

CHAPTER V -- DISTRICT ADMINISTRATIVE PROCEDURES

Rule 5-500 - Completeness Review of Applications

The Air Pollution Control Officer shall determine if an application is complete and shall notify the responsible official of the determination within the following time frames:

- (a) For an initial permit, permit renewal, or a significant permit modification, within 60 days of receiving the application;
[Reference: 40 CFR 70.7(a)(4)]
- (b) For a minor permit modification, within 30 days of receiving the application;

The application shall be deemed complete unless the Air Pollution Control Officer requests additional information or otherwise notifies the responsible official that the application is incomplete within the time frames specified above.

[Reference: 40 CFR 70.5(a)(2) and 70.7(a)(4)]

Rule 5-510 - Notification of Completeness Determination

The Air Pollution Control Officer shall provide written notification of the completeness determination to the applicant, the U.S. EPA, the Air Resources Board and any affected state and shall submit a copy of the complete application to the U.S. EPA within five working days of the determination. The Air Pollution Control Officer need not provide notification for applications from sources that are not major sources, except as determined by the U.S. EPA.

[Reference: 40 CFR 70.7(2)(iii) and 70.8 (a)(1 and 2)]

Rule 5-520 - Application Processing Time Frames

The Air Pollution Control Officer shall act on a complete application in accordance with the procedures in Rules 5.540, 5.545, and 5.550 (except as application procedures for acid rain units are provided for under regulations promulgated pursuant to Title IV of the Clean Air Act), and take final action within the following time frames:

[Reference: 40 CFR 70.7(a)(2)]

- (a) For an initial permit for a source subject to Regulation 5 on the date the rule becomes effective, no later than three years after the date the rule becomes effective;
[Reference: 40 CFR 70.4(b)(11)]
- (b) For an initial permit for a source that becomes subject to Regulation 5 after the date the rule becomes effective, no later than 18 months after the complete application is received;
[Amended: November 14, 2000]
- (c) For a permit renewal, no later than 18 months after the complete application is received;
[Amended: November 14, 2000]

- (d) For a significant permit modification, no later than 18 months after the complete application is received;
[Amended: November 14, 2000]
- (e) For a minor permit modification, within 90 days after the application is received or 60 days after written notice to the U.S. EPA on the proposed decision, whichever is later; or
[Reference: 40 CFR 70.7(e)(2)(iv)]
- (f) For any permit application with early reductions pursuant to Section 112(i)(5) of the Clean Air Act, within 9 months after the complete application is received;
[Reference: 40 CFR 70.4(b)(11)(iii)]
[Amended: November 14, 2000]
- (g) The District shall review permits to operate simultaneously for all emissions units at a stationary source for initial issuance or renewal.

Rule 5-530 - District Analysis of Permit Application

The District analysis of any application for an operating permit under Regulation 5, or for renewal of such a permit, shall set forth the legal and factual bases for the proposed decision to grant or deny the permit, including references to the applicable statutory and regulatory provisions.

[Reference: 40 CFR 70.7(a)(5)]

Rule 5-540 - Notification and Opportunity For Review Of Proposed Decision

Within the applicable time frame specified in Rule 5.520, the Air Pollution Control Officer shall provide official and public notice of and opportunity to review the proposed decision to issue a permit to operate in accordance with requirements of this Rule.

[Reference: 40 CFR 70.7(h) and 70.8]

(a) Official Notice

For initial permits, renewal of permits, significant permit modifications, and reopenings for cause, the Air Pollution Control Officer shall send official written notice of the proposed decision to the responsible official, the Air Resources Board, adjacent air pollution control districts and any affected state. Official notice shall include the proposed permit and, upon request, copies of the District analysis.

[Reference: 40 CFR 70.7(h)(3) and 70.8(b)(1)]

For minor permit modifications, the Air Pollution Control Officer shall provide official written notice of the proposed decision to the responsible official, the Air Resources Board and any affected state.

[Reference: 40 CFR 70.7(e)(2)(iii) and 70.7(h)]

The Air Pollution Control Officer shall send Official Notice of proposed permit decisions by certified mail, return receipt requested.

