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[RULE INDEX TO BE ADDED AFTER RULE ADOPTION]

**PROPOSED AMENDED RULE 3004. PERMIT TYPES AND CONTENT**

(a) Permit Content for Non-RECLAIM Facilities

Each Title V permit shall include:

- (1) Emissions limitations and those operational requirements that assure compliance with all regulatory requirements at the time of permit issuance.
- (2) The permit expiration date and a statement that the facility's right to operate terminates on the permit expiration date unless the facility is protected by an application shield pursuant to subdivision (b) of Rule 3002 due to the filing of a timely and complete application for renewal.
- (3) The origin and authority of each permit term or condition, and the identification of any difference in form from the applicable requirement upon which the term or condition is based.
- (4) Monitoring, recordkeeping, and reporting requirements, as follows:
  - (A) All emissions monitoring and analysis procedures or test methods required by regulatory requirements;
  - (B) Monitoring and recordkeeping sufficient to substantiate the facility's compliance with the terms and conditions of Title V permit. With respect to recordkeeping, the permit shall require, where applicable, records of required monitoring information that include, but not limited to, the following:
    - (i) the date, place as defined in the permit, and time of sampling or measurements;
    - (ii) the date(s) analyses were performed;
    - (iii) the company or entity that performed the analyses;
    - (iv) the analytical techniques or methods used;
    - (v) the results of such analyses; and
    - (vi) the operating conditions as existing at the time of sampling or measurement;
  - (C) Where the applicable requirement does not require periodic monitoring or testing, the permit shall include periodic monitoring or recordkeeping sufficient to yield reliable data from a relevant

time period that is representative of the source's compliance with the terms of the permit. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph;

- (D) Requirements concerning the use, maintenance, and, where appropriate, installation of monitoring and recordkeeping equipment or methods;
  - (E) Keeping all records of required monitoring data specified in permits, regulatory requirements and District monitoring protocols or rules for a period of at least five years from the date of the monitoring sample, measurement, report, or application; and,
  - (F) Submittal, to the Executive Officer, of reports of any required monitoring at least every six months. All instances of deviations from permit requirements shall be clearly identified in such reports.
- (5) A requirement for prompt reporting, as defined by District protocol or rule or permit condition, of deviations from permit requirements, including those attributable to upset conditions, the probable cause of such deviations, and any corrective actions or preventive measures taken.
- (6) A severability clause consistent with subdivision (b) of Rule 3007.
- (7) Provisions stating the following:
- (A) The holder of the Title V permit shall comply with all regulatory requirements and facility permit conditions, except as provided for ~~in subdivision (g) of Rule 3002 or in an alternative operating condition imposed pursuant to Rule 518.2;~~
  - (B) Any non-compliance with subparagraph (a)(7)(A) of this rule, shall be a violation of the federal Clean Air Act pursuant to paragraph (c)(2) of Rule 3002;
  - (C) The facility permit may be revised, revoked, reopened and reissued, or terminated for cause, including, but not limited to, failure to comply with regulatory requirements, permit terms or conditions;
  - (D) The filing of any application for permit revision, revocation, or termination, or of a notification of planned changes or anticipated non-compliance, does not stay any permit condition;
  - (E) The permit does not convey any property rights of any sort or any exclusive privilege;

- (F) The applicant for, or holder of, a Title V permit shall furnish timely information and records to the Executive Officer when requested pursuant to subdivision (d) or (e) of Rule 3002 ;
  - (G) The applicant for, or holder of, a Title V permit shall pay all required fees specified in Regulation III - Permit Fees;
  - (H) It shall not be a defense for a person in an enforcement action, including those listed in paragraph (c)(2) of Rule 3002, that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit; ~~except as provided for in subdivision (g) of Rule 3002;~~ and,
  - (I) The conditions under which the permit will be reopened as specified in paragraph (g)(1) of Rule 3005.
- (8) Provisions for alternative operating scenarios consistent with regulatory requirements, and including the requirement to maintain a contemporaneous log of the scenario under which the facility is operating.
- (9) If requested by the applicant, terms and conditions for trading of emissions increases and decreases in a permitted facility, provided that regulatory requirements allow such trading without a case-by-case approval of each emission trade. Such terms and conditions:
- (A) Shall include all terms required by subdivisions (a) and (b) of this rule to determine compliance;
  - (B) May extend the permit shield described in subdivision (c) of this rule to all terms and conditions that allow such emission trading; and,
  - (C) Must meet all applicable requirements and requirements of this regulation.
- (10) Compliance requirements, including:
- (A) Compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit, consistent with paragraph (a)(4) of this rule.
  - (B) Inspection and entry requirements that require that, upon presentation of appropriate credentials, the holder of the Title V permit shall allow the Executive Officer or authorized representative to:

