RULE 204 EMISSION REDUCTION CREDITS
Adopted 12-15-92
(Amended 9-5-96)

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100 **GENERAL**

101 **PURPOSE**: To provide an administrative mechanism for quantifying, adjusting and certifying surplus emission reductions for:
101.1 later use as offsets pursuant to District, state or federal rules or regulations; or
101.2 transfer to other sources as offsets pursuant to Rule 202, NEW SOURCE REVIEW.

102 **APPLICABILITY**: This rule shall apply to all emission reductions credits for use by the stationary source or for transfer to other sources.

103 **SEVERABILITY**: If a court of competent jurisdiction issues an order that any provision of this rule is invalid, it is the intent of the Board of Directors of the District that other provisions of this rule remain in full force and effect to the extent allowed by law.

110 **EXEMPTION: NOTIFICATION REQUIREMENTS**: The requirements of Sections 404 and 405 relating to notification, publication, and public inspection of Preliminary Decisions shall not apply if the application is for emission reductions calculated pursuant to Section 408 and the emissions are less than or equal to the following levels:

Pollutant	Emissions (lbs/quarter)
Reactive Organic Compounds	7,500
Nitrogen Oxides	7,500
Sulfur Oxides	13,650
PM10	7,500
Carbon Monoxide	22,812

111 **EXEMPTION: REASONABLY AVAILABLE CONTROL TECHNOLOGY ADJUSTMENT:** The provisions of Section 408.4 shall not apply to those emission reductions that occurred prior to February 26, 1991.

112 **EXEMPTION: SHUTDOWNS AND CURTAILMENTS** : The provisions of Section 201.4a shall not apply to emission reductions from shutdowns or curtailments provided:
112.1 The shutdowns or curtailment occur after December 31, 1987 and the District is notified before February 13, 1993 of shutdowns and curtailments which occurred before December 15, 1992; or
112.2 The shutdowns or curtailments are documented in District permitting actions pursuant to Rule 202, NEW SOURCE REVIEW; and
112.3 The emissions from the emissions unit to be shutdown or curtailed are included in the District's 1987 and 1990 emission inventories.

113 **EXEMPTION: MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS**: The provisions of Section 408, shall not apply to emission reduction credits obtained pursuant to Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS.

200 **DEFINITIONS**: Unless otherwise defined below, the terms used in this rule are defined in Rule 201, GENERAL PERMIT REQUIREMENTS and Rule 202, NEW SOURCE REVIEW.

201 **ACTUAL EMISSIONS REDUCTIONS**: Reductions of emissions from an emissions unit. Actual emission reductions shall be calculated pursuant to Section 408 and meet all of the following criteria:

201.1 The emissions reductions shall be real, enforceable, QUANTIFIABLE, and permanent.

201.2 The emissions reductions shall be surplus emissions reductions in excess of any emissions reduction which is:

a. Required or encumbered by any laws, rules, regulations, agreements, or orders, and unless such law by its terms states that the emission reductions shall be considered surplus; or

b. Attributed to a control measure noticed for workshop in the District, or proposed or contained in a State Implementation Plan, or Federal Implementation Plan.

201.3 Emissions reductions attributed to a proposed control measure may be re-eligible as surplus actual emissions reductions for:

a. Control measures identified in the District Air Quality Attainment Plan or State Implementation Plan where no rule has been adopted within two years from the scheduled adoption date, provided, however, the Air Pollution Control Officer has not extended the scheduled adoption date;

b. Control measures not identified in the District Air Quality Attainment Plan or State Implementation Plan where no rule has been adopted and two years have elapsed beyond the date of the latest public workshop notice; or

c. Control measures proposed in the District Air Quality Attainment Plan which are not included into the Plan adopted by the District Board shall become re-eligible upon adoption of the Plan.

201.4 Source shutdowns and curtailments may not be given emission reduction credit in the case of non-attainment pollutants if they occurred prior to the date of application unless:

a. The shutdown or curtailment was claimed by the affected facility as a credit within 60 days of the surrender of the permit(s), or in the case of non-permitted sources within 60 days of the curtailment or last date of operation. In the case of emission reductions associated with the elimination of agricultural burning, the shutdown or curtailment credit shall be claimed within 12 months of the last day of operation. A letter of intent to apply may be provided by the affected facility. Shutdown or curtailment credits not claimed within 60 days shall pass to the Priority Reserve Bank as provided in Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK; and

b. The crediting and disbursement of emission reductions from source shutdowns and curtailments are in accordance with the most current United States Environmental Protection Agency emissions trading policy and applicable federal regulations.

202 **BANKING**: The system of quantifying, adjusting, certifying, recording, and banking emission reduction credits for future use and transfer. This system shall be called the emission reduction credits Register .

203 **CERTIFIED**: Emission reduction credits which have been evaluated under the requirements of this rule and other applicable District, state and federal rules and regulations and which have been authorized by the Air Pollution Control Officer.

204 **EMISSION REDUCTION CREDITS**: Reductions of actual emissions from an emission unit that are registered with the District in accordance with the requirements of this rule.

205 **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 affected pollutant directly or as fugitive emissions. For the purpose of calculating emission reduction credits pursuant to this rule, emissions unit shall include agricultural burning.

206 **ENFORCEABLE**: Verifiable and legally binding and containing limitations and conditions which are enforceable as specified in 40 CFR Part 51.165(a)(1)(xiv) or 40 CFR Part 52.21(b)(17).

207 **EMISSION REDUCTION CREDITS CERTIFICATE:** A document certifying title to a defined quantity and type of emission reduction credits issued by the District to the owner(s) identified on the Certificate.

208 **NON-PERMITTED EMISSIONS**: Those emissions of an affected pollutant which are not required to obtain a permit pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS. Non-permitted emissions may include emissions from mobile sources, indirect sources, and exempt equipment.

209 **OFFSET**: The use of an emission reduction credits to compensate for an emission increase of an affected pollutant from a new or modified source subject to the requirements of Rule 202, NEW SOURCE REVIEW.

210 **PERMANENT**: Continuing without fundamental change for the life of the emission reduction credits. The sum of all emission reduction credits endures for the life of the project utilizing that sum of emission reduction credits.

211 **PORTABLE EQUIPMENT**: Equipment which is periodically relocated and is not operated more than a total of 180 days at any one stationary source in the District within a continuous 12 month period.

212 **PROPOSED EMISSIONS:** Emissions for a calendar quarter based on the same operating characteristics (e.g. fuel consumption, production level, throughput) as historic actual emissions for the calendar quarter. Proposed emissions shall be adjusted for applicant proposed emission reduction strategies (such as throughput reductions, shutdowns, and reductions in operating hours) which reduce emissions to a level below historic actual emissions, including emission controls, which are contained as conditions of the Authority to Construct and Permit to Operate. Such adjustments shall only be made to the extent that the emission reduction credits generated are allowed by all applicable rules and regulations and shall be reflected in the Authority to Construct and Permit to Operate permit conditions. In cases where the modification includes an increase in the allowed throughput or capacity, proposed emissions shall be the potential to emit pursuant to Rule 202, NEW SOURCE REVIEW, instead of historic actual emissions.

213 **QUANTIFIABLE**: Ability to estimate emission reductions in terms of their amount and characteristics. The same method of estimating emissions should generally be used to quantify the emission levels before and after the reduction.

214 **QUARTER/QUARTERLY:** Calendar quarter beginning January 1, April 1, July 1, and October 1.

215 **REAL**: Actually occurring, implemented, and not artificially devised.

216 **REASONABLY AVAILABLE CONTROL TECHNOLOGY**: The lowest emission limitation that a particular source is capable of meeting by the application of emission control technology that is reasonably available considering technical and economic feasibility. The criteria for Reasonably Available Control Technology are specified in "California Clean Air Act Guidance for the Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology", California Air Resources Board, April 1990 or in the General Preamble to Title I, April 16, 1992 (57 FR 13498), and subsequent federal notices by the Untied States Environmental Protection Agency, whichever is more stringent.

217 **REGISTER**: The document that records all emission reduction credits deposits, withdrawals, transfers, and transactions.

218 **SHUTDOWN**: The permanent cessation of an emissions generating activity.

219 **TEMPORARY**: For the purpose of this rule, the term temporary shall mean a stationary source or emissions unit which operates no longer than one consecutive twelve month period.

220 **TRANSFER**: The change in ownership of an emission reduction credits from one person to another.

300 STANDARDS

301 **CERTIFICATION**: Only actual emission reductions shall be certified as emission reduction credits. Such actual emission reductions shall meet the following requirements to be certified as emission reduction credits.

301.1 Apply for emission reduction credits pursuant to Section 402;

301.2 Receive written approval of the Air Pollution Control Officer; and

301.3 If the emission reduction is created from an emission unit where the demand for the services or product could shift to other similar sources in the District, submittal of data to document that such reductions will result in District-wide emission reductions may be required by the Air Pollution Control Officer. Such documentation must be approved by the Air Pollution Control Officer.

302 **REEVALUATION**: Actual emission reductions calculated prior to December 15, 1992 shall be reevaluated under the requirements and procedures specified in this rule.

303 **NON-PERMITTED SOURCES**:

303.1 Except as provided in Section 303.2, non-permitted emissions units or stationary sources requesting emission reduction credits from such emissions units shall void any exemption from Rule 201, GENERAL PERMIT REQUIREMENTS. Such sources shall not operate such emissions unit or stationary source without first obtaining a permit pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS.

303.2 If state or federal law prohibits the District from requiring an Authority to Construct or a Permit to Operate pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS, the applicant for emission reduction credits shall execute a legally binding contract with one or more owner(s) or operator(s) of the non-permittable emissions unit that ensures the sum of all emission reductions will be provided in accordance with the requirements of this rule, and will continue for the life of the stationary source using the credits or life of the credits as provided in the application. Such contract shall be filed with the District and, by its terms, be enforceable by the Air Pollution Control Officer.

