receiving the written request for an administrative permit amendment.

5.7.1.1 After designating the permit revisions as an administrative permit amendment, the APCO may revise the permit without providing notice to the public or any affected state.

5.7.1.2 The APCO shall provide a copy of the revised permit to the owner/operator and EPA.

5.7.1.3 While the APCO need not make a completeness determination on a written request, the APCO shall notify the owner/operator if the APCO determines that the permit can not be revised as an administrative permit amendment.

5.7.2 Permit Modification for a Condition that is not Federally Enforceable: [Reference: 40 CFR Part 70.4(b)(14) and 70.6(b)] The APCO shall take action on a written request for a permit modification for a condition that is not federally enforceable in accordance with the requirements of Regulation IV of these Rules and Regulations under the following circumstances:

5.7.2.1 Any change at the stationary source allowed by the permit modification shall meet all applicable federal requirements and shall not violate any existing permit term or condition; and

5.7.2.2 The APCO provides to EPA a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement that would apply as a result of the change.

5.7.3 Permits to Operate for New Emissions Unit: The APCO shall take action on a written request for a Permit to Operate for a new emissions unit in accordance with the requirements of Regulation IV of these Rules and Regulations under the circumstances specified in Sections 5.7.2.1 and 5.7.2.2 above. However, if, Sections 4.4.3.1, 4.4.3.2 and 4.4.3.3 of this Rule apply, the APCO shall require the submittal of a standard DISTRICT application and take action on that application pursuant to the requirements of this Rule.

5.8 Permit Reopening for Cause: [Reference: 40 CFR Part 70.7(f)] The APCO shall reopen and revise a Permit to Operate during the annual review period required by Section 42301(c) of the HSC, or petition the DISTRICT Hearing Board to do so pursuant to Section 42307 of the HSC, whichever is

applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by EPA, or within 18 months of promulgation of a new applicable federal requirement. The APCO shall act only on those parts of the permit for which cause to reopen exists. [Reference: 40 CFR Part 70.7(f)(2)]

5.8.1 Circumstances that are cause for reopening and revision of a permit include, but are not limited to, the following:

5.8.1.1 The need to correct a material mistake or inaccurate statement;

5.8.1.2 The need to revise or revoke a Permit to Operate to assure compliance with applicable federal requirements;

5.8.1.3 The need to incorporate any new, revised, or additional applicable federal requirements, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after the promulgation of such requirement (where less than 3 years remain in the authorized life of the permit, the APCO shall incorporate these requirements into the Permit to Operate upon renewal); or,

5.8.1.4 The need to re-open a permit issued to acid rain unit subject to Phase II of Title IV of the CAA to include:

5.8.1.4.1 Oxides of nitrogen requirements prior to January 1, 1999; and,

5.8.1.4.2 Additional requirements promulgated pursuant to Title IV as they become applicable to any acid rain unit governed by the permit.

[Reference: 40 CFR Part 70.7(f)(1)]

5.8.2 In processing a permit re-opening, the APCO shall use the same procedures as for an initial permit and shall additionally:

5.8.2.1 Provide written notice to the owner/operator and EPA at least 30 days, or a shorter period in the case of an emergency, prior to reopening a permit; and,

5.8.2.2 Complete action to revise the permit as specified in the notice of re-opening within 60 days after the written notice to EPA pursuant to Section 5.4.1.5 above if EPA does not object, or after the APCO has responded to EPA objection pursuant to Section 5.5.2 above.