- (i) Enter the premises where a Title V facility is located, emission-related activity is conducted, or records are kept under the conditions of the permit;
  - (ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
  - (iii) Inspect at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and,
  - (iv) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or regulatory requirements.
- (C) For facilities that are not in compliance with all applicable regulatory requirements at the time of permit issuance or permit renewal, a requirement to comply with all requirements of an alternative operating condition, variance or order for abatement issued by the District Hearing Board. The permit shall include a compliance schedule of remedial measures, including an enforceable sequence of actions with milestones, to be taken by the owner or operator to achieve compliance. This compliance schedule shall resemble and be at least as stringent as that contained in any:
- (i) Judicial consent decree or administrative order to which the source is subject; or
  - (ii) Findings or decisions issued by the District Hearing Board as a result of any administrative proceeding concerning the source.
- (D) Progress reports consistent with the terms established in the schedule of compliance, as specified in subparagraph (a)(10)(C) of this rule, to be submitted at least semi-annually, or at a more frequent period if specified in the schedule. Such progress reports shall contain:
- (i) Dates for achieving the activities, milestones or compliance required in the schedule of compliance and dates when such activities, milestones or compliance were achieved; and,

- (ii) An explanation of why any dates in the schedule of compliance were not, or will not be met, and any preventative or corrective measures adopted.
- (E) Requirements for compliance certification with terms and conditions contained in the permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:
  - (i) The frequency (not less than annually or such more frequent periods as specified in the regulatory requirements, schedule of compliance or by the Executive Officer in the permit) of the submissions of compliance certifications;
  - (ii) In accordance with paragraph (a)(4) of this rule, a means for monitoring the compliance of the facility with its emissions limitations, standards, and work practices;
  - (iii) A requirement that the compliance certification include the following:
    - (a) The identification of each term or condition of the permit that is the basis of the certification;
    - (b) The compliance status for the duration of the reporting period;
    - (c) Whether compliance was continuous or intermittent;
    - (d) The method(s) used for determining the compliance status of the Title V facility, currently and over the reporting period specified in paragraph (a)(4) of this rule; and,
    - (e) Such other facts that the Executive Officer may require to determine the compliance status of the facility.
  - (iv) The requirement that all compliance certifications be submitted to the EPA Administrator as well as the Executive Officer; and,
  - (v) Such additional requirements as may be specified pursuant to Sections 114(a)(3) and 504(b) of the federal Clean Air Act.

- (F) Such other provisions as the Executive Officer may require.
  - (11) To the extent feasible, identification of those permit conditions which are not federally enforceable.
  - (12) Provisions that all documents, including compliance documents, required by a Title V permit or Regulation XXX to be submitted to the District or EPA shall contain a certification consistent with paragraph (c)(7) of Rule 3003 by a responsible official.
  - (13) A listing of all equipment not described by subdivision (h) of this rule that are subject to any source-specific regulatory requirements.
- (b) Permit Content for RECLAIM Facilities
- Each Title V permit for RECLAIM facilities shall include:
- (1) all applicable provisions specified in Rule 2006 - Permits;
  - (2) provisions specified in subdivision (a) of this rule; and,
  - (3) a provision stating that permit revisions are not required for emission trading to the extent allowed by Regulation XX.
- (c) Permit Shield
- (1) The Executive Officer may expressly include in a Title V permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any regulatory requirements as of the date of permit issuance, provided that:
    - (A) (i) Such regulatory requirements are included and are specifically identified in the permit; or,
    - (ii) The Executive Officer, in acting on the permit application or revision determines in writing that other requirements specifically identified are not applicable to the facility, and the permit includes this determination or a concise summary thereof.
    - (B) The facility specifically requests a permit shield and indicates the following:
      - (i) Specific process units for which a permit shield is sought or indicates the shield is for the entire facility ;
      - (ii) Reason that a permit shield is sought; and,
      - (iii) Proposed duration of a permit shield.