304 **SHUTDOWNS**:

304.1 Applicants for emission reduction credits due to the shutdown of permitted or non-permitted emissions units or curtailments shall demonstrate to the satisfaction of the Air Pollution Control Officer that such equipment will no longer be operated within the District or that if the emissions unit is operated within the District, the emissions will be fully offset in accordance with Rule 202, NEW SOURCE REVIEW. If the emissions unit does not trigger emission offsets in accordance with Section 302 of Rule 202-NEW SOURCE REVIEW, the applicant shall provide sufficient emission reduction credits to offset the lesser of the amount of the emission reduction credits obtained pursuant to this rule or the proposed emissions from the emissions unit.

304.2 Emission reduction credits from the shutdown of retail dry cleaners and retail gasoline stations shall be prohibited.

305 **USE OF EMISSION REDUCTION CREDITS: BANKING**: Emission reduction credits shall be banked for current or later use as offsets. The name of the user shall be entered into the Register for the applicable emission reduction credits. Except as provided in Section 307, 308, and 309, such emission reduction credits may not be returned to the bank following the start of operation of the stationary source or emissions unit using the emission reduction credits as offsets.

306 **USE OF EMISSION REDUCTION CREDITS: OFFSETS**: Emission reduction credits may be used immediately as offsets or may be donated to air quality benefit. The emission reduction credits shall be entered into the Register along with the name of the user. Except as provided in Sections 307 and 308, such emission reduction credits may not be returned to the Bank following the start of operation of the stationary source or emissions unit using the emission reduction credits as offsets.

307 **RETURNS: USE OF EMISSION REDUCTION CREDITS FOR TEMPORARY STATIONARY SOURCES AND PORTABLE EQUIPMENT**: Emission reduction credits used as offsets for temporary stationary sources or emissions units or used as offsets for portable equipment shall be returned in full to the owner upon verification of shutdown of the temporary stationary source, emissions unit, or portable equipment by the Air Pollution Control Officer. Emission reduction credits must then be re-deposited in the Bank and re-entered into the Register by the owner, within 60 days.

308 **RETURNS: MODIFICATION OF PERMIT TO OPERATE**: If the applicant for a Permit to Operate requests a lowering of the quarterly emission limitation as a result of emissions testing conducted pursuant to an Authority to Construct demonstrated achievable by such emissions testing, the difference in emission reduction credits necessary to offset the emissions unit pursuant to Rule 202, NEW SOURCE REVIEW, shall be re-deposited in the Bank and re-entered into the Register. The applicant shall submit an Authority to Construct application for modification of the Permit to Operate to reflect the lower emissions limitations. The District shall ensure that all emissions reductions are surplus prior to redepositing into the Community Bank.

309 **RETURNS: USE OF ERC'S FOR ELECTRICAL POWER PLANTS:** Emission reduction credits may be used at electrical power plants to offset emission increases resulting from increased power plant operation needed to compensate for reduced operation at other electrical power plant(s) within the District, due to emergency breakdown, pursuant to Rule 602, EMERGENCY BREAKDOWNS, or regularly scheduled maintenance. Emission reduction credits shall be returned in full to the owner upon verification of return to normal operation of the using electrical power plant. Emission reduction credits shall be re-deposited in the Bank and re-entered into the Register. This Section shall apply only during the period from November 1 through February 28 or 29, and shall be approved in writing by the Air Pollution Control Officer prior to use.

400 ADMINISTRATIVE REQUIREMENTS

401 APPLICATION SUBMITTAL TIMELINES:

401.1 An application for emission reduction credits from the shutdown of emissions units or stationary sources or modification or curtailment of operation shall be submitted within 60 days after the surrender of the Permit to Operate or for non-permitted sources the last date of operation of such emissions unit or stationary source, unless the applicant has requested and received an extension of time, in writing prior to the end of the 60 day period, from the Air Pollution Control Officer. The Air Pollution Control Officer may grant an extension of time not to exceed 90 days. In the case of emission reductions associated with the elimination of agricultural burning, the shutdown or curtailment credit shall be claimed within 12 months of the last day of operation. Failure to timely request credits shall result in those credits passing to the Priority Reserve Bank pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK.

402 **COMPLETE APPLICATION**:

402.1 The Air Pollution Control Officer shall determine whether the application for emission reduction credits is complete not later than 30 days after receipt of the application for emission reduction credits, or after such longer time as both the applicant and the Air Pollution Control Officer have agreed in writing. 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. If specified information is not submitted by the applicant within 60 days from the notification from the District that the application is incomplete, the application shall be automatically canceled unless the applicant has requested and received an extension of time, in writing and prior to the end of the 60 day period, from the Air Pollution Control Officer. The Air Pollution Control Officer may grant an extension of time not to exceed 90 days. If the application is for a shutdown or curtailment emission reduction credit, failure to timely provide the additional information or failure to request an extension of time shall result in those credits passing to the Priority Reserve Bank pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK.

402.2 Upon receipt of any re-submittal of the application, a new 30-day period to determine completeness shall begin.

402.3 Completeness of an application or re-submitted application shall be evaluated on the basis of the information requirements set forth in District regulations (adopted pursuant to Article 3, 65940 through 65944 of Chapter 4.5 of Division I of Title 7 of the California Government Code) as they exist on the date on which the application or re-submitted application was received. The Air Pollution Control Officer may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

402.4 A fee shall be required pursuant to Rule 301, PERMIT FEES - STATIONARY SOURCE.

402.5 For offsets provided in accordance with Health and Safety Code Sections 41605.5, 42314.5, and 41865 concerning emission reductions from open field burning, an emission reduction credits application covering the total emission reductions necessary to offset stationary source emissions may be submitted at the time of application for an Authority to Construct. Applications for emission reduction credits from agricultural burning shall not be required if such emissions are covered by an emission reduction credits obtained by the stationary source utilizing such emission reductions.

403 **PRELIMINARY DECISION**: Except as provided in Section 110, following acceptance of an application as complete, the Air Pollution Control Officer shall perform the evaluations required to determine compliance with all applicable District rules and regulations and make a preliminary written decision as to whether the emission reductions should be certified as an emission reduction credits. The decision shall be supported by a succinct written analysis.

404 **PUBLICATION AND PUBLIC COMMENT**: Except as provided in Section 110, within ten calendar days following a 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 comment for a 30-day period following the date of publication.

405 **PUBLIC INSPECTION**: Except as provided in Section 110, the Air Pollution Control Officer shall make available for public inspection at the Air Quality Management District's office the information submitted by the applicant and the Air Pollution Control Officer's analysis no later than the date the notice of the preliminary decision is published, pursuant to Section 404. Information submitted which contains trade secrets shall be handled in accordance with Section 6254.7 of the California Government Code and relevant sections

of the California Administrative Code. Further, all such information shall be transmitted no later than the date of publication to the California Air Resources Board and the United States Environmental Protection Agency regional office, and to any party which requests such information.

406 **CERTIFICATION, FINAL ACTION**:

406.1 Within 180 days after acceptance of an application as complete, the Air Pollution Control Officer shall take final action on the application after considering all written comments.

406.2 Except as provided in Section 110, the Air Pollution Control Officer shall provide written notice of the final action to the applicant, the United States Environmental Protection Agency, and the California Air Resources Board, and shall publish such notice in a newspaper of general circulation and shall make the notice and all supporting documents available for public inspection at the Air Quality Management District's office.

407 **WITHDRAWAL OF APPLICATION**: Withdrawal of an application for certification of an emission reduction credits by the applicant shall result in cancellation.

408 **CALCULATION OF EMISSIONS**: Calculations performed pursuant to procedures specified in this Section shall not conflict with the requirements of state and federal laws.

408.1 Actual emission reductions from modifications to, or shutdowns of, existing emissions units shall be calculated for each calendar quarter by subtracting the proposed emissions from historical actual emissions. Any positive value shall qualify for conversion to an emission reduction credit.

408.2 Credits for particulate matter emission reductions shall be expressed in terms of PM10.

408.3 Credits for nitrogen oxides, reactive organic compounds, carbon monoxide, sulfur oxides and PM10 shall be quantified in terms of pounds of pollutants per quarter for each calendar quarter.

408.4 Actual emission reductions shall be adjusted to at least reflect emission rates achievable with reasonably available control technology or best available retrofit control technology whichever is more stringent. The emission reductions from federally designated attainment pollutants resulting from this adjustment will be transferred as emission reduction credits to the Priority Reserve Bank pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK. This Section shall not apply to offsets provided in accordance with Health & Safety Code Sections 41605.5, 42314.5, and 41865 concerning emission reductions from open field burning.

409 **CONVERSION OF EMISSION REDUCTIONS TO EMISSION REDUCTION CREDITS:** Before the Air Pollution Control Officer may issue a certificate of ownership for any emission reduction credits, including mobile and transportation sources, the emission reductions calculated in Section 408 or pursuant to Rule 206, MOBILE AND TRANSPORTATION EMISSION REDUCTION CREDITS, shall be adjusted 1.1 emission reductions to 1.0 emission reduction credits. Emission reductions resulting from the emission reductions credits adjustment shall pass as emission reduction credits to the Priority Reserve Bank pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK.

410 **REGISTRATION**:

410.1 Following certification of emission reduction credits and verification that the proposed emission reductions have been implemented, the Air Pollution Control Officer shall issue an original emission reduction credits Certificate to the owner(s) by certified mail or in person.

The issuance of an emission reduction credits Certificate shall not constitute evidence of compliance with the rules and regulations of the District, or a

representation or assurance to the recipient upon which reliance is authorized or intended that the emission reduction credits represented by the emission reduction credits Certificate are available from the emission credits Register.

410.2 The emission reduction credits Certificate shall contain:

a. Certificate number;
b. Date of issuance;
c. Street address of site creating the surplus emissions reductions for which the emission reduction credits Certificate is issued;
d. Signature of the responsible District official;
e. The name of the owner shall be typed on the Certificate and the owner shall sign the Certificate. If the owner is a public or private business entity, a person authorized to sign on behalf of the owner shall sign the Certificate; and
f. Conditions of operation or use, including the life of the credit for emission reduction credits issued pursuant to Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS.

410.3 A copy of each emission reduction credits Certificate issued shall be maintained in the emission reductions credits Register.