[Reference: 40 CFR Part 70.7(f)(2 and 3) and (g)(5)(i)]

5.9 **Options for Operational Flexibility:** [Reference: 40 CFR Part 70.4(b)(12) and (d)(3)(viii)] The APCO shall allow specified changes in operations at a source without requiring a permit revision for conditions that address an applicable federal requirement. The APCO shall not allow changes which

constitute a modification under Title I of the CAA or New Source Review Rule, or that result in an exceedance of the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility through use of the following options:

5.9.1 **Alternative Operating Scenarios:** [Reference: 40 CFR Part 70.6(a)(9)] The APCO shall allow the use of alternative operating scenarios provided that:

5.9.1.1 Terms and conditions applicable to each operating scenario are identified by the owner/ operator in the permit application;

5.9.1.2 The terms and conditions are approved by the APCO;

5.9.1.3 The terms and conditions are incorporated into the permit; and,

5.9.1.4 The terms and conditions are in compliance with all applicable DISTRICT, State, and federal requirements.

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

5.9.2 **Voluntary Emissions Caps:** [Reference: 40 CFR Part 70.4(b)(12)(iii) and 70.6 (a), (a)(10) and (c)] The APCO shall issue a permit that contains terms and conditions that allow for trading of emissions increases and decreases within the stationary source solely for the purpose of complying with a voluntary emissions cap established in the permit independent of otherwise applicable federal requirements provided that:

5.9.2.1 The requirements of Sections 5.9.1.1, 5.9.1.3 and 5.9.1.4 above, are met;

5.9.2.2 The terms and conditions are approved by the APCO as quantifiable and enforceable; and,

5.9.2.3 The terms and conditions are consistent with the applicable preconstruction permit.

A permit condition shall require that the owner/operator provide written notice to EPA and the APCO 30 days in advance of a change by clearly requesting operational flexibility under this Section of this Rule. The written notice shall describe the change, 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 emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not.

5.9.3 **Contravening an Express Permit Condition:** [Reference: 40 CFR Part 70.4(b)(12)] The APCO shall allow for changes in operation that contravene an express condition addressing an applicable federal requirement in a Permit to Operate provided that:

5.9.3.1 The change will not violate any applicable federal

requirement;

5.9.3.2 The change will not contravene federally-enforceable conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;

5.9.3.3 The change is not a modification under Title I of the CAA or any provision of the New Source Review Rule;

5.9.3.4 The change does not result in exceeding the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions;

5.9.3.5 Written notice is given to EPA and the APCO 30 days in advance of a change, and the notice clearly indicates which term or condition will be contravened, requests operational flexibility under this subsection, describes the change, identifies the emissions units which will be affected, the date on which the change will occur, the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and,

5.9.3.6 The APCO has not provided a written denial to the owner/operator within 30 days of receipt of the request for an operational change. The written denial shall identify which of the requirements of Sections 5.9.3.1, 5.9.3.2, 5.9.3.3, 5.9.3.4 or 5.9.3.5 above, have not been satisfied.

6 PERMIT CONTENT REQUIREMENTS: [Reference: 40 CFR Part 70.6] A Permit to Operate shall contain permit conditions that will assure compliance with all applicable federal requirements.

6.1 Incorporation of Applicable Federal Requirements: [Reference: 40 CFR Part 70.3(c) and 70.6(a)(1) and (b)] A Permit to Operate shall incorporate all applicable federal requirements as permit conditions. The following procedure shall be used to incorporate an applicable federal requirement as a permit condition:

6.1.1 A permit condition that addresses an applicable federal requirement shall be specifically identified in the permit, or otherwise distinguished from any requirement that is not enforceable by EPA;

6.1.2 Where an applicable federal requirement and a similar requirement that is not federally enforceable apply to the same emissions unit, both shall be incorporated as permit conditions, provided that they are not mutually exclusive; and,

6.1.3 Where an applicable federal requirement and a similar requirement that is not federally enforceable apply to the same emissions unit and

are mutually exclusive (e.g., require different air pollution control technology), the requirement specified in the preconstruction permit (or, in the case of sources without preconstruction permits, the more stringent requirement) shall be incorporated as a permit condition and the other requirement shall be referenced.

6.2 General Requirements: All Permits to Operate shall contain the conditions or terms consistent with 40 CFR Part 70.6 Permit Content, including:

6.2.1 Emission and Operational Limitations: [Reference: 40 CFR Part 70.6(a)(1)] The permit shall contain conditions that require compliance with all applicable federal requirements, including any operational limitations or requirements.