- (2) A permit that does not expressly state that a permit shield exists shall be conclusively presumed not to provide such a shield.
  - (3) Nothing in this rule or in any Title V permit shall alter or affect the following:
    - (A) The provisions of Section 303 of the federal Clean Air Act (emergency orders) including the authority of the EPA Administrator.
    - (B) The liability of an owner or operator of a facility for any violation of regulatory requirements prior to, or at the time of, permit issuance;
    - (C) The applicable requirements of the acid rain program, consistent with Section 408(a) of the federal Clean air Act;
    - (D) The ability of EPA to obtain information from a facility pursuant to Section 114 of the federal Clean Air Act;
    - (E) The applicability of State or local requirements that are not "applicable requirements", as defined in Rule 3000, at the time of permit issuance but which do apply to the facility, such as toxics requirements unique to the State; or,
    - (F) The applicability of regulatory requirements with compliance dates after the permit issuance date.
  - (4) A request for a permit shield made outside an application for an initial permit or a permit renewal, shall be applied for as a significant permit revision.
  - (5) A permit shield shall not apply to any operational change required pursuant to paragraph (i)(1) of Rule 3005.
- (d) Temporary Source Permits
- (1) Except in the cases of an affected source under the acid rain program or portable equipment registered to operate statewide pursuant to Article 5 - Portable Engine and Equipment Registration, Title 13 of the California Code of Regulations, an applicant may request, and the Executive Officer may issue, a single Title V permit to a temporary source authorizing emissions from similar operations by the same facility owner or operator at multiple temporary locations.
  - (2) An application for a temporary source permit shall be denied unless the permit applicant demonstrates that the operation covered by the permit is

temporary, involves at least one change of location during the term of the permit, and does not operate at any one location or stationary facility for more than twelve consecutive months.

- (3) Each operator of a temporary source shall notify the Executive Officer in writing, postmarked at least 10 calendar days in advance of each change in location, with the following information:
  - (A) The address of the new equipment location;
  - (B) The date operations are to begin at the new location; and,
  - (C) Any terms of the temporary source permit which will be applicable at the new location but were not applicable at the previous location.
- (4) Except as modified by this rule, an application for a temporary source permit is governed by all Regulation XXX rules.
- (5) In addition to the requirements of subdivision (a) of Rule 3004, a temporary source permit shall include:
  - (A) Conditions that will assure compliance with all regulatory requirements at all authorized locations;
  - (B) A requirement that the owner or operator notify the Executive Officer of location changes in compliance with paragraph (d)(3) of this rule; and,
  - (C) Conditions that will assure that the operation is temporary, involves at least one change of location during the term of the permit, and does not operate at any one location or facility for more than twelve consecutive months.

(e) **General Permits**

The Executive Officer may issue a general permit covering numerous similar equipment after notice and opportunity for EPA review and public participation in compliance with Rules 3005 and 3006.