410.4 Multiple owners of emission reduction credits shall be separated according to agreements, filed with the District, between the owners with one emission reduction credits Certificate issued to each owner for their respective portion.

410.5 Upon transfer of emission reduction credits between parties, the transferor's emission reduction credits Certificate, and a copy of a writing, signed by the transferor, authorizing and memorializing the transfer of the emission reduction credits to the transferee must be surrendered to the Air Pollution Control Officer by the transferee, within 30 days of the date of the writing authorizing the transfer of the emission reduction credits.

Upon receipt and review of said documents the Air Pollution Control Officer shall issue a new emission reduction credits Certificate in the name of the transferee. If fewer than all the transferor's emission reduction credits are transferred, a new Certificate shall be issued to the transferor showing the remaining emission reduction credits. The District may refuse to recognize any transfer of emission reduction credits that does not comply with the requirements of this section.

410.6 The current emission reduction credits Certificate surrendered by the current registered owner shall be filed in the register and marked with the date of issuance of the new emission reduction credits Certificate(s), the number of credits transferred, and the new emission reduction credits Certificate number(s). If fewer than all emission reduction credits are transferred, the new balance in the name of the appropriate owner(s) shall be entered in the register.

410.7 Prior to the issuance of a permit allowing the use of the emission reduction credits, the current registered owner shall surrender the emission reduction credits Certificate to the Air Pollution Control Officer. The Certificate surrendered by the owner shall be filed in the register and marked with the permit number and street address, and the name of the new owner using the emission reduction credits. If a balance of emission reduction credits remain, a new emission reduction credits Certificate shall be issued to the appropriate owner(s) and the surrendered emission reduction credits Certificate shall be filed in accordance with the provisions of this rule.

411 **EMISSION REDUCTION CREDITS REGISTER:**

411.1 The register shall contain the following information for each emission reduction credits Certificate issued by the Air Pollution Control Officer:

a. Certificate number;
b. Date of issuance;
c. Name and address of the registered owner;
d. Street address site creating the surplus emissions reductions for which the emission reduction credits Certificate is issued;

e. Number of emission reduction credits registered; and
f. Status of the emissions reduction credits as donated to air quality benefit

411.2 Upon notice of a transfer of an emission reduction credits Certificate the Air Pollution Control Officer shall enter the following information in the register:
a. Original emission reduction credits Certificate number;
b. New emission reduction credits Certificate number, or street address and permit numbers at which the emission reduction credits are being used;
c. Name and address of new owner(s), if any; and
d. Number of emission reduction credits being transferred.

411.3 Upon use of the emission reduction credits for offsets, the following information shall be entered in the register:
a. All information required in Section 411.2;
b. Date emission reduction credits Certificate was surrendered to the Air Pollution Control Officer;
c. Permit numbers to which emission reduction credits are being applied;
d. Name and address of Emission reduction credits user;
e. Name, if any, and address of site where emission reduction credits are being used as offsets; and
f. Number of emission reduction credits being used for offsets.

412 **MORATORIUM**: Except as provided in Section 201.2, after the issuance of an emission reduction credits Certificate, subsequent changes in regulations, except Regulation 2, shall not reduce or eliminate the deposit. If the District Board of Directors determines, after review of periodic reports prepared by the Air Pollution Control Officer, that additional emission reductions are necessary, a moratorium on withdrawals may be imposed. Prior to imposing a moratorium, the Air Pollution Control Officer shall provide a notice of the date of the meeting of the District Board of Directors to consider issuance of a moratorium to owners of emission reduction credits and other interested parties. The moratorium shall be lifted upon determination that additional emission reductions are not necessary by the District Board of Directors.

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RULE 205 COMMUNITY BANK AND PRIORITY RESERVE BANK
Adopted 11-03-94
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100 GENERAL

101 **PURPOSE:** The Community Bank and the Priority Reserve Bank are established within the emission reduction Register pursuant to Rule 204, EMISSION REDUCTION CREDITS. The Priority Reserve Bank is established for the purpose of providing loans of emission reduction credits for use as offsets for new or modified stationary sources that are essential public services, or use or reuse of a military base. The Priority Reserve Bank also may be used for the purpose of providing loans of emission reduction credits to comply with rules specified in Section 102.4, a conformity determination pursuant to Rule 104, General Conformity or mitigation under the California Environmental Quality Act (CEQA). The Community Bank is established for the purpose of providing loans of emission reduction credits to comply with specified prohibitory rules, New Source Review, a conformity determination pursuant to Rule 104, General Conformity or for use as mitigation under either CEQA or a functionally equivalent program pursuant to Public Resources Code Section 21080.5.

102 **APPLICABLE REQUIREMENTS:**

102.1 Disbursement of emission reduction credit loans from the Essential Public Services Account shall be available, to the extent allowed pursuant to Section 305, to publicly owned or non-profit essential public services. Disbursement of emission reduction credit loans shall not be provided for on-site power generation or for emissions units not necessary to provide or maintain public health and safety.

102.2 Disbursement of emission reduction credit loans from the Essential Public Services Account for nitrogen oxide credits shall not be provided for those emissions resulting from a landfill gas control or processing system which are in excess of those emissions which would have resulted from a landfill gas control or processing system with a nitrogen oxide emission rate of 0.06 lb/mmBTU.

102.3 Disbursement of emission reduction credit loans from the Military Base Account shall be available, to the extent allowed pursuant to Section 305, for use or reuse at a military base.

102.4 Disbursement of emission reduction credit loans from the Community Bank or Priority Reserve Bank can be used for compliance with the following prohibitory rules:

a. Rule 411, BOILER NO_X,
b. Rule 450, GRAPHIC ARTS OPERATIONS for compliance timelines that are in effect after March 6, 1997,
c. Rule 451, SURFACE COATING OF MISCELLANEOUS METAL PARTS AND PRODUCTS for compliance timelines that are in effect after March 6, 1997,
d. Rule 452, CAN COATING,
e. Rule 454, DEGREASING OPERATIONS
f. Rule 456, AEROSPACE ASSEMBLY AND COMPONENT COATING OPERATIONS,
g. Rule 459, AUTOMOTIVE, TRUCK AND HEAVY EQUIPMENT REFINISHING OPERATIONS,
h. Rule 460, ADHESIVES,
i. Rule 463, WOOD PRODUCTS COATINGS,
j. Rule 465, POLYESTER RESIN OPERATIONS,
k. Rule 464, ORGANIC CHEMICAL MANUFACTURING OPERATIONS, Section 305 and Section 306, for wastewater liquid transfer, or
i. Rule 466, SOLVENT CLEANING

102.5 Disbursement of emission reduction credit loans from the Community Bank or Priority Reserve Bank shall not be used for the following:

a. Compliance with Best Available Control Technology requirements pursuant to Rule 202, NEW SOURCE REVIEW;
b. Compliance with Maximum Available Control Technology standards as described in 40 CFR Part 63;
c. Compliance with National Emissions Standards for Hazardous Air Pollutants as described in 40 CFR Part 61;

d. Compliance with New Source Performance Standards as described in 40 CFR Part 60;

e. Compliance with toxic air contaminant regulations as described in Health and Safety Code Section 39665 and seq.

f. To avoid penalties or enforcement actions by obtaining credits after the fact of noncompliance;

g. For netting out of NSR or PSD requirements pursuant to Rule 202, NEW SOURCE REVIEW and Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION; or

h. To meet requirements for motor vehicle emissions standards, reformulated gasoline, clean fueled fleets, employer trip reduction programs, or vehicle inspection and maintenance programs as described in Title II of the Clean Air Act and Division 26, Part 5 of the Health and Safety Code.

102.6 Disbursement of emission reduction credit loans from the Community Bank shall not be used for essential public services, or use or reuse of a military base.

[Note: Rules 464, 460, 454, and 466 have not been yet approved by the United States Environmental Protection Agency into the State Implementation Plan (SIP). Approval of this rule into the SIP does not constitute automatic SIP approval of these rules.]

103 **SEVERABILITY**: If a court of competent jurisdiction issues an order that any provision of this rule is invalid, it is the intent of the Board of Directors of the District that other provisions of this rule remain in full force and affect, to the extent allowed by law.

110 **EXEMPTION – SMALL, SHORT-TERM LOANS**: The requirements of Sections 310.1 through 310.5 shall not apply to loan requests less than or equal to 900 pounds per quarter per stationary source with a term equal to five years or less. These loans may be approved by the Air Pollution Control Officer.

200 **DEFINITIONS:** Unless otherwise defined below, the terms used in this rule are defined in Rule 202, NEW SOURCE REVIEW, and Rule 204, EMISSIONS REDUCTION CREDITS.

201 **ADJUSTMENT**: Adjustment for purposes of this rule includes the emission reductions resulting from the conversion of emission reductions to emission reduction credits, pursuant to Rule 204, EMISSION REDUCTION CREDITS.

202 **COMMUNITY BANK:** A depository of certified emission reduction credits available to public and private entities for compliance with Rules and Regulations specified in Section 102.4, or offset requirements in Rule 202, NEW SOURCE REVIEW, for use for a conformity determination pursuant to Rule 104, General Conformity or for use as mitigation under the California Environmental Quality Act or a functionally equivalent program through the loan of emission reduction credits.

203 **ENVIRONMENTAL CLEANUP OPERATION:** Operation to remove environmental contaminants from soil or groundwater which has been mandated by the Regional Water Quality Control Board, the Department of Toxic Substances Control, the U.S. Environmental Protection Agency or any other local, state or federal law, rule or regulation.

204 **ESSENTIAL PUBLIC SERVICES ACCOUNT:** A depository of certified emission reduction credits for loan to applicable essential public services for use as offsets pursuant to Rule 202, NEW SOURCE REVIEW, for use for a conformity determination pursuant to Rule 104, GENERAL CONFORMITY, for use as mitigation under the California Environmental Quality Act or a functionally equivalent program, or for use for compliance with rules specified in Section 102.4. Except as excluded in Section 102.1 and 102.2, the following sources shall be considered essential public services.