(b) Public Notice

For initial permits, renewal of permits, significant permit modifications, and reopenings for cause, the Air Pollution Control Officer shall provide public notice of the proposed decision by publication in at least one newspaper of general circulation in the District and, if necessary, by other means to assure adequate notice to the affected public..

[Reference: 40 CFR 70.7(h)(1)]
[Amended: November 14, 2000]

(c) Contents of Public Notice

Public notice shall include the following information:

- (1) The identification of the source, the name and address of the applicant, the activities and emissions and change in emissions involved in the permit action;
- (2) The name and address of the District, the name and telephone numbers of District staff to contact for additional information;
- (3) The availability, upon request, of the District Analysis, setting forth the legal and factual basis for the proposed decision;
- (4) The location where the public may inspect the complete application, the District analysis, and the proposed permit;
- (5) A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures; and
- (6) The date, time and place of the public hearing on the proposed decision or a statement that members of the public may request that the District hold such a hearing to receive oral comments, if one has not already been scheduled. The Air Pollution Control Officer shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing.

[Reference: 40 CFR 70.7(a)(5)]

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

(d) Notice to U.S. EPA

After completion of the public notice and comment period pursuant to subsection (f), the Air Pollution Control Officer shall send written notice to the U.S. EPA of the proposed decision along with copies of the proposed permit, the District analysis, the public notice submitted for publication, the District's response to written comments, and all necessary supporting information.

[Reference: 40 CFR 70.7(h)(5) and 70.8]

For minor permit modifications, the Air Pollution Control Officer shall provide written notice of the proposed decision to the U.S. EPA, the Air Resources Board, and any affected state. Additionally, the District shall provide to the U.S. EPA (and, upon request, to the Air Resources Board or any affected state) copies of the proposed permit, the District analysis, and all necessary supporting information.

[Reference: 40 CFR 70.7(a)(1)(iii and v) and (5)]

(e) Availability of Documents

The Air Pollution Control Officer shall make available for public inspection during normal business hours copies of the following documents:

- (1) The complete application;
- (2) The District analysis;
- (3) The proposed permit;
- (4) All submitted written comments which are postmarked by the close of the public notice and comment period of subsection (f) and the District's written response to persons or agencies that submitted such comments.

[Reference: 40 CFR 70(h)(2)]

(f) Opportunity for Comment and Public Hearing

- (1) The District shall receive written comments regarding the proposed decision for 30 days from the date of publication of Public Notice pursuant to subsection (b);
- (2) At any time during the public comment period, members of the public may request that the District hold a public hearing to receive oral public comment. The Air Pollution Control Officer shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing.

[Reference: 40 CFR 70.7(h)(2)]

Rule 5-545 - Changes to the Proposed Decision

Changes to the proposed decision shall be governed by the following procedure:

- (a) The Air Pollution Control Officer may modify or change the proposed decision, the proposed permit, or the District analysis on the basis of information set forth in the comments received during the public comment period provided pursuant to Rule 5.540 (f)(1), or due to further analysis of the Air Pollution Control Officer. Pursuant to Rule 5.540(d), the Air Pollution Control Officer shall forward any such modified proposed decision, the proposed permit, any changes or additions to the District analysis, and all necessary supporting information to the U.S. EPA;

[Reference: 40 CFR 70.7(g)(5) and 70.8(b)(2)]

(b) If the U.S. EPA objects in writing to the proposed decision within 45 days of being notified of the proposed decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to Rule 5.540(d), the Air Pollution Control Officer shall not issue the permit. Also, if the public petitions the U.S. EPA within 60 days after the end of the U.S. EPA's 45-day review period and the permit has not yet been issued, the APCO shall not issue the permit until U.S. EPA objections in response to the petition are resolved. The Air Pollution Control Officer shall either deny the application or revise and resubmit a permit which addresses the deficiencies identified in the U.S. EPA objection within the following time frames:

[Amended: November 14, 2000]

- (1) For initial permits, permit renewals, and significant permit modifications, within 90 days of receiving the U.S. EPA objection; or
- (2) For minor permit modifications, within 90 days of receipt of the application or 60 days of the notice to U.S. EPA, whichever is later.