- (1) To qualify as a general permit, the equipment category shall meet all of the following criteria:
  - (A) the general permit complies with all regulatory requirements; and,
  - (B) the equipment category does not require a Rule 1401 - New Source Review of Carcinogenic Air Contaminants, evaluation.
- (2) All general permits shall contain:
  - (A) criteria by which equipment qualifies for the permit; and,

- (B) standard conditions and terms and emissions limits.
  - (3) Once a general permit has been issued by the Executive Officer, Title V facilities with equipment that would qualify for a general permit may apply to the Executive Officer for coverage under the terms of the general permit. General permits are not authorized for affected sources under the acid rain program.
  - (4) Unless otherwise provided in the applicable general permit, an applicant for coverage under the general permit shall submit an application containing all the information required by subdivision (b) of Rule 3003 and shall include a certification by a responsible official complying with paragraph (c)(7) of Rule 3003.
  - (5) The Executive Officer shall deny the application for coverage under a general permit unless the application demonstrates that the equipment would qualify for coverage as specified in the terms of the permit, and has the ability to comply with all the conditions and terms of the general permit.
  - (6) Unless otherwise provided in the applicable general permit, the Executive Officer shall determine if the application is complete pursuant to subdivision (c) of Rule 3003 and shall approve or deny the application for coverage under the general permit within thirty days after the application is deemed complete.
  - (7) Issuance or denial of an application for coverage under a general permit shall not be a final permit action for purposes of judicial review.
  - (8) If the equipment that has been approved for coverage under a general permit is later determined not to qualify for the conditions and terms of the general permit, the Title V facility shall be subject to enforcement action for operating without a Title V permit.
- (f) Permit Expiration and Renewal
- (1) Except for solid waste incineration facilities subject to standards under Section 129(e) of the Clean Air Act, a Title V permit shall expire 5 years from the date of issuance unless such permit has been renewed pursuant to this regulation.
  - (2) A Title V permit for a solid waste incineration facility combusting municipal waste subject to standards under Section 129(e) of the Clean Air Act shall expire 12 years from the date of issuance unless such permit

has been renewed pursuant to this regulation. These permits shall be reviewed by the Executive Officer at least every five years from the date of issuance.

- (3) Except as provided in paragraph (f)(4) of this rule, on and after the date of expiration of a Title V permit a person shall not operate a Title V facility, or equipment located at a Title V facility, unless such permit has been renewed pursuant to this regulation.
  - (4) If a timely and complete application for permit renewal has been filed, consistent with paragraph (a)(5) of Rule 3003, but the Executive Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the previous permit shall not expire and all the terms and conditions of the previous permit, including any permit shield, shall remain in effect until the Executive Officer issues or denies the renewal permit.
  - (5) The provisions of paragraph (f)(4) of this rule do not apply to a Title V facility if the applicant for, or holder of, the Title V permit has failed to submit, by the deadline specified in writing by the Executive Officer, any additional information identified as being needed to process the application.
  - (6) Permits being renewed are subject to the same procedural requirements that apply to initial new source Title V permit issuance, including those for public participation and affected State and EPA review.
- (g) **Federal Enforceability**  
All terms and conditions in a Title V permit, including any provisions designed to limit a facility's potential to emit, are enforceable by the EPA Administrator and citizens under the federal Clean Air Act, unless the term or condition is designated as not federally enforceable.
- (h) The following equipment shall not be listed on a Title V permit:
- (1) Permitted portable equipment, provided that such equipment:
    - (A) is not a major source as defined by 40 CFR Part 70, Section 70.2;
    - (B) usage does not conflict with the terms or conditions of the Title V permit of the facility visited by the portable equipment; and
    - (C) is not located at the facility for more than twelve consecutive months after commencing operation.

- (2) Equipment that, pursuant to Rule 219 - Equipment Not Requiring a Written Permit Pursuant to Regulation II, do not require a written permit and are not subject to any source-specific regulatory requirements, unless otherwise required under Regulation XX - Regional Clean Air Incentives Market (RECLAIM).
- (3) Rule 441 - Research Operations, provided that such research operation:
  - (A) does not individually meet the applicability criteria pursuant to Rule 3001; and,
  - (B) is not a support facility making a significant contribution to the product of a collocated facility.
- (4) Non-road engines, as defined by 40 CFR Part 89, Section 89.2, manufactured on or after November 15, 1990 or another date subsequently determined by EPA.
- (5) Military tactical support equipment registered to operate statewide pursuant to Article 5 - Portable Engine and Equipment Registration, Title 13 of the California Code of Regulations.