

RULE 1303. PART 70 OPERATING PERMITS – PERMITS. (Adopted 11/09/1993, revised 1/18/2001)

A. Applicability

This Rule applies to operating permit contents for Part 70 sources.

B. Exemptions

Rule 1301 Section B describes sources which are exempt from the requirement to obtain Part 70 permits.

C. Definitions

For the purposes of this Rule, the definitions of Rule 1301 Section C shall apply.

D. Permit Content

1. Each Part 70 permit shall include the following elements:
 - a. Emission limitations and standards, including operational limits, that assure compliance with all applicable requirements.
 - b. The origin of and authority for each permit term and condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
 - c. The permit term.
 - i. Permit terms shall not exceed five (5) years. Part 70 sources shall submit an application for permit renewal two years and six months after the date of issuance of the initial Part 70 permit or subsequent permit renewals. The District may approve a later submittal date, but in no case shall the time period for a renewal application exceed four years and six months from the date of issuance. The following additional provisions apply:
 - (A) For acid rain sources the permit term shall be five (5) years.
 - (B) For solid waste incineration sources subject to CAA Section 129(e), the permit term shall be for no more than twelve (12) years, with a permit review due every five years.
- d. A clause stating that the permit expiration date terminates the Part 70 source's right to operate unless a timely and complete application for permit reissuance has been submitted consistent with Rule 1302.
- e. Conditions establishing all applicable emissions monitoring and analysis procedures, emissions test methods or continuous monitoring equipment required under all applicable requirements, including the installation, use and maintenance of continuous monitoring equipment and methods, and related recordkeeping and reporting requirements. Where

the applicable requirement does not require periodic testing or monitoring, conditions establishing periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to the permit's reporting requirement.

- f. Conditions establishing all applicable recordkeeping requirements; all applicable records shall be maintained for a period of at least 5 years.
 - i. Records of required monitoring information that include the following:
 - (A) The date, place as defined in the permit and time of sampling measurement;
 - (B) The date(s) analyses were performed;
 - (C) The company or entity that performed the analyses;
 - (D) The analytical techniques or methods used;
 - (E) The results of such analyses; and
 - (F) The operating conditions as existing at the time of the sampling or measurement.
- g. Conditions establishing all applicable reporting requirements; reporting of any deviations from permit-stipulated requirements. All applicable reports shall be submitted every 6 months and shall be certified by a responsible official.
- h. The source shall submit a written report to the District documenting each and every deviation from the requirements of this permit or any applicable federal requirements within seven days after discovery of the violation, but not later than six months after the date of the occurrence. The report shall clearly document:
 - i. The probable cause and extent of the deviation,
 - ii. Equipment involved,
 - iii. The quantity of excess pollutant emissions, if any, and
 - iv. Actions taken to correct the deviation.

The requirements of this condition shall not apply to deviations reported to the District in accordance with Rule 505. *Breakdown Conditions*, or Rule 1303.F. *Emergency Provisions*.

- i. If applicable, a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Clean Air Act or under 40 CFR Part 72.
- j. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.
- k. A statement that the permittee must comply with all conditions of the permit, and any permit non-compliance constitutes a violation of the CAA and its implementing regulations or of District Rules or of both, as applicable.