6.2.2 Preconstruction Permit Requirements: [Reference: 40 CFR Part 70.2 Applicable Requirement (2) and 70.3(c)] The permit shall include all of the preconstruction permit conditions for each emissions unit.

6.2.3 Origin and Authority for Permit Conditions: [Reference: 40 CFR part 70.6(a)(1)(i)] The origin and authority for each permit term or condition shall be referenced in the permit.

6.2.4 Equipment Identification: The permit shall identify the equipment to which a permit condition applies.

6.2.5 Monitoring, Testing, and Analysis: [Reference: 40 CFR Part 70.6(a)(3)(i)] The permit shall contain conditions that require monitoring, analytical methods, compliance certification, test methods, equipment management, and statistical procedures consistent with any applicable federal requirement, including those pursuant to Sections 114(a)(3) and 504(b) of the CAA, and 40 CFR Part 64. Periodic monitoring shall be required as a condition to ensure that the monitoring is sufficient to yield reliable data which are representative of the source's compliance with permit conditions over the relevant time period.

6.2.6 Recordkeeping: [Reference: 40 CFR Part 70.6(a)(3)(ii)] The permit shall include recordkeeping conditions that require:

6.2.6.1 Record maintenance of all monitoring and support information associated with any applicable federal requirement, including:

6.2.6.1.1 Date, place, and time of sampling;

6.2.6.1.2 Operating conditions at the time of sampling;

6.2.6.1.3 Date, place, and method of analysis; and,

6.2.6.1.4 Results of the analysis.

6.2.6.2 Retention of records of all required monitoring data and support information for a period of at least five years from the date of sample collection, measurement,

report, or application; and,

6.2.6.3 Any other recordkeeping deemed necessary by the APCO to ensure compliance with all applicable federal requirements.

6.2.7 **Reporting:** [Reference: 40 CFR Part 70.6(a)(3)(iii)] The permit shall include reporting conditions that require the following:

6.2.7.1 Any deviation from permit requirements, including that attributable to upset conditions (as defined in the permit), shall be promptly reported to the APCO who will determine what constitutes "prompt" reporting in terms of the requirement, the degree, and type of deviation likely to occur;

6.2.7.2 A monitoring report shall be submitted at least every six months and shall identify any deviation from permit requirements, including that previously reported to the APCO (see Section 6.2.7.1 above);

6.2.7.3 All reports of a deviation from permit requirements shall include the probable cause of the deviation and any preventative or corrective action taken;

6.2.7.4 A progress report shall be made on a compliance schedule at least semi-annually and shall include: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective action taken; and,

6.2.7.5 Each monitoring report shall be accompanied by a written statement from the responsible official which certifies the truth, accuracy, and completeness of the report.

6.2.8 **Compliance Plan:** [Reference: 40 CFR Part 70.5(c)(8)] The permit shall include a compliance plan that:

6.2.8.1 Describes the compliance status of an emissions unit with respect to each applicable federal requirement;

6.2.8.2 Describes how compliance will be achieved if an emissions unit is not in compliance with an applicable federal requirement at the time of permit issuance;

6.2.8.3 Assures that an emissions unit will continue to comply with those permit conditions with which it is in compliance; and

6.2.8.4 Assures that an emissions unit will comply with, on a timely basis, any applicable federal requirement that will become effective during the permit term.

6.2.9 **Compliance Schedule:**[Reference: 40 CFR Part 70.5(c)(8)(iii)(C)] The permit shall include a compliance schedule for any emissions unit which is not in compliance with current applicable federal

requirements at the time of permit issuance, renewal, and modification (if the non-compliance is with units being modified). The compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the DISTRICT Hearing Board if required by State law and shall require:

6.2.9.1 A statement that the emissions unit will continue to comply with those permit conditions with which it is in compliance;

6.2.9.2 A statement that the emissions unit will comply, on a timely basis, with an applicable federal requirement that will become effective during the permit term;

6.2.9.3 For each condition with which the emissions unit is not in compliance with an applicable federal requirement, a schedule of compliance which lists all preventative or corrective activities, and the dates when these activities will be accomplished; and,

6.2.9.4 For each emissions unit that is not in compliance with an applicable federal requirement, a schedule of progress on at least a semi-annual basis which includes: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective actions taken.