204.1 Sewage treatment operations which are publicly owned and operated consistent with the approved General Plan.

204.2 Prison, jail, correctional facility.

204.3 Police or fire fighting facility.
204.4 School or hospital.
204.5 Solid waste management systems, including landfill gas control or processing systems.
204.6 Water delivery operations.
204.7 Environmental cleanup operations.

205 **LOCAL REUSE AUTHORITY:** The local community entity established by state or local government as the entity responsible for creating the redevelopment plan for a military base and for directing implementation of the plan.

206 **MAJOR STATIONARY SOURCE:** See definition under Rule 202, NEW SOURCE REVIEW.

207 **MILITARY BASE:** Any United States military facility within the District including those closed or downsized pursuant to federal law.

208 **MILITARY BASE ACCOUNT:** A depository of certified emission reduction credits for loan to applicable sources for use as an offset pursuant to Rule 202, NEW SOURCE REVIEW, for use for a conformity determination pursuant to Rule 104, GENERAL CONFORMITY, for use as mitigation under the California Environmental Quality Act or a functionally equivalent program, or for use for compliance with rules specified in Section 102.4.

209 **POWER PLANT:** An electric power generation unit using natural gas or renewable fuels, including ancillary equipment, comprised of one or a combination of turbines, boilers, furnaces, engines or other fuel burning equipment, the simultaneous operation of which is required for the production of useful electric power for normal operations.

210 **PRIORITY RESERVE BANK:** A depository of certified emission reduction credits in the Essential Public Services Account and the Military Base Account for loan to applicable sources for use as offsets pursuant to Rule 202, NEW SOURCE REVIEW, for use for a conformity determination pursuant to Rule 104, GENERAL CONFORMITY, for use as mitigation under the California Environmental Quality Act or a functionally equivalent program, or for use for compliance with Rules and Regulations specified in Section 102.4.

211 **REUSE:** The creation and/or support of new and existing businesses, works, jobs, or revenue-generating activities at a military base.

212 **SMALL BUSINESS:** A business entity that is independently owned and operated, does not have more than the equivalent of ten full-time employees and does not have more than $2 million in annual gross receipts.

213 **STATIONARY SOURCE:** See definition under Rule 202, NEW SOURCE REVIEW.

214 **SURPLUS EMISSION REDUCTION CREDITS:** Emission reductions in excess of any emissions reductions which are:
214.1 required or encumbered by any laws, rules, regulations, agreements, or orders, and unless such law by its terms states that the emission reduction shall be considered surplus, or
214.2 attributed to a control measure noticed for workshop in the District, or proposed or contained in a State Implementation Plan, or
214.3 proposed or contained as mid-term measures in the District Air Quality Attainment Plan for attaining the annual reductions required by the California Clean Air Act.

300 **STANDARDS**

301 **CRITERIA:** The Community Bank and Priority Reserve Bank shall be supported by actual emission reductions which are certified pursuant to Rule 204, EMISSION REDUCTION CREDITS.

302 **ESSENTIAL PUBLIC SERVICES ACCOUNT:** Support for the Essential Public Services Account shall include, but not be limited to:

302.1 The adjustment of all emission reductions as provided in Rule 204, EMISSION REDUCTION CREDITS and Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS except for the adjustment of emission reductions from a military bases or from emission reductions realized pursuant to Section 318.

302.2 Shutdowns or modifications of stationary sources or emission units not claimed for emission reduction credits by the facility within the specified timeframes as provided in Rule 204, EMISSION REDUCTION CREDITS except for shutdowns from a military base.

302.3 In addition, unused emission reduction credits from a previous calendar quarter may be transferred from the Military Base Account to the Essential Public Services Account if the Board of Directors of the District, with the recommendation of the Air Pollution Control Officer, determines there is a need by sources described in Section 204.

303 **MILITARY BASE ACCOUNT:** Support for the Military Base Account shall include, but not be limited to:

303.1 The adjustment of emission reductions from a military base as provided in Rule 204, EMISSION REDUCTION CREDITS and Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS.

303.2 Shutdowns of emission units not claimed for emission reduction credits by a military base within the specified timeframes as provided in Rule 204, EMISSION REDUCTION CREDITS, except for sixty percent of the reactive organic compound and nitrogen oxides emission reduction credits from the shutdown of B-52 Bomber aircraft flight operations at Mather Air Force Base.

303.3 In addition, unused emission reduction credits from a previous calendar quarter, may be transferred from the Essential Public Services Account to the Military Base Account if the Board of Directors of the District, with the recommendation of the Air Pollution Control Officer, determines there is a need for the purposes described in Section 211.

304 **COMMUNITY BANK:** Support for the Community Bank shall include, but not be limited to:

304.1 Initially, sixty percent of the reactive organic compound and nitrogen oxides emission reductions realized by the shutdown of B-52 Bomber aircraft flight operations at Mather Air Force Base.

304.2 Emission reduction credits realized through activities initiated by disbursement of bank proceeds to innovative emission reduction programs selected by the District Board of Directors pursuant to Section 318. These emission reductions shall be certified pursuant to Rule 204, EMISSION REDUCTION CREDITS.

305 **ALLOCATION**:

305.1 **PRIORITY RESERVE BANK:** Emission reduction credits shall be made available on the first Wednesday of each calendar quarter. The amount available for loan funding from the Priority Reserve Bank shall never exceed the emission reduction credits in the Essential Public Services Account and the Military Base Account.

305.2 **COMMUNITY BANK:** Credits shall be allocated as follows:

a. There will be an initial total of 300 tons per year of reactive organic compound and 45.6 tons per year of nitrogen oxides credit available for loan funding in the Community Bank upon adoption of this rule. The credit shall be allocated as follows:

1. Initially a total of 150 tons per year of reactive organic compound and 45.6 tons per year of nitrogen oxides credits shall be available for withdrawal. The reactive organic compound credits shall be allocated on a quarterly basis as 37,500 pounds per quarter through

September 1998. The nitrogen oxides credits shall be allocated on a quarterly basis as 11,400 pounds per quarter through September 1998. Allocated emissions reduction credits shall be made available on the first Wednesday of each calendar quarter. The District Board of Directors, with the recommendation of the Air Pollution Control Officer, may adjust the quarterly allocation to not exceed 150 tons per year of reactive organic compounds and 45.6 tons per year of nitrogen oxides through September 1998.

2. Beginning October 1998 through September 2002, the additional 150 tons per year of reactive organic compound emissions shall be allocated on a quarterly basis as 18,750 pounds per quarter. Allocated emissions reduction credits shall be made available on the first Wednesday of each calendar quarter.

b. Emission reduction credits shall be made available on the first Wednesday of each calendar quarter.

306 **TRANSFER BETWEEN BANKS:** Unused emission reduction credits from a previous calendar quarter may be transferred between the Priority Reserve Bank and the Community Bank if the District Board of Directors, with the recommendation of the Air Pollution Control Officer, determines there is a need by sources requesting loans of emission credits from the Priority Reserve Bank or the Community Bank.

307 **DISBURSEMENT:** A loan of emission reduction credits from the Priority Reserve Bank or the Community Bank shall be granted with the issuance of a final action on an Authority to Construct or the issuance of a Permit to Operate subsequent to a Change of Ownership application, or upon the issuance of a preliminary determination of compliance, as described in the California Energy Commission's power plant provisions pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS and/or Rule 202, NEW SOURCE REVIEW or Rule 107, ALTERNATIVE COMPLIANCE, or for use for a conformity determination pursuant to Rule 104, GENERAL CONFORMITY or, for use as a mitigation measure under CEQA, with the issuance of a final environmental document, and upon payment of a fee and the loan rate pursuant to Section 312 and 404.

307.1 The total amount of emission reduction credits from all loans from the Military Base Account and the Community Bank Account shall be limited to a maximum of 50 tons per year of nitrogen oxides and 110 tons per year of reactive organic compounds per stationary source, including active past loans to that source. No more than one quarter of the total annual limit may be loaned to the source in any quarter, or apportioned equally on a less frequent basis, if credits are required to be provided on a less frequent basis pursuant to Rule 202, NEW SOURCE REVIEW. No limit shall be placed on the amount of carbon monoxide, particulate matter, or sulfur oxides that can be loaned.

307.2 Legal Title to the emission reduction credits borrowed from the Priority Reserve Bank or the Community Bank remains with the District. A certificate of ownership will not be issued for emission reductions loaned from the Priority Reserve Bank or the Community Bank.

307.3 A borrower of emission reductions from the Priority Reserve Bank or the Community Bank will be issued an emission reduction credits Register account number and the borrowed emission reduction credits will be credited to that account.

307.4 Upon issuance of a final action on an Authority to Construct or the issuance of a Permit to Operate subsequent to a Change of Ownership application, the emission reduction credits in the borrowers account will be credited to the permit, except as provided in Sections 309 and 310.

307.5 The District will enter the permit number, the date, and the amount of emission reductions credited from the borrowers account on the Authority to Construct and/or Permit to Operate and in the borrowers account history.

307.6 Disbursement of emission reduction credits from source shutdowns and curtailments shall be in accordance with the most current United States Environmental Protection Agency Emissions Trading Policy.

307.7 The Authority to Construct or Permit to Operate shall include a condition stating that the borrowed emission reduction credits are valid only if the stationary source operates in a manner consistent with both the requirements of the rule and the facts presented to the Board of Directors in considering requests as specified in Sections 309 and 310.

[Note: EPA has determined that, based on Section 403(f) of the Federal Clean Air Act, the emission reduction credits borrowed from the Priority Reserve Bank or the Community Bank do not constitute property rights.]

308 **ESSENTIAL PUBLIC SERVICES ACCOUNT PRIORITIZATION:** Priority shall be given to applications to the Essential Public Services Account with the earliest date an application for an Authority to Construct is deemed complete. The Board of Directors of the District may determine that a specific project shall be given priority for access to the Essential Public Services Account based on public health or safety, regardless of the application submittal date.