- l. A statement that the need for a permittee to halt or reduce activity shall not be a defense in an enforcement action.
 - m. A statement that the permit may be modified, revoked, reopened, and reissued, or terminated for cause.
 - n. A list of conditions under which the permit may be reopened prior to the expiration of the permit.
 - o. A statement that the permit does not convey any property rights of any sort, or any exclusive privilege.
 - p. A statement that the permittee shall furnish to the District or to the USEPA the following, within a reasonable time:
 - i. Any information required to determine whether cause exists for modifying, revoking, reissuing or terminating the permit.
 - ii. Any information required to determine compliance with the permit.
 - iii. Copies of any records required to be maintained by the permittee.
 - q. A condition requiring the permittee to pay fees due to the District consistent with all applicable fee schedules.
 - r. Applicable conditions for all reasonably anticipated operating scenarios identified by the source in its permit application. Such conditions shall meet all applicable requirements.
 - s. Applicable terms and conditions, if the permit applicant requests them, for allowing trading of emission increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of any emission trade. Such terms and conditions:
 - i. Shall include all terms required under Rule 1305 (Enforcement) and Section D of this Rule;
 - ii. May extend the permit shield described in Section E.4 of this Rule to all terms and conditions that allow such increases and decreases in emissions;
 - iii. Must meet all applicable requirements and requirements of Regulation XIII of the Rules and Regulations of Santa Barbara County Air Pollution Control District.
 - t. Where a federally enforceable requirement and a District requirement apply to the same emissions unit but are mutually exclusive (e.g., require different air pollution control technology), the more stringent requirement implemented in the District's Authority to Construct/Permit to Operate (or USEPA's preconstruction permit) shall be incorporated as a Part 70 permit condition, and the other requirement shall be referenced.
2. Each Part 70 permit shall include the following compliance requirements:
- a. A statement that representative(s) of the USEPA and the District shall be allowed access to the Part 70 source and all required records as follows:

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the representative(s) to perform the following:

- i. Enter the Part 70 source premises, including the areas where emissions-related activities are conducted or where the records required by the permit are kept.
 - ii. Have access to and copy at reasonable hours any records that are kept under permit conditions.
 - iii. Inspect at reasonable times any facilities, equipment including monitoring or pollution control equipment, practices or operations regulated or required under the permit.
 - iv. Sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements.
- b. If the Part 70 source is not in compliance with any federally enforceable requirement, then the following provisions shall be included:
- i. A schedule of compliance submitted by the applicant under Rule 1302, Section D.2.d and as approved by the Control Officer.
 - ii. A condition that requires submittal of a progress report on the schedule of compliance at least semiannually. The progress report shall contain:
 - (A) Dates for achieving the required activities, milestones or compliance required in the schedule of compliance and the dates when the activities, milestones or compliance were achieved.
 - (B) An explanation of why any dates were not or will not be met, and any preventive or corrected measures adopted.
- c. A requirement that the permittee submit compliance certification pursuant to Rule 1302, Section D.3 at least annually.

3. Federally Enforceable Requirements

Any condition of the permit shall be enforceable by the USEPA and citizens under the Clean Air Act unless that condition is specifically designated as not being federally enforceable.

E. Operational Flexibility

1. Reasonably Anticipated Operating Scenarios

The owner or operator of any Part 70 source required to obtain a Part 70 permit may submit a description of all reasonably anticipated operating scenarios for the Part 70 source as part of the permit application. The operating scenario descriptions shall contain emission information for each scenario and sufficient information for the District to develop reasonable permit conditions defining each scenario.

The owner or operator of any Part 70 source which is permitted to operate under different operating scenarios will be allowed to change between operating scenarios without any notice to the District but shall be required to maintain a log at the Part 70 source recording all changes of

operating scenarios. All changes of operating scenarios must be recorded in the log contemporaneously with the change.

2. Voluntary Emission Caps

The owner or operator of any Part 70 source may request the District, as part of the permit application, to establish a federally enforceable emissions cap for the entire source. The proposed emissions cap may be independent of any federally enforceable requirement for any pollutant emitted by the source. The emissions cap request shall contain replicable procedures ensuring constant compliance verification of the emissions cap; and the proposed permit terms shall also ensure that the emissions trades between the emissions units at the source will be real, surplus, quantifiable and federally enforceable. The District shall not include in the emissions trading provisions any emissions units for which: (i) the emissions decreases are not real, surplus, quantifiable, (ii) the emissions increases are not quantifiable, or (iii) for which there are no replicable procedures to enforce the emissions trade on a constant compliance verification basis.