[Reference: 40 CFR 70.7(e)(2)(iv) and 70.8(c)]

Rule 5-550 - Permit Issuance or Denial

If the U.S. EPA does not object in writing within 45 days of the notice provided pursuant to Rule 540(d), or the Air Pollution Control Officer submits a revised permit pursuant to Rule 545, the Air Pollution Control Officer shall expeditiously issue the final permit to operate or deny the application. In any case, the Air Pollution Control Officer shall take final action on an application within the applicable timeframe specified in Rule 5.520. Failure of the Air Pollution Control Officer to act on a permit application or permit renewal application in accordance to the timeframes provided in Rule 5.520, shall constitute final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously.

[Reference: 40 CFR 70.(b)(xi), 70.7(a)(1)(v) and (a)(2), and 70.8(c)]

The Air Pollution Control Officer shall send written notification of the final issuance or denial of a permit to the responsible official of the source, the U.S. EPA, the Air Resources Board and any person or affected state that submitted comments during the public comment period. Written notification of any refusal by the District to accept all recommendations for the proposed permit that an affected state submitted during the public comment period shall be sent to U.S. EPA and affected states. The Air Pollution Control Officer shall submit a copy of a permit to operate, as issued, to the U.S. EPA and provide a copy to any person or agency requesting a copy. If the application is denied, the Air Pollution Control Officer shall provide reasons for the denial in writing to the responsible official along with the District analysis and cite the specific statute, rule, or regulation upon which the denial is based.

[Reference: 40 CFR 70.8(a)(1)]

[Amended: November 14, 2000]

Rule 5-560 - District Action on Written Requests

The Air Pollution Control Officer shall act on a written request of a responsible official for permit action using the applicable procedure specified in this Rule.

(a) Administrative Permit Amendment

The Air Pollution Control Officer shall take final action no later than 60 days after receiving the written request for an administrative permit amendment:

- (1) After designating the permit revisions as an administrative permit amendment, the Air Pollution Control Officer may revise the permit without providing notice to the public or any affected state.
- (2) The Air Pollution Control Officer shall provide a copy of the revised permit to the responsible official and the U.S. EPA.
- (3) While the Air Pollution Control Officer need not make a completeness determination on a written request, the Air Pollution Control Officer shall notify the responsible official if the Air Pollution Control Officer determines that the permit can not be revised as an administrative permit amendment.

[Reference: 40 CFR 70.7(d)(3)]

(b) Permit Modification for a Condition that is not Federally Enforceable

The Air Pollution Control Officer shall take action on a written request for a permit modification for a condition that is not federally enforceable in accordance with the requirements of Regulation 1, Rule 240 under the following circumstances:

- (1) Any change at the stationary source allowed by the permit modification shall meet all applicable federal requirements and shall not violate any existing permit term or condition; and
- (2) The Air Pollution Control Officer provides to the U.S. EPA a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement that would apply as a result of the change.

[Reference: 40 CFR 70.4(b)(14), 70.6(b)]

(c) Permits to Operate for New Emissions Unit

The Air Pollution Control Officer shall take action on a written request for a permit to operate for a new emissions unit in accordance with the requirements for of Regulation 1, Rule 240 under the circumstances specified in Rule 5.560(b). However, if Rule 5.425(c) applies, the Air Pollution Control Officer shall require the submittal of a standard District application and take action on that application pursuant to the requirements of Regulation 5.

Rule 5-570 - Permit Reopening for Cause

- (a) The Air Pollution Control Officer shall reopen and revise a permit to operate during the annual review period required by Health and Safety Code, Section 42301(c), or petition the District hearing board to do so pursuant to Health and Safety Code, Section 42307, whichever is applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by the U.S. EPA, or within 18 months of promulgation of a new applicable federal requirement. The Air Pollution Control Officer shall act only on those parts of the permit for which cause to reopen exists.