6.2.10 **Right of Entry:** [Reference: 40 CFR Part 70.6(c)(2)] The permit shall require that the source allow the entry of the DISTRICT, CARB, or EPA officials for the purpose of inspection and sampling, including:

6.2.10.1 Inspection of the stationary source, including equipment, work practices, operations, and emission-related activity;

6.2.10.2 Inspection and duplication of records required by the Permit to Operate; and

6.2.10.3 Source sampling or other monitoring activities.

6.2.11 **Compliance with Permit Conditions:** [Reference: 40 CFR Part 70.6(a)(6)] The permit shall include the following provisions regarding compliance:

6.2.11.1 The permittee shall comply with all permit conditions;

6.2.11.2 The permit does not convey property rights or exclusive privilege of any sort;

6.2.11.3 The non-compliance with any permit condition is grounds for permit termination, revocation and reissuance, modification, enforcement action, or denial of permit renewal;

6.2.11.4 The permittee shall not use the "need to halt or reduce a

permitted activity in order to maintain compliance" as a defense for non-compliance with any permit condition;

6.2.11.5 A pending permit action or notification of anticipated non-compliance does not stay any permit condition; and

6.2.11.6 Within a reasonable time period, the permittee shall furnish any information requested by the APCO, in writing, for the purpose of determining: 1) compliance with the permit, or 2) whether or not cause exists for a permit or enforcement action.

6.2.12 **Emergency Provisions:** [Reference: 40 CFR Part 70.6(g)] The permit shall include the following emergency provisions:

6.2.12.1 The permitee shall comply with the emergency provisions contained in all applicable federal requirements;

6.2.12.2 Within two weeks of an emergency event, the owner/operator shall submit to the DISTRICT a properly signed, contemporaneous log or other relevant evidence which demonstrates that:

6.2.12.2.1 An emergency occurred;

6.2.12.2.2 The permittee can identify the cause(s) of the emergency;

6.2.12.2.3 The facility was being properly operated at the time of the emergency;

6.2.12.2.4 All steps were taken to minimize the emissions resulting from the emergency; and,

6.2.12.2.5 Within two working days of the emergency event, the permittee provided the DISTRICT with a description of the emergency and any mitigating or corrective actions taken;

6.2.12.3 In any enforcement proceeding, the permittee has the burden of proof for establishing that an emergency occurred.

6.2.13 **Severability:** [Reference: 40 CFR Part 70.6(b)(5)] The permit shall include a severability clause to ensure the continued validity of otherwise unaffected permit requirements in the event of a challenge to any portion of the permit.

6.2.14 **Compliance Certification:** [Reference: 40 CFR Part 70.6(b)(5)] The permit shall contain conditions for compliance certification which include the following requirements:

6.2.14.1 A responsible official shall submit a compliance certification to EPA and the APCO every 12 months or more frequently as specified in an applicable

requirement or by the DISTRICT. All compliance reports and other documents required to be submitted to the DISTRICT by the responsible official shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;

6.2.14.2 The compliance certification shall identify the basis for each permit term or condition (e.g., specify the emissions limitation, standard, or work practice) and a means of monitoring compliance with the term or condition;

6.2.14.3 The compliance certification shall include the compliance status and method(s) used to determine compliance for the current time period and over the entire reporting period; and,

6.2.14.4 The compliance certification shall include any additional inspection, monitoring, or entry requirement that may be promulgated pursuant to Sections 114(a) and 504(b) of the CAA.