309 **MILITARY BASE ACCOUNT APPROVAL PROCESS:** A loan of emission reduction credits from the Military Base Account must be approved by the District Board of Directors. Only those loans associated with a final action as described in Section 307 will be eligible for loans from the Military Base Account. Only the local reuse authority for a closing military base within the District, or any other person proposing a reuse at a military base, or a federal government entity operating a military base within the District may apply for use of credits from the Military Base Account. Disbursement of the loans will be on the first Wednesday of the calendar quarter pursuant to the following:

309.1 Priority shall be given to applications to the Military Base Account as determined by the Board of Directors of the District, with the recommendation of the Air Pollution Control Officer. Staff will present all of the qualifying applications to the Board at the meeting just prior to the beginning of the quarter for which loans are requested

309.2 The Board shall consider the extent to which cleaner innovative technologies have been used to minimize the credits needed, among other factors.

309.3 The Board may deny any application if it determines that the denial is in the best interest of the Sacramento Federal 1-hour Nonattainment Area.

309.4 If the Board does not take action on one or more of the requests presented by staff prior to the quarter for which loans are to be approved or disapproved then the pending requests will be heard at the next scheduled Board meeting. The loans will be effective on the first day of the calendar quarter that the Board action takes place.

309.5 The Board of Directors may conditionally grant loans to protect the health of the bank or to promote cleaner, innovative technology.

310 **COMMUNITY BANK ACCOUNT APPROVAL PROCESS:** Only those loan applications associated with a final action as described in Section 307 will be eligible for loans from the Community Bank Account. To qualify for disbursement, the final action document must be issued by the first Wednesday of the month prior to the quarter for which the loans are to be approved or disapproved. Disbursement of the loans will be on the first Wednesday of the calendar quarter pursuant to the following:

310.1 All loan applications to the Community Bank Account must be approved by the District Board of Directors prior to disbursement. Staff will present all of the qualifying applications to the Board at the meeting just prior to the beginning of the quarter for which loans are requested.

310.2 The Board shall consider the extent to which cleaner innovative technologies have been used to minimize the credits needed, among other factors.

310.3 The Board may deny any application if it determines that the denial is in the best interest of the Sacramento Federal 1-hour Ozone Nonattainment Area.

310.4 If the Board does not take action on one of more of the requests presented by staff prior to the quarter for which loans are to be approved or disapproved then the pending requests will be heard at the next scheduled Board meeting. The loans will be effective on the first day of the calendar quarter that the Board action takes place.

310.5 The Board of Directors may conditionally grant loans to protect the health of the bank or to promote cleaner, innovative technology.

311 **COMMUNITY BANK LOAN PRIORITIZATION:** Should the total of loan requests exceed the quarterly funding cap, all loan applications in the funding cycle shall be prioritized according to the prioritization scheme outlined below.

311.1 **FIRST PRIORITY LOAN RANK:** Applications for loans to meet requirements of prohibitory rules identified in section 102.1 shall be placed in the first priority ranking for funding. Applications within the first priority ranking shall be further prioritized as follows:

a. **SMALL BUSINESS:** Applications submitted by small business entities shall be funded first.

b. **SMALL LOANS:** Applications in the first priority ranking shall be further prioritized according to total emission credits requested, ranked from smaller amounts to larger amounts.

311.2 **SECOND PRIORITY LOAN RANK:** Applications for loans to meet offset requirements of Rule 202, NEW SOURCE REVIEW, shall be placed in the second priority ranking. Applications within the second priority ranking shall be further prioritized as follows:

a. **SMALL BUSINESS:** Applications submitted by small business entities shall be funded first.

b. **SMALL LOANS:** Applications in the second priority ranking shall be further prioritized according to total emission credits requested, ranked from smaller amounts to larger amounts.

311.3 **THIRD PRIORITY LOAN RANK:** Applications for loans to satisfy conformity pursuant to Rule 104, General Conformity or CEQA mitigation requirements shall be placed in the third priority ranking. Applications in the third priority ranking shall be further prioritized according to total emission credits requested, ranked from smaller amounts to larger amounts.

312 **LOAN RATES**

312.1 **BASIC RATE:** The base loan rate shall be based on the size of the facility applying for loans. All sources applying for loans shall pay the determined base loan rate plus an administrative fee for processing the loan. The base rate for each type of source shall be established in March of each year and if there have been no representative offset transactions in a given year, then the rate shall be based on the most recent continuous two year period where there are representative offset transactions. Base loan rates are determined by the Board of Directors of the District with the recommendation of the Air Pollution Control Officer by selecting one of the following options:

a. **NON-MAJOR STATIONARY SOURCES:**

1. The base loan rate shall be the two-year weighted average market rate of credits sold for each pollutant within the Sacramento Federal Non-Attainment Area for Ozone, or
2. The base loan rate shall be the two-year weighted average market rate of credits sold for each pollutant within Sacramento County or used by a source located in Sacramento County, or
3. The base loan rate shall be equal to the highest priced credit transaction for each pollutant sold in the previous two years in the Sacramento Federal Non-Attainment Area for Ozone.

b. **MAJOR STATIONARY SOURCES:**

1. The base loan rate shall be the two-year weighted average market rate of credits sold for each pollutant within Sacramento County or used by a source located in Sacramento County, or
2. The base loan rate shall be equal to the highest priced credit transaction for each pollutant sold in the previous two years in the State of California, or
3. The base loan rate shall be equal to the total annual cost of credits

from the California Air Resources Board emission reduction credit bank.

312.2 **BASIC RATE TERM:** The base rate term shall be for 30 years.

312.3 **SHORT TERM RATE:** Rates for loans with a term of 30 years or less shall be calculated as follows:

$$\frac{\text{Base Rate}}{30} \times \text{Loan Term}$$

313 **COMMUNITY BANK OR PRIORITY RESERVE BANK RENEWAL FEE:** Any person who requests to withdraw emission reduction credits pursuant to this rule shall pay an annual renewal fee to administer the rule. The annual renewal fee assessed shall be $903. In March of each year, the Air Pollution Control Officer shall submit to the District's Board of Directors cost analysis which contains a recommendation for the new annual renewal fee. The District's Board of Directors shall review the cost analysis and shall set the new fee amount.

314 **RESERVING ESSENTIAL PUBLIC SERVICES ACCOUNT CREDITS:** Sources may, if the Air Pollution Control Officer determines a need, reserve Essential Public Services Account credits for up to three years to allow multi-year projects to be planned. The sum of such credits shall amount to no more than 25 percent of each calendar quarter allocation for the Essential Public Services Account for those three years.

315 **TRANSFERS:** The loan of Priority Reserve Bank or the Community Bank credits shall not be transferable, whether by operation of law or otherwise, from one person to another, from one location to another, or from one emissions unit to another.

316 **RETURNS:** The emission reductions calculated pursuant to Section 403 of Rule 107, ALTERNATIVE COMPLIANCE or pursuant to Section 302 of Rule 202, NEW SOURCE REVIEW for the emissions units using emission reduction credits from the Community Bank or Priority Reserve Bank shall be returned to the Essential Public Services, Military Base Account or the Community Bank under any of the following conditions as long as at the time of return the original emission reduction credits can be determined to be surplus emission reduction credits:

316.1 Construction is not started within two years of date of granting of the loan.

316.2 Revocation or voluntary surrender of Authority to Construct or Permit to Operate.

316.3 Emission reduction credits are issued to the stationary source pursuant to Rule 204, EMISSION REDUCTION CREDITS.

317 **SUSPENSION:** Except as provided in Section 316, a loan of emission reduction credits shall exist for the life of the emissions unit using such credits or for the loan life, whichever is shorter.

317.1 If the total emission reduction credits available for loan for any specific pollutant from the Community Bank and Priority Reserve Bank reaches or falls below the following amounts then a suspension on all loans shall be imposed for the specific pollutant.

Pollutant	Total Amount of Emission Reduction Credit Available in Community Bank and Priority Reserve Bank Tons/year
Reactive organic compounds	41.0
Nitrogen oxides	40.0
Carbon monoxide	160.0
PM10	4.0
Sulfur oxides	2.0

As soon as possible but no later than 60 days from a suspension being imposed pursuant to Section 317.1, the Air Pollution Control Officer shall present the District Board of Directors with options on continuing or lifting the suspension. The Air Pollution Control Officer shall publish in at least one newspaper of general circulation in the District a notice of the date of the meeting of the District Board of Directors to consider what further action should be taken. The notice shall be published at least 30 days, when possible, but not less than 7 days prior to the meeting. The suspension shall remain in place until lifted or modified by the District Board of Directors.

317.2 Notwithstanding Section 317.1, if the District Board of Directors determines that additional emission reductions within the District are necessary, a suspension on loans may be imposed. Prior to the Board of Directors issuing a suspension, the Air Pollution Control Officer shall publish in at least one newspaper of general circulation in the District a notice of the date of the meeting of the District Board of Directors to consider such actions. The notice shall be published at least 30 days prior to the meeting. The suspension shall be lifted upon determination that additional emission reductions within the District are not necessary by the District Board of Directors.

317.3 Starting with the 1999 emission inventory and every three years after that the District shall prepare a summary of District control measures listed in the table in Section 317.5(a) included in the Sacramento Area Regional Ozone Attainment Plan.

317.4 The summary shall include the actual emission reductions realized for each control strategy and the total reactive organic compound emission reductions realized for the control measures. The summary shall be completed by July 1, 2000 and every three years thereafter.

317.5 A specific suspension shall be imposed on the loaning of the B-52 credits that went into initially funding the Community Bank, pursuant to Section 304.1, if the following condition occurs:

a. If the actual emission reductions realized is less than the total emission reductions in the following table:

ROG CONTROL MEASURE	SACRAMENTO OBLIGATION (TONS/DAY)		
	1999	2002	2005
Adhesives	0.7	0.8	0.9
Automotive Refinishing	1.3	1.6	2.0
Bakeries	-	-	-
Graphic Arts	-	-	-
Landfill Gas	1.0	1.0	1.0
SOCMI	1.5	1.6	1.7
Surface Prep and Cleanup	2.4	2.7	2.9
Wood Products	.3	.3	.3
Underground Storage Tanks	0.1	0.1	0.1
Fugitive Emissions	-	-	-
Aerospace Coatings	-	-	-
Can & Coil Coatings	-	-	-
Miscellaneous Metal Parts and Products Coatings	-	-	-
TCMs/Land Use	-	-	1
Plan Total	7.3	8.1	9.9
B-52's	0.6	0.8	0.8
Total	7.9	8.9	10.7

b. The suspension resulting from the condition in Section 317.5 will be lifted if and when the total emission reductions in the table Section 317.5(a) are shown to have occurred.