[Reference: 40 CFR 70.7(f)(2)]

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

- (1) The need to correct a material mistake or inaccurate statement;
- (2) The need to revise or revoke a permit to operate to assure compliance with applicable federal requirements;
- (3) The need to incorporate any new, revised, or additional applicable federal requirements, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after the promulgation of such requirement (where less than 3 years remain in the authorized life of the permit, the Air Pollution Control Officer shall incorporate these requirements into the permit to operate upon renewal); or
- (4) The need to reopen a permit issued to acid rain unit subject to Phase II of Title IV of the Clean Air Act to include:
 - (A) Oxides of nitrogen requirements prior to January 1, 1999; and
 - (B) Additional requirements promulgated pursuant to Title IV as they become applicable to any acid rain unit governed by the permit.

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

- (c) In processing a permit reopening, the Air Pollution Control Officer shall use the same procedures as for an initial permit and additionally:

- (1) Provide written notice to a responsible official and the U.S. EPA at least 30 days, or a shorter period in the case of an emergency, prior to reopening a permit; and
- (2) Complete action to revise the permit as specified in the notice of reopening within 60 days after the written notice to the U.S. EPA pursuant to Rule 5.540(d), if the U.S. EPA does not object, or after the Air Pollution Control Officer has responded to U.S. EPA objection pursuant to Rule 5.545(b).

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

Rule 5-580 - Operational Flexibility

The Air Pollution Control Officer shall allow specified changes in operations at a source without requiring a permit revision for conditions that address an applicable federal requirement. The Air Pollution Control Officer shall not allow changes that constitute a modification under Title I of the Clean Air Act or Regulation 1, Rules 130(m2), 200, or 220, or that result in an exceedance of the emissions allowable under the facility's permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility through use of the following options:

[Reference: 40 CFR 70.4(b)(12) and (d)(3)(viii)]

(a) Alternative Operating Scenarios

The Air Pollution Control Officer shall allow the use of alternative operating scenarios provided that:

- (1) Terms and conditions applicable to each operating scenario are identified by the responsible official in the permit application; and
- (2) The terms and conditions are approved by the Air Pollution Control Officer; and
- (3) The terms and conditions are incorporated into the permit; and
- (4) The terms and conditions are in compliance with all applicable District, state, and federal requirements.

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

[Reference: 40 CFR 70.6(a)(9)]

(b) Voluntary Emissions Caps

The Air Pollution Control Officer shall issue a permit that contains terms and conditions that allow for trading of emissions increases and decreases within the stationary source solely for the purpose of complying with a voluntary emissions cap established in the permit independent of otherwise applicable federal requirements provided that:

- (1) The requirements of Subsections (a)(1), (a)(3) and (a)(4), above, are met;
- (2) The terms and conditions are approved by the Air Pollution Control Officer as quantifiable and enforceable; and
- (3) The terms and conditions are consistent with the applicable preconstruction permit.

A permit condition shall require that a responsible official provide written notice to the Air Pollution Control Officer and EPA Region IX Air Division Permits Office 30 days in advance of a change by clearly requesting operational flexibility under this Rule. The written notice shall describe the change, identify the emissions unit that will be affected, the date on which the change will occur and the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not.

[Reference: 40 CFR 70.4(b)(12)(iii) and 70.6(a), (a)(10) and (c)]
[Amended: November 14, 2000]

(c) Contravening an Express Permit Condition

The Air Pollution Control Officer shall allow for changes in operation that contravene an express condition addressing an applicable federal requirement in a permit to operate provided that the following conditions are met:

- (1) The change will not violate any applicable federal requirement;
- (2) The change will not contravene federally enforceable conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements;
- (3) The change is not a modification under Title I of the Clean Air Act or any provision of Regulation 1, Rule 220;
- (4) The change does not result in exceeding the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
- (5) Written notice is given to the Air Pollution Control Officer and EPA Region IX Air Division Permits Office 30 days in advance of a change, and the notice clearly indicates which term or condition will be contravened, requests operational flexibility under this subsection, describes the change, identifies the emissions units that will be affected, the date on which the change will occur, the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and

[Amended: November 14, 2000]

- (6) The Air Pollution Control Officer has not provided a written denial to the responsible official within 30 days of receipt of the request for an operational change.

[Reference: 40 CFR 70.4(b)(12)]