The owner or operator of any Part 70 source which is permitted to operate under an emissions cap will be allowed to trade emissions within the emissions cap with 30 days written notification to the District unless the District objects in writing to the emissions trade within the 30 day notice period. The owner or operator shall also provide written notification to USEPA of emission trades made, a minimum of seven days in advance.

The written notice shall state when the emissions trade will occur, which emissions unit will be involved, and shall describe the changes in emissions that will occur. The written notice shall also demonstrate that the requested change meets all of the following criteria:

- a. The emissions trade will not violate any applicable requirement.
- b. The emissions trade is not a modification under any provision of Title I or of District Rules, and it is not a significant modification.
- c. The emissions trade does not result in exceeding the emissions allowable under the permit whether expressed as a rate of emissions or total emissions.
- d. If the emissions cap is exceeded, then each and every emissions unit operating under the cap shall be deemed to be operating in violation of the permit.
- e. The emissions trade will comply with all permit conditions.

The District shall object to the emissions trade only if one or more of these criteria is not satisfied.

3. Contravening Express Permit Conditions

The owner or operator of any Part 70 source required to obtain a Part 70 permit will be allowed to contravene an express permit condition provided the provisions set forth below are met. The owner or operator shall give the District 30 day written notification which shall include a brief description of the proposed change, the date on which the change will occur, any change in emissions caused by the change, and any permit condition that will no longer be applicable as a result of the change. The written notice shall also demonstrate that the requested change meets all of the following criteria. The owner or operator shall also provide written notification to USEPA, a minimum of seven days in advance, of express conditions contravened:

- a. The change will not violate any applicable requirement.

- b. The change is not a modification under any provision of Title I of the federal Clean Air Act or of District Rules.
- c. The change does not result in exceeding the emissions allowable under the permit whether expressed as a rate of emissions or in terms of total emissions.
- d. The change will not contravene federally enforceable permit conditions pertaining to monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

The owner or operator shall not implement the proposed changes if the District objects in writing to the proposal within the 30 day notice period. The notice period shall commence when the written notification is received by the District. The District shall object to the contravening of an express permit condition if any of the above criteria is not satisfied.

4. Permit Shield

- a. The owner or operator of a Part 70 source required to obtain a Part 70 permit may request the District, in writing, for a permit shield upon submittal of an application for Part 70 permit issuance or renewal. The owner/operator shall specify in the request, the following, in detail:

- i. Specific process units for which a permit shield is sought; and,
- ii. Technical and/or administrative reason(s) that a permit shield is sought.

The District will grant a permit shield after confirming that the above information is complete. The owner/operator making the request must be in full compliance with all applicable requirements at the time of the request. After the request is granted, the permittee shall be deemed to be in compliance with any applicable requirements as of the date of final permit issuance, if the permittee is in compliance with all the conditions listed in the permit, and if the following condition is met:

- iii. All such applicable requirements are included and specifically identified in the permit; or,
- iv. The District has, prior to the permit issuance, determined in writing that other requirements have been specifically identified as not applicable to the source: and the District has included a copy of the determination (or a summary thereof) as a part of the permit.

- b. The permit shield shall not apply to, nor alter or affect the following situations:

- i. Minor permit modifications;
- ii. Process or operation changes at the source, including feed/fuel and equipment changes and changes of operating hours or rates, that are neither addressed nor prohibited by the permit;
- iii. Contravening express permit conditions (CAA, Section 502(b)(10) changes);
- iv. Emission trading under the generic provisions of the state implementation plan (note, emission trading allowed by permit condition changes are covered under permit shield);

- v. Provisions of Section 303 (Emergency Orders) of the CAA;
 - vi. The liability of the owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;
 - vii. The applicable requirements of Title IV (Acid Rain) of the CAA and its implementing regulations; or,
 - viii. The implementation of the provisions of Section 114 (Entry, Sampling, and Records Examination) of the CAA by the USEPA and the District.
 - ix. Applicable requirements that are promulgated or become effective after the issuance of the Part 70 permit.
 - x. Applicable requirements excluded altogether from the Part 70 permit without identifying the reason for exclusion.
- c. A Part 70 permit that does not expressly state that a permit shield exists for that permit shall not have any such shield.
 - d. A Part 70 permit shield clarifies the federal compliance responsibilities of Part 70 sources state or District compliance responsibilities.