318 **COMMUNITY BANK REVENUE DISBURSEMENT:** Net proceeds from emission reduction credit loans from the Community Bank and Priority Reserve Bank shall only be used to fund innovative emission reduction programs. Emission reductions realized from programs so funded shall be deposited in the Community Bank.

318.1 **TARGET PROGRAMS:** By April of each year the District Board of Directors, with a recommendation from the Air Pollution Control Officer, based on the availability of proceeds from Community and Priority Reserve Bank revenues, shall identify preferred emission credit generating programs for funding.

318.2 **REQUEST FOR PROPOSALS:** By June of each year, based on the availability of proceeds from Community and Priority Reserve Bank revenues, staff shall prepare and publish a request for proposal(s) (RFP) to solicit for the development or continuation of innovative emission reduction programs. If the available proceeds from Community and Priority Reserve Bank revenues is less than $50,000, then the proceeds may be made available for use in the following year RFP cycle.

318.3 **RANKING PROPOSALS:** The selection criteria shall include, but not be limited to, cost, emission reduction potential, technical feasibility, and confidence. At the close of each RFP solicitation, staff will evaluate all proposals received and reject proposals not meeting the minimum selection criteria.

318.4 **SELECTION OF PROGRAMS FOR FUNDING:** By October of each year the Air Pollution Control Officer will recommend to the Board of Directors, based on the selection criteria identified in Section 318.3 above, a ranking of emission reduction programs selected for funding. The Board of Directors shall accept or reject the list *in toto*.

318.5 **EMERGENCY SELECTION OF PROGRAMS FOR FUNDING:** Notwithstanding Sections 318.1, 318.2, 318.3 and 318.4, the District Board of Directors, with a recommendation from the Air Pollution Control Officer, may designate net proceeds from emission reduction credit loans to emission reduction programs that meet the actual emission reduction criteria of Rule 204, EMISSION REDUCTION CREDITS.

318.6 **INCENTIVE PROGRAM:** In the event Community and Priority Reserve Bank revenues available for program funding exceeds the recommended list of emission reduction programs accepted by the Board of Directors, the unused funding may be used to fund mobile source incentive programs identified in the latest State Implementation Plan or may be made available for use in the following year RFP cycle.

400 ADMINISTRATIVE REQUIREMENTS

401 **CALCULATION PROCEDURES:** Emission reduction credits deposited in the Priority Reserve Bank or the Community Bank shall be quantified pursuant to calculation procedures specified in Rule 204, EMISSION REDUCTION CREDITS.

402 **EMISSION REDUCTION CREDITS:** Any stationary source which holds emission reduction credits for the affected pollutant requested in an application for Authority to Construct must first use those credits prior to being allowed access to the Essential Public Services, Military Base Account or the Community Bank.

403 **NOTIFICATION OF COMMUNITY BANK OR PRIORITY RESERVE BANK RENEWAL FEE:** On the renewal date of the loan, the loan requestor will be notified by mail of the fee due and payable, pursuant to Section 313, and the date the fee is due. If the fee is not paid by the specified due date, the fee shall be increased by one half the amount and the loan requestor shall be notified by mail of the increased fee. If the increased fee is not paid within 30 days after notice the loan will be canceled and the loan requestor will be notified by mail. A

canceled loan may be reinstated by payment of the applicable fee plus fee increases. The stationary source may be out of compliance if the emissions loan is canceled and the stationary source continues to operate under the conditions of the emissions loan.

404 **NOTIFICATION OF INITIAL LOAN RATE FEE:** On the date the emission reduction credits are proposed to be disbursed from the Community Bank and Priority Reserve Bank, the loan requestor will be notified by mail of the loan fee due and payable, pursuant to Section 312, and the date the fee is due. If the loan fee is not paid within 30 days of the notification, the loan fee shall be increased by twenty-five percent and the loan requestor shall be notified by mail of the increased fee. If the increased fee is not paid within 30 days after notice, the loan request will be canceled and the loan requestor will be notified by mail. After a loan request has been canceled, the applicant will not be able to request a loan until the following funding cycle.

405 **LOAN INITIATION DATE:** Upon payment of the initial loan rate fee, the loan shall be effective the first day of that calendar quarter.

500 MONITORING AND RECORDS

501 RECORDKEEPING

501.1 Each stationary source shall maintain a cumulative total of emission credits on loan from the Priority Reserve Bank or the Community Bank.

501.2 The District shall maintain records of the source and amount of emission reductions obtained for deposit in the Priority Reserve Bank or the Community Bank, loans of these credits to applicants and disbursements of Community Bank proceeds.

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RULE 206 MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS

Adopted 12-15-92
(Amended 12-05-96)

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100 **GENERAL**

101 **PURPOSE**: To provide an administrative mechanism for the review of emission reduction credits from control of mobile sources and transportation sources for deposit and registration pursuant to Rule 204, EMISSION REDUCTION CREDITS. This rule is also intended to provide encouragement for development and implementation of innovative control methods for mobile and transportation sources. Emissions reduction credits generated pursuant to this rule may be available for use by stationary sources in other districts located within the Sacramento Federal Ozone Nonattainment Area.

102 **APPLICABILITY**: This rule shall apply to all emissions reductions for use by the stationary source or for transfer to other sources.

103 **SEVERABILITY**: If a court of competent jurisdiction issues an order that any provision of this rule is invalid, all other provisions of this rule shall remain in full force and effect to the extent allowed by law.

200 **DEFINITIONS**: Unless otherwise defined below, the terms used in this rule shall have the meanings as defined in Rule 201, GENERAL PERMIT REQUIREMENTS, Rule 202, NEW SOURCE REVIEW and Rule 204, EMISSION REDUCTION CREDITS.

201 **ACTUAL EMISSION REDUCTIONS**: Actual emission reductions are real, enforceable, permanent, and quantifiable, are surplus within the meaning of this rule; and shall be calculated pursuant to Section 410, Calculation of Emissions.

202 **AFFECTED POLLUTANTS**: Reactive organic compounds, nitrogen oxides, sulfur oxides, PM10, and carbon monoxide.

203 **BASE VEHICLE**: Any motor vehicle that is not a California Air Resources Board certified reduced emission vehicle.

204 **BURDEN**: A computer transportation model used for estimating the emissions from mobile and transportation sources by coupling the emission rates from EMFAC with vehicle activity information.

205 **DRIVEABLE**: Any vehicle that is street legal, licensed by the California Department of Motor Vehicles (if appropriate), and available for use and testing.

206 **CERTIFIED EMISSION KIT:** Any alternative fuel or add-on hardware conversion (retrofit) kit which has been certified by the California Air Resources Board to meet either:

206.1 One of the low-emission vehicle standards as specified in Title 13, California Code of Regulations; or

206.2 The heavy duty optional emissions standards as specified in Title 13, California Code of Regulations.

207 **EMFAC**: The most recent computer model approved by the California Air Resources Board for estimating emission rates from mobile and transportation sources.

208 **FLEET**: Fifteen (15) or more active vehicles operating within the District and that are under common ownership or operation and are dispatched from at least one location within the District.

209 **MOBILE SOURCE CONTROL MEASURE**: Any strategy to reduce new or existing motor vehicle emissions through additional control, disposal, change of fuel, or energy source.

210 **REDUCED-EMISSION VEHICLE:** A light-duty or medium-duty vehicle that is certified by the California Air Resources Board to one of the low-emission vehicle standards as specified in Title 13, California Code of Regulations, or a heavy-duty vehicle that is

equipped with an engine certified by the California Air Resources Board to one of the optional emission standards as specified in Title 13, California Code of Regulations.

211 **SURPLUS**

211.1 Emission reduction in excess of any emission reduction which is:

a. Required or encumbered by any laws, rules, regulations, agreements, orders, by its terms states that the emission reduction shall be considered surplus; or

b. Attributed to a control measure which has been noticed for workshop in the District, or proposed or contained in a State Implementation Plan; or

c. Proposed or contained as near-term measures in the District Air Quality Attainment Plan for attaining the annual reductions required by the California Clean Air Act. Temporary actual emissions reductions may be authorized, if they meet all the requirements of this rule except they are not permanent, and shall cease to exist as temporary actual emission reductions upon implementation of the near-term control measure.

211.2 Emissions reductions attributed to a proposed control measure may be re-eligible as surplus actual emissions reductions for:

a. Control measures identified in the District Air Quality Attainment Plan or State Implementation Plan where no rule has been adopted within two years from the scheduled adoption date, provided, however, the Air Pollution Control Officer has not extended the scheduled adoption date; or

b. Control measures not identified in the District Air Quality Attainment Plan or State Implementation Plan where no rule has been adopted and two years have elapsed beyond the date of the latest public workshop notice; or

c. Control measures proposed in the District Air Quality Attainment Plan which are not included into the Plan adopted by the District Board.

212 **TRANSPORTATION CONTROL MEASURE**: Any strategy to reduce vehicle trips, vehicle use, vehicle miles traveled, vehicle idling, or traffic congestion for the purpose of reducing motor vehicle emissions.

300 **STANDARDS**

301 **CERTIFICATION OF CREDITS**: A stationary source may obtain credits for actual emission reductions from one or more mobile or transportation source control measures provided:

301.1 An Initial Plan and Compliance Plan prepared pursuant to Sections 401 and 402 are approved in writing by the Air Pollution Control Officer; and

301.2 Plans prepared pursuant to Sections 401, and 402 are implemented according to the schedules contained therein; and

301.3 The Authority to Construct and Permit to Operate for the emissions unit are both conditioned to require continuous implementation of and compliance with specified plans prepared pursuant to Sections 401, and 402.

The credits shall be certified pursuant to the requirements of Rule 204, EMISSION REDUCTION CREDITS except as provided in Sections 407 through 410 of this rule.