6.2.15 **Permit Life:** [Reference: 40 CFR Part 70.6(a)(2)] With the exception of acid rain units subject to Title IV of the CAA and solid waste incinerators subject to Section 129(e) of the CAA, each Permit to Operate for any source shall include a condition for a fixed term not to exceed five years from the time of issuance. A Permit to Operate for an acid rain unit shall have a fixed permit term of five years. A Permit to Operate for a solid waste incinerator shall have a permit term of 12 years; however, the permit shall be reviewed at least every five years.

6.2.16 **Payment of Fees:** [Reference: 40 CFR Part 70.6(a)(7)] The permit shall include a condition to ensure that appropriate permit fees are paid on schedule. If fees are not paid on schedule, the permit is forfeited. Operation without a permit subjects the source to potential enforcement action by the DISTRICT and EPA pursuant to Section 502(a) of the CAA.

6.2.17 **Alternative Operating Scenarios:** [Reference: 40 CFR Part 70.6(a)(9)] Where the owner/operator requests that an alternative operating scenario be included in the permit for an emissions unit, the permit shall contain specific conditions for each operating scenario, including each alternative operating scenario. Each operating scenario, including each alternative operating scenario, identified in the permit must meet all applicable federal requirements and all of the requirements of this Section. Furthermore, the source is required to maintain a contemporaneous log to record each change from one operating scenario to another.

6.2.18 **Voluntary Emissions Caps:** [Reference: 40 CFR Part 70.6(a)(10)]

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

6.2.18.1 All applicable federal requirements, including those authorizing emissions averaging, are complied with;

6.2.18.2 No individual emissions unit shall exceed any emissions limitation, standard, or other requirement;

6.2.18.3 Any emissions limitation, standard, or other requirement shall be enforced through continuous emission monitoring, where applicable; and

6.2.18.4 All affected emissions units under a voluntary emissions cap shall be considered to be operating in violation of the permit, if the voluntary emissions cap is exceeded.

6.2.19 **Acid Rain Units Subject to Title IV:** [Reference: 40 CFR Part 70.6(a)(4)] The permit for an acid rain unit shall include conditions that require compliance with any federal standard or requirement promulgated pursuant to Title IV (Acid Deposition Control) of the CAA and any federal standard or requirement promulgated pursuant to Title V of the CAA, except as modified by Title IV. Acid rain unit permit conditions shall include the requirements of 40 CFR Part 72.9 and the following provisions:

6.2.19.1 The sulfur dioxide emissions from an acid rain unit shall not exceed the annual emissions allowances (up to one ton per year of sulfur dioxide may be emitted for each emission allowance allotted) that the source lawfully holds for that unit under Title IV of the CAA or the regulations promulgated pursuant to Title IV;

6.2.19.2 Any increase in an acid rain unit's sulfur dioxide emissions authorized by allowances acquired pursuant to Title IV of the CAA shall not require a revision of the acid rain portion of the operating permit provided such increases do not require permit revision under any other applicable federal requirement;

6.2.19.3 Although there is no limit on the number of sulfur dioxide emissions allowances held by a source, a source with an acid rain unit shall not use these emissions allowances as a defense for noncompliance with any applicable federal requirement or DISTRICT requirement, including the DISTRICT's New Source Review Rule; and,

6.2.19.4 An acid rain unit's sulfur dioxide allowances shall be

accounted for according to the procedures established in regulations promulgated pursuant to Title IV of the CAA.

6.2.20 **Portable Sources:** [Reference: 40 CFR Part 70.6(e)] The permit for any portable source, which may operate at two or more locations, shall contain conditions that require the portable source to:

6.2.20.1 Meet all applicable DISTRICT, State, and federal requirements at each location;

6.2.20.2 Specify the monitoring methods, or other methods (e.g. air quality modeling) approved by the APCO, that will be used to demonstrate compliance with all DISTRICT, State, and federal requirements; and,

6.2.20.3 Notify the APCO ten working days prior to a change in location.