F. Emergency Provisions in Permits

An emergency constitutes an affirmative defense to an enforcement action brought for noncompliance with a technology-based emission limitation violated as a result of the emergency if all of the following actions have been taken by the permittee:

1. The permittee can document with properly signed, contemporaneous operating logs that an emergency occurred and can identify the cause(s) of the emergency;
2. The permittee can document that the source was being properly operated at the time the emergency occurred;
3. The permittee can demonstrate that all reasonable steps were taken to minimize emissions in excess of permit conditions or other permit requirements; and
4. The permittee submitted a description of the emergency and all mitigating and corrective actions taken to the District within two (2) working days of the emergency.
5. The permittee can demonstrate that the emergency was not due to the permittee's negligence or willful misconduct.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

G. General Part 70 Permits

1. General

The Control Officer may issue a general Part 70 permit for numerous similar sources. Examples of sources for which a general permit may be issued are perchloroethylene drycleaning facilities or motor vehicle gasoline dispensing facilities. A general Part 70 permit will be issued to a source by the Control Officer as a supplement, and not in lieu of, a Permit to Operate issued pursuant to Rule 201 or other applicable District Rules. When a general Part 70 permit is proposed, the Control Officer shall identify criteria by which sources may qualify for the general permit.

2. Application Contents

A complete application to be covered by a general Part 70 permit shall contain all the information required by Rule 1302 except that information required by Rule 1302 D.1.c-g. In addition, the application shall contain all information necessary to determine qualification for, and to assure compliance with, the general permit.

3. Permit Content

The Control Officer will only include in a general Part 70 permit all information required by this Rule regarding federally enforceable requirements as applicable to the general permit category.

4. Timeframes for Applications, Review and Issuance

An application subject to a general Part 70 permit shall be submitted within 12 months after a source becomes subject to a federally enforceable requirement covered by the permit.

The Control Officer shall accept for processing or deny an application subject to the general Part 70 permit, or request clarifying information, within 30 days after receipt of an application. Unless the Control Officer requests more information or denies the application within 30 days, the application shall be deemed to have been accepted for processing.

5. Permit Term and Permit Reissuance

The Control Officer shall reissue a general Part 70 permit within a period not exceeding five years. All facilities eligible to be covered by the general permit must submit an application to be covered by the general Part 70 permit within 6 months after the general permit is reissued.

6. General Part 70 Permits - Notification

The Control Officer shall issue notification of a decision to issue or reissue a general Part 70 permit following the provisions of Rule 1304. An application of a source to be covered by a general permit and the Control Officer's decision on that application are not subject to the public and USEPA review provisions of Rule 1304.

7. Reopening of General Part 70 Permits

General Part 70 permits may be reopened for cause pursuant to the provisions of Rule 1304, Sections D.9 and D.10.

8. Compliance Provisions

The compliance provisions in Rule 1302 are applicable to any person covered by a general Part 70 permit. A source shall be in violation of this Rule for not having a regular Part 70 permit if, after a

general Part 70 permit is issued, the source is determined not to qualify for the general Part 70 permit.

H. Compliance Schedule

All Part 70 sources subject to this Rule, except the outer continental shelf (OCS) sources, shall comply with this Rule on the date they become subject to the Part 70 operating permit program as approved by the USEPA for the District. All OCS sources shall comply with this rule either on the USEPA's approval date for this rule or on the date USEPA delegates the OCS program to the District, whichever is later. Specific dates for compliance, if applicable, are provided in relevant sections of this Rule.

I. Effective Date of Rule

The requirements of this Rule shall become effective on the date of approval by USEPA.