302 **ADJUSTMENT OF CREDITS**: If audits performed pursuant to Section 402, Compliance Plan, show that emission reductions are not being achieved as quantified pursuant to Section 401, Initial Plan, then emission reduction credits shall be adjusted to reflect actual emission reductions achieved. Written notification of such adjustment shall be provided to the source and user of the emission reduction credits. If such credits have been used by a stationary source, then such stationary source shall provide additional emission reductions as required by Rule 202, NEW SOURCE REVIEW.

400 **ADMINISTRATIVE REQUIREMENTS**

401 **INITIAL PLAN**: A plan detailing the process shall be prepared to qualify the actual emission reductions from implementation of a mobile source or transportation control measure. The Initial Plan shall demonstrate that the emission reductions are real, surplus, quantifiable, enforceable, permanent and shall include data and methods for quantifying the actual emission reductions for all affected pollutants, specify the life of the actual emission reductions, quantify any increases in emissions projected to occur over the life of the actual emission reductions, and identify requirements or encumbrances as defined in Section 211 for the specified life of the actual emission reductions.

402 **COMPLIANCE PLAN**: A plan detailing the process for confirming the actual emission reductions shall be submitted for approval of the Air Pollution Control Officer. The Compliance Plan shall include but not be limited to all of the following elements:

402.1 **Records**: The Compliance Plan shall identify records which confirm projections made in the Initial Plan, and procedures for maintaining such records.

402.2 **Audits**: Audits performed on a regular basis, at the expense of the stationary source, by independent contractors to verify records, perform emissions testing and sampling, calculate emissions, and to verify continued implementation of the control strategy and actual emission reductions. Results of all audits shall be submitted to the Air Pollution Control Officer for review and approval.

402.3 **Contract**: A contractual agreement between the stationary source and the District stating the consequences for not complying with all requirements of the Initial Plan and Compliance Plan. Such a contract shall not limit the District's enforcement options as provided under District, state, or federal laws, rules or regulations.

403 **NEW VEHICLES**: For purposes of compliance with Sections 401 and 402 for actual emission reductions from the addition of new reduced-emission fleet vehicles to new or existing fleets:

403.1 Initial Plans shall include, but not be limited to the following:

a. Current number of fleet vehicles, proposed number of new, reduced-emission vehicles for specified weight class; passenger car, light duty truck, medium duty vehicle, or heavy duty vehicle (engine) as defined in the California Code of Regulations Title 13, Section 1900.

b. Emission rate for all affected pollutants and the corresponding emission standard for the new vehicle as specified in the appropriate section of the California Code of Regulations, Title 13, Section 1960.1 or 1956.8.

c. Emission standard for the base vehicle of the same vehicle class and model year, as specified in the appropriate section of the California Code of Regulations Title 13, Section 1960.1 or 1956.8.

d. Quarterly emission projections for all affected pollutants for the new vehicle and base vehicle using the latest version of transportation models, EMFAC and BURDEN, based on the emission rate estimates and standards provided in Section 403.1.c and 403.1.d. Where EMFAC and BURDEN are not applicable, provide written analysis and justification for other estimates including methodology, data, and assumptions for approval of the Air Pollution Control Officer.

e. Mileage projections for lower emitting vehicle use within the air basin expressed quarterly.

f. Fuel usage projections for each fuel type expressed quarterly.

g. Projections for new vehicle life, and projected increases in emissions over the vehicle life due to engine wear, degradation of controls, and other causes.

h. Identify requirements or encumbrances as defined in Section 211 for the specified life of the actual emission reductions.

i. Estimation of actual emission reductions utilizing the aforementioned assumptions and data.

403.2 Compliance Plans shall include, but not be limited to the following:

a. Monthly records compiled quarterly of mileage inside and outside the air basin, fuel usage by fuel type, vehicle maintenance records.

b. Audits performed on a regular basis to verify records, perform actual vehicle emissions testing, fuel sampling, and calculate actual emission reductions. Results from emissions testing shall not be used to adjust the actual emission reductions pursuant to Section 302. Audit reports shall be prepared and submitted to the District summarizing the results.

c. A contractual agreement between the stationary source and the District stating the consequences for not complying with all requirements of the Initial and Compliance Plans, including the provisions of Section 302, Adjustment of Credits. Such a contract shall not limit the District's enforcement options as provided under District, state, or federal laws, rules or regulations.

404 **REPLACEMENT VEHICLES**: For purposes of compliance with Sections 401 and 402 for actual emission reductions from the replacement of existing fleet vehicles with cleaner burning vehicles:

404.1 Initial Plans shall include, but not be limited to the following:

a. Current number of fleet vehicles, proposed number of new, reduced-emission vehicles, and proposed number of vehicles being removed from service. Specify the weight class for each of the aforementioned items; passenger car, light duty truck, medium duty vehicle, or heavy duty vehicle (engine) as defined in the California Code of Regulations, Title 13, Section 1900.

b. Emission rate for all affected pollutants and the corresponding emission standard for vehicles being removed from service, as specified in the appropriate section of the California Code of Regulations, Title 13, Section 1960.1 or 1956.8.

c. Emission rate for all affected pollutants and the corresponding emission standard for the new reduced-emission vehicle and a base vehicle of the same vehicle class and model year, as specified in the appropriate section of the California Code of Regulations, Title 13, Section 1960.1 or 1956.8.

d. Quarterly emission projections for all affected pollutants for the new reduced-emission vehicles, base vehicles, and the vehicles being replaced, using the latest version of transportation models, EMFAC and BURDEN, based on emission rate estimate provided in Section 404.1.b and 404.1.c. where EMFAC and BURDEN are not applicable provide written analysis and justification for other estimates including methodology, data, and assumptions for approval of the Air Pollution Control Officer.

e. Mileage projections for new vehicle use within the Sacramento Valley air basin expressed quarterly. Actual odometer readings for the vehicle being replaced.

f. Fuel usage projections for each fuel type expressed quarterly.

g. Average age of the existing vehicle fleet, and projections for new vehicle life, and projected increases in emissions over the vehicle life due to depreciation, engine wear, degradation of controls, and other causes.

h. Identify requirements or encumbrances as defined in Section 211 for the specified life of the actual emission reductions.

i. Estimation of actual emission reductions utilizing the aforementioned assumptions.

j. California Department of Motor Vehicles vehicle registration for the vehicles being replaced for two years prior to the date of replacement. Vehicles not registered within the District are not eligible for use as emission reduction credits within the District unless records demonstrating the use of vehicles within the District are submitted to, verified, and

approved by the Air Pollution Control Officer. Emission reduction credits are not eligible for vehicles unless such vehicles are driveable.

404.2 Compliance Plans shall include, but not be limited to the following:

a. Monthly records compiled quarterly of mileage inside and outside the Sacramento Valley air basin, fuel usage by fuel type, vehicle maintenance records.

b. Audits performed on a regular basis to verify records, perform actual vehicle emissions testing, fuel sampling, and calculate actual emission reductions. Results from emissions testing shall not be used to adjust the actual emission reductions pursuant to Section 302. Audit reports shall be prepared and submitted to the District summarizing the results.

c. Certification of vehicles taken out-of service, and that such vehicles were driveable at the time of removal from service.

d. A contractual agreement between the stationary source and the District stating the consequences for not complying with all requirements of the Initial and Compliance Plans. Such a contract shall not limit the District enforcement options as provided under District, state, or federal laws, rules or regulations.

405 **CONVERSIONS**: For purposes of compliance with Sections 401 and 402 for actual emission reductions from the conversion of existing fleet vehicles to reduced-emission vehicle configurations using certified conversion kits, the applicant shall submit to the District the following:

405.1 Initial Plans shall include, but not be limited to the following:

a. Proposed number of vehicles undergoing conversion for a specified weight class; passenger car, light duty truck, medium duty vehicle, or heavy duty vehicle (engine) as defined in the California Code of Regulations, Title 13, Section 1900.

b. Proposed emission rate for all affected pollutants of converted vehicles from California Air Resources Board certification test data.

c. Emission rate of all affected pollutants and emission standard for an unconverted vehicle of the same vehicle class and model year, as specified in the appropriate section of the California Code of Regulations, Title, 13, Section 1960.1 or 1956.8.

d. Quarterly emission projections for all affected pollutants for the converted vehicles and unconverted vehicles, using the latest version of transportation models, EMFAC and BURDEN, based on emission rate estimate provided in Section 405.1.b and 405.1.c. Where EMFAC and BURDEN are not applicable provide written analysis and justification for other estimates including methodology, data, and assumptions for approval of the Air Pollution Control Officer.

e. Actual mileage and trip records for two years prior to conversion for use within the Sacramento Valley air basin expressed quarterly. If the last two years are unrepresentative of normal operations as determined by the Air Pollution Control Officer, then any two consecutive years of the last five years, that represent normal source operation, may be used.

f. Average age of the existing vehicle fleet, projections for lower emitting vehicle life, and projected increases in emissions over the vehicle life due to engine wear, degradation of controls, and other causes.

g. Identify requirements or encumbrances as defined in Section 211 for the specified life of the actual emission reductions.

h. Estimation of actual emission reductions utilizing the aforementioned projections.

405.2 Compliance Plans shall include, but not be limited to the following:

a. Monthly records compiled quarterly of mileage inside and outside the Sacramento Valley air basin, fuel usage by fuel type, vehicle maintenance records.

b. Annual inspection and maintenance of emissions.

c. Audits performed on a regular basis to verify records, perform actual vehicle emissions testing, fuel sampling, and calculate actual emission reductions. Results from emissions testing shall not be used to adjust the actual emission reductions pursuant to Section 302. Audit reports shall be prepared and submitted to the District summarizing the results.

d. A contractual agreement between the stationary source and the District stating the consequences for not complying with all requirements of the Initial and Compliance Plans. Such a contract shall not limit the District enforcement options as provided under District, state, or federal laws, rules or regulations.

406 **COMMUTE ALTERNATIVES: TELECOMMUTING**: For purposes of compliance with Sections 401 and 402 for actual emission reductions from the reduction in commute trips from telecommute options:

406.1 Initial Plans shall include, but not be limited to the following:

a. Current trips of commuters participating in the program for two years prior including vehicle miles traveled, number of trips per month, time required for travel or other congestion estimation method, ridership, and vehicle weight class as defined in the California Code of Regulations, Title 13, Section 1900. If the last two years are unrepresentative of normal operations as determined by the Air Pollution Control Officer, then any two consecutive years of the last five years, that represent normal operations, may be used.

b. Emission standards for specified vehicle class and model year of vehicles as specified in the appropriate section of the California Code of Regulations, Title 13, Section 1960.1 or 1956.8.

c. Proposed trips of commuters participating in the program including vehicle miles traveled, number of trips per month, time required for travel or other congestion estimation method, and ridership.

d. Estimation of actual emission reductions utilizing the aforementioned assumptions.

e. Identify requirements or encumbrances as defined in Section 211 for the specified life of the actual emission reductions.

406.2 Compliance Plans shall include, but not be limited to the following:

a. A contractual agreement between employer and employee program participants.

b. Contingency measures for dealing with shortfalls in actual emission reductions.

c. Monthly records compiled quarterly of actual telecommuting activity, including information regarding the actual number of trips made and number of trips reduced.

d. Audit reports submitted on a regular basis for records, and telecommuting activity, including information regarding the actual number of trips made and number of trips reduced.

e. A contractual agreement between the stationary source and the District stating the consequences for not complying with all requirements of the Initial and Compliance Plans. Such a contract shall not limit the District enforcement options as provided under District, state, or federal laws, rules or regulations.

407 **COMPLETE APPLICATION**: The Air Pollution Control Officer shall determine whether the application for certification of credits is complete not later than 30 days after receipt of the application, or after such longer time as both the applicant and the Air Pollution Control Officer have agreed in writing. 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 30-day period to determine completeness shall begin. Completeness of an application or re-submitted application shall be evaluated on the basis of the information

requirements set forth in The District's List and Criteria (adopted pursuant to Article 3, 65940 through 65944 of Chapter 4.5 of Division I of Title 7 of the California Government Code) as it exists on the date on which the application or re-submitted application was received. The Air Pollution Control Officer may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

408 **FINAL ACTION**: The Air Pollution Control Officer shall not make a final determination of the amount of reductions achieved under an Initial Plan until the Initial Plan has been implemented for 60 days. Within 45 days after the required implementation period, the Air Pollution Control Officer shall issue a conditional approval or denial based on the actual emission reductions achieved during the implementation period. Further, the California Air Resources Board and the United States Environmental Protection Agency regional office, and to any party which requests such information, shall be notified of final action.

409 **REGISTRATION**: Following preparation and implementation of an Initial Plan and Compliance Plan and verification that the proposed emission reductions have been implemented in accordance with the provisions of this rule to the satisfaction of the Air Pollution Control Officer, the Air Pollution Control Officer shall issue the Emission Reduction Credits Certificate according to the procedures and requirements established in Rule 204, EMISSION REDUCTION CREDITS.

410 **CALCULATION OF EMISSIONS**: Calculation of actual emission reductions from mobile source control measures listed in this rule shall be consistent with Sections 410.1 through 410.3 and with the most current version of the California Air Resources Board Guidelines for the Generation and Use of Mobile Source Emission Reduction Credits and shall use information submitted pursuant to Sections 401, 403.1, 404.1, 405.1 or 406.1. Calculation of actual emissions reductions from transportation control measures shall be consistent with Sections 410.1 through 410.3 of this rule and shall use all information submitted pursuant to Sections 401, 403.1, 404.1, 405.1 or 406.1.

410.1 Actual emission reductions shall be calculated for each calendar quarter by subtracting the proposed emissions from historical actual emissions. Any positive value shall qualify for conversion to an emission reduction credit. For the purposes of calculating emission reductions pursuant to Section 403, proposed emissions from the reduced-emission vehicle will be subtracted from the proposed emissions from the base vehicle which would have been purchased had the reduced emission had the reduced-emission vehicle had not been purchased.

410.2 Credits for particulate matter emission reduction credits shall be expressed in terms of PM10.

410.3 Credits for nitrogen oxides, reactive organic compounds, carbon monoxide, sulfur oxides and PM10 shall be quantified in terms of pounds of pollutants per quarter for each calendar quarter.

500 MONITORING AND RECORDS

501 **MONITORING**: The Air Pollution Control Officer may require at any time monitoring or testing to ensure compliance with the provisions of this rule.

502 **RECORD KEEPING**: Any persons subject to this rule shall maintain records required by the Initial Plan and Compliance Plan or for compliance with Section 501 for three years and make them available for review by the Air Pollution Control Officer upon request.

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RULE 207 TITLE V - FEDERAL OPERATING PERMIT PROGRAM
Adopted 6-7-94
(Amended 9-5-96, 12-4-97, 4—26-01)

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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 Rule 202, NEW SOURCE REVIEW.

102 **APPLICABILITY**: This rule shall apply to the following sources:

102.1 Major stationary sources as defined in Section 219.

102.2 Any stationary source with a potential to emit 100 tons per year of any regulated air pollutant.

102.3 Affected sources under the acid rain provisions of Title IV of the Federal Clean Air Act.

102.4 Any source subject to Rule 203, PREVENTION OF SIGNIFICANT DETERIORATION.

102.5 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.

102.6 Any other stationary source in a source category designated, pursuant to 40 CFR Part 70.3, by rule by EPA.

102.7 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, 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.

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 Rule 202, NEW SOURCE REVIEW 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 Rule 202, NEW SOURCE REVIEW and meeting the procedural requirements specified in Sections 401 through 408 of this Rule and the compliance requirements in Section 305 of this Rule.

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 Rule 202, NEW SOURCE REVIEW, 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 40 CFR Part 52.21 (PSD) or District permit requirements established pursuant to 40 CFR Part 51, Subpart I (NSR).

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 A stationary source with a potential to emit 100 tons per year of any air pollutant;

219 .2 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; or

219.3 A stationary source with a potential to emit exceeding: 50 tons per year of nitrogen oxides, 50 tons per year of volatile organic compounds, 100 tons per year of sulfur dioxide, 100 tons per year of carbon monoxide, or 100 tons per year of PM10 or with a potential to emit exceeding the major stationary source thresholds that are listed in Title I of the Federal Clean Act for nitrogen oxide 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 designation of the District. The fugitive emissions of a source shall not be considered in determining whether it is a major stationary source, 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;
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 Rule 202, NEW SOURCE REVIEW.

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; or

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, 25 tons per year of volatile organic compounds, 40 tons per year of sulfur dioxide, 100 tons per year of carbon monoxide, or 15 tons per year of PM10 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.

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 Existing Stationary Sources:** The owner or operator of a stationary source subject to the requirements of this rule and commencing operation on or prior to September 5, 1995 shall submit to the Air Pollution Control Officer a complete permit application for a Title V permit to operate by September 5, 1996 or at an earlier date if required by the Air Pollution Control Officer. The owner or operator of a stationary source with potential to emit at or above the major source trigger levels but with actual emissions below the following emission levels for each pollutant shall submit to the Air Pollution Control Officer a complete application for Title V permit to operate no later than June 30, 2001:

a. Less than 12.5 tons per year or half Title I of the Federal Clean Air Act major source thresholds corresponding the nonattainment designation of the District, whichever is lower, of nitrogen oxides or volatile organic compounds;

b. Less than 50 tons per year or half the major source thresholds listed in 40 CFR Part 52 which corresponds to the nonattainment designation of the District, whichever is lower, of PM10 or sulfur dioxide;

c. Less than 50 tons per year or half the major source thresholds listed in 40 CFR Part 51 which corresponds to the nonattainment designation of the District, whichever is lower, of carbon monoxide;

d. Less than 7 tons per year of any single hazardous air pollutant; or

e. Less than 15 tons per year of any combination of hazardous air pollutants.

For purpose of this subsection, actual emissions shall be the maximum total annual emissions from all permitted equipment at the stationary source during the maximum 12 month period from January 1992 up to September 5, 1995 as calculated by the District detailing throughputs of process materials, throughputs of materials stored and usage of materials.

301.2 **Application Submittal for New Stationary Sources Commencing Operation After September 5, 1995**: 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.

301.3 **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.

301.4 **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.

301.5 **Application Submittal for Phase II Acid Rain Facilities:** The owner or operator of a Phase II 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 no later than January 1, 1996 for initial Phase II acid rain SO_x permits and no later than January 1, 1998 for initial Phase II acid rain NO_X permits.

301.6 **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.

301.7 **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.

301.8 **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.

301.9 **Application Submittal for Existing Stationary Sources not Currently 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 Sections 301.1 and Section 301.3;

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 including 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 Rule 202, NEW SOURCE REVIEW, 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 commencing operation after September 5, 1995 within 18 months after receiving a complete application.

407.2 **Existing Stationary Sources:** The Air Pollution Control Officer shall take final action on one-third of the Title V permit applications received from existing stationary sources commencing operation before September 5, 1995 and another one-third each year

after September 5, 1995, and shall take final action on all Title V permit applications by September 5, 1998.

407.3 **Early Reduction under Section 112(i)(5) (42 U.S.C. Section 7412(i)(5) of the Federal Clean Air Act:** The Air Pollution Control Officer shall take final action within 9 months after receiving a complete application for early reduction under Section 112(i)(5) (42 U.S.C. Section 7412(i)(5) of the Federal Clean Air Act.

407.4 **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.

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

407.6 **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.

407.7 **Phase II Acid Rain Sources:** The Air Pollution Control Officer shall take final action on Title V applications for sources subject to phase II of 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.

407.8 **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.

407.9 **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.

407.10 **Modified Stationary Sources:** The Air Pollution Control Officer shall take final action on Title V applications 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.

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 criterias 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:** The applicant may make the proposed changes at the stationary source as soon as the applicant has filed an application for Title V minor permit modification with the Air Pollution Control Officer providing that the applicant has received the required preconstruction permit from the District. 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 proposed Title V permit terms and conditions. During this time period it seeks to modify. However, if the stationary source fails to comply with its proposed Title V permit terms and conditions